

Before the
FEDERAL TRADE COMMISSION
Washington, DC 20580

In the Matter of)
)
Violations by Members of the Children’s)
Food and Beverage Advertising Initiative of)
Pledges Not to Advertise Products to Children)
that Do Not Meet Uniform Nutrition Criteria)
)

REQUEST FOR INVESTIGATION

Submitted by

Campaign for a Commercial Free Childhood
and
Center for Digital Democracy

Samantha Rosa
Georgetown Law Student

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Angela J. Campbell
Eric G. Null
Institute for Public Representation
Georgetown University Law Center
600 New Jersey Avenue, NW
Washington, DC 20001
(202) 662-9535
Counsel for CDD and CCFC

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The Campaign for a Commercial Free Childhood (CCFC) and Center for Digital Democracy (CDD), by their counsel the Institute for Public Representation, ask the FTC to investigate whether members of the Children’s Food and Beverage Advertising Initiative (CFBAI) are deceptively claiming to comply with their CFBAI pledges when they do not. On Google’s YouTube Kids app (YTK), which is designed for children five years and younger, CCFC and CDD found hundreds of commercials and videos promoting food and beverage products that CFBAI members have pledged not to advertise to children under the age of 12. CCFC and CDD ask the FTC to investigate whether these CFBAI members are engaged in deceptive or unfair practices in violation of Section 5 of the Federal Trade Commission Act.¹

Background

CFBAI was created by the food and beverage industry in 2006 to “shift the mix of advertising primarily directed to children (‘child-directed advertising’) to encourage healthier dietary choices and healthy lifestyles.”² CFBAI participants develop a “pledge” that incorporates CFBAI’s Core Principles and must “agree to CFBAI oversight and monitoring of their pledges and to be held accountable for failure to comply with their pledges.”³

Since January 2014, CFBAI’s Core Principles have required that all “advertising primarily directed to children under age 12” meet “category-specific uniform nutrition criteria.”⁴

¹ CCFC and CDD have also sent letters to CFBAI members asking them to tell Google to stop showing on YTK any promotional content regarding their products that does not meet CFBAI’s nutrition criteria (attached to this Request for Investigation after the Exhibits).

² About the Initiative, BBB, <http://www.bbb.org/council/the-national-partner-program/national-advertising-review-services/childrens-food-and-beverage-advertising-initiative/about-the-initiative>.

³ *Id.* The Core Principles, the pledges, and other documents are available on CFBAI’s website. <https://www.bbb.org/council/the-national-partner-program/national-advertising-review-services/childrens-food-and-beverage-advertising-initiative/company-pledges>. CFBAI publishes an annual report on participants’ compliance with their commitments. The most recent progress report, dated December 2014, outlines compliance during 2013.

⁴ Program and Core Principles Statement 4th Ed., BBB (Jan. 2014), <https://www.bbb.org/globalassets/local-bbbs/council-113/media/cfbai/enhanced-core-principles->

Each member that chooses to advertise to children must submit a list of its products meeting CFBAI’s nutrition criteria that it intends to advertise.⁵ Thus, any product not on these lists should not be marketed to children. Alternatively, a participant may commit to engage in no child-directed advertising for any of its products.

CFBAI’s Core Principles apply to advertising in measured media, which is defined to include “Internet (third-party websites)” as well as company-owned websites primarily directed to children under age 12.⁶ They also apply to “advertising that is primarily directed to children under age 12 on cell phones, smart phones, tablets, other personal digital devices, and through word of mouth.”⁷ Likewise, they apply to product placements. Specifically, participants must “commit to not paying for *or actively seeking to place* their foods or beverages in the program/editorial content of any medium primarily directed to children under age 12 for the purpose of promoting the sale of those products.”⁸

YTK is a free, advertiser-supported mobile app designed for children aged five and under. Available in Google and Apple’s respective App Stores, YTK allows children to watch “favorites like Sesame Street, Thomas & Friends and Talking Tom, online hits like Mother Goose Club, TuTiTu and Stampylonghead, plus anything else they’re into – sports, animals, gaming, crafts and more” on a tablet or smart phone.⁹ Because YTK is primarily directed at children, CFBAI members that show advertisements on the app must comply with their CFBAI pledges.

fourth-edition-with-appendix-a.pdf.

⁵ These lists are available at *Foods and Beverages that Meet the CFBAI Category-Specific Uniform Nutrition Criteria that May Be in Child-Directed Advertising*, BBB (Sept. 2015), https://www.bbb.org/globalassets/shared/media/cfbai/cfbai-product-list-sept-2015_final.pdf.

⁶ Core Principles, *supra* note [4](#) at 2.

⁷ *Id.*

⁸ *Id.* at 3 (emphasis added).

⁹ YouTube Kids App Description, <https://play.google.com/store/apps/details?id=com.google.android.apps.youtube.kids&hl=en>.

I. The FTC should investigate whether CFBAI members are engaging in deceptive or unfair practices by promoting products on YTK that do not meet **CFBAI's uniform nutrition** criteria

The YTK apps features a large number of videos marketing food and beverage products that CFBAI members have pledged not to advertise to children. We ask the Commission to investigate how and why so many promotional videos of food and beverages not meeting CFBAI's nutrition criteria are being shown on YTK and whether the CFBAI members are engaging in deceptive practices in violation of Section 5 of the FTC Act by claiming to comply with the CFBAI Core Principles when they do not.

A. A large number of videos on YTK advertise products of CFBAI members that do not meet the nutrition criteria

During the period of May 8, 2015 through June 30, 2015, we conducted a limited but systematic search for food and beverage promotions on YTK using a two-step process. First, we identified a product or brand that should not be advertised to children by using the websites of the CFBAI participants and CFBAI's listings of products meeting the nutrition criteria. For companies that pledged to limit advertising to products meeting the nutrition criteria, we looked for a product not on the CFBAI list of foods and beverages that may be advertised to children.¹⁰ For example, for Kellogg Company, we selected Pop-Tarts. For companies that pledged to not advertise at all to children under twelve, we selected a product or brand that would not meet the CFBAI's nutrition criteria were the company to elect to advertise to children. For example, for Mars, we searched for a single candy brand, Snickers.

Next, we searched for the identified product, first using the product or brand name only, and then using the product or brand name plus the word "commercial" (e.g. "Snickers" and "Snickers commercial"). In determining the number of commercials and product promotional videos, we included those that came up as a result of the searches as well as any additional

¹⁰ See *supra* note [5](#)

content suggested by the app. In total, we found approximately 600 videos that depicted foods or beverages that do not meet the CFBAI nutrition criteria.

Next, we assigned each video to one of three categories: (1) commercials that previously aired on television; (2) promotional videos, i.e., videos created by the companies about their brands and products; or (3) product placements and endorsements.¹¹ Approximately 400 videos fell into the first category, 25 into the second, and the rest into the third category. The third category includes videos that appear to have been made and uploaded by third parties, but show and talk about a specific branded product. Examples include product reviews, taste tests, cooking shows, and “unboxing” videos. While we lack the ability to determine for certain that the product placements and endorsements were paid for or actively sought out by the CFBAI members, the high production values and the large number of such videos featuring the same hosts, suggest that they were not the result of individuals acting on their own without any incentives from the brands.¹²

¹¹ As defined by Google, product placements are “pieces of content that are created [specifically] for a third party and/or where that third party's brand, message, or product is integrated directly into the content. A typical example of a paid product placement is one in which a marketer pays [the content creator] (or provides other non-monetary advantages or incentives) to specifically mention their product or brand in what would normally be the editorial part of the content.” Google defines endorsements as “pieces of content created for an advertiser or marketer that contain a message that consumers are likely to believe reflects the opinions, beliefs, or experiences of the content creator or endorser. A typical example of an endorsement is one in which a marketer pays a creator, celebrity or athlete to promote, use, review or even just experience their product or service and/or where the marketer has had editorial influence over your content, has included their brand or logo in your content or has paid for your creation of such content or the ability to upload their content into your channel.” Paid product placements and endorsements, YouTube Help, <https://support.google.com/youtube/answer/154235?hl=en>.

¹² For example, we found many videos from the POPSUGAR food channel, including How to Make McDonald's French Fries, How to Make a GIANT Reeses's Peanut Butter Cup, How to Make Oreo Churros at Home, all of which featured the same host, Brandi Milloy. Another series, “How to Cook That” by Ann Reardon, has videos showing how to make giant versions of a Hershey's Kiss, a Snickers Bar, a KitKat Bar and Ferrero Rocher.

During this search, we found products from 16 of 18 CFBAI members. Table 1 summarizes the findings with respect to CFBAI members that have pledged to not advertise at all to children under age 12, while Table 2 summarizes the results for CFBAI member pledging not to advertise products to children unless they meet the CFBAI nutrition criteria. At a later date, we found promotions on YTK for Klondike Bars, a Unilever product that is not on the list of products that may be advertised to children.¹³ Thus, Dannon appears to be the sole member of CFBAI in compliance with its CFBAI pledge.

1. Findings regarding companies pledging no advertising to children under 12

Because YTK is intended for children age 5 and under, we should not have found any marketing by the six companies that pledged not advertise their products to children under age 12—American Licorice Co., Coca-Cola Co., Ferrero USA, The Hershey Co., Mars, Inc., and Nestle USA, Inc. Nonetheless, as shown in Table 1, we found many commercials for products of these companies on YTK.

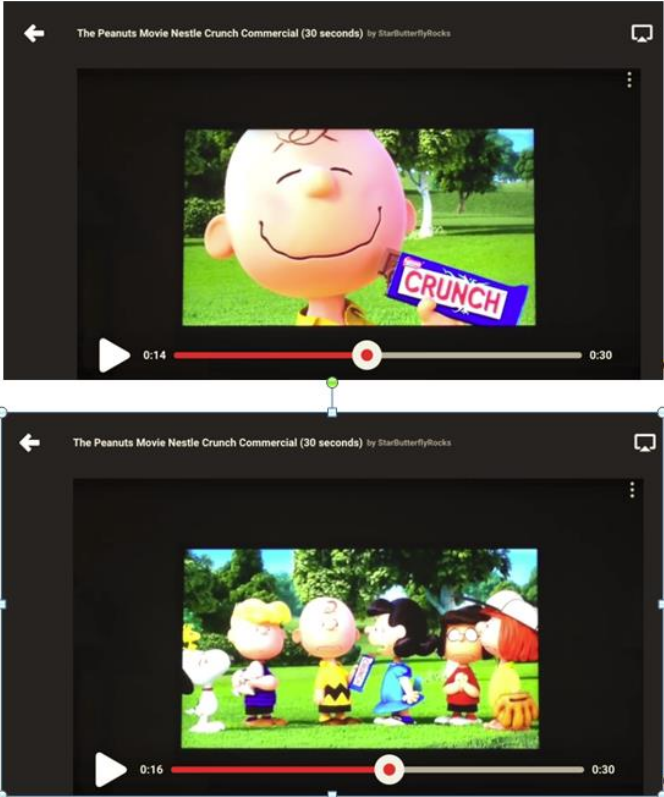
Table 1: Companies Pledging No Advertising to Children Under 12				
Food Company	Brand/Product	TV Commercials	Promotional Videos	Product Placements
Coca-Cola Co.	Coca-Cola, Coke Zero	47	11	2
Ferrero USA	Nutella	25	0	19
The Hershey Co.	Reese's	44	1	17
Mars, Inc.	Snickers	23	0	16
Nestle USA Inc.	Toll House Cookies	22	1	8
American Licorice Co.	Sour Punch	0	0	10

The screenshot below shows an example of a television commercial on YTK for Reese's Peanut Butter Cups, one of the brands owned by the Hershey Co.

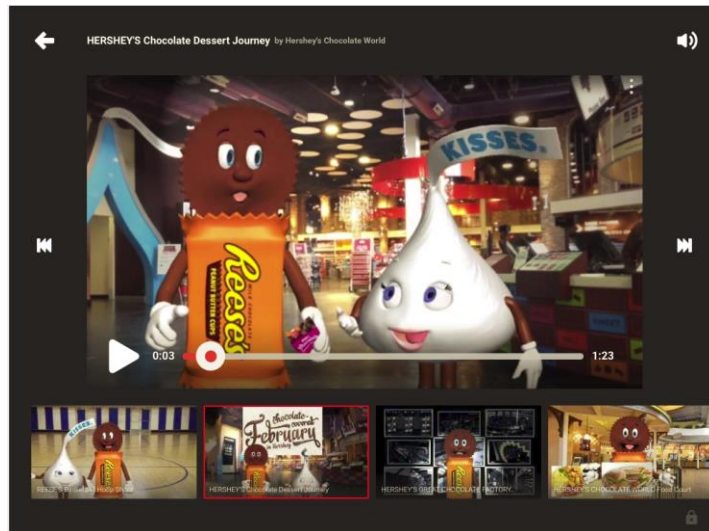
¹³ See Ex. 1



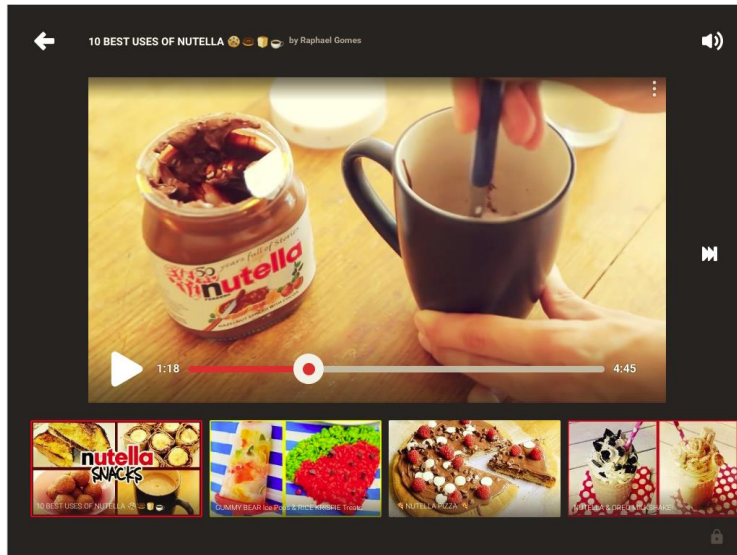
Another more recent example of a television commercial on YTK is the one shown below using a tie-in with the Peanuts movie to promote Nestle's Crunch. We found this commercial on November 9, 2015, just three days after the Peanuts movie was released.



During May and June 2015, we found five Hershey channels on YouTube Kids: Reese's Channel, Hershey's Kisses Channel, Twizzlers Channel, Hershey's Kitchens Channel, and Celebrate with Hershey's Channel. These channels featured commercials previously shown on television, videos on how to bake with Hershey's products, interviews asking people how they use Hershey products, and videos on how Hershey products are made. While these particular Hershey channels are no longer available on YTK, we recently found another channel called Hershey's Chocolate World that promotes the Hershey's Chocolate World attraction in Hershey, PA, and depicts products such as Reese's Cups and Kisses.



We also found CFBAI member products shown in videos that appear to have been created or posted by third parties. For example, the screenshot below is from a video called "10 Best Uses of Nutella." Nutella is a product of Ferrero USA. The host Rafael Gomes, the self-proclaimed "Queen of Nutella on YouTube," demonstrates how to make grilled Nutella sandwiches, Nutella hot chocolate, and other treats. A jar of Nutella is seen in almost every shot.

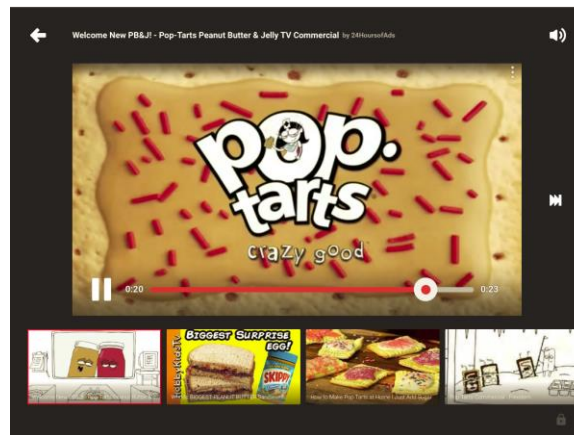


2. Findings regarding companies pledging to limit advertising to children to **products meeting CFBAI’s uniform nutrition criteria**

We found a similar pattern for companies pledging to advertise only products meeting CFBAI nutrition standards. As shown in Table 2, we found 61 TV commercials for Burger King products and 38 for Kellogg’s Pop-Tarts, the two most egregious violations.

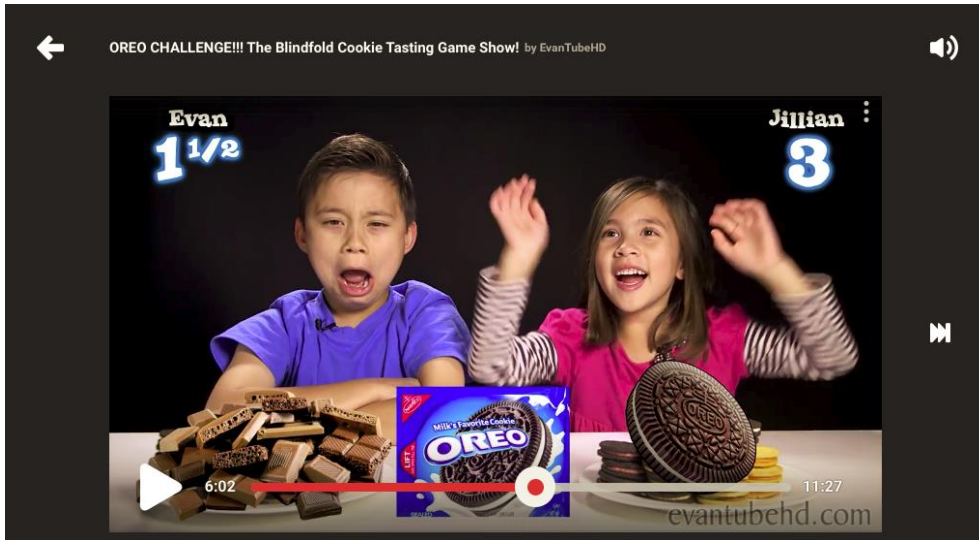
Food Company	Brand/Product	TV Commercials	Promotional Videos	Product Placements
Burger King	Whoppers, fries, sodas, etc.	61	0	14
Kellogg Co.	Pop-Tarts	38	0	18
Kraft Foods Group	Velveeta	22	8	15
McDonalds Corp.	McMuffins, milkshakes, ice cream, sodas, etc.	19	0	24
Mondelez Int’l Inc.	Oreo	31	2	21
Nestle	Toll House Cookies	22	1	8
PepsiCo Inc.	Dorito’s	31	0	9
Post Holdings Inc.	Golden Crisp	37	0	
ConAgra Foods Inc.	Swiss Miss hot cocoa, pudding	15	1	6
General Mills Inc.	Totino’s Pizza	2	0	13

Below is a screenshot of a commercial for Pop-Tarts we found on YTK.



