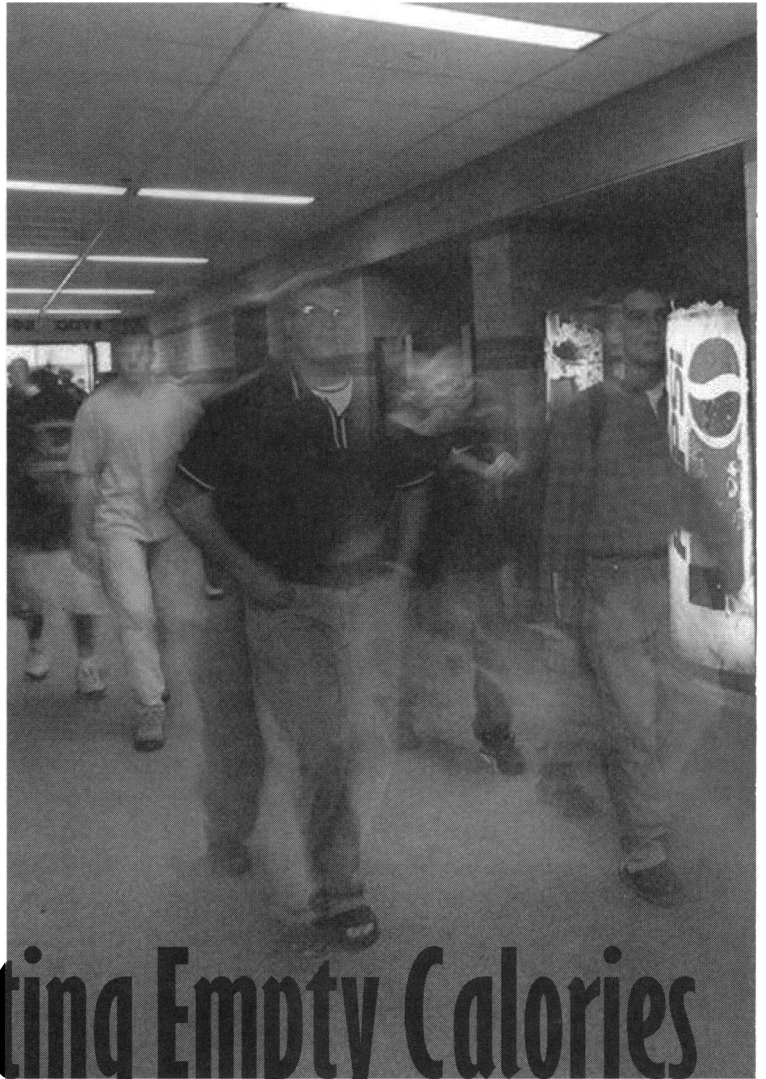


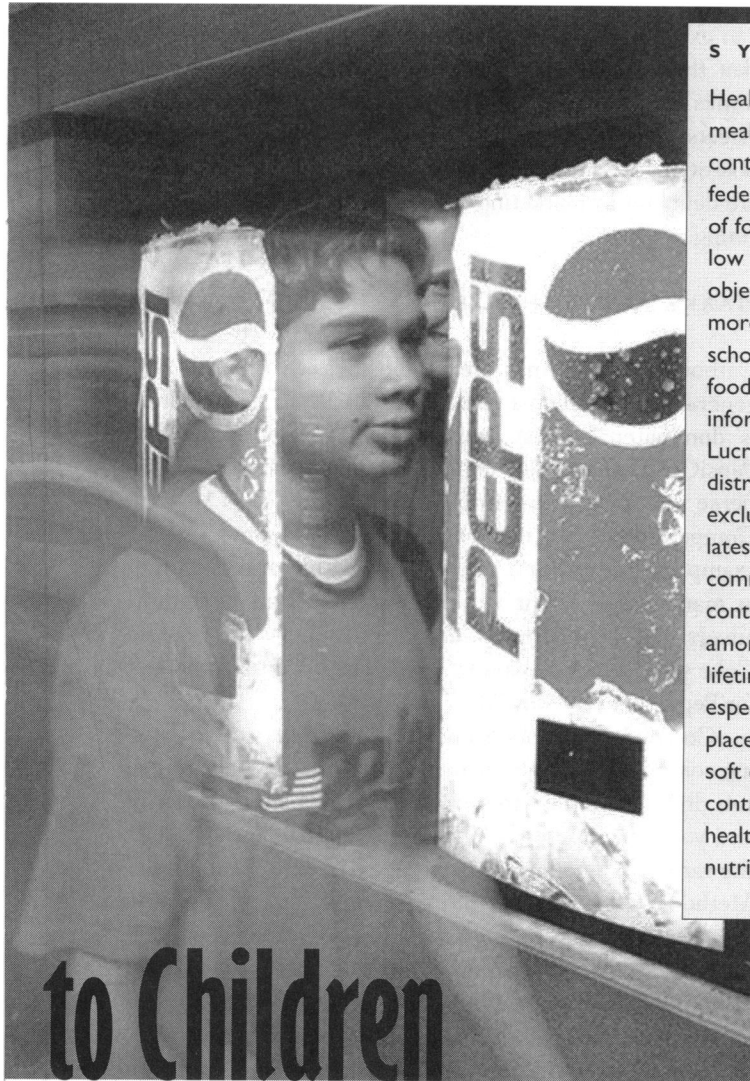
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SOFT DRINK “Pouring Rights”:

