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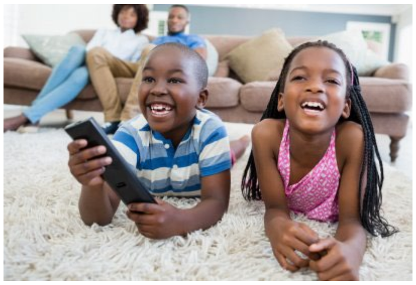
The Stop Undermining Children's Health Act (SUCH Act)

Eliminate the Tax Deductibility of Advertising of Unhealthy Foods and Beverages



Rates of childhood obesity have tripled since the early 1970s, with 35 percent of American children having overweight or obesity.[1] Childhood obesity has likely increased during the COVID-19 pandemic.[2] Chronic diet-related diseases cost $1.72 trillion per year (9.3 percent of US GDP), of which $480 billion are direct health care costs and $1.24 trillion are lost economic productivity.[3]

The **Stop Undermining Children's Health Act** (SUCH Act) would amend the Internal Revenue Service Code to remove the tax deductibility of expenses associated with advertising and marketing foods and beverages of poor nutritional quality to children. A 2015 estimate found that amending the tax code would provide an incentive for companies to decrease unhealthy food marketing to children and could raise $80 million in federal revenue each year (or $800 million over ten years).[4] With the continued growth in expenditures on marketing, this number is likely higher now.

Despite high rates of obesity and high costs of diet-related disease, the federal government allows companies to write-off expenses for marketing unhealthy foods and beverages. Companies are permitted to deduct these expenses from their taxable income—essentially providing a government subsidy for marketing unhealthy food to children.

Voluntary Efforts by Industry Are Insufficient

Currently, 19 of the largest food and beverage companies pledge to not market products that do not meet nutrition standards to children. This pledge is through BBB National Programs self-regulatory program, the Children's Food and Beverage Advertising Initiative (CFBAI).[5] In addition, 8 confectionary companies participate in BBB's Children's Confection Advertising Initiative (CCAI) and pledge not to advertise to children under 12.[6] Companies that market products that meet the nutrition standards established through this legislation to children would still be able to write-off those associated expenses.

Given tight budgets and a high deficit, government savings and potential offsets are needed. Eliminating the tax deductibility of expenses associated with unhealthy food advertising and marketing to children could raise $800 million over ten years.

Despite voluntary action by some companies, more needs to be done to reduce the amount of junk food ads to children. In 2018, 65 percent of food and beverage ads during children's television programming failed to meet the industry's own CFBAI's standards and nearly all (99 percent) failed the Interagency Working Group's standards,[7] which are a voluntary set of standards proposed by the Centers for Disease Control and Prevention, United States Department of Agriculture, Federal Trade Commission, and Food and Drug Administration in 2009.[8]

Food Companies Target Communities of Color

Food and beverage companies disproportionately target advertising for many of their least nutritious products to youth of color which contributes to health disparities. The Rudd Center for Food Policy and Obesity found that Black youth view almost twice as many ads for candy, sugary drinks, and snacks on television compared with white youth; and two-thirds of the food ads on Spanish-language TV promote fast food, candy, sugary drinks, and snacks. The Rudd Center also found that Black children and teens viewed 70 percent more foodrelated TV ads compared to their white peers. Further, Black children and teens viewed 90 percent more ads for snacks and sugary drinks compared with white children and teens.[9]

Advertising and Childhood Obesity

While numerous factors contribute to children's poor diets, food marketing plays a key role. The National Academy of Medicine found that food and beverage advertising effects children's food preferences, diets, and overall health.[10]

Removing the tax deductibility of expenses associated with marketing and advertising foods and beverages of poor nutritional quality to children could reduce the number of children and adolescents with overweight by 5–7 percent.[16] Researchers estimate eliminating this deduction could save $260-352 million in healthcare costs over ten years.[17]

Unhealthy dietary patterns increase children's risk of developing diseases, such as heart disease, cancer, and diabetes. One study estimates that halting television advertising of unhealthy foods and beverages to children could reduce the number of overweight children by 18 percent.[11]

- Each year, food and beverage companies spend approximately $1.8 billion marketing their products to children under 18.[12] In 2017, children ages 2–11 and adolescents ages 12-17, respectively, saw an average of 10 and 9.4 food- and beverage-related TV ads per day.[13]
- The vast majority of advertised products to children are still of poor nutritional value.[14,15]
- In 2018, food and beverage ads accounted for 23 percent of all ads aired during children's programming, a significant increase from 2012 when they made up 15 percent of all ads aired during children's programming.[16]
- In addition to television ads, unhealthy food is marketed to children through the Internet, schools, celebrities, displays and promotions in retail (including preferential placement, product packages, and characters), toys, and clothing.

There are precedents for not allowing businesses to deduct certain expenses from their taxable income, for example:

- Advertising expenses by foreign broadcasters for ads aired in the U.S. (unless country allows such deductions for ads in their country by U.S. advertisers) [IRS code, sec. 162(j)];
- Health insurance costs for those who are self-employed if a person is eligible for a subsidized health plan by their own, spouse's, or dependents' employer [IRS code, sec. 162(l)]; and
- Expenses for certain lobbying and political activities [IRS code, sec. 162(e)].

For more information, please contact CSPI at policy@cspinet.org.

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