We also found videos featuring products that do not meet the CFBAI nutrition criteria. For example, in an 11:27 minute video on the EvanTubeHD channel, Evan and his sister Jillian compete to identify the flavors of 12 different kinds of Oreo cookies (screenshot below).¹⁴ The video shows them blindfolded, tasting the cookies and commenting on them. The screen also shows the packaging for each type of Oreo. Afterwards, the off-screen announcer identifies the actual flavors and awards points for correct answers. Evan, who won the contest by a half-point, says “I love Oreos, my favorite cookie other than chocolate chip.”

¹⁴ EvanTubeHD is a partner of Disney-owned Maker Studios. Sam Gutelle, *Maker Studios, Disney XD Team Up for Talent Incubation Program* (Aug. 31, 2015), <http://www.tubefilter.com/2015/08/31/disney-xd-by-maker-studios>. According to its website, Maker Studios works with brands to “Integrate your brand message natively into our top performing channels to deliver world-class results while preserving the authenticity of the programming.” Media Solutions, Maker Studios, <http://www.makerstudios.com/commercial>.



This was not the only Oreo challenge we found on YTK. We conducted a search on August 25, 2015 using the term “Oreo challenge.” We found 18 videos of Oreo challenges, most of which featured children. The search also revealed EvanTubeHD challenges for other non-approved food products, Unilever’s Ben & Jerry’s Ice Cream and Kellogg’s Pringles.¹⁵

B. The FTC should investigate how and why advertising of CFBAI members is being shown on YTK

We ask the Commission to investigate how and why so many promotions of foods and beverages not meeting CFBAI’s nutrition criteria are being shown on YTK. Our research strongly suggests that the CFBAI members have actively sought to have their promotional materials included on YTK. Some CFBAI members have created their own brand channels on YouTube, while others work directly with YouTube, advertising agencies, or influencers to produce promotional videos for YouTube that appeal to children. Because the public does not have access to the agreements negotiated by YouTube, advertisers, advertising agencies, multichannel networks and YouTube celebrities and other “influencers,” it is important for the FTC to conduct its own investigation.

¹⁵ See Ex. 2.

Brands in general are increasingly using YouTube as a marketing platform. Four of the top 10 trending videos on all of YouTube in 2014 were created by brands, and views of branded content of the top 100 brands have nearly doubled in the last twelve months.¹⁶ Average spending of the top 100 videos advertisers is up 60%.¹⁷ Google reports that “Brands are now adopting similar content strategies as some of our most successful creators on YouTube. They’re actively managing their YouTube channels and publishing new content on a regular basis to engage viewers and keep them coming back.”¹⁸

At least four CFBAI members – Mondelez, Nestle, Pepsi, and Coca-Cola – participate in Google Preferred. Google Preferred, which debuted in April 2014, “lets buyers negotiate ad buys using audience guarantees, demographic targeting and Nielsen ratings data – all aimed at helping advertisers buy YouTube ads just like they buy TV ads,” if they commit to a certain amount of upfront spending on YouTube advertising.¹⁹

¹⁶ Top 100 Brands Report: Insight into Brand Content on YouTube, Google Agency Blog, (July 19, 2015), <http://www.pixability.com/top-100-brands-2015>. For more statistics about the growth of branded content on YouTube, see Ex. 3.

¹⁷ *Id.*

¹⁸ *Id.* Further, Google notes that 10% of brand videos posted to YouTube in the last year are over 10 minutes long indicating that brands are creating content specifically for YouTube. *Id.*

¹⁹ Mike Shields, *YouTube Says Google Preferred Has Sold Out, But Buyers Aren't So Sure*, Wall Street Journal (Oct. 13, 2014), <http://blogs.wsj.com/cmo/2014/10/13/youtube-says-google-preferred-has-sold-out-but-buyers-arent-so-sure>. While Google declined to disclose how much advertisers have to spend to take advantage of Google Preferred, there are reports that it was \$2 million in 2015. Tim Peterson, *YouTube is Recycling Last Year's NewFronts Pitch – Because it worked*, AdAge, Mar. 26, 2015, <http://adage.com/article/digital/youtube-s-2015-newfronts-pitch-augments-google-preferred/297763>. According to a recent eMarketer Report, the “Google Preferred platform, has made YouTube particularly appealing to top brand advertisers that shied away from the platform when it was geared more toward user-generated clips than professional content.” Paul Verna, *Advertising: Why Google's Platform Will Stay on Top*, eMarketer Report at 2 (Aug 2015). One hundred parent-level brands participated in 2014, including 30 US brands that had not previously advertised on YouTube. And they saw results – “On average, brands saw an 80% increase in ad recall and a 17% lift in brand awareness for those campaigns.” The program was so successful that Google continued it for 2015. Peterson, *supra*.

Mondelez was one of the first companies to join Google Preferred. It announced a global deal with Google in October 2014, as part of the company's strategy to invest more of its media spending in digital and, in particular, online video.²⁰ At that time, Mondelez and Google agreed to "partner on new content through YouTube's Brand Partner Program." Their first project was to create video content featuring "influential digital stars" for Sour Patch Kids candy in the US.²¹ We found many Sour Patch Kids promotions on YTK.²²

Several CFBAI members, including Mondelez, Hershey, Coca-Cola, Pepsi, and McDonalds, maintain brand channels on YouTube and produce videos promoting their products for those channels.²³ Several videos from these brand channels are available on YTK. As shown in Exhibit 5, these videos seem to be designed to appeal to young children. Pepsi has even created an in-house studio, The Creators League, to "create exciting internet-friendly branded content."²⁴

CFBAI members also work with ad agencies to have their products featured in YouTube videos. For example, despite Mars' pledge to direct no advertising to children under age 12, it worked with ad agency BBDO to launch "a campaign which sees popular tutorial vloggers from

²⁰ Eric Oster, *Mondelez Strikes Online Video Deal with Google*, AdWeek (Oct. 1, 2014), available at <http://www.adweek.com/news/advertising-branding/mondelez-strikes-online-video-deal-google-160507>.

²¹ *Id.*

²² *See* Ex. 4.

²³ A brand channel is a 24/7 broadcast center where customers can watch and share videos in a readily available, conveniently collected location, and it allows consumers to create playlists of the video content and to subscribe to future videos on the channel. Brand Channel, Think with Google, <https://www.thinkwithgoogle.com/products/youtube-channels.html>. *See* Ex. 5.

²⁴ *Pepsi Launches Digital Studio In Attempt To Become The Next Red Bull*, Tubefilter (June 6, 2014), <http://www.tubefilter.com/2014/06/06/pepsi-digital-studio-the-creators-league>. *See also* *Pepsi Launches the Creators League as In-House Studio to Be a Little More like Red Bull*, Variety (June 5, 2014), <http://variety.com/2014/biz/news/pepsi-launches-the-creators-league-as-in-house-studio-to-be-a-little-more-like-red-bull-1201211067>.

across the world perform slightly off their A-game as part of a new global execution of the Snickers’ ‘You’re Not You When You’re Hungry’ brand proposition.”

The ‘How-to’ and ‘DIY’ vloggers appear to be performing slightly poorer than usual before the end frame subtly unveils the content is a Snickers prank.

Dan Burdett, Snickers global brand director, said: “We are excited to be extending the reach of our phenomenally popular Snickers brand online tapping into the global popularity of ‘how to’ videos. The ‘off their game’ vloggers are an innovative digital twist on our hugely successful ‘You’re Not You When You’re Hungry’ TV ads. Between them the international vloggers in this campaign have over 7.5m subscribers, giving the brand campaign huge global reach.”²⁵

We found several of these videos promoting Snickers on YTK, including how-to-draw and how-to-play guitar videos. Another video in this series looks like an episode of *My Little Pony*. It is not clear until the very end that these are actually Snicker’s commercials.²⁶

Some agencies even specialize in bringing together advertisers and YouTube creators. IZEA, for example, offers “clients two complementary solutions, providing both owned content creation and paid sponsorships for amplification.”²⁷ It explains that

[a] sponsored video is a unique branded video experience that is designed to help advertisers connect with a social media influencer’s audience. Advertisers can provide video content to be shared via our network of influencers or allow influencers to create their own unique video to promote to their followers. Either way, your branded video will be promoted across a highly targeted social network of content creators.²⁸

²⁵ John McCarthy, *Snickers enlists YouTube vloggers for ‘You’re Not You When You’re Hungry’ digital campaign*, The Drum (Apr. 8, 2015), <http://www.thedrum.com/news/2015/04/08/snickers-enlists-youtube-vloggers-you-re-not-you-when-you-re-hungry-digital-campaign>.

²⁶ See Ex. 6.

²⁷ What We Do, IZEA, <http://corp.izea.com/marketers/>.

²⁸ Sponsored Social, IZEA, <http://corp.izea.com/marketers/sponsored-social/sponsored-videos>.

IZEA has numerous food clients and brands that it works with, including Campbell's, ConAgra Food, Hershey, Kellogg's, Kraft, and Nestle.²⁹

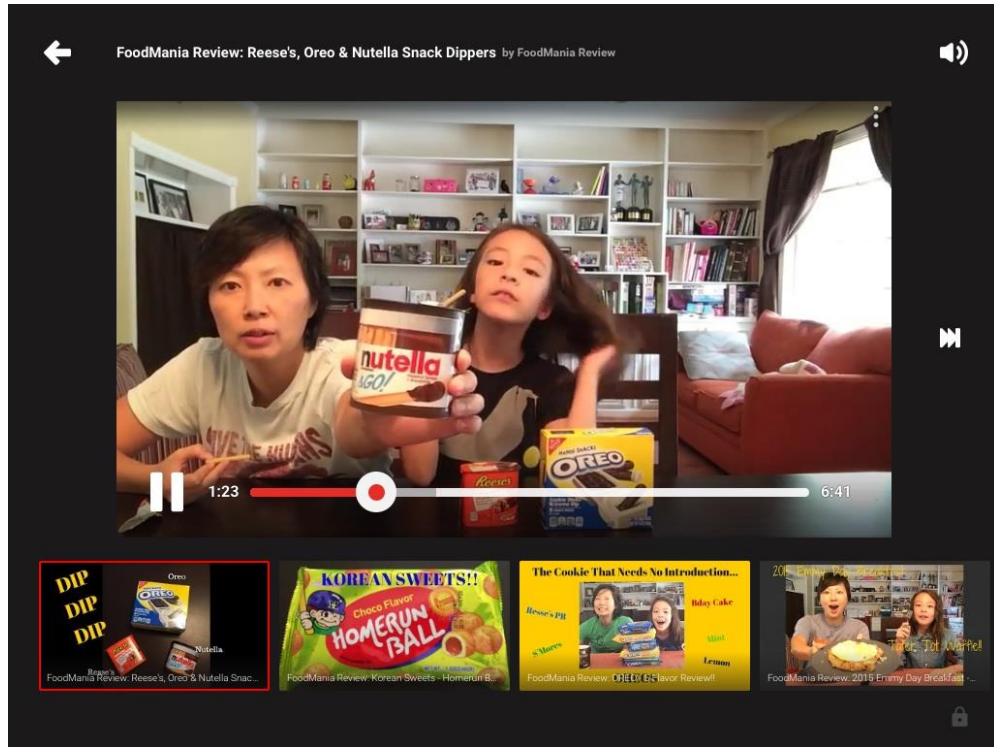
CFBAI member General Mills works with other advertising agencies including 72andSunny and Fallon that specialize in social media promotions.³⁰ The chief creative officer at General Mills told *AdAge* that Totino's is "one of our fastest-growing businesses," and that 72andSunny's "experience building brands with pop-culture power is a perfect fit for Totino's."³¹

Pop-culture power is a driving force behind many advertising campaigns on YouTube and YTK, and many brands are seeking to enlist big-name child stars for their campaigns. However, because these relationship deals are undisclosed, it is difficult for viewers to recognize that a product review featuring their favorite celebrity is actually a paid advertisement. We have recently discovered an entire YTK channel featuring the child actress Aubrey Frances Anderson-Emmons, who plays Lily Tucker-Pritchett on *Modern Family*, and her mother. Their "FoodMania Review" channel features videos in which they review food products including many CFBAI member products that are not to be advertised to children. For example, the screenshot below shows their review of both Mondelez's Oreo cookies and Ferrero's Nutella.

²⁹ Client Brands, IZEA, <http://corp.izea.com/marketers/our-clients>.

³⁰ Maureen Morrison, *General Mills Adds Fallon, 72andSunny to Roster*, *AdAge* (May 29, 2015), <http://adage.com/article/agency-news/general-mills-adds-fallon-72andsunny-roster/298805>.

³¹ *Id.* Ex. 7 shows Totinos product reviews and brand content.



It is highly unlikely that this well-known actress would be reviewing food products on her own accord.³² Thus, it is very likely that she has undisclosed contracts for endorsements with CFBAI members or their advertising agencies. The use of a popular child actress to endorse a product is no different than host-selling on child-directed television programming, which is not allowed because it is deceptive and unfair to children.

Given all of the efforts by CFBAI members to have their products promoted on YouTube, they likely know that many of these YouTube videos will also be shown on YTK. Google provides “tons of data” to YouTube channels so they can monitor their performance.³³

³² The business-driven nature of this endeavor is quite apparent by viewing the channel description on YouTube, which reads: “Would you like to send us candy or snacks from your town, state or country?! We’d love to try it. Just send an email to us at FOODMANIAREVIEW@GMAIL.COM and we’ll send you instructions on how to submit something yummy for a video review! For business and product review inquiries: foodmaniareview@gmail.com.” FoodMania Review: Reese’s, Oreo & Nutella Snack Dippers, YouTube (Sept. 18, 2015), <https://www.youtube.com/watch?v=v2TDOwRCo>.

³³ YouTube Analytics basis, YouTube Help,

Further, advertisers have many sophisticated methods to track where their advertising is placed, as well as to monitor social media for mentions of their brands.³⁴

Finally, it is unclear whether CFBAI members are paying third parties to upload TV commercials for products that do not meet the CFBAI criteria.³⁵ But even if they are not, they can prevent their commercials from being shown on YTK by using Google's proprietary copyright identification system that allows rights holders to match all videos found on YouTube and block their distribution even if a third party uploads a copy of the video.³⁶

II. Misrepresenting compliance with self-regulatory principles is a deceptive practice under Section 5 of the FTC Act

If the FTC's investigation finds that the CFBAI members have been complicit in getting their promotional content on YTK, it should find that they are engaging in deceptive marketing

<https://support.google.com/youtube/answer/1714323?hl=en>. YouTube creators can see statistics for videos that appear in YTK “in YouTube Analytics as always.” Information for YouTube Creators, YouTube Kids Parental Guide, <https://support.google.com/youtubekids/answer/6172261?hl=en>. Google can provide near real-time data to allow brands to quickly ascertain whether the audience likes the content. Measuring the Impact of Online Video on Brand Metrics, Think with Google, <https://www.thinkwithgoogle.com/articles/youtube-insights-stats-data-trends-vol10.html>.

³⁴ *See, e.g.*, Nielsen BuzzMetrics Fact Sheet, Nielsen, http://www.nielsen.com/content/dam/nielsen/en_us/documents/pdf/Fact%20Sheets/Nielsen%20BuzzMetrics%20Fact%20Sheet.pdf (helps “companies protect and promote brands through the measurement and analysis of consumer-generated media). *Integral Ad Science Unveils the First Integrated Video Advertising Viewability, Fraud and Brand Safety Monitoring Solution*, <http://integralads.com/news/integral-ad-science-unveils-the-first-integrated-video-advertising-viewability-fraud-and-brand-safety-monitoring-solution> (describing how it can provide detailed metrics and analytics to help brands and agencies understand and monitor video campaigns).

³⁵ YTK lists the name of the party that presumably uploaded the commercial, e.g., “M&M's Plane Commercial” uploaded by Music H!TS, a “Pop Tarts ‘Mr. Freeze’ Commercial” uploaded by IlluminatiMan, and a “Chips Ahoy! ‘Brand New Day’ Commercial” uploaded by LooseMooseProds. *See* Ex. 8. The FTC should investigate whether the CFBAI members are using false names to deceive the public or have provided consideration to others to post commercials for them.

³⁶ *How Content ID Works*, YouTube Help, <https://support.google.com/youtube/answer/2797370?hl=en>.

practices. The FTC has frequently found that misrepresenting one's compliance with self-regulatory principles constitutes a deceptive practice in violation of Section 5 of the FTC Act. Last year, the FTC alleged that the self-regulatory organization TRUSTe engaged in misrepresentation. TRUSTe operates a variety of seal programs, including an FTC-approved COPPA safe harbor program, US-EU Safe Harbor Framework, and TRUSTe's own self-regulatory program for consumer privacy. Display of a TRUSTe seal is meant to signify compliance with the relevant self-regulatory requirements. TRUSTe promised consumers that it would annually recertify its members to be sure they were in compliance when, in fact, TRUSTe did not conduct annual reviews of all of its members. Thus, the FTC alleged that TRUSTe's representation that it recertified the members annually was false or misleading in violation of Section 5, and entered into a consent decree.³⁷

In 2011, the Commission alleged that Google misrepresented that it was in compliance with the US-EU Safe Harbor Privacy Principles of Notice and Choice when it actually did not. To settle this charge, Google entered into a consent decree that required, among other things, that Google not misrepresent "the extent to which respondent is a member of, adheres to, complies with, is certified by, is endorsed by, or otherwise participates in any privacy, security, or any other compliance program sponsored by the government or any other entity, including, but not limited to, the US-EU Safe Harbor Framework." Subsequently, in 2012, the FTC brought an enforcement action for violation of this consent decree. Specifically, the FTC alleged that Google misrepresented that it adhered to the NAI Code, which requires members to disclose data collection and use practices, when Google did not disclose that it had placed unauthorized cookies on Safari users' computers. As a result, Google paid a record civil penalty of \$22.5 million.