Marketing Empty Calories



As part of an effort to counteract the rising prevalence of overweight and obesity among children and adolescents, one Healthy People 2010 objective calls for an increase in “the proportion of children and adolescents aged 6 to 19 years whose intake of meals and snacks at schools contributes proportionally to good overall dietary quality.”¹ As the accompanying text explains, today’s students have “increased food options” at school. Although the US Department of Agriculture (USDA) requires federally subsidized school meal programs to meet established nutritional standards and dietary guidelines, this requirement does not apply to foods sold outside of school cafeterias in snack bars, school stores, or vending machines. The quality of “competitive” foods sold outside the cafeteria has long been a source of concern to nutritionists and school food service directors, as these foods often are higher in fat, sugar, and sodium than is desirable and students consume them instead of the more nutritious foods provided by federally supported school meal programs.²⁻⁴ Thus, one purpose of the Healthy People objective is to establish an environment in schools that will encourage a good overall diet and, therefore, contribute to learning readiness as well as to short- and long-term disease prevention and health promotion.



SYNOPSIS

Healthy People 2010 objectives call for meals and snacks served in schools to contribute to overall diets that meet federal dietary guidelines. Sales in schools of foods and drinks high in calories and low in nutrients undermine this health objective, as well as participation in the more nutritious, federally sponsored, school lunch programs. Competitive foods also undermine nutrition information taught in the classroom. Lucrative contracts between school districts and soft drink companies for exclusive rights to sell one brand are the latest development in the increasing commercialization of school food. These contracts, intended to elicit brand loyalty among young children who have a lifetime of purchases ahead of them, are especially questionable because they place schools in the position of “pushing” soft drink consumption. “Pouring rights” contracts deserve attention from public health professionals concerned about the nutritional quality of children’s diets.

questionable—marketing development.

The Center for Commercial-Free Public Education, an advocacy organization in Oakland, California, reports that in 1998, more than a hundred districts or schools had signed exclusive contracts with Coke or Pepsi at a cost of more than \$100 million to the companies.⁷ By early 2000, the number of school districts with pouring rights contracts had grown to 180, in 33 states (Personal communication, Andrew Hagelshaw, Executive Director, Center for Commercial-Free Public Education, June 2000).

The exclusivity of these contracts leads to situations so patently absurd as to gain nation-

wide media attention. In the most widely publicized incident, a high school in Georgia suspended a senior student for wearing a shirt with a Pepsi logo during a “Coke Day” rally sponsored by the student government.⁸

The public health implications of exclusivity contracts in creating an environment that actively promotes soft drink consumption only rarely emerges as an issue for debate outside of advocacy circles. Instead, the loudest protests come from competing soft drink companies objecting that a given contract prevents sales of *their* products and, therefore, “freedom of choice” in the marketplace. Yet nutritional issues related to soft drinks place them at the forefront of present-day dietary concerns.

WHY CARE ABOUT SOFT DRINKS?

Soft drinks are the quintessential “junk” food. For the purposes of this discussion, a soft drink is a soda made from carbonated water, added sugar, and flavors (diet sodas substitute artificial sweeteners for the sugar but are not currently consumed by children to any great extent⁹). A 12-ounce can of regular soda contains 40 grams of added sugar—and provides about 160 calories—but little else of nutritional value. This nutrient composition readily explains why the Center for Science in the Public Interest refers to soft drinks as “liquid candy.”¹⁰ As shown in the

Location: Derby High School, Derby, Kansas / AP/WIDE WORLD PHOTOS

Left unstated in the rationale for this objective, but clearly underlying it, is an explicit comment about the current food environment in schools. Health professionals who do not presently live with school-age children may be unaware of the increasing intrusiveness of food commercialism in schools in recent years. As I will show, food companies view schoolchildren as an attractive market and use every possible means to promote their products to this young, impressionable, and captive audience. Soft drink companies are especially creative in the breadth of methods they use to promote their products to children both in and outside of school (see “Examples of Methods Used By Soft Drink Companies to Market Their Products to Children In and Outside of School,” page 311). Among these methods, contracts with school districts for exclusive use of particular brands of soft drinks are especially noteworthy. Although such “pouring rights” contracts have been negotiated by colleges and universities since the early 1990s,^{5,6} their introduction into elementary, middle, and high schools is a more recent—and more

Table, 12 ounces of orange juice—even when reconstituted from concentrate—provides substantial amounts of vitamin A, vitamin C, folate, potassium, and other essential vitamins and minerals along with its sugar and calories; an equivalent amount of 1% low-fat milk is also a superior nutritional option.^{11,12}

If soft drinks were occasional treats, no public health nutritionist would be the slightest bit concerned about them. But they are produced in vast quantities. From 1970 to 1997, the production of sugar-sweetened sodas increased from 22.2 to 41.4 gallons per person per year, and the production of diet sodas increased from 2.1 to 11.6 gallons per person per year.^{13,14} These amounts mean that the annual *per capita* supply of 12-ounce soft drinks in the US is equivalent to 442 regular and 124 diet drinks (total: 566). On average, enough regular soda is produced to supply every American—of every age—with 1.2 daily 12-ounce drinks, or just under 200 calories per day from this source alone. These are production figures, however; they do not necessarily reflect consumption and may overestimate amounts actually consumed.

Dietary intake surveys, on the other hand, tend to underestimate actual consumption, but such surveys also indicate increasing levels of consumption of soft drinks by children, and especially by teenagers. A national survey reported that children ages 2 to 17 increased their average daily intake of sugar-sweetened soft drinks from just under 7 ounces to 9.5 ounces from 1989–1991 to 1994–1995.¹⁵ USDA data for 1994–1995 show that children begin consuming soft drinks early in life and steadily increase the amounts they drink through adolescence and young adulthood.⁹ Girls ages 12 to 19 drank 12 ounces of regular soda (160 calories) per day on average in 1994–1995, and boys drank an average of 21 ounces (280 calories). Girls drank an additional 2 ounces per day of diet soda, and boys one ounce per day on average.⁹

For children at the higher levels of consumption, soft drinks can contribute many hundreds of “empty” calories a day.¹⁰ These extra calories replace calories from more nutritious foods¹⁵ and could be more than sufficient to account for rising rates of obesity¹⁶ and obesity-related chronic-disease risk factors among American schoolchildren.¹⁷ One recent study found that nearly one-fourth of adolescents consume 26 or more ounces of soft drinks per day (350 or more calories) and that these heavy users take in 600 daily calories more from all sources than non-users and drink much less milk or fruit juice.¹⁸

Frequent consumption of soft drinks has long been known to contribute to tooth decay,¹⁹ and at least one study suggests that adolescents who consume soft drinks are at greater risk for bone fractures than those who do not.²⁰ Soft drinks are the single greatest source of caffeine in children’s diets²¹; a 12-ounce cola contains about 45 milligrams, but the amounts in more potent soft drinks

can exceed 100 milligrams.²² Parents of teenagers tell me that their children are deliberately using caffeinated soft drinks to stay awake in school; they worry about the effects of caffeine on their children’s behavior²³ and the potential for “addiction,” particularly because companies are deliberately marketing caffeinated sodas to children as young as age 9.²²