³⁷ *Decision and Order, True Ultimate Standards Everywhere, Inc.* Dkt. No. C-4512, available at <https://www.ftc.gov/system/files/documents/cases/150318trust-edo.pdf>.

The FTC has brought many other cases against companies for misrepresentations related to their participation in self-regulatory programs. For example, it has brought cases against twenty-five companies for indicating they were currently certified under the US-EU Safe Harbor Framework when in fact their certifications had lapsed years earlier.³⁸ In one of the most recent cases, the FTC alleged that TES Franchising made false or misleading representations that it was a current licensee of the TRUSTe self-regulatory program.³⁹ In the press release announcing this settlement on April 7, 2015, Chairwoman Ramirez stated, “[t]hese cases send an important message that businesses must not deceive consumers about whether they hold these certifications, and by extension, the ways in which they protect consumers.”⁴⁰

The Commission should be at least as committed to enforcing the CFBAI pledges, which are designed to address the significant public health problem of childhood obesity. Thus, the Commission should investigate and bring enforcement actions against CFBAI members that are not adhering to their pledges.

Conclusion

Our research has shown that all but one of the CFBAI members have commercials and promotional videos on YTK, an app intended for children age five and under, for products that do not meet the CFBAI’s nutrition criteria. This conduct violates their pledges not to advertise to children or to limit advertising to children to products that meet the CFBAI’s category-specific uniform nutrition criteria. Because these companies have publicly pledged to abide by the CFBAI’s Core Principles, but are not complying with those principles with respect to YTK, they appear to be engaging in deceptive or unfair practices in violation of section 5 of the FTC Act.

³⁸ All of these cases are available at Legal Resources, FTC, https://www.ftc.gov/tips-advice/business-center/legal-resources?type=case&field_consumer_protection_topics_tid=251.

³⁹ TES Franchising, LLC, FTC Docket No. C-4525 (May 29, 2015). Press Release available at <https://www.ftc.gov/news-events/press-releases/2015/04/ftc-settles-two-companies-falsely-claiming-comply-international>.

⁴⁰ *Id.*

We ask that the FTC promptly investigate these allegations and take action to protect young children from the onslaught of advertising for unhealthy food on YTK.

Samantha Rosa
Georgetown Law Student

Respectfully submitted

/s/

Angela J. Campbell
Eric G. Null
Institute for Public Representation
Georgetown University Law Center
600 New Jersey Avenue, NW
Washington, DC 20001
(202) 662-9535

November 24, 2015

*Counsel for Campaign for a Commercial Free
Childhood and Center for Digital Democracy*

LIST OF EXHIBITS

EXHIBIT 1: Screenshots from YouTube Kids of Unilever Products

EXHIBIT 2: Screenshot showing some of the Oreo Challenge Videos on YTK

EXHIBIT 3: Brand Content Infographic from Pixability

EXHIBIT 4: Screenshot from YouTube Kids for Sour Patch

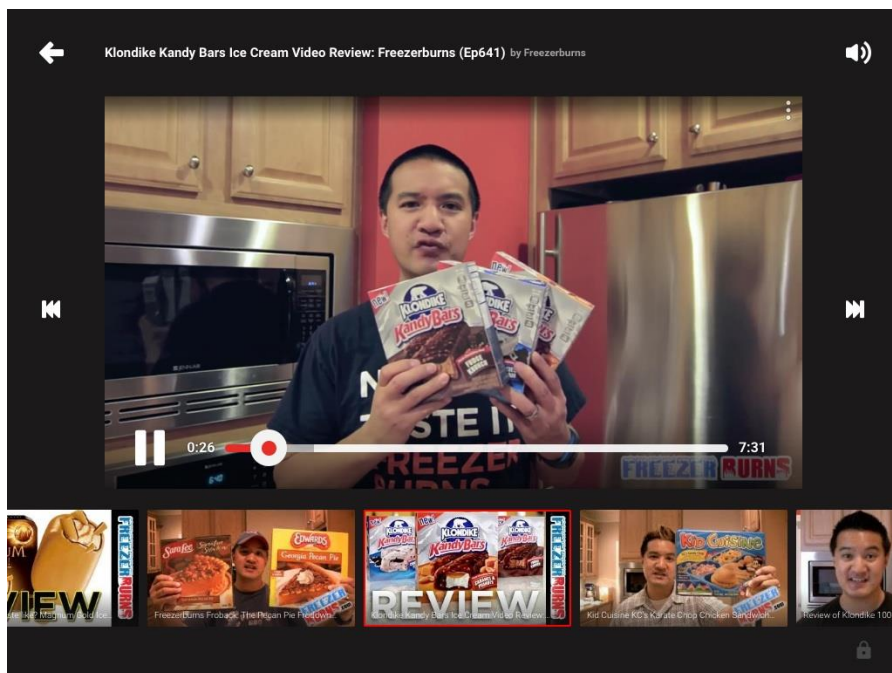
EXHIBIT 5: Examples of child-directed videos on brand channels seen on YTK

EXHIBIT 6: Screenshots of Snickers Commercials

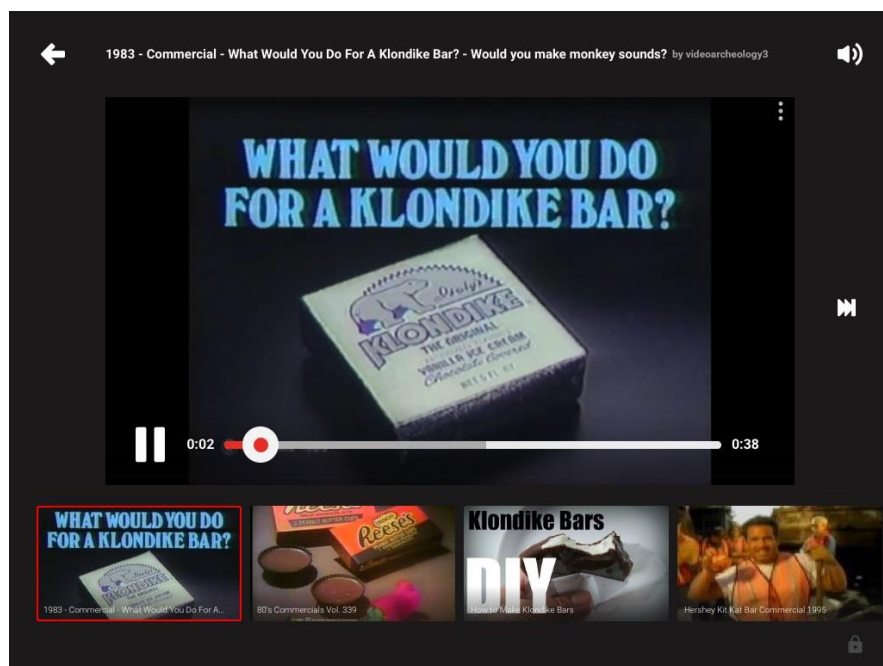
EXHIBIT 7: Screenshots from YouTube Kids for Totinos products

EXHIBIT 8: Examples of television commercials that appear to be uploaded by third parties

Exhibit 1



Screenshot of Klondike Bar Review



Screenshot of Klondike Bar Commercial

Exhibit 2



Oreo challenge



RINGLES CHALLENGE! 20 Flavors! Extreme potato Chip Tasting Contest!



Chase takes the OREO CHALLENGE!! w/ SPICY Mustard Cookie Prank + THE RESULTS!!...



ICE CREAM CHALLENGE!!! Ben & Jerry's 16 Flavor Taste Test!



Oreo Challenge with Robert-Andre and William



Oreo Challenge with Ryan, Jon and Jenna! Blindfolded Cookie Tasting! by Bin's Toy Bin



Girls Do Oreo Challenge - Kids Blindfolded Cookie Taste Test - Baby Fun



Exhibit 3

The Top 100 Brands ON YOUTUBE

Report by ●pixability

The top 100 brands are getting smarter on YouTube, creating **better content** and generating **higher engagement**.

OVERALL STATS



Top 100 brands collectively upload a new video every

18.5 minutes



“
Brands are investing in creating longer form, made-for-YouTube content.
”



10% of top 100 brand videos are **10+ min.**



THURSDAY

is the most popular day for uploads, followed closely by Tues. & Wed.

“
Brands are seeding content mid-week to capitalize on search performance for higher traffic weekends.
”

8.9M Dislikes



90M Likes



73M Subscribers

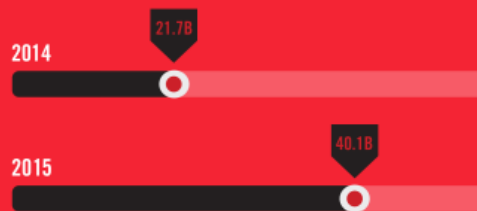


16M Comments

10X more likes than dislikes on brand-owned YouTube channels

YEAR-OVER-YEAR CHANGES

All Time Views: As of June 2014 vs. June 2015



+85%

Change in Views

Total Subscribers: As of June 2014 vs. June 2015



+47%

Change in Subscribers

Historical YouTube data collected and analyzed by Pixability's V3 software.
Top 100 brands determined by Interbrand's 2014 Best Global Brands Report.

Exhibit 4



sour patch kids (brand)



DIY GIANT Sour Patch Kid! World's LARGEST Sour Patch Kid!!



Sour Patch Kids



The Hungry Cowboy Makes Homemade Patch Kids!



Sour Patch Kids Candy Nail Art



DIY LIP BALM out of SOUR PATCH KIDS?! | Katharine Ward



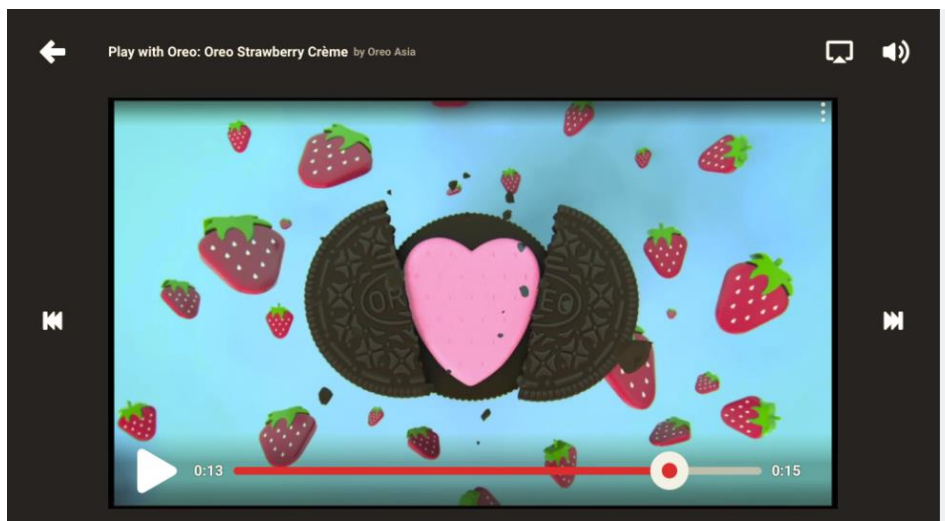
WARHEADS EXTREME SOUR CHALLENGE Patch Kids Sour Skittles Cry Baby Sour



Exhibit 5

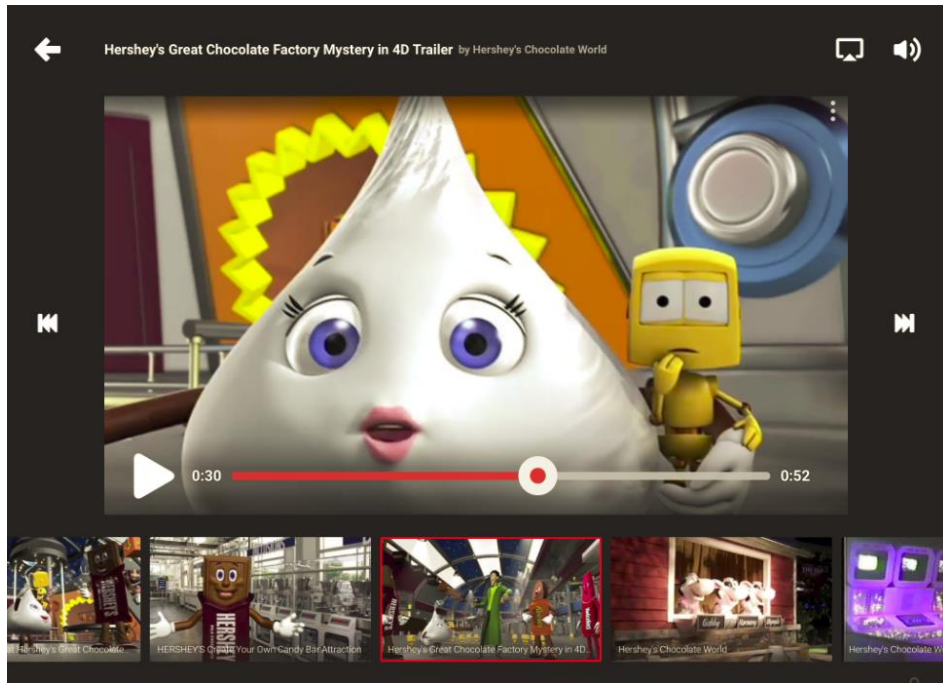


Screenshot from Mondelez's ChipsAhoy channel.



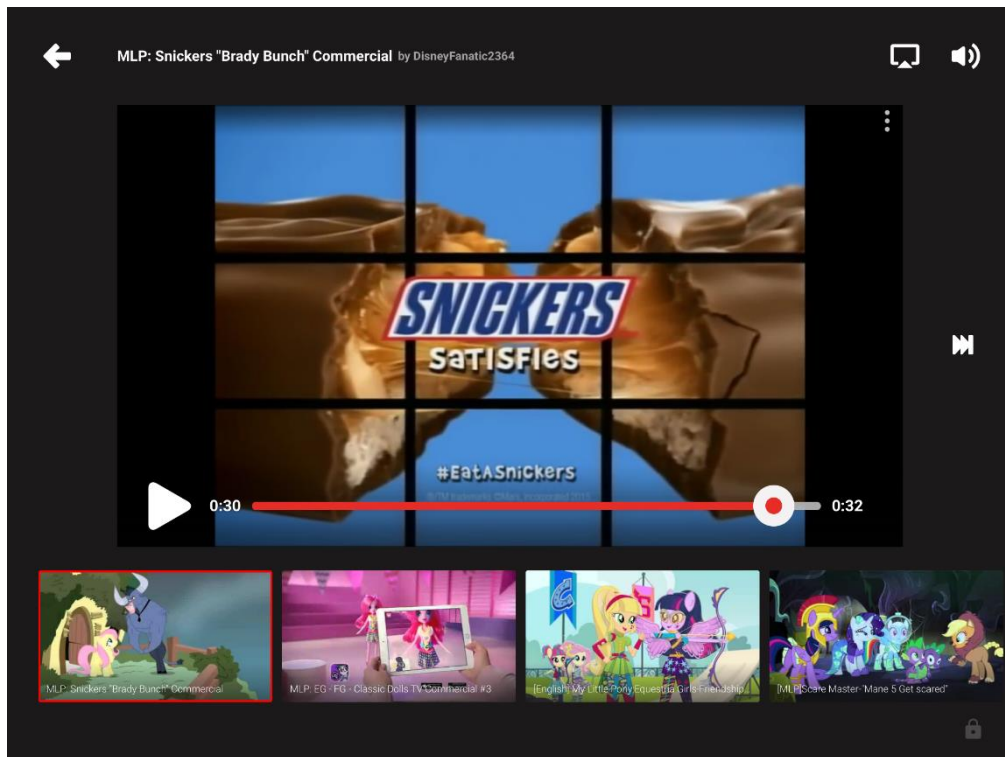
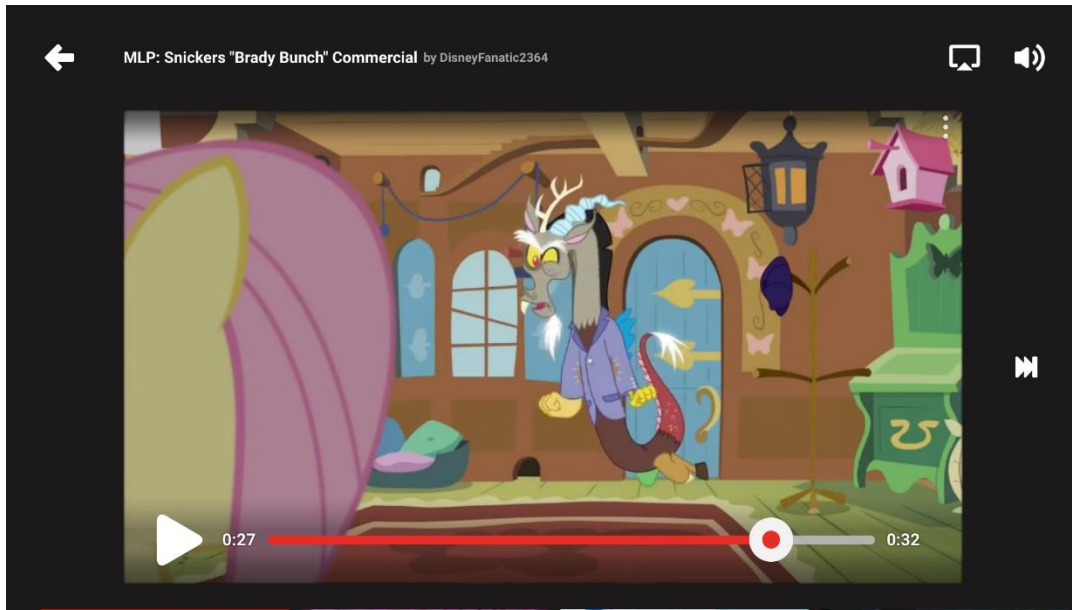
Screenshot from Oreo Asia Channel