MARKETING SOFT DRINKS TO CHILDREN

Carbonated soft drinks are big business in the US; they generated \$54 billion a year in sales in 1998.²⁴ The market is dominated by just two companies—Coca-Cola and PepsiCo. Their ongoing competition for market share is so fierce that it has come to be known as the “Cola Wars.”²⁵ Competition drives marketing strategies. Coca-Cola, for example, aims to put a can of Coke within arm’s reach of as many people in the world as possible²⁶; the company’s advertising expenditure—just in the US—for Classic Coke was \$115.5 million in 1998. The advertising budget for Pepsi that year was \$82.7 million.²⁷

Competition among soft drink companies and increasing competition from sweetened juice drinks¹⁵ have forced soft drink companies to seek new markets among younger and younger children.²⁸ They approach this task through the various methods shown on page 311 (see “Examples of Methods Used By Soft Drink Companies...”). Because the overall strategy is to establish brand loyalty as early in life as possible,²⁹ marketing efforts begin with the parents of young infants. Some soft drink companies have even licensed their logos to makers of baby bottles. One manufacturer explains that the bottles are “designed to be fun and enjoyable for the parents and the baby...[such that] the positive effects of the bonding experience will be increased for both parent and child” (Personal communication, Steven B. Dunn, President, Munchkin Bottling, Inc., August 1993) Studies show that parents who buy such bottles are significantly more likely to feed soft drinks to infants.³⁰ PepsiCo states explicitly that its strategy is to expand soft drink consumption among children ages 6–11.³¹

POURING RIGHTS CONTRACTS: THE LOGICAL NEXT STEP

In the early 1990s, having sold their products for many years through vending machines on school and college campuses, soft drink companies increased their efforts to reach the student market, initially focusing on colleges and universities^{5,6} and later turning to elementary, middle, and high schools. Pouring rights contracts have become an important part of their marketing strategy. These contracts usually involve lump-sum payments to school districts and additional payments over 5 to 10 years in return for exclu-

sive sales of one company's products in vending machines and at all school events. For soft drink companies, a stable school sales base is only the most evident of benefits of such contracts; the agreements also result in constant advertising through display of company logos on vending machines, cups, sportswear, brochures, and school buildings. The logos and products are seen by *all* students in a school, even those too young or too difficult to reach by conventional advertising methods, and the focus on a single brand creates loyalty among young people who have a lifetime of soft drink purchases ahead of them.²⁸

While the effects of these contracts on schools may be questionable, the advantages to the companies are quite unambiguous. The New York State contracts typically call for a charge of \$1.00 for a drink purchased from a vending machine, an amount higher than usual retail costs. As of

this writing, for example, the inflated price at my local Manhattan convenience store for a case containing 24 12-oz cans is \$9.96. Given a wholesale cost of \$4.99,³² at the rates charged to schoolchildren, \$19.01 would be left over to cover supply, labor, overhead, and funds donated to the school district. Even taking the large initial lump sum payments into consideration, it is difficult to imagine that soft drink companies lose money on these deals.

Most unsettling, the profits to the companies and the schools depend on the amounts students drink. I have not been able to obtain reliable sales figures, but school food service directors tell me that an average purchase of one drink per student per day is a realistic estimate for high school students. The quoted comments of a marketing consultant hired by 63 school systems to negotiate such contracts support that estimate.³³ An official from one school district in New York State told me that students drink so many sodas it is difficult to keep vending machines fully stocked, and teachers of my acquaintance give similar accounts. If just *half* the students in a district of 10,000 students consume one soda per day, gross sales should exceed \$25,000 *per week*. To such figures must be added sales of drinks at sports and community events. Yet in one New York State contract, the amount that Coca-Cola guarantees to the District over the entire 10-year period comes to a total of only \$15 per student. These comparative figures explain why a Pepsi-Cola company official described marketing to schoolchildren as “a pretty high stakes business development” and a Coca-Cola official said that his company would “continue to be very aggressive and proactive” in going after school business.³⁴

It is not difficult to understand why administrators of financially strapped school districts would also find these contracts desirable. As the American population has aged, as the gap between rich and poor has widened, and as the proportion of low-income schoolchildren has increased, the tax base for public schools has consistently eroded. Schools struggle to provide for basic educational needs, let alone activities that might appear as frills. Larger school districts have auctioned pouring rights to the highest bidder, and some school districts have hired consultants to help them negotiate the best deals with soft drink companies.³³ In the benchmark “deal,” a 53-school Colorado district relinquished its Pepsi vending machines when it signed an \$8 million, 10-year agreement with Coca-Cola that included cash bonuses for exceeding sales targets and incentives such as a new car for a senior with perfect attendance and high grades.²⁸

Pouring rights contracts provide sports, arts, or computer facilities not otherwise available through state or local resources. The 1998 contract between the North Syracuse Central School District in New York State and Coca-Cola, for example, is a 10-year agreement that requires all 10 of the district's schools and preschool pro-

EXAMPLES OF METHODS USED BY SOFT DRINK COMPANIES TO MARKET THEIR PRODUCTS TO CHILDREN IN AND OUTSIDE OF SCHOOL

Marketing methods targeted to children at school:

- Channel One (required television watching, with commercials)
- Soft drink “pouring rights” agreements
- Sponsorship of school sports, other events
- Logos on vending machines, supplies, sports facilities
- Hallway advertising
- Advertisements on school buses
- Sports uniforms, scoreboards
- Contests
- Free samples
- Coupons for fast food
- Club and activity sponsorship

Marketing methods targeted to children outside of school:

- Television advertising
- Internet advertising
- Magazine advertising
- Internet interactive computer games
- Toys, clothing, and other items with logos
- Discount cards, coupons
- Telephone cards
- Celebrity product endorsements
- Product placements in movies
- Supermarket placements
- Fast food chain tie-ins
- Prizes

Table. The nutrient composition of soft drinks, compared with frozen orange juice from concentrate and 1% milk, per 12-ounce serving

	Coca-Cola	Pepsi-Cola	Orange juice	1% milk
Calories (kcal)	144	160	168	153
Sugar (g)	38	40	40	18
Vitamin A (IU)	0	0	291	750
Vitamin C (mg)	0	0	146	3
Folate (µg)	0	0	164	18
Calcium (mg)	0	0	33	450
Potassium (mg)	0	0	711	352
Magnesium (mg)	0	0	36	51
Phosphate (mg)	60	55	60	353

SOURCE OF DATA: Reference 9

grams—with a combined total of 10,100 students—to use Coca-Cola products exclusively in all vending machines and at all athletic contests, booster club activities, and school-sponsored community events. The contract specifies that the company will install, maintain, and stock at least 135 vending machines in schools throughout the district, for which it guarantees a payment of \$1.53 million—\$900,000 upon signing and the rest distributed in annual installments of \$70,000. The company agrees to pay additional commissions on purchases that exceed the guaranteed minimum, and will donate 150 free cases of Fruitopia drinks, provide drinks to fundraising groups for resale, and provide 10,000 books of redeemable coupons along with other premiums such as scholarships or software. With the assistance of a powerful state legislator, the District was able to leverage this contract to obtain state aid for a \$6.5 million sports facility for the high school.³⁵ The New York State Education Department considered these terms so favorable that it used them to develop a prototype Model Contract to “ensure that children...are not subject to commercial exploitation in school” and to help schools balance educational goals against “the search for new revenue streams.”³⁶

At first glance, the financial advantages to the schools of pouring rights contracts seem impressive, not least because a significant part of the funding comes in an immediate lump sum and is not tied to sales. Most schools use the funds for sports facilities—scoreboards seem a particular favorite—but some buy furniture, sound systems, or computers, and occasionally pay for scholarships.²⁸ But because the contracts provide additional benefits for consumption levels that surpass quotas, school administrators can find themselves in the position of “pushing” soft drinks to faculty, staff, and students. In a now infamous letter circulated on the Internet and published in a national magazine, a Colorado district adminis-

trator referring to himself as the “Coke Dude” announced payments of \$3000 to elementary principals, \$15,000 to middle school principals, and \$25,000 to high school principals who sold enough sodas:

[W]e must sell 70,000 cases of product...at least once during the first three years of the contract. If we reach this goal, your school allotments will be guaranteed for the next seven years.... If 35,439 staff and students buy one Coke product every other day for a school year, we will double the required quota. Here is how we can do it: ...Allow students to purchase and consume vended products throughout the day... I know this is “just one more thing from downtown,” but the long-term benefits are worth it.³⁷

Given the financial benefits of such contracts, it is understandable that many school administrators would find it convenient to avoid considering their health or ethical implications. They justify the contracts as breaking no new ground and argue that soft drink vending machines already exist in schools, soft drinks already pervade American culture, children are not forced to drink them, and contracts can be written with safeguards that protect students’ rights to drink other kinds of soda.³⁵ From this standpoint, the benefits of soft drink pouring rights contracts would seem to outweigh any concerns they might raise. The administrator of an Ohio school district with a new PepsiCo contract explained this reasoning:

We have worried about whether we’re forcing students to pay for their education through the purchase of soft drinks. In the end, though, we have decided that is not the case, because each student has the option to buy or not to buy... Americans

drink 13.15 billion gallons of carbonated drinks every year—which means somebody is making a lot of money. Why shouldn't schools get their share? In the end, everyone wins: the students, the schools, the community. And for once, even taxpayers get a break.³⁸

Early in 1999, I attended a conference of New York State school food service directors at which participants expressed strong disagreement with such views. They were deeply troubled by a broad range of issues related to the length, exclusivity, and financial terms of contracts, to the lack of adequate federal oversight of foods sold in competition with school meals, and to the widespread failure of schools to enforce even the weak rules that do exist. They also viewed the contracts as threatening the economic viability of school food service operations, the integrity of schools' educational mission, and—not least—children's health. These opinions grew out of their understanding of the lengthy history of attempts to obtain adequate federal regulations to deal with the nutritional quality of foods served in schools.

REGULATORY HISTORY

Soft drink pouring rights contracts are permitted by amendments to the Child Nutrition Act of 1966,³⁹ which in turn amended provisions of the National School Lunch Act of 1946.⁴⁰ As outlined on page 315 (see “Selected Events in the History of Regulations Governing Sales of Soft Drinks and Other Competitive “Foods of Minimal Nutritional Value” in Elementary and Secondary Schools”), the history of regulations dealing with sales of soft drinks and other “junk” foods defined by Congress as “foods of minimal nutritional value” is part of a 50-year saga of nearly annual congressional tinkering with the rules governing the school lunch and breakfast programs. The regulations for sales of soft drinks and other “competitive” foods—foods that children might buy instead of federally supported meals served in the school cafeteria—constitute a minuscule part of the saga, but they illustrate the ways commercial concerns influence congressional decisions about matters that affect the health of children.

For more than 30 years, to protect the nutritional and economic integrity of the federally subsidized school meal programs, school food service personnel, nutritionists, and advocates have sought regulations to control sales of competitive foods in public schools. Throughout these decades, soft drink companies—often joined by principals, school boards, and state education departments—have opposed any “time-and-place” restrictions on when or where competitive foods might be sold. The results of this historic conflict readily reveal why advocates view the current regulations as promoting the commercial interests of

soft drink companies far more than they do children's health.

By the late 1960s, coin-operated vending machines selling soft drinks and snacks were already well established in schools, and parents, school officials, health authorities, and even Congress could see that the sales of such foods directly competed with federally supported meal programs “for the children's coins and appetites.”⁴¹ Congress, therefore, asked the Secretary of Agriculture “to take a hard look at some of the competition to the balanced meal offered within schools...the availability of candy bars, soft drinks and a snack line in the school cafeterias.”⁴² In 1970, Congress passed amendments that allowed the USDA to block sales of competitive foods at the same time and place as school meals were offered (meaning: in the school cafeteria during lunch periods) but permitted any food *ever* served as part of a school lunch to be sold at other times and places.⁴³ This arcane distinction meant, for example, that cake could be sold but soft drinks could not.⁴⁴



From: General Accounting Office Pub. No.: GAO/HEHS-00-156; Sept. 2000.