Exhibit 5 Continued



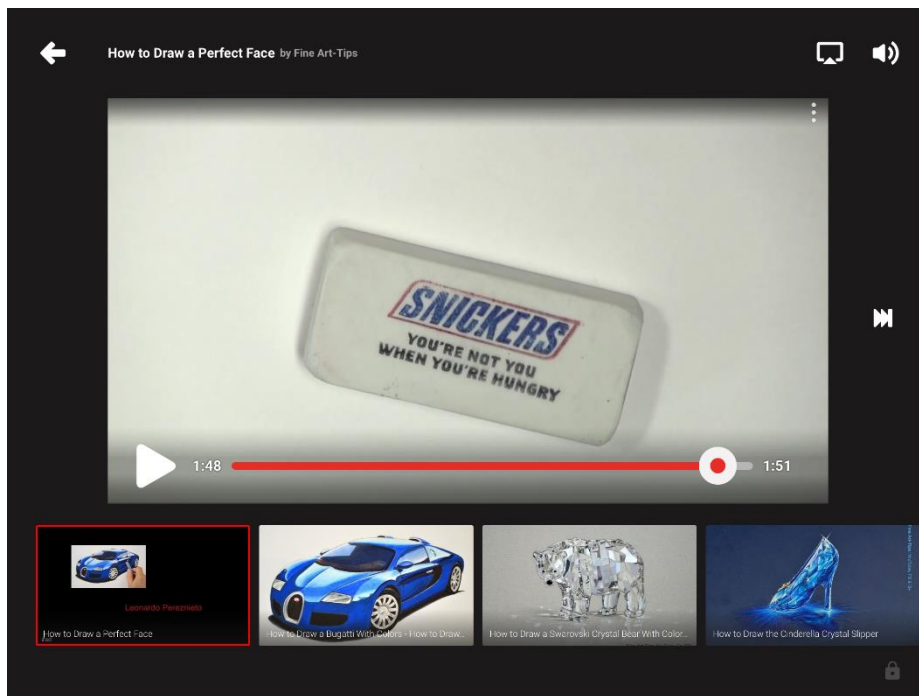
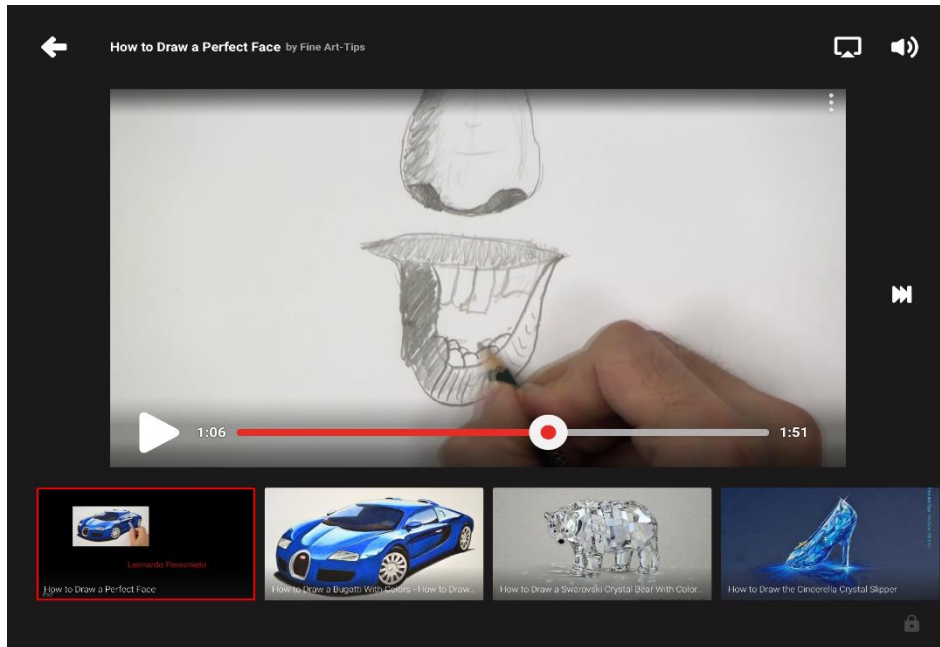
Screenshot from Hershey's Chocolate World Channel.

Exhibit 6 Continued




“MLP: Snickers ‘Brady Bunch’ Commercial”







Exhibit 6 Continued




“How To Draw A Perfect Face”

Exhibit 7

← totinos × 

 <p>The BEST WAY to eat a Totino's Party Pizza: freezerburns</p>	 <p>Totino's Bold Cheddar Blasted Crust Pepperoni Rolls Review</p>	 <p>Totino's Pizza Commercial (1981)</p>
 <p>Totino's Crisp Crust Supreme Pizza: freezerburns (Ep2)</p>	 <p>Totino's Pizza Burger Dave's Cooking Show</p>	 <p>Totino's BOLD cheddar blasted crust pepperoni rolls</p>

← totinos × 







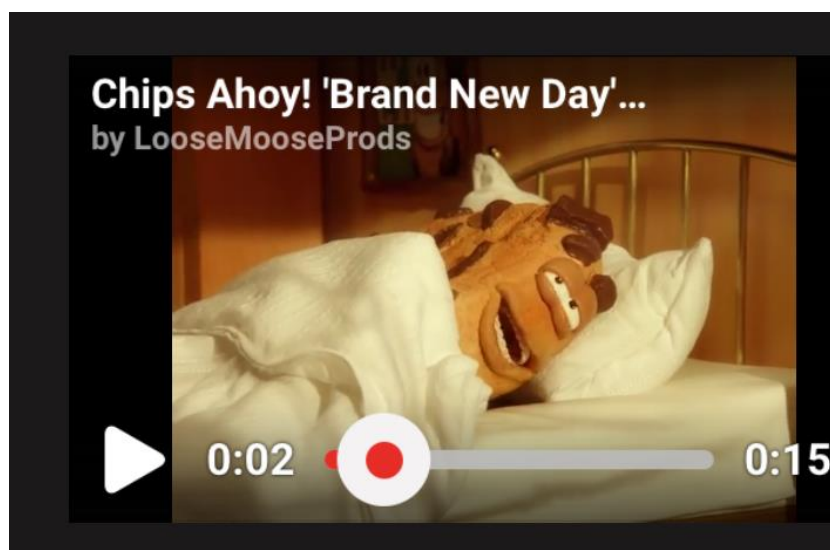
 <p>WHICH PIZZA ROLL IS BETTER?</p> <p>Are Michelina's Pizza Snack Rolls Better Than Totino's Pizza Rolls? Freezerburns (Ep587)</p>	 <p>Totino's Bold: Ranch Blasted Crust & Cheddar Blasted Crust Pepperoni Rolls Review</p>	 <p>Totino's Pepperoni Pizza Stuffers Video Review: Freezerburns (Ep451)</p>
 <p>Totino's BOLD Jalapeño Poppers and Buffalo Style Chicken Rolls Video Review:...</p>	 <p>How to make Pizza Rolls - Totino's Pizza Rolls Clone!</p>	 <p>Totino's Pizza Chips- REVIEW</p>

Exhibit 8



LETTERS TO CFBAI COMPANIES



Campaign for a Commercial-Free Childhood

CENTER FOR DIGITAL DEMOCRACY

John Kretchmer, CEO
American Licorice Company
1900 Whirlpool Drive South
La Porte, IN 46350

November 24, 2015

Re: Violation of CFBAI Pledge on YouTube Kids

Dear Mr. Kretchmer,

As a participant in the Children's Food and Beverage Advertising Initiative (CFBAI) American Licorice Company has committed "to not engage in child-directed advertising," where child is defined as under twelve years of age.¹ We have discovered, however, that there is considerable marketing of your company's products on Google's YouTube Kids app. We also believe that Google and advertisers are working together to create branded content for your products for YouTube knowing it will be available on YouTube Kids. Because this app's intended audience is clearly children under twelve, this marketing violates your pledge. Consequently we ask that you contact Google and ask that they remove any and all marketing for American Licorice Company products. Further, we request that you take any and all necessary steps to prevent advertising your non-complying products on YouTube Kids or other child-directed platforms.

According to the Council of Better Business Bureaus, "CFBAI's requirements apply to child-directed ads on TV, print, radio, internet, interactive games (including advergames), tablets, smartphones, video games, computer games, DVDs and word-of-mouth."² Whether marketing is considered directed to children under twelve is determined by a variety of factors, including target audience and overall impression of the site. When Google launched the YouTube Kids app on February 23, 2015, the company described it as "the first Google product built from the ground up with little ones in mind."³ On iTunes, the app—a simplified version of YouTube designed specifically for young children—is categorized as intended for children ages five and

¹ Children's Food & Beverage Advertising Initiative Foods and Beverages that Meet the CFBAI Category-Specific Uniform Nutrition Criteria that May Be in Child-Directed Advertising, available at https://www.bbb.org/globalassets/shared/media/cfbai/cfbai-product-list-june-2015_final.pdf. Foods that meet these criteria are specifically listed.

² <https://www.bbb.org/globalassets/local-bbbs/council-113/media/cfbai/audience-definitions-aug-2014.pdf>

³ Introducing the newest member of our family, the YouTube Kids app—available on the Google Play and the App Store, Official YouTube Blog (Feb. 23, 2015), available at <http://youtube-global.blogspot.com/2015/02/youtubekids.html>

under.⁴ Given that the app is clearly targeted to children under twelve, there should not be any American Licorice Company marketing on YouTube Kids based on your CFBAI pledge.

During the period of May 8, 2015 through June 30, 2015, Campaign for a Commercial-Free Childhood (CCFC) and the Center for Digital Democracy's (CDD) reviewed YouTube Kids and conducted searches for promotions of American Licorice products that would violate your CFBAI pledge not to engage in child-directed advertising. These included promotions for Sour Punch brand candy. First, we identified a product or brand that should not be advertised to children using the CFBAI guidelines. Next, using the app's search function, we located ten videos clearly designed to promote Sour Punch products. For example, we found a product review video entitled "Sour Punch Straws Strawberry Flavor Tasting and Review" in which the reviewer proclaims, "those are delicious...fantastic...a total win." He adds, "if you didn't get those on Halloween, go to the store and get 'em because Sour Punch Straws are delicious!"

Recently, we conducted another round of searches to see if recent changes announced by Google to YouTube Kids had done anything to limit the prevalence of food marketing videos on the app. Using the same methodology, we found numerous product promotion videos for American Licorice products. For example, we have recently found Red Vines candy reviews on the YouTube Kids app as well, such as "Red Vines Original Red Twists review."

Please note that we did not do an exhaustive search of YouTube Kids for all American Licorice Company products. We only searched for Sour Punch products to demonstrate the prevalence of American Licorice Company marketing on YouTube Kids which violates your pledge. We urge you to conduct a thorough review of YouTube Kids and remove all of the marketing for your company's products.

We realize that you may not be directly responsible for the placement of some of these commercials and promotional videos on the YouTube Kids app. However, you are responsible for ensuring your products are not marketed to children under twelve in accordance with your CFBAI pledge. We ask therefore that you work with Google to remove any marketing for Sour Punch products—and any other American Licorice Company products—from YouTube kids. We also request that you continue to monitor YouTube Kids to ensure that American Licorice Company is meeting its CFBAI commitment moving forward.

⁴ <https://itunes.apple.com/us/app/youtube-kids/id936971630?mt=8>

Sincerely,

Josh Golin
Executive Director
Campaign for a Commercial-Free Childhood
89 South Street, Suite 403
Boston, MA 02111
(617) 896-9368

Jeff Chester
Executive Director
Center for Digital Democracy
1621 Connecticut Ave., Suite 500
Washington, DC 20009
(202) 986-2220

cc: Donald S. Clark, Secretary of the Commission, Federal Trade Commission
Michael Kelly, Sr., Media & Consumer Communications Manager, American Licorice
Company
Elaine D. Kolish, Vice President & Director, Children's Food and Beverage Advertising
Initiative, Council of Better Business Bureaus



Campaign for a Commercial-Free Childhood

CENTER FOR DIGITAL DEMOCRACY

Daniel S. Schwartz, CEO
Burger King Corporation
5505 Blue Lagoon Drive
Miami, Florida 33126

November 24, 2015

Re: Violation of CFBAI Pledge on YouTube Kids

Dear Mr. Schwartz,

As a participant in the Children's Food and Beverage Advertising Initiative (CFBAI) Burger King Corporation has committed to "feature only foods that meet CFBAI's uniform nutrition criteria" when advertising to children under twelve.¹ We have discovered, however, that there is considerable marketing of your company's products that do not meet the CFBAI criteria on Google's YouTube Kids app. We also believe that Google and advertisers are working together to create branded content for your products for YouTube knowing it will be available on YouTube Kids. Because this app's intended audience is clearly children under twelve, this marketing violates your pledge. Consequently we ask that you contact Google and ask that they remove any and all marketing for Burger King products that do not meet the CFBAI's nutrition criteria. Further, we request that you take any and all necessary steps to prevent advertising your non-complying products on YouTube Kids or other child-directed platforms.

According to the Council of Better Business Bureaus, "CFBAI's requirements apply to child-directed ads on TV, print, radio, internet, interactive games (including advergames), tablets, smartphones, video games, computer games, DVDs and word-of-mouth."² Whether marketing is considered directed to children under twelve is determined by a variety of factors, including target audience and overall impression of the site. When Google launched the YouTube Kids app on February 23, 2015, the company described it as "the first Google product built from the ground up with little ones in mind."³ On iTunes, the app—a simplified version of YouTube designed specifically for young children—is categorized as intended for children ages five and

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² <https://www.bbb.org/globalassets/local-bbbs/council-113/media/cfbai/audience-definitions-aug-2014.pdf>

³ Introducing the newest member of our family, the YouTube Kids app—available on the Google Play and the App Store, Official YouTube Blog (Feb. 23, 2015), available at <http://youtube-global.blogspot.com/2015/02/youtubekids.html>

under.⁴ Given that the app is clearly targeted to children under twelve, any Burger King marketing on YouTube Kids should only be for products that meet the CFBAI nutrition standards.

During the period of May 8, 2015 through June 30, 2015, Campaign for a Commercial-Free Childhood (CCFC) and the Center for Digital Democracy's (CDD) reviewed YouTube Kids and conducted searches for promotions of Burger King products that would violate the CFBAI nutrition standards. These included promotions for fries, soda, Whoppers, and other sandwiches. First, we identified a product or brand that should not be advertised to children using the CFBAI guidelines. Next, using the app's search function, we ran searches for the identified product. We located sixty-one television commercials for products that Burger King has pledged not to advertise to children. In addition, we found thirteen videos clearly designed to promote prohibited Burger King products. For example, we found a video entitled "Frozen Elsa Turns Into a Monster High Doll! DisneyCarToys Spiderman at Burger King Barbie Restaurant" which depicts Spiderman as a Burger King employee who sells burgers and fries to multiple characters including Elsa from Disney's Frozen.

Recently, we conducted another round of searches to see if recent changes announced by Google to YouTube Kids had done anything to limit the prevalence of food marketing videos on the app. Using the same methodology, we found numerous product promotion videos for Burger King products still available on the YouTube Kids app. For example, we found "Burger King Chicken Fries REVIEW! #ChickenFriesAreBack" a video in which the narrator proclaims, "they look nice...they feel nice...these are tasty."

Please note that we did not do an exhaustive search of YouTube Kids for all Burger King products that do not meet CFBAI standards. We only searched for certain products to demonstrate the prevalence of Burger King marketing on YouTube Kids which violates your pledge. We urge you to conduct a thorough review of all of your marketing on YouTube Kids and remove all of the marketing for products that do not meet the CFBAI criteria.

We realize that you may not be directly responsible for the placement of some of these commercials and promotional videos on the YouTube Kids app. However, you are responsible for ensuring your products that do not meet CFBAI standards are not marketed to children under twelve. We ask therefore that you work with Google to remove any marketing for fries, sodas, and Whoppers—and any other Burger King products that do not meet the nutrition standards—from YouTube kids. We also request that you continue to monitor YouTube Kids to ensure that Burger King is meeting its CFBAI commitment moving forward.

Sincerely,

Josh Golin
Executive Director

Jeff Chester
Executive Director

⁴ <https://itunes.apple.com/us/app/youtube-kids/id936971630?mt=8>

Campaign for a Commercial-Free Childhood
89 South Street, Suite 403
Boston, MA 02111
(617) 896-9368

Center for Digital Democracy
1621 Connecticut Ave., Suite 500
Washington, DC 20009
(202) 986-2220

cc: Donald S. Clark, Secretary of the Commission, Federal Trade Commission
Eric Hirschhorn, Chief Marketing Officer, Burger King Corporation
Elaine D. Kolish, Vice President & Director, Children's Food and Beverage Advertising
Initiative, Council of Better Business Bureaus



Campaign for a Commercial-Free Childhood

CENTER FOR DIGITAL DEMOCRACY

Denise M. Morrison, CEO
Campbell Soup Company
760 Industrial Drive
Stockton, CA 95206

November 24, 2015

Re: Violation of CFBAI Pledge on YouTube Kids

Dear Ms. Morrison,

As a participant in the Children's Food and Beverage Advertising Initiative (CFBAI) Campbell Soup Company has committed to "feature only foods that meet CFBAI's uniform nutrition criteria" when advertising to children under twelve.¹ We have discovered, however, that there is considerable marketing of your company's products that do not meet the CFBAI criteria on Google's YouTube Kids app. We also believe that Google and advertisers are working together to create branded content for your products for YouTube knowing it will be available on YouTube Kids. Because this app's intended audience is clearly children under twelve, this marketing violates your pledge. Consequently we ask that you contact Google and ask that they remove any and all marketing for Campbell's products that do not meet the CFBAI's nutrition criteria. Further, we request that you take any and all necessary steps to prevent advertising your non-complying products on YouTube Kids or other child-directed platforms.

According to the Council of Better Business Bureaus, "CFBAI's requirements apply to child-directed ads on TV, print, radio, internet, interactive games (including advergames), tablets, smartphones, video games, computer games, DVDs and word-of-mouth."² Whether marketing is considered directed to children under twelve is determined by a variety of factors, including target audience and overall impression of the site. When Google launched the YouTube Kids app on February 23, 2015, the company described it as "the first Google product built from the ground up with little ones in mind."³ On iTunes, the app—a simplified version of YouTube designed specifically for young children—is categorized as intended for children ages five and

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³ Introducing the newest member of our family, the YouTube Kids app—available on the Google Play and the App Store, Official YouTube Blog (Feb. 23, 2015), available at <http://youtube-global.blogspot.com/2015/02/youtubekids.html>

under.⁴ Given that the app is clearly targeted to children under twelve, any Campbell's marketing on YouTube Kids should only be for products that meet the CFBAI nutrition standards.

During the period of May 8, 2015 through June 30, 2015, Campaign for a Commercial-Free Childhood (CCFC) and the Center for Digital Democracy's (CDD) reviewed YouTube Kids and conducted searches for promotions of Campbell products that would violate your CFBAI pledge not to engage in child-directed advertising. These included promotions for Campbell's brand Chicken Noodle and Chicken and Stars Soups. First, we identified a product or brand that should not be advertised to children using the CFBAI guidelines. Next, using the app's search function, we ran searches for the identified product. We located twelve television commercials for Campbell's brand Chicken Noodle Soup. In addition, we found two videos clearly designed to promote Campbell's brand Chicken Noodle and Chicken and Stars Soups. For example, we found a video entitled "Chicken & Stars Soup-Food Network" in which a narrator proclaims, "Chicken & Stars is great chicken broth. It's got tiny little star pasta in it, fresh carrots, and great chicken."

Recently, we conducted another round of searches to see if recent changes announced by Google to YouTube Kids had done anything to limit the prevalence of food marketing videos on the app. Using the same methodology, we found numerous product promotion videos for Campbell products still available on the YouTube Kids app. For example, we found numerous product reviews for Campbell's Pepperidge Farm brand, specifically for Milano cookies. For example, one product review is entitled "Pepperidge Farm Lemon Chocolate Cookies-Limited Edition Review."

Please note that we did not do an exhaustive search of YouTube Kids for all Campbell's products that do not meet CFBAI standards. We only searched for Campbell's brand Chicken Noodle and Chicken and Stars Soups products to demonstrate the prevalence of Campbell's marketing on YouTube Kids which violates your pledge. We urge you to conduct a thorough review of all of your marketing on YouTube Kids and remove all of the marketing for products that do not meet the CFBAI criteria.

We realize that you may not be directly responsible for the placement of some of these commercials and promotional videos on the YouTube Kids app. However, you are responsible for ensuring your products that do not meet CFBAI standards are not marketed to children under twelve. We ask therefore that you work with Google to remove any marketing for Campbell's brand Chicken Noodle and Chicken and Stars Soups products—and any other Campbell's products that do not meet the nutrition standards—from YouTube kids. We also request that you continue to monitor YouTube Kids to ensure that Campbell's is meeting its CFBAI commitment moving forward.

⁴ <https://itunes.apple.com/us/app/youtube-kids/id936971630?mt=8>

Sincerely,

Josh Golin
Executive Director
Campaign for a Commercial-Free Childhood
89 South Street, Suite 403
Boston, MA 02111
(617) 896-9368

Jeff Chester
Executive Director
Center for Digital Democracy
1621 Connecticut Ave., Suite 500
Washington, DC 20009
(202) 986-2220

cc: Anna Burr, Director, Communications, Campbell Soup Company
Donald S. Clark, Secretary of the Commission, Federal Trade Commission
Elaine D. Kolish, Vice President & Director, Children's Food and Beverage Advertising
Initiative, Council of Better Business Bureaus



Campaign for a Commercial-Free Childhood

CENTER FOR DIGITAL DEMOCRACY

Muhtar Kent, CEO
The Coca-Cola Company
2500 Windy Ridge Parkway
Atlanta, GA 30339 United States

November 24, 2015

Re: Violation of CFBAI Pledge on YouTube Kids

Dear Mr. Kent,

As a participant in the Children's Food and Beverage Advertising Initiative (CFBAI) The Coca-Cola Company has committed "to not engage in child-directed advertising," where child is defined as under twelve years of age.¹ We have discovered, however, that there is considerable marketing of your company's products on Google's YouTube Kids app. We also believe that Google and advertisers are working together to create branded content for your products for YouTube knowing it will be available on YouTube Kids. Because this app's intended audience is clearly children under twelve, this marketing violates your pledge. Consequently we ask that you contact Google and ask that they remove any and all marketing for Coca-Cola Company products. Further, we request that you take any and all necessary steps to prevent advertising your non-complying products on YouTube Kids or other child-directed platforms.

According to the Council of Better Business Bureaus, "CFBAI's requirements apply to child-directed ads on TV, print, radio, internet, interactive games (including advergames), tablets, smartphones, video games, computer games, DVDs and word-of-mouth."² Whether marketing is considered directed to children under twelve is determined by a variety of factors, including target audience and overall impression of the site. When Google launched the YouTube Kids app on February 23, 2015, the company described it as "the first Google product built from the ground up with little ones in mind."³ On iTunes, the app—a simplified version of YouTube designed specifically for young children—is categorized as intended for children ages five and

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³ Introducing the newest member of our family, the YouTube Kids app—available on the Google Play and the App Store, Official YouTube Blog (Feb. 23, 2015), available at <http://youtube-global.blogspot.com/2015/02/youtubekids.html>

under.⁴ Given that the app is clearly targeted to children under twelve, there should not be any Coca-Cola Company marketing on YouTube Kids based on your CFBAI pledge.

During the period of May 8, 2015 through June 30, 2015, Campaign for a Commercial-Free Childhood (CCFC) and the Center for Digital Democracy's (CDD) reviewed YouTube Kids and conducted searches for promotions of Coca-Cola products that would violate your CFBAI pledge not to engage in child-directed advertising. These included promotions for Coca-Cola brand soft drinks. First, we identified a product or brand that should not be advertised to children using the CFBAI guidelines. Next, using the app's search function, we ran searches for the identified product. We located forty-seven television commercials for Coca-Cola. In addition, we found nineteen videos clearly designed to promote Coca-Cola products. For example, we found a video entitled "Guerilla Marketing Example - Coca-Cola Happiness Vending Machine" in which Coca-Cola "put a special Coke Machine in the middle of a college campus to share a little happiness with the student body."

Recently, we conducted another round of searches to see if recent changes announced by Google to YouTube Kids had done anything to limit the prevalence of food marketing videos on the app. Using the same methodology, we found numerous product promotion videos for Coca-Cola products still available on the YouTube Kids app. For example, we found a product promotion video entitled "Toy Story Sheriff Woody and Dr Pepper toy" in which a toy Woody doll is seen sitting next to a real can of Dr. Pepper, carrying it with him under his arm, and eventually simulating drinking it. Both the Toy Story movie logo and the Dr. Pepper product logo frequently appear throughout the video.

Please note that we did not do an exhaustive search of YouTube Kids for all Coca-Cola Company products. We only searched for Coca-Cola brand soft drinks to demonstrate the prevalence of Coca-Cola Company marketing on YouTube Kids, which violates your pledge. We urge you to conduct a thorough review of YouTube Kids and remove all of the marketing for your company's products.

We realize that you may not be directly responsible for the placement of some of these commercials and promotional videos on the YouTube Kids app. However, you are responsible for ensuring your products are not marketed to children under twelve in accordance with your CFBAI pledge. We ask therefore that you work with Google to remove any marketing for Coca-Cola brand soft drinks—and any other Coca-Cola Company products—from YouTube kids. We also request that you continue to monitor YouTube Kids to ensure that Coca-Cola Company is meeting its CFBAI commitment moving forward.

⁴ <https://itunes.apple.com/us/app/youtube-kids/id936971630?mt=8>

Sincerely,

Josh Golin
Executive Director
Campaign for a Commercial-Free Childhood
89 South Street, Suite 403
Boston, MA 02111
(617) 896-9368

Jeff Chester
Executive Director
Center for Digital Democracy
1621 Connecticut Ave., Suite 500
Washington, DC 20009
(202) 986-2220

cc: L. Celeste Bottorff, Vice President, Living Well, The Coca-Cola Company
Donald S. Clark, Secretary of the Commission, Federal Trade Commission
Elaine D. Kolish, Vice President & Director, Children's Food and Beverage Advertising
Initiative, Council of Better Business Bureaus



Campaign for a Commercial-Free Childhood

CENTER FOR DIGITAL DEMOCRACY

Sean M. Connolly, CEO
ConAgra Foods Inc.
1 ConAgra Drive
Omaha, NE 68102-5001

November 24, 2015

Re: Violation of CFBAI Pledge on YouTube Kids

Dear Mr. Connolly,

As a participant in the Children's Food and Beverage Advertising Initiative (CFBAI) ConAgra Foods Inc. has committed to "feature only foods that meet CFBAI's uniform nutrition criteria" when advertising to children under twelve.¹ We have discovered, however, that there is considerable marketing of your company's products that do not meet the CFBAI criteria on Google's YouTube Kids app. We also believe that Google and advertisers are working together to create branded content for your products for YouTube knowing it will be available on YouTube Kids. Because this app's intended audience is clearly children under twelve, this marketing violates your pledge. Consequently we ask that you contact Google and ask that they remove any and all marketing for ConAgra products that do not meet the CFBAI's nutrition criteria. Further, we request that you take any and all necessary steps to prevent advertising your non-complying products on YouTube Kids or other child-directed platforms.

According to the Council of Better Business Bureaus, "CFBAI's requirements apply to child-directed ads on TV, print, radio, internet, interactive games (including advergames), tablets, smartphones, video games, computer games, DVDs and word-of-mouth."² Whether marketing is considered directed to children under twelve is determined by a variety of factors, including target audience and overall impression of the site. When Google launched the YouTube Kids app on February 23, 2015, the company described it as "the first Google product built from the ground up with little ones in mind."³ On iTunes, the app—a simplified version of YouTube designed specifically for young children—is categorized as intended for children ages five and

¹ Children's Food & Beverage Advertising Initiative Foods and Beverages that Meet the CFBAI Category-Specific Uniform Nutrition Criteria that May Be in Child-Directed Advertising, available at https://www.bbb.org/globalassets/shared/media/cfbai/cfbai-product-list-june-2015_final.pdf. Foods that meet these criteria are specifically listed.

² <https://www.bbb.org/globalassets/local-bbbs/council-113/media/cfbai/audience-definitions-aug-2014.pdf>

³ Introducing the newest member of our family, the YouTube Kids app—available on the Google Play and the App Store, Official YouTube Blog (Feb. 23, 2015), available at <http://youtube-global.blogspot.com/2015/02/youtubekids.html>

under.⁴ Given that the app is clearly targeted to children under twelve, any ConAgra marketing on YouTube Kids should only be for products that meet the CFBAI nutrition standards.

During the period of May 8, 2015 through June 30, 2015, Campaign for a Commercial-Free Childhood (CCFC) and the Center for Digital Democracy's (CDD) reviewed YouTube Kids and conducted searches for promotions of ConAgra products that would violate your CFBAI pledge not to engage in child-directed advertising. These included promotions for Swiss Miss brand cocoa, pudding, and bars. First, we identified a product or brand that should not be advertised to children using the CFBAI guidelines. Next, using the app's search function, we ran searches for the identified product. We located fifteen television commercials for Swiss Miss products. In addition, we found seven videos clearly designed to promote Swiss Miss products. For example, we found a product review video entitled "Swiss Miss Hot Chocolate Review" in which a woman proclaims, "I LOVE the Swiss Miss brand because... it's more chocolatey than the rest... it's really creamy naturally." She also highlights that the product is affordable and portable, and even notes that she passed it out for Halloween one year.

Recently, we conducted another round of searches to see if recent changes announced by Google to YouTube Kids had done anything to limit the prevalence of food marketing videos on the app. Using the same methodology, we found numerous product promotion videos for ConAgra products still available on the YouTube Kids app. For example, we found a product review video entitled "Banquet Chicken Nugget Review" in which a man states, "they look really good...and the price was \$4. I mean, it's a no brainer, right."

Please note that we did not do an exhaustive search of YouTube Kids for all ConAgra products that do not meet CFBAI standards. We only searched for Swiss Miss products to demonstrate the prevalence of ConAgra marketing on YouTube Kids which violates your pledge. We urge you to conduct a thorough review of all of your marketing on YouTube Kids and remove all of the marketing for products that do not meet the CFBAI criteria.

We realize that you may not be directly responsible for the placement of some of these commercials and promotional videos on the YouTube Kids app. However, you are responsible for ensuring your products that do not meet CFBAI standards are not marketed to children under twelve. We ask therefore that you work with Google to remove any marketing for Swiss Miss products—and any other ConAgra products that do not meet the nutrition standards—from YouTube kids. We also request that you continue to monitor YouTube Kids to ensure that ConAgra is meeting its CFBAI commitment moving forward.

⁴ <https://itunes.apple.com/us/app/youtube-kids/id936971630?mt=8>

Sincerely,

Josh Golin
Executive Director
Campaign for a Commercial-Free Childhood
89 South Street, Suite 403
Boston, MA 02111
(617) 896-9368

Jeff Chester
Executive Director
Center for Digital Democracy
1621 Connecticut Ave., Suite 500
Washington, DC 20009
(202) 986-2220

cc: Donald S. Clark, Secretary of the Commission, Federal Trade Commission
Brett Groom, Vice President, Global Marketing, ConAgra Foods, Inc.
Elaine D. Kolish, Vice President & Director, Children's Food and Beverage Advertising
Initiative, Council of Better Business Bureaus



Campaign for a Commercial-Free Childhood

CENTER FOR DIGITAL DEMOCRACY

Paul Chibe, CEO
Ferrero USA, Inc.
600 Cottontail Lane
Somerset, New Jersey 08873

November 24, 2015

Re: Violation of CFBAI Pledge on YouTube Kids

Dear Mr. Chibe,

As a participant in the Children's Food and Beverage Advertising Initiative (CFBAI) Ferrero USA, Inc. has committed "to not engage in child-directed advertising," where child is defined as under twelve years of age.¹ We have discovered, however, that there is considerable marketing of your company's products on Google's YouTube Kids app. We also believe that Google and advertisers are working together to create branded content for your products for YouTube knowing it will be available on YouTube Kids. Because this app's intended audience is clearly children under twelve, this marketing violates your pledge. Consequently we ask that you contact Google and ask that they remove any and all marketing for Ferrero products. Further, we request that you take any and all necessary steps to prevent advertising your non-complying products on YouTube Kids or other child-directed platforms.

According to the Council of Better Business Bureaus, "CFBAI's requirements apply to child-directed ads on TV, print, radio, internet, interactive games (including advergames), tablets, smartphones, video games, computer games, DVDs and word-of-mouth."² Whether marketing is considered directed to children under twelve is determined by a variety of factors, including target audience and overall impression of the site. When Google launched the YouTube Kids app on February 23, 2015, the company described it as "the first Google product built from the ground up with little ones in mind."³ On iTunes, the app—a simplified version of YouTube designed specifically for young children—is categorized as intended for children ages five and

¹ Children's Food & Beverage Advertising Initiative Foods and Beverages that Meet the CFBAI Category-Specific Uniform Nutrition Criteria that May Be in Child-Directed Advertising, available at https://www.bbb.org/globalassets/shared/media/cfbai/cfbai-product-list-june-2015_final.pdf. Foods that meet these criteria are specifically listed.

² <https://www.bbb.org/globalassets/local-bbbs/council-113/media/cfbai/audience-definitions-aug-2014.pdf>

³ Introducing the newest member of our family, the YouTube Kids app—available on the Google Play and the App Store, Official YouTube Blog (Feb. 23, 2015), available at <http://youtube-global.blogspot.com/2015/02/youtubekids.html>

under.⁴ Given that the app is clearly targeted to children under twelve, there should not be any Ferrero marketing on YouTube Kids based on your CFBAI pledge.

During the period of May 8, 2015 through June 30, 2015, Campaign for a Commercial-Free Childhood (CCFC) and the Center for Digital Democracy's (CDD) reviewed YouTube Kids and conducted searches for promotions of Ferrero products that would violate your CFBAI pledge not to engage in child-directed advertising. These included promotions for Nutella brand spreads. First, we identified a product or brand that should not be advertised to children using the CFBAI guidelines. Next, using the app's search function, we ran searches for the identified product. We located twenty-five television commercials for Nutella products. In addition, we found twenty videos clearly designed to promote Nutella products. For example, we found a video entitled "10 Best Uses of Nutella" in which the narrator proclaims he is "pretty much the queen of Nutella" and then goes on to suggest various ways to consume Nutella.

Recently, we conducted another round of searches to see if recent changes announced by Google to YouTube Kids had done anything to limit the prevalence of food marketing videos on the app. Using the same methodology, we found numerous product promotion videos for Ferrero products still available on the YouTube Kids app. For example, we found a video entitled "FoodMania Review: Reese's, Oreos, & Nutella Snack Dippers" in which the star Aubrey, the young girl from Modern Family, says "GOOD" emphatically after trying the Nutella product, while her mother agrees, responding, "you can't not like this."

Please note that we did not do an exhaustive search of YouTube Kids for all Ferrero products. We only searched for Nutella products to demonstrate the prevalence of Ferrero marketing on YouTube Kids which violates your pledge. We urge you to conduct a thorough review of YouTube Kids and remove all of the marketing for your company's products.

We realize that you may not be directly responsible for the placement of some of these commercials and promotional videos on the YouTube Kids app. However, you are responsible for ensuring your products are not marketed to children under twelve in accordance with your CFBAI pledge. We ask therefore that you work with Google to remove any marketing for Nutella products—and any other Ferrero products—from YouTube kids. We also request that you continue to monitor YouTube Kids to ensure that Ferrero is meeting its CFBAI commitment moving forward.

⁴ <https://itunes.apple.com/us/app/youtube-kids/id936971630?mt=8>

Sincerely,

Josh Golin
Executive Director
Campaign for a Commercial-Free Childhood
89 South Street, Suite 403
Boston, MA 02111
(617) 896-9368

Jeff Chester
Executive Director
Center for Digital Democracy
1621 Connecticut Ave., Suite 500
Washington, DC 20009
(202) 986-2220

cc: Martino Caretto, Director Institutional Affairs, Ferrero
Donald S. Clark, Secretary of the Commission, Federal Trade Commission
Elaine D. Kolish, Vice President & Director, Children's Food and Beverage Advertising
Initiative, Council of Better Business Bureaus



Campaign for a Commercial-Free Childhood

CENTER FOR DIGITAL DEMOCRACY

Ken Powell, CEO
General Mills Inc.
P.O. Box 9452
Minneapolis, MN 55440

November 24, 2015

Re: Violation of CFBAI Pledge on YouTube Kids

Dear Mr. Powell,

As a participant in the Children's Food and Beverage Advertising Initiative (CFBAI) General Mills Inc. has committed to "feature only foods that meet CFBAI's uniform nutrition criteria" when advertising to children under twelve.¹ We have discovered, however, that there is considerable marketing of your company's products that do not meet the CFBAI criteria on Google's YouTube Kids app. We also believe that Google and advertisers are working together to create branded content for your products for YouTube knowing it will be available on YouTube Kids. Because this app's intended audience is clearly children under twelve, this marketing violates your pledge. Consequently we ask that you contact Google and ask that they remove any and all marketing for General Mills products that do not meet the CFBAI's nutrition criteria. Further, we request that you take any and all necessary steps to prevent advertising your non-complying products on YouTube Kids or other child-directed platforms.