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As a result of these rules, soft drink companies lost revenue, but so did the schools.³ To protect their stream of income from sales of snack foods, school officials joined soft drink companies in pressuring Congress to allow competitive foods to be sold at *any* time and place (again, this meant in the cafeteria during lunch periods) provided that the proceeds went to the schools or to approved student organizations.⁴⁵ They also induced Congress to remove the USDA's authority to regulate sales of competitive foods and, instead, to delegate decisions about such sales to state and local boards of education.^{44,46} These decisions effectively deregulated competitive foods,⁴⁴ leading critics to state that “profit had triumphed over nutrition.”⁴¹ After

1972, sales from vending machines and other competing venues increased in many schools.³ In 1977, during the Carter administration, Congress viewed sales of competitive foods as an abuse of the school meals program and restored the USDA's regulatory authority.⁴¹ Yet, in doing so, Congress demanded and received assurances from the USDA that the agency would not actually ban competitive foods but would only restrict sales of soft drinks and other foods of minimal nutritional value that “did not make a positive contribution to children's diets.”⁴⁷

With its newly regained authority, the USDA attempted to ban sales of foods of minimal nutritional value until after the end of the last lunch period. Because this proposal elicited a deluge of angry public comments, the USDA withdrew it and solicited additional input. In 1979, the USDA again proposed this idea, this time defining foods of minimal nutritional value as those containing less than 5% of the Recommended Dietary Allowances for eight nutrients (protein, vitamin A, ascorbic acid, niacin, riboflavin, thiamin, calcium, and iron)¹¹ per 100 calories or per serving, a definition then meaning that the restrictions would apply only to carbonated soft drinks, water ices, certain candies, and chewing gum.⁴⁴ The revised proposal elicited more than 3000 comments, of which 562 could be traced directly to a PepsiCo directive suggesting that its employees write letters to the USDA arguing that such objectives would be better achieved through nutrition education.⁴⁸ Despite these pressures, the USDA held firm; its 1980 final rules continued to ban vending of soft drinks until the end of the school lunch period.⁴⁸

In the early 1980s, encouraged by the election of a more conservative administration, soft drink producers tried another tactic—they took the USDA to court on the grounds that agency regulations were “arbitrary, capricious, and an abuse of discretion...and in excess of statutory jurisdiction.” The District Court dismissed the complaint, stating that “it is an obvious fact of life that a ... vending machine, no matter where located, can act as a magnet for any child who inclines toward the non-nutritious.” Soft drink producers appealed the decision, and won. The US Appeals Court ruled that the intent of Congress was simply to control sales of “junk” foods during meal service and that the USDA had no right to otherwise restrict the time and place of sales of competitive foods—even those of minimal nutritional value.⁴¹ The court did allow one exception; competitive foods other than those of minimal nutritional value could be sold in the cafeteria during meal service if the proceeds went to approved school groups. In practice, the court decision meant that the USDA could only prohibit the selling of soft drinks in the cafeteria during meal service periods but soft drinks could be sold at other times and places.⁴⁹

As might be expected, this ruling stimulated sales of competitive foods, with the equally to be expected result

that school food service operations lost revenue.³ Thus, advocacy groups renewed efforts to restrict such sales.^{2,50} They encouraged Senator Patrick Leahy (Dem-VT), then chair of the Senate Agriculture, Nutrition, and Forestry Committee, to introduce a bill to reinstate the ban on sales of competitive foods of minimal nutritional value in schools until the end of the last lunch period. Predictably, the Coca-Cola company opposed the bill and organized a letter-writing campaign among school principals, superintendents, and coaches who feared losing revenues from vending machines.

According to the *New York Times*, a spokesperson for Coca-Cola argued that his company made “no nutritional claims for soft drinks” but said that “they can be part of a balanced diet.” He went on to say, “Our strategy is ubiquity. We want to put soft drinks within arm's reach of desire.... [S]chools are one channel we want to make them available in.”⁵¹ A lobbyist for the soft drink industry told a reporter, “[Y]ou have no evidence that the consumption of soft drinks is in any way harmful.”⁵² He told a Senate Committee: “[We] question whether there is a need for ‘Big Brother’ in the form of USDA injecting itself into... decisions when it comes to refreshment choices.”⁵³