According to the Council of Better Business Bureaus, "CFBAI's requirements apply to child-directed ads on TV, print, radio, internet, interactive games (including advergames), tablets, smartphones, video games, computer games, DVDs and word-of-mouth."² Whether marketing is considered directed to children under twelve is determined by a variety of factors, including target audience and overall impression of the site. When Google launched the YouTube Kids app on February 23, 2015, the company described it as "the first Google product built from the ground up with little ones in mind."³ On iTunes, the app—a simplified version of YouTube designed specifically for young children—is categorized as intended for children ages five and

¹ Children's Food & Beverage Advertising Initiative Foods and Beverages that Meet the CFBAI Category-Specific Uniform Nutrition Criteria that May Be in Child-Directed Advertising, available at https://www.bbb.org/globalassets/shared/media/cfbai/cfbai-product-list-june-2015_final.pdf. Foods that meet these criteria are specifically listed.

² <https://www.bbb.org/globalassets/local-bbbs/council-113/media/cfbai/audience-definitions-aug-2014.pdf>

³ Introducing the newest member of our family, the YouTube Kids app—available on the Google Play and the App Store, Official YouTube Blog (Feb. 23, 2015), available at <http://youtube-global.blogspot.com/2015/02/youtubekids.html>

under.⁴ Given that the app is clearly targeted to children under twelve, any General Mills marketing on YouTube Kids should only be for products that meet the CFBAI nutrition standards.

During the period of May 8, 2015 through June 30, 2015, Campaign for a Commercial-Free Childhood (CCFC) and the Center for Digital Democracy's (CDD) reviewed YouTube Kids and conducted searches for promotions of General Mills products that would violate your CFBAI pledge not to engage in child-directed advertising. These included promotions for Totino's brand frozen pizzas and pizza rolls. First, we identified a product or brand that should not be advertised to children using the CFBAI guidelines. Next, using the app's search function, we ran searches for the identified product. We located two television commercials for Totino's products. In addition, we found thirteen videos clearly designed to promote Totino's products. For example, we found a product review video entitled "Totino's Pepperoni Pizza Stuffers Video Review: Freezerburns (Ep451)" in which the reviewer proclaims, "this is exactly like a pepperoni pizza roll" with "the taste you've come to love." He also highlights the price of the product.

Recently, we conducted another round of searches to see if recent changes announced by Google to YouTube Kids had done anything to limit the prevalence of food marketing videos on the app. Using the same methodology, we found numerous product promotion videos for General Mills products still available on the YouTube Kids app. For example, "Pillsbury Halloween Sugar Cookies, for 2015" endorses these non-CFBAI products with a special eye toward seasonal promotion.

Please note that we did not do an exhaustive search of YouTube Kids for all General Mills products that do not meet CFBAI standards. We only searched for Totino's products to demonstrate the prevalence of General Mills marketing on YouTube Kids which violates your pledge. We urge you to conduct a thorough review of all of your marketing on YouTube Kids and remove all of the marketing for products that do not meet the CFBAI criteria.

We realize that you may not be directly responsible for the placement of some of these commercials and promotional videos on the YouTube Kids app. However, you are responsible for ensuring your products that do not meet CFBAI standards are not marketed to children under twelve. We ask therefore that you work with Google to remove any marketing for Totino's products—and any other General Mills products that do not meet the nutrition standards—from YouTube kids. We also request that you continue to monitor YouTube Kids to ensure that General Mills is meeting its CFBAI commitment moving forward.

⁴ <https://itunes.apple.com/us/app/youtube-kids/id936971630?mt=8>

Sincerely,

Josh Golin
Executive Director
Campaign for a Commercial-Free Childhood
89 South Street, Suite 403
Boston, MA 02111
(617) 896-9368

Jeff Chester
Executive Director
Center for Digital Democracy
1621 Connecticut Ave., Suite 500
Washington, DC 20009
(202) 986-2220

cc: Mark Addicks, Senior Vice President, Chief Marketing Officer, General Mills Inc.
Donald S. Clark, Secretary of the Commission, Federal Trade Commission
Elaine D. Kolish, Vice President & Director, Children's Food and Beverage Advertising
Initiative, Council of Better Business Bureaus



Campaign for a Commercial-Free Childhood

CENTER FOR DIGITAL DEMOCRACY

John P. Bilbrey, CEO
The Hershey Company
14 East Chocolate Avenue
Hershey, PA 17033

November 24, 2015

Re: Violation of CFBAI Pledge on YouTube Kids

Dear Mr. Bilbrey,

As a participant in the Children's Food and Beverage Advertising Initiative (CFBAI) The Hershey Company has committed "to not engage in child-directed advertising," where child is defined as under twelve years of age.¹ We have discovered, however, that there is considerable marketing of your company's products on Google's YouTube Kids app. We also believe that Google and advertisers are working together to create branded content for your products for YouTube knowing it will be available on YouTube Kids. Because this app's intended audience is clearly children under twelve, this marketing violates your pledge. Consequently we ask that you contact Google and ask that they remove any and all marketing for Hershey's products. Further, we request that you take any and all necessary steps to prevent advertising your non-complying products on YouTube Kids or other child-directed platforms.

According to the Council of Better Business Bureaus, "CFBAI's requirements apply to child-directed ads on TV, print, radio, internet, interactive games (including advergames), tablets, smartphones, video games, computer games, DVDs and word-of-mouth."² Whether marketing is considered directed to children under twelve is determined by a variety of factors, including target audience and overall impression of the site. When Google launched the YouTube Kids app on February 23, 2015, the company described it as "the first Google product built from the ground up with little ones in mind."³ On iTunes, the app—a simplified version of YouTube designed specifically for young children—is categorized as intended for children ages five and

¹ Children's Food & Beverage Advertising Initiative Foods and Beverages that Meet the CFBAI Category-Specific Uniform Nutrition Criteria that May Be in Child-Directed Advertising, available at https://www.bbb.org/globalassets/shared/media/cfbai/cfbai-product-list-june-2015_final.pdf. Foods that meet these criteria are specifically listed.

² <https://www.bbb.org/globalassets/local-bbbs/council-113/media/cfbai/audience-definitions-aug-2014.pdf>

³ Introducing the newest member of our family, the YouTube Kids app—available on the Google Play and the App Store, Official YouTube Blog (Feb. 23, 2015), available at <http://youtube-global.blogspot.com/2015/02/youtubekids.html>

under.⁴ Given that the app is clearly targeted to children under twelve, there should not be any Hershey Company marketing on YouTube Kids based on your CFBAI pledge.

During the period of May 8, 2015 through June 30, 2015, Campaign for a Commercial-Free Childhood (CCFC) and the Center for Digital Democracy's (CDD) reviewed of YouTube Kids and found several examples of promotions for Hershey Company products, which violates your CFBAI pledge not to engage in child-directed advertising. These included five dedicated channels—Reese's Channel, Hershey's Kisses Channel, Twizzlers Channel, Hershey's Kitchens Channel, and Celebrate with Hershey's Channel. Within these channels are commercials which previously aired on television, videos on how to craft and bake with Hershey's products, commercialized interviews where Hershey's asks people how they use their products, and videos on how Hershey's products are made.

Recently, we conducted another round of searches to see if recent changes announced by Google to YouTube Kids had done anything to limit the prevalence of food marketing videos on the app. Using the same methodology, we found numerous product promotion videos for Hershey products still available on the YouTube Kids app. For example, "Hershey's Halloween! Kid Candy Review" endorses these non-CFBAI products with a special eye toward seasonal promotion.

Please note that we did not do an exhaustive search of YouTube Kids for all Hershey Company products. We only searched the aforementioned channels to demonstrate the prevalence of Hershey's marketing on YouTube Kids which violates your pledge. We urge you to conduct a thorough review of YouTube Kids and remove all of the marketing for your company's products.

We realize that you may not be directly responsible for the placement of some of these commercials and promotional videos on the YouTube Kids app. However, you are responsible for ensuring your products are not marketed to children under twelve in accordance with your CFBAI pledge. We ask therefore that you work with Google to remove any marketing for Hershey's products from YouTube kids. We also request that you continue to monitor YouTube Kids to ensure that Hershey's is meeting its CFBAI commitment moving forward.

⁴ <https://itunes.apple.com/us/app/youtube-kids/id936971630?mt=8>

Sincerely,

Josh Golin
Executive Director
Campaign for a Commercial-Free Childhood
89 South Street, Suite 403
Boston, MA 02111
(617) 896-9368

Jeff Chester
Executive Director
Center for Digital Democracy
1621 Connecticut Ave., Suite 500
Washington, DC 20009
(202) 986-2220

cc: Donald S. Clark, Secretary of the Commission, Federal Trade Commission
David Forney Sr., Director, Global Consumer Communications, The Hershey
Company
Elaine D. Kolish, Vice President & Director, Children's Food and Beverage Advertising
Initiative, Council of Better Business Bureaus



Campaign for a Commercial-Free Childhood

CENTER FOR DIGITAL DEMOCRACY

John A. Bryant, CEO
Kellogg Company
Kellogg's Consumer Affairs
P.O. Box CAMB
Battle Creek, MI 49016

November 24, 2015

Re: Violation of CFBAI Pledge on YouTube Kids

Dear Mr. Bryant,

As a participant in the Children's Food and Beverage Advertising Initiative (CFBAI) Kellogg Company has committed to "feature only foods that meet CFBAI's uniform nutrition criteria" when advertising to children under twelve.¹ We have discovered, however, that there is considerable marketing of your company's products that do not meet the CFBAI criteria on Google's YouTube Kids app. We also believe that Google and advertisers are working together to create branded content for your products for YouTube knowing it will be available on YouTube Kids. Because this app's intended audience is clearly children under twelve, this marketing violates your pledge. Consequently we ask that you contact Google and ask that they remove any and all marketing for Kellogg's products that do not meet the CFBAI's nutrition criteria. Further, we request that you take any and all necessary steps to prevent advertising your non-complying products on YouTube Kids or other child-directed platforms.

According to the Council of Better Business Bureaus, "CFBAI's requirements apply to child-directed ads on TV, print, radio, internet, interactive games (including advergames), tablets, smartphones, video games, computer games, DVDs and word-of-mouth."² Whether marketing is considered directed to children under twelve is determined by a variety of factors, including target audience and overall impression of the site. When Google launched the YouTube Kids app on February 23, 2015, the company described it as "the first Google product built from the ground up with little ones in mind."³ On iTunes, the app—a simplified version of YouTube designed

¹ Children's Food & Beverage Advertising Initiative Foods and Beverages that Meet the CFBAI Category-Specific Uniform Nutrition Criteria that May Be in Child-Directed Advertising, available at https://www.bbb.org/globalassets/shared/media/cfbai/cfbai-product-list-june-2015_final.pdf. Foods that meet these criteria are specifically listed.

² <https://www.bbb.org/globalassets/local-bbbs/council-113/media/cfbai/audience-definitions-aug-2014.pdf>

³ Introducing the newest member of our family, the YouTube Kids app—available on the Google Play and the App Store, Official YouTube Blog (Feb. 23, 2015), available at <http://youtube-global.blogspot.com/2015/02/youtubekids.html>

specifically for young children—is categorized as intended for children ages five and under.⁴ Given that the app is clearly targeted to children under twelve, any Kellogg’s marketing on YouTube Kids should only be for products that meet the CFBAI nutrition standards.

During the period of May 8, 2015 through June 30, 2015, Campaign for a Commercial-Free Childhood (CCFC) and the Center for Digital Democracy’s (CDD) reviewed YouTube Kids and conducted searches for promotions of Kellogg products that would violate your CFBAI pledge not to engage in child-directed advertising. These included promotions for Pop-Tarts. First, we identified a product or brand that should not be advertised to children using the CFBAI guidelines. Next, using the app’s search function, we ran searches for the identified product. We located thirty-eight television commercials for Pop-Tarts. In addition, we found eighteen videos clearly designed to promote Pop-Tarts. For example, we found a product review video entitled “Kellogg’s Pop-Tarts Gone Nutty Peanut Butter Strawberry & Chocolate - 3 Tasty Flavors!” in which one of the reviewers proclaims “Pop-Tarts are always a cause for celebration.” Another reviewer asserts that the Pop-Tart is “so tasty” that “it tastes like a peanut butter cookie.”

Recently, we conducted another round of searches to see if recent changes announced by Google to YouTube Kids had done anything to limit the prevalence of food marketing videos on the app. Using the same methodology, we found numerous product promotion videos for Kellogg products still available on the YouTube Kids app. For example, “Marbits: Spookylicious Pop-Tarts” endorses these non-CFBAI products with a special eye toward seasonal promotion.

Please note that we did not do an exhaustive search of YouTube Kids for all Kellogg’s products that do not meet CFBAI standards. We only searched for Pop-Tarts products to demonstrate the prevalence of Kellogg’s marketing on YouTube Kids which violates your pledge. We urge you to conduct a thorough review of all of your marketing on YouTube Kids and remove all of the marketing for products that do not meet the CFBAI criteria.

We realize that you may not be directly responsible for the placement of some of these commercials and promotional videos on the YouTube Kids app. However, you are responsible for ensuring your products that do not meet CFBAI standards are not marketed to children under twelve. We ask therefore that you work with Google to remove any marketing for Pop-Tarts products—and any other Kellogg’s products that do not meet the nutrition standards—from YouTube kids. We also request that you continue to monitor YouTube Kids to ensure that Kellogg’s is meeting its CFBAI commitment moving forward.

⁴ <https://itunes.apple.com/us/app/youtube-kids/id936971630?mt=8>

Sincerely,

Josh Golin
Executive Director
Campaign for a Commercial-Free Childhood
89 South Street, Suite 403
Boston, MA 02111
(617) 896-9368

Jeff Chester
Executive Director
Center for Digital Democracy
1621 Connecticut Ave., Suite 500
Washington, DC 20009
(202) 986-2220

cc: Donald S. Clark, Secretary of the Commission, Federal Trade Commission
Brigitte S. Gwyn, Vice President, Global Government Relations, Kellogg Company
Elaine D. Kolish, Vice President & Director, Children's Food and Beverage Advertising
Initiative, Council of Better Business Bureaus



Campaign for a Commercial-Free Childhood

CENTER FOR DIGITAL DEMOCRACY

Bernardo Hees, CEO
Kraft Foods Group, Inc.
Three Lakes Dr.
Northfield, IL 60093

November 24, 2015

Re: Violation of CFBAI Pledge on YouTube Kids

Dear Mr. Hees,

As a participant in the Children's Food and Beverage Advertising Initiative (CFBAI) Kraft Foods Group, Inc. has committed to "feature only foods that meet CFBAI's uniform nutrition criteria" when advertising to children under twelve.¹ We have discovered, however, that there is considerable marketing of your company's products that do not meet the CFBAI criteria on Google's YouTube Kids app. We also believe that Google and advertisers are working together to create branded content for your products for YouTube knowing it will be available on YouTube Kids. Because this app's intended audience is clearly children under twelve, this marketing violates your pledge. Consequently we ask that you contact Google and ask that they remove any and all marketing for Kraft products that do not meet the CFBAI's nutrition criteria. Further, we request that you take any and all necessary steps to prevent advertising your non-complying products on YouTube Kids or other child-directed platforms.

According to the Council of Better Business Bureaus, "CFBAI's requirements apply to child-directed ads on TV, print, radio, internet, interactive games (including advergames), tablets, smartphones, video games, computer games, DVDs and word-of-mouth."² Whether marketing is considered directed to children under twelve is determined by a variety of factors, including target audience and overall impression of the site. When Google launched the YouTube Kids app on February 23, 2015, the company described it as "the first Google product built from the ground up with little ones in mind."³ On iTunes, the app—a simplified version of YouTube designed specifically for young children—is categorized as intended for children ages five and

¹ Children's Food & Beverage Advertising Initiative Foods and Beverages that Meet the CFBAI Category-Specific Uniform Nutrition Criteria that May Be in Child-Directed Advertising, available at https://www.bbb.org/globalassets/shared/media/cfbai/cfbai-product-list-june-2015_final.pdf. Foods that meet these criteria are specifically listed.

² <https://www.bbb.org/globalassets/local-bbbs/council-113/media/cfbai/audience-definitions-aug-2014.pdf>

³ Introducing the newest member of our family, the YouTube Kids app—available on the Google Play and the App Store, Official YouTube Blog (Feb. 23, 2015), available at <http://youtube-global.blogspot.com/2015/02/youtubekids.html>

under.⁴ Given that the app is clearly targeted to children under twelve, any Kraft marketing on YouTube Kids should only be for products that meet the CFBAI nutrition standards.

During the period of May 8, 2015 through June 30, 2015, Campaign for a Commercial-Free Childhood (CCFC) and the Center for Digital Democracy's (CDD) reviewed YouTube Kids and conducted searches for promotions of Kraft products that would violate your CFBAI pledge not to engage in child-directed advertising. These included promotions for Velveeta brand processed cheeses. First, we identified a product or brand that should not be advertised to children using the CFBAI guidelines. Next, using the app's search function, we ran searches for the identified product. We located twenty-two television commercials for Velveeta products. In addition, we found twenty-four videos clearly designed to promote Velveeta products, including videos created by Kraft Kitchen. For example, we found a product review video entitled "Viewer Request: Krafts Velveeta Shells and Cheese Review" in which the reviewer proclaims, "very cheesy, very creamy...I really do love the creaminess on this."

Recently, we conducted another round of searches to see if recent changes announced by Google to YouTube Kids had done anything to limit the prevalence of food marketing videos on the app. Using the same methodology, we found numerous product promotion videos for Kraft products still available on the YouTube Kids app. For example, "Kraft Jumbo Halloween Marshmallows for 2015" endorses these non-CFBAI products with a special eye toward seasonal promotion.

Please note that we did not do an exhaustive search of YouTube Kids for all Kraft products that do not meet CFBAI standards. We only searched for Velveeta products to demonstrate the prevalence of Kraft marketing on YouTube Kids which violates your pledge. We urge you to conduct a thorough review of all of your marketing on YouTube Kids and remove all of the marketing for products that do not meet the CFBAI criteria.

We realize that you may not be directly responsible for the placement of some of these commercials and promotional videos on the YouTube Kids app. However, you are responsible for ensuring your products that do not meet CFBAI standards are not marketed to children under twelve. We ask therefore that you work with Google to remove any marketing for Velveeta products—and any other Kraft products that do not meet the nutrition standards—from YouTube kids. We also request that you continue to monitor YouTube Kids to ensure that Kraft is meeting its CFBAI commitment moving forward.

⁴ <https://itunes.apple.com/us/app/youtube-kids/id936971630?mt=8>

Sincerely,

Josh Golin
Executive Director
Campaign for a Commercial-Free Childhood
89 South Street, Suite 403
Boston, MA 02111
(617) 896-9368

Jeff Chester
Executive Director
Center for Digital Democracy
1621 Connecticut Ave., Suite 500
Washington, DC 20009
(202) 986-2220

cc: Donald S. Clark, Secretary of the Commission, Federal Trade Commission
Chris Doherty, Vice President & Associate General Counsel, Kraft Foods Group, Inc.
Elaine D. Kolish, Vice President & Director, Children's Food and Beverage Advertising
Initiative, Council of Better Business Bureaus



Campaign for a Commercial-Free Childhood

CENTER FOR DIGITAL DEMOCRACY

Grant F. Reid, CEO
Mars, Incorporated
6885 Elm Street
McLean, Virginia, US

November 24, 2015

Re: Violation of CFBAI Pledge on YouTube Kids

Dear Mr. Reid,

As a participant in the Children's Food and Beverage Advertising Initiative (CFBAI) Mars, Incorporated has committed "to not engage in child-directed advertising," where child is defined as under twelve years of age.¹ We have discovered, however, that there is considerable marketing of your company's products on Google's YouTube Kids app. We also believe that Google and advertisers are working together to create branded content for your products for YouTube knowing it will be available on YouTube Kids. Because this app's intended audience is clearly children under twelve, this marketing violates your pledge. Consequently we ask that you contact Google and ask that they remove any and all marketing for Mars products. Further, we request that you take any and all necessary steps to prevent advertising your non-complying products on YouTube Kids or other child-directed platforms.

According to the Council of Better Business Bureaus, "CFBAI's requirements apply to child-directed ads on TV, print, radio, internet, interactive games (including advergames), tablets, smartphones, video games, computer games, DVDs and word-of-mouth."² Whether marketing is considered directed to children under twelve is determined by a variety of factors, including target audience and overall impression of the site. When Google launched the YouTube Kids app on February 23, 2015, the company described it as "the first Google product built from the ground up with little ones in mind."³ On iTunes, the app—a simplified version of YouTube designed specifically for young children—is categorized as intended for children ages five and

¹ Children's Food & Beverage Advertising Initiative Foods and Beverages that Meet the CFBAI Category-Specific Uniform Nutrition Criteria that May Be in Child-Directed Advertising, available at https://www.bbb.org/globalassets/shared/media/cfbai/cfbai-product-list-june-2015_final.pdf. Foods that meet these criteria are specifically listed.

² <https://www.bbb.org/globalassets/local-bbbs/council-113/media/cfbai/audience-definitions-aug-2014.pdf>

³ Introducing the newest member of our family, the YouTube Kids app—available on the Google Play and the App Store, Official YouTube Blog (Feb. 23, 2015), available at <http://youtube-global.blogspot.com/2015/02/youtubekids.html>

under.⁴ Given that the app is clearly targeted to children under twelve, there should not be any Mars marketing on YouTube Kids based on your CFBAI pledge.

During the period of May 8, 2015 through June 30, 2015, Campaign for a Commercial-Free Childhood (CCFC) and the Center for Digital Democracy's (CDD) reviewed YouTube Kids and conducted searches for promotions of Mars products that would violate your CFBAI pledge not to engage in child-directed advertising. These included promotions for Snickers brand candy. First, we identified a product or brand that should not be advertised to children using the CFBAI guidelines. Next, using the app's search function, we ran searches for the identified product. We located twenty-three television commercials for Snickers products. In addition, we found seventeen videos clearly designed to promote Snickers products. For example, we found a product review video entitled "Giant 1lb Snickers Bar – 'Holiday Haul' Review." The reviewer states, "It was only \$4.99 guys for this massive Snickers." She further adds, "I would give it a ten out of ten. I must say I'm a big Snickers fan and this giant one tastes so much better than this tiny one."

Recently, we conducted another round of searches to see if recent changes announced by Google to YouTube Kids had done anything to limit the prevalence of food marketing videos on the app. Using the same methodology, we found numerous product promotion videos for Mars products still available on the YouTube Kids app. For example, "M&M's: Pumpkin Spice Latte Review" endorses these non-CFBAI products with a special eye toward seasonal promotion.

Please note that we did not do an exhaustive search of YouTube Kids for all Mars products. We only searched for Snickers products to demonstrate the prevalence of Mars marketing on YouTube Kids, which violates your pledge. We urge you to conduct a thorough review of YouTube Kids and remove all of the marketing for your company's products.

We realize that you may not be directly responsible for the placement of some of these commercials and promotional videos on the YouTube Kids app. However, you are responsible for ensuring your products are not marketed to children under twelve in accordance with your CFBAI pledge. We ask therefore that you work with Google to remove any marketing for Snickers products—and any other Mars products—from YouTube kids. We also request that you continue to monitor YouTube Kids to ensure that Mars is meeting its CFBAI commitment moving forward.

⁴ <https://itunes.apple.com/us/app/youtube-kids/id936971630?mt=8>

Sincerely,

Josh Golin
Executive Director
Campaign for a Commercial-Free Childhood
89 South Street, Suite 403
Boston, MA 02111
(617) 896-9368

Jeff Chester
Executive Director
Center for Digital Democracy
1621 Connecticut Ave., Suite 500
Washington, DC 20009
(202) 986-2220

cc: Donald S. Clark, Secretary of the Commission, Federal Trade Commission
Elaine D. Kolish, Vice President & Director, Children's Food and Beverage Advertising
Initiative, Council of Better Business Bureaus
Eric Olsen, Senior Vice President, Corporate Affairs and Public Policy, Mars,
Incorporated



Campaign for a Commercial-Free Childhood

CENTER FOR DIGITAL DEMOCRACY

Steve Easterbrook, CEO
McDonald's USA
2111 McDonald's Dr.
Oak Brook, IL 60523

November 24, 2015

Re: Violation of CFBAI Pledge on YouTube Kids

Dear Mr. Easterbrook,

As a participant in the Children's Food and Beverage Advertising Initiative (CFBAI) McDonald's USA has committed to "feature only foods that meet CFBAI's uniform nutrition criteria" when advertising to children under twelve.¹ We have discovered, however, that there is considerable marketing of your company's products that do not meet the CFBAI criteria on Google's YouTube Kids app. We also believe that Google and advertisers are working together to create branded content for your products for YouTube knowing it will be available on YouTube Kids. Because this app's intended audience is clearly children under twelve, this marketing violates your pledge. Consequently we ask that you contact Google and ask that they remove any and all marketing for McDonald's products that do not meet the CFBAI's nutrition criteria. Further, we request that you take any and all necessary steps to prevent advertising your non-complying products on YouTube Kids or other child-directed platforms.

According to the Council of Better Business Bureaus, "CFBAI's requirements apply to child-directed ads on TV, print, radio, internet, interactive games (including advergames), tablets, smartphones, video games, computer games, DVDs and word-of-mouth."² Whether marketing is considered directed to children under twelve is determined by a variety of factors, including target audience and overall impression of the site. When Google launched the YouTube Kids app on February 23, 2015, the company described it as "the first Google product built from the ground up with little ones in mind."³ On iTunes, the app—a simplified version of YouTube designed

¹ Children's Food & Beverage Advertising Initiative Foods and Beverages that Meet the CFBAI Category-Specific Uniform Nutrition Criteria that May Be in Child-Directed Advertising, available at https://www.bbb.org/globalassets/shared/media/cfbai/cfbai-product-list-june-2015_final.pdf. Foods that meet these criteria are specifically listed.

² <https://www.bbb.org/globalassets/local-bbbs/council-113/media/cfbai/audience-definitions-aug-2014.pdf>

³ Introducing the newest member of our family, the YouTube Kids app—available on the Google Play and the App Store, Official YouTube Blog (Feb. 23, 2015), available at <http://youtube-global.blogspot.com/2015/02/youtubekids.html>

specifically for young children—is categorized as intended for children ages five and under.⁴ Given that the app is clearly targeted to children under twelve, any McDonald’s marketing on YouTube Kids should only be for products that meet the CFBAI nutrition standards.

During the period of May 8, 2015 through June 30, 2015, Campaign for a Commercial-Free Childhood (CCFC) and the Center for Digital Democracy’s (CDD) reviewed YouTube Kids and conducted searches for promotions of McDonald’s products that would violate your CFBAI pledge not to engage in child-directed advertising. These included promotions for McDonald’s sandwiches, soda, and shakes. First, we identified a product or brand that should not be advertised to children using the CFBAI guidelines. Next, using the app’s search function, we ran searches for the identified product. We located nineteen television commercials for products that McDonald’s has pledged not to advertise to children. In addition, we found twenty-five videos clearly designed to promote prohibited McDonald’s products. For example, we found a product review video entitled “Worlds (sic) Biggest McDonalds Surprise Egg!” In the video, a woman and two kids open a giant McDonald’s foam French fry stuffed with McDonald’s toys and foods, many of which do not meet the CFBAI criteria. They also play with McDonald’s Barbie and Ronald McDonald dolls and pretend that Barbie is taking Ronald’s order for “a large ice cream cone.”

Recently, we conducted another round of searches to see if recent changes announced by Google to YouTube Kids had done anything to limit the prevalence of food marketing videos on the app. Using the same methodology, we found numerous product promotion videos for McDonald’s products still available on the YouTube Kids app.

Please note that we did not do an exhaustive search of YouTube Kids for all McDonald’s products that do not meet CFBAI standards. We only searched for certain products to demonstrate the prevalence of McDonald’s marketing on YouTube Kids which violates your pledge. We urge you to conduct a thorough review of all of your marketing on YouTube Kids and remove all of the marketing for products that do not meet the CFBAI criteria.

We realize that you may not be directly responsible for the placement of some of these commercials and promotional videos on the YouTube Kids app. However, you are responsible for ensuring your products that do not meet CFBAI standards are not marketed to children under twelve. We ask therefore that you work with Google to remove any marketing for soda, shakes, and any other McDonald’s products that do not meet the nutrition standards from YouTube kids. We also request that you continue to monitor YouTube Kids to ensure that McDonald’s is meeting its CFBAI commitment moving forward.

⁴ <https://itunes.apple.com/us/app/youtube-kids/id936971630?mt=8>

Sincerely,

Josh Golin
Executive Director
Campaign for a Commercial-Free Childhood
89 South Street, Suite 403
Boston, MA 02111
(617) 896-9368

Jeff Chester
Executive Director
Center for Digital Democracy
1621 Connecticut Ave., Suite 500
Washington, DC 20009
(202) 986-2220

cc: Donald S. Clark, Secretary of the Commission, Federal Trade Commission
Elaine D. Kolish, Vice President & Director, Children's Food and Beverage Advertising
Initiative, Council of Better Business Bureaus
Deborah Wahl, Senior Vice President, Chief Marketing Officer, McDonald's USA



Campaign for a Commercial-Free Childhood

CENTER FOR DIGITAL DEMOCRACY

Irene Rosenfeld, CEO
Mondelēz Global LLC
100 Deforest Ave
East Hanover NJ 07936

November 24, 2015

Re: Violation of CFBAI Pledge on YouTube Kids

Dear Ms. Rosenfeld,

As a participant in the Children's Food and Beverage Advertising Initiative (CFBAI) Mondelēz Global LLC has committed to "feature only foods that meet CFBAI's uniform nutrition criteria" when advertising to children under twelve.¹ We have discovered, however, that there is considerable marketing of your company's products that do not meet the CFBAI criteria on Google's YouTube Kids app. We also believe that Google and advertisers are working together to create branded content for your products for YouTube knowing it will be available on YouTube Kids. Because this app's intended audience is clearly children under twelve, this marketing violates your pledge. Consequently we ask that you contact Google and ask that they remove any and all marketing for Mondelēz products that do not meet the CFBAI's nutrition criteria. Further, we request that you take any and all necessary steps to prevent advertising your non-complying products on YouTube Kids or other child-directed platforms.

According to the Council of Better Business Bureaus, "CFBAI's requirements apply to child-directed ads on TV, print, radio, internet, interactive games (including advergames), tablets, smartphones, video games, computer games, DVDs and word-of-mouth."² Whether marketing is considered directed to children under twelve is determined by a variety of factors, including target audience and overall impression of the site. When Google launched the YouTube Kids app on February 23, 2015, the company described it as "the first Google product built from the ground up with little ones in mind."³ On iTunes, the app—a simplified version of YouTube designed specifically for young children—is categorized as intended for children ages five and

¹ Children's Food & Beverage Advertising Initiative Foods and Beverages that Meet the CFBAI Category-Specific Uniform Nutrition Criteria that May Be in Child-Directed Advertising, available at https://www.bbb.org/globalassets/shared/media/cfbai/cfbai-product-list-june-2015_final.pdf. Foods that meet these criteria are specifically listed.

² <https://www.bbb.org/globalassets/local-bbbs/council-113/media/cfbai/audience-definitions-aug-2014.pdf>

³ Introducing the newest member of our family, the YouTube Kids app—available on the Google Play and the App Store, Official YouTube Blog (Feb. 23, 2015), available at <http://youtube-global.blogspot.com/2015/02/youtubekids.html>

under.⁴ Given that the app is clearly targeted to children under twelve, any Mondelēz marketing on YouTube Kids should only be for products that meet the CFBAI nutrition standards.

During the period of May 8, 2015 through June 30, 2015, Campaign for a Commercial-Free Childhood (CCFC) and the Center for Digital Democracy's (CDD) reviewed YouTube Kids and conducted searches for promotions of Mondelez products that would violate your CFBAI pledge not to engage in child-directed advertising. These included promotions for Oreo brand sandwich cookies. First, we identified a product or brand that should not be advertised to children using the CFBAI guidelines. Next, using the app's search function, we ran searches for the identified product. We located thirty-one television commercials for Oreo products. In addition, we found twenty-four videos clearly designed to promote Oreo products. For example, we found a video entitled "Oreo Challenge!!! The Blindfold Cookie Tasting Game Show!" in which two children try to discern twelve different flavors of Oreos. One child declares there's "nothing better than milk and Oreos." He later proclaims "I love Oreos, my favorite kind of cookie."

Recently, we conducted another round of searches to see if recent changes announced by Google to YouTube Kids had done anything to limit the prevalence of food marketing videos on the app. Using the same methodology, we found numerous product promotion videos for Mondelez products still available on the YouTube Kids app. For example, "Spooky Spot-Nabisco Halloween Oreo" endorses these non-CFBAI products with a special eye toward seasonal promotion.

Please note that we did not do an exhaustive search of YouTube Kids for all Mondelēz products that do not meet CFBAI standards. We only searched for Oreo products to demonstrate the prevalence of Mondelēz marketing on YouTube Kids which violates your pledge. We urge you to conduct a thorough review of all of your marketing on YouTube Kids and remove all of the marketing for products that do not meet the CFBAI criteria.

We realize that you may not be directly responsible for the placement of some of these commercials and promotional videos on the YouTube Kids app. However, you are responsible for ensuring your products that do not meet CFBAI standards are not marketed to children under twelve. We ask therefore that you work with Google to remove any marketing for Oreo products—and any other Mondelēz products that do not meet the nutrition standards—from YouTube kids. We also request that you continue to monitor YouTube Kids to ensure that Mondelēz is meeting its CFBAI commitment moving forward.

⁴ <https://itunes.apple.com/us/app/youtube-kids/id936971630?mt=8>

Sincerely,

Josh Golin
Executive Director
Campaign for a Commercial-Free Childhood
89 South Street, Suite 403
Boston, MA 02111
(617) 896-9368

Jeff Chester
Executive Director
Center for Digital Democracy
1621 Connecticut Ave., Suite 500
Washington, DC 20009
(202) 986-2220

cc: Donald S. Clark, Secretary of the Commission, Federal Trade Commission
Joy Fontaine, Senior Counsel, Marketing & Regulatory, Mondelēz Global LLC
Elaine D. Kolish, Vice President & Director, Children's Food and Beverage Advertising
Initiative, Council of Better Business Bureaus
Ellen Smith, Vice President & Chief Counsel, Mondelēz Global LLC



Campaign for a Commercial-Free Childhood

CENTER FOR DIGITAL DEMOCRACY

Paul Bulcke, CEO
Nestlé USA
800 N. Brand Blvd.
Glendale, CA 91203

November 24, 2015

Re: Violation of CFBAI Pledge on YouTube Kids

Dear Mr. Bulcke,

As a participant in the Children's Food and Beverage Advertising Initiative (CFBAI) Nestlé USA has committed "to not engage in child-directed advertising," where child is defined as under twelve years of age.¹ We have discovered, however, that there is considerable marketing of your company's products on Google's YouTube Kids app. We also believe that Google and advertisers are working together to create branded content for your products for YouTube knowing it will be available on YouTube Kids. Because this app's intended audience is clearly children under twelve, this marketing violates your pledge. Consequently we ask that you contact Google and ask that they remove any and all marketing for Nestlé products. Further, we request that you take any and all necessary steps to prevent advertising your non-complying products on YouTube Kids or other child-directed platforms.