Companies' and school officials' objections succeeded in convincing Congress to retain the permissive regulations. In discussions of amendments to the School Lunch Act passed in 1994, a Senate committee suggested that the USDA should instead develop “model language” to restrict sales of soft drinks and other such foods in *elementary* schools before the end of the last lunch period, but left the decision about whether to adopt that language to the discretion of state and local school authorities.⁵⁴ Congress advised the USDA to remind secondary schools that federal laws restricted profit-making sales of soft drinks in food service areas during lunch periods.⁵⁵ When advocacy groups called on the USDA to impose tighter controls on vended and competitive foods, officials explained that Congress had given the agency “no authority to regulate the sale of foods *outside* the food service area.”⁵⁶

As had been the case since 1972, the 1994 amendments explicitly invited state and local school authorities to impose more stringent restrictions on sales of competitive foods, and several have done so. New York State regulations enacted in 1987, for example, follow the earlier, more restrictive USDA proposals:

From the beginning of the school day until the end of the last scheduled meal period, no sweetened soda water, no chewing gum, no candy including hard candy, jellies, gums, marshmallow candies, fondant, licorice, spun candy and candy coated popcorn, and no water ices except those which contain fruit or fruit juices, shall be sold in any public school within the state.⁵⁷

SELECTED EVENTS IN THE HISTORY OF REGULATIONS GOVERNING SALES OF SOFT DRINKS AND OTHER COMPETITIVE “FOODS OF MINIMAL NUTRITIONAL VALUE” IN ELEMENTARY AND SECONDARY SCHOOLS

- | | |
|--|---|
| <p>1946 National School Lunch Act passed to promote use of surplus agricultural commodities in school meals as a means to improve the nutritional status of low-income children.</p> <p>1966 Child Nutrition Act requires US Department of Agriculture (USDA) to develop regulations governing nutritional aspects of school meal programs.</p> <p>1970 Amendments to 1966 Act ban sales of competitive foods in or near school cafeterias during mealtimes, but allow individual foods served in school meals to be sold competitively at other times and places, in effect restricting only soft drinks and candies.</p> <p>1972 Amendments permit sales of competitive foods during mealtimes if proceeds benefit schools or school groups; transfer authority to regulate competitive foods from USDA to state and local education boards.</p> <p>1977 Amendments restore USDA authority to regulate competitive foods.</p> <p>1978 USDA proposes rules restricting sales of foods of “minimal nutritional value”—soft drinks, water ices, chewing gum, certain candies—from the beginning of the school day until after the last lunch period; withdraws proposal in response to comments.</p> <p>1979 USDA proposes rules; PepsiCo organizes letter-writing campaign opposing USDA authority.</p> <p>1980 USDA issues final rules similar to those proposed in 1978. National Soft Drink Association sues to overturn regulations; loses, appeals, and wins in 1983.</p> | <p>1983 US Appeals Court rules that USDA cannot impose “time-and-place” restrictions on sales of competitive foods.</p> <p>1985 USDA revises rules; prohibits sales of competitive foods of minimal nutritional value only during lunch periods in cafeterias; permits sales at all other times and places with no restrictions on allocation of revenues.</p> <p>1990 Citizens Commission on School Nutrition recommends restrictions on availability of non-nutritious foods in schools.</p> <p>1991 American Dietetic Association and American School Food Service Association recommend restricting or banning sales of competitive foods in schools.</p> <p>1994 Senate introduces bill to restrict or ban school sales of soft drinks and other foods of minimal nutritional value. Congress reaffirms 1985 rules but permits USDA to propose “model language” recommending time-and-place restrictions on sales in elementary schools.</p> <p>1995 Center for Science in the Public Interest (CSPI) petitions USDA to require competitive foods to meet standards for good nutrition.</p> <p>1998 CSPI publishes <i>Liquid Candy: How Soft Drinks are Harming Americans’ Health</i>; urges schools to stop selling soft drinks.</p> <p>1999 USDA places soda pop at the “eat less” tip of its dietary pyramid for children ages 2 to 6.</p> <p>2000 Text of <i>Dietary Guidelines</i> suggests reducing intake of added sugars by limiting use of soft drinks.</p> |
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Although reliable data on the question are difficult