According to the Council of Better Business Bureaus, "CFBAI's requirements apply to child-directed ads on TV, print, radio, internet, interactive games (including advergames), tablets, smartphones, video games, computer games, DVDs and word-of-mouth."² Whether marketing is considered directed to children under twelve is determined by a variety of factors, including target audience and overall impression of the site. When Google launched the YouTube Kids app on February 23, 2015, the company described it as "the first Google product built from the ground up with little ones in mind."³ On iTunes, the app—a simplified version of YouTube designed specifically for young children—is categorized as intended for children ages five and

¹ Children's Food & Beverage Advertising Initiative Foods and Beverages that Meet the CFBAI Category-Specific Uniform Nutrition Criteria that May Be in Child-Directed Advertising, available at https://www.bbb.org/globalassets/shared/media/cfbai/cfbai-product-list-june-2015_final.pdf. Foods that meet these criteria are specifically listed.

² <https://www.bbb.org/globalassets/local-bbbs/council-113/media/cfbai/audience-definitions-aug-2014.pdf>

³ Introducing the newest member of our family, the YouTube Kids app—available on the Google Play and the App Store, Official YouTube Blog (Feb. 23, 2015), available at <http://youtube-global.blogspot.com/2015/02/youtubekids.html>

under.⁴ Given that the app is clearly targeted to children under twelve, there should not be any Nestlé marketing on YouTube Kids based on your CFBAI pledge.

During the period of May 8, 2015 through June 30, 2015, Campaign for a Commercial-Free Childhood (CCFC) and the Center for Digital Democracy's (CDD) reviewed YouTube Kids and conducted searches for promotions of Nestle products that would violate your CFBAI pledge not to engage in child-directed advertising. These included promotions for Toll House brand cookies. First, we identified a product or brand that should not be advertised to children using the CFBAI guidelines. Next, using the app's search function, we ran searches for the identified product. We located twenty-two television commercials for Nestlé Toll House products. In addition, we found nine videos clearly designed to promote Nestlé Toll House products. For example, we found a product review video entitled "Nestle Toll House Pecan Turtle Delights & Pillsbury Mint Chocolate Chip Cookie Review" in which the reviewer highlights the price as well as the quality of Nestlé Toll House cookies. The reviewer proclaims, "Those look really good" and "they smell really, really good." After trying one, she declares, "I like that a lot...that is delicious!"

Recently, we conducted another round of searches to see if recent changes announced by Google to YouTube Kids had done anything to limit the prevalence of food marketing videos on the app. Aware of a recent campaign for Crunch Bars featuring characters from the Peanuts Movie, we ran a search for "peanuts movie crunch" on YouTube Kids. Our search returned a previously aired television commercial for the Charlie Brown themed chocolate bar, entitled "The Peanuts Movie Nestle Crunch Commercial (30 seconds)."

Please note that we did not do an exhaustive search of YouTube Kids for all Nestlé products. We urge you to conduct a thorough review of YouTube Kids and remove all of the marketing for your company's products.

We realize that you may not be directly responsible for the placement of some of these commercials and promotional videos on the YouTube Kids app. However, you are responsible for ensuring your products are not marketed to children under twelve in accordance with your CFBAI pledge. We ask therefore that you work with Google to remove any marketing for Toll House products—and any other Nestlé products—from YouTube kids. We also request that you continue to monitor YouTube Kids to ensure that Nestlé is meeting its CFBAI commitment moving forward.

⁴ <https://itunes.apple.com/us/app/youtube-kids/id936971630?mt=8>

Sincerely,

Josh Golin
Executive Director
Campaign for a Commercial-Free Childhood
89 South Street, Suite 403
Boston, MA 02111
(617) 896-9368

Jeff Chester
Executive Director
Center for Digital Democracy
1621 Connecticut Ave., Suite 500
Washington, DC 20009
(202) 986-2220

cc: Donald S. Clark, Secretary of the Commission, Federal Trade Commission
Alicia Enciso, Chief Marketing Officer, Nestlé USA
Elaine D. Kolish, Vice President & Director, Children's Food and Beverage Advertising
Initiative, Council of Better Business Bureaus



Campaign for a Commercial-Free Childhood

CENTER FOR DIGITAL DEMOCRACY

Indra Nooyi, CEO
PepsiCo, Inc.
700 Anderson Hill Road
Purchase, New York 10577

November 24, 2015

Re: Violation of CFBAI Pledge on YouTube Kids

Dear Ms. Nooyi,

As a participant in the Children's Food and Beverage Advertising Initiative (CFBAI) PepsiCo, Inc. has committed to "feature only foods that meet CFBAI's uniform nutrition criteria"¹ or "PepsiCo's Nutrition Criteria for Advertising to Children,"² whichever is stricter, when advertising to children under twelve. We have discovered, however, that there is considerable marketing of your company's products that do not meet your pledge on Google's YouTube Kids app. We also believe that Google and advertisers are working together to create branded content for your products for YouTube knowing it will be available on YouTube Kids. Because this app's intended audience is clearly children under twelve, this marketing violates your pledge. Consequently we ask that you contact Google and ask that they remove any and all marketing for PepsiCo products that do not meet the CFBAI and PepsiCo's nutrition criteria. Further, we request that you take any and all necessary steps to prevent advertising your non-complying products on YouTube Kids or other child-directed platforms.

According to the Council of Better Business Bureaus, "CFBAI's requirements apply to child-directed ads on TV, print, radio, internet, interactive games (including advergames), tablets, smartphones, video games, computer games, DVDs and word-of-mouth."³ Whether marketing is considered directed to children under twelve is determined by a variety of factors, including target audience and overall impression of the site. When Google launched the YouTube Kids app on February 23, 2015, the company described it as "the first Google product built from the ground up with little

¹ Children's Food & Beverage Advertising Initiative Foods and Beverages that Meet the CFBAI Category-Specific Uniform Nutrition Criteria that May Be in Child-Directed Advertising, available at https://www.bbb.org/globalassets/shared/media/cfbai/cfbai-product-list-june-2015_final.pdf. Foods that meet these criteria are specifically listed.

² Children's Food and Beverage Advertising Initiative Amended Pledge of PepsiCo Inc. Effective January 1, 2014, available at <https://www.bbb.org/globalassets/local-bbbs/council-113/media/cfbai/cfbai-2014-amended-pledge.pdf>

³ <https://www.bbb.org/globalassets/local-bbbs/council-113/media/cfbai/audience-definitions-aug-2014.pdf>

ones in mind.”⁴ On iTunes, the app—a simplified version of YouTube designed specifically for young children—is categorized as intended for children ages five and under.⁵ Given that the app is clearly targeted to children under twelve, any PepsiCo marketing on YouTube Kids should only be for products that meet the CFBAI and PepsiCo’s nutrition standards.

During the period of May 8, 2015 through June 30, 2015, Campaign for a Commercial-Free Childhood (CCFC) and the Center for Digital Democracy’s (CDD) reviewed YouTube Kids and conducted searches for promotions of PepsiCo products that would violate your CFBAI pledge not to engage in child-directed advertising. These included promotions for Doritos brand chips. First, we identified a product or brand that should not be advertised to children using the CFBAI guidelines. Next, using the app’s search function, we ran searches for the identified product. We located thirty-one television commercials for Doritos products. In addition, we found nine videos clearly designed to promote Doritos products. For example, we found a product review video entitled “Jumpin’ Jack Doritos Review - Classic Snack Chip Returns in Retro Package” in which the reviewer declares “Jumpin’ Jack Doritos are a solid five stars.” He later proclaims, “What’s great about the Jumpin’ Jack Doritos is that it’s an explosion of flavors.”

Recently, we conducted another round of searches to see if recent changes announced by Google to YouTube Kids had done anything to limit the prevalence of food marketing videos on the app. Using the same methodology, we found numerous product promotion videos for PepsiCo products still available on the YouTube Kids app. For example, we found a number of videos available on YouTube Kids in which the narrator, LuckyPennyShop.com, reviews Lay’s Potato Chips, focusing mainly on the new marketing campaign for consumers to develop a new chip flavor, and ultimately select a winner from contest submissions. One such video is “Lay’s Salt & Vinegar Flavor Potato Chips- Lay’s Chips Taste Sampler Series.”

Please note that we did not do an exhaustive search of YouTube Kids for all PepsiCo products that do not meet CFBAI standards. We only searched for Doritos products to demonstrate the prevalence of PepsiCo marketing on YouTube Kids which violates your pledge. We urge you to conduct a thorough review of all of your marketing on YouTube Kids and remove all of the marketing for products that do not meet the CFBAI and PepsiCo’s criteria.

We realize that you may not be directly responsible for the placement of some of these commercials and promotional videos on the YouTube Kids app. However, you are responsible for ensuring your products that do not meet CFBAI and PepsiCo’s standards are not marketed to children under twelve. We ask therefore that you work with Google to remove any marketing for Doritos products—and any other PepsiCo products that do not meet the nutrition standards—from YouTube kids. We also request that you

⁴ Introducing the newest member of our family, the YouTube Kids app—available on the Google Play and the App Store, Official YouTube Blog (Feb. 23, 2015), available at <http://youtube-global.blogspot.com/2015/02/youtubekids.html>

⁵ <https://itunes.apple.com/us/app/youtube-kids/id936971630?mt=8>

continue to monitor YouTube Kids to ensure that PepsiCo is meeting its commitments moving forward.

Sincerely,

Josh Golin
Executive Director
Campaign for a Commercial-Free Childhood
89 South Street, Suite 403
Boston, MA 02111
(617) 896-9368

Jeff Chester
Executive Director
Center for Digital Democracy
1621 Connecticut Ave., Suite 500
Washington, DC 20009
(202) 986-2220

cc: Donald S. Clark, Secretary of the Commission, Federal Trade Commission
Elaine D. Kolish, Vice President & Director, Children's Food and Beverage Advertising Initiative, Council of Better Business Bureaus
Jeanne E. O'Neill, Frito-Lay Legal Senior Director, Marketing, PepsiCo, Inc.



Campaign for a Commercial-Free Childhood

CENTER FOR DIGITAL DEMOCRACY

William P. Stiritz, CEO
Post Foods, LLC
2503 S. Hanley Road
St. Louis, MO 63144

November 24, 2015

Re: Violation of CFBAI Pledge on YouTube Kids

Dear Mr. Stiritz,

As a participant in the Children's Food and Beverage Advertising Initiative (CFBAI) Post Foods, LLC has committed to "feature only foods that meet CFBAI's uniform nutrition criteria" when advertising to children under twelve.¹ We have discovered, however, that there is considerable marketing of your company's products that do not meet the CFBAI criteria on Google's YouTube Kids app. We also believe that Google and advertisers are working together to create branded content for your products for YouTube knowing it will be available on YouTube Kids. Because this app's intended audience is clearly children under twelve, this marketing violates your pledge. Consequently we ask that you contact Google and ask that they remove any and all marketing for Post products that do not meet the CFBAI's nutrition criteria. Further, we request that you take any and all necessary steps to prevent advertising your non-complying products on YouTube Kids or other child-directed platforms.

According to the Council of Better Business Bureaus, "CFBAI's requirements apply to child-directed ads on TV, print, radio, internet, interactive games (including advergames), tablets, smartphones, video games, computer games, DVDs and word-of-mouth."² Whether marketing is considered directed to children under twelve is determined by a variety of factors, including target audience and overall impression of the site. When Google launched the YouTube Kids app on February 23, 2015, the company described it as "the first Google product built from the ground up with little ones in mind."³ On iTunes, the app—a simplified version of YouTube designed specifically for young children—is categorized as intended for children ages five and

¹ Children's Food & Beverage Advertising Initiative Foods and Beverages that Meet the CFBAI Category-Specific Uniform Nutrition Criteria that May Be in Child-Directed Advertising, available at https://www.bbb.org/globalassets/shared/media/cfbai/cfbai-product-list-june-2015_final.pdf. Foods that meet these criteria are specifically listed.

² <https://www.bbb.org/globalassets/local-bbbs/council-113/media/cfbai/audience-definitions-aug-2014.pdf>

³ Introducing the newest member of our family, the YouTube Kids app—available on the Google Play and the App Store, Official YouTube Blog (Feb. 23, 2015), available at <http://youtube-global.blogspot.com/2015/02/youtubekids.html>

under.⁴ Given that the app is clearly targeted to children under twelve, any Post marketing on YouTube Kids should only be for products that meet the CFBAI nutrition standards.

During the period of May 8, 2015 through June 30, 2015, Campaign for a Commercial-Free Childhood (CCFC) and the Center for Digital Democracy's (CDD) reviewed YouTube Kids and conducted searches for promotions of Post products that would violate your CFBAI pledge not to engage in child-directed advertising. First, we identified a product or brand that should not be advertised to children using the CFBAI guidelines. Next, using the app's search function, we ran searches for the identified product. We located thirty-seven television commercials for Golden Crisp cereal. Recently, we conducted another round of searches to see if recent changes announced by Google to YouTube Kids had limited the prevalence of food marketing videos on the app, but still found commercial content for your products including Gold Crisp.

Please note that we did not do an exhaustive search of YouTube Kids for all Post products that do not meet CFBAI standards. We only searched for Golden Crisp products to demonstrate the prevalence of Post marketing on YouTube Kids, which violates your pledge. We urge you to conduct a thorough review of all of your marketing on YouTube Kids and remove all of the marketing for products that do not meet the CFBAI criteria.

We realize that you may not be directly responsible for the placement of some of these commercials and promotional videos on the YouTube Kids app. However, you are responsible for ensuring your products that do not meet CFBAI standards are not marketed to children under twelve. We ask therefore that you work with Google to remove any marketing for Golden Crisp products—and any other Post products that do not meet the nutrition standards—from YouTube kids. We also request that you continue to monitor YouTube Kids to ensure that Post is meeting its CFBAI commitment moving forward.

Sincerely,

Josh Golin
Executive Director
Campaign for a Commercial-Free Childhood
89 South Street, Suite 403
Boston, MA 02111
(617) 896-9368

Jeff Chester
Executive Director
Center for Digital Democracy
1621 Connecticut Ave., Suite 500
Washington, DC 20009
(202) 986-2220

cc: Donald S. Clark, Secretary of the Commission, Federal Trade Commission
Jim Holbrook, Executive President Marketing, Post Foods, LLC
Elaine D. Kolish, Vice President & Director, Children's Food and Beverage Advertising Initiative, Council of Better Business Bureaus

⁴ <https://itunes.apple.com/us/app/youtube-kids/id936971630?mt=8>



Campaign for a Commercial-Free Childhood

CENTER FOR DIGITAL DEMOCRACY

Paul Polman, CEO
Unilever United States
700 Sylvan Ave.
Englewood Cliffs, NJ 07632

November 24, 2015

Re: Violation of CFBAI Pledge on YouTube Kids

Dear Mr. Polman,

As a participant in the Children's Food and Beverage Advertising Initiative (CFBAI) Unilever has committed to "feature only foods that meet CFBAI's uniform nutrition criteria" when advertising to children under twelve.¹ We have discovered, however, that there is considerable marketing of your company's products that do not meet the CFBAI criteria on Google's YouTube Kids app. We also believe that Google and advertisers are working together to create branded content for your products for YouTube knowing it will be available on YouTube Kids. Because this app's intended audience is clearly children under twelve, this marketing violates your pledge. Consequently we ask that you contact Google and ask that they remove any and all marketing for Unilever products that do not meet the CFBAI's nutrition criteria. Further, we request that you take any and all necessary steps to prevent advertising your non-complying products on YouTube Kids or other child-directed platforms.

According to the Council of Better Business Bureaus, "CFBAI's requirements apply to child-directed ads on TV, print, radio, internet, interactive games (including advergames), tablets, smartphones, video games, computer games, DVDs and word-of-mouth."² Whether marketing is considered directed to children under twelve is determined by a variety of factors, including target audience and overall impression of the site. When Google launched the YouTube Kids app on February 23, 2015, the company described it as "the first Google product built from the ground up with little ones in mind."³ On iTunes, the app—a simplified version of YouTube designed specifically for young children—is categorized as intended for children ages five and

¹ Children's Food & Beverage Advertising Initiative Foods and Beverages that Meet the CFBAI Category-Specific Uniform Nutrition Criteria that May Be in Child-Directed Advertising, available at https://www.bbb.org/globalassets/shared/media/cfbai/cfbai-product-list-june-2015_final.pdf. Foods that meet these criteria are specifically listed.

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³ Introducing the newest member of our family, the YouTube Kids app—available on the Google Play and the App Store, Official YouTube Blog (Feb. 23, 2015), available at <http://youtube-global.blogspot.com/2015/02/youtubekids.html>

under.⁴ Given that the app is clearly targeted to children under twelve, any Post marketing on YouTube Kids should only be for products that meet the CFBAI nutrition standards.

Campaign for a Commercial-Free Childhood (CCFC) and the Center for Digital Democracy's (CDD) review of YouTube Kids found several examples of promotions for Unilever products that do not meet the CFBAI nutrition standards. For our study, we began by identifying a product or brand that should not be advertised to children using the CFBAI guidelines. Next, using the app's search function, we ran searches for the identified product. These included promotions for Klondike ice cream bars, as well as Ben & Jerry's ice cream products. Using the app's search function, for example, we located a "what would you do for a Klondike bar" commercial from the 1980s, and product reviews for different Klondike bars from YouTube personality FreezerBurn.

Please note that we did not do an exhaustive search of YouTube Kids for all Unilever products that do not meet CFBAI standards. We only searched for Klondike products to demonstrate the prevalence of Unilever marketing on YouTube Kids, which violates your pledge. We urge you to conduct a thorough review of all of your marketing on YouTube Kids and remove all of the marketing for products that do not meet the CFBAI criteria.

We realize that you may not be directly responsible for the placement of some of these commercials and promotional videos on the YouTube Kids app. However, you are responsible for ensuring your products that do not meet CFBAI standards are not marketed to children under twelve. We ask therefore that you work with Google to remove any marketing for Klondike products—and any other Unilever products that do not meet the nutrition standards—from YouTube kids. We also request that you continue to monitor YouTube Kids to ensure that Unilever is meeting its CFBAI commitment moving forward.

Sincerely,

Josh Golin
Executive Director
Campaign for a Commercial-Free Childhood
89 South Street, Suite 403
Boston, MA 02111
(617) 896-9368

Jeff Chester
Executive Director
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Elaine D. Kolish, Vice President & Director, Children's Food and Beverage Advertising Initiative, Council of Better Business Bureaus

⁴ <https://itunes.apple.com/us/app/youtube-kids/id936971630?mt=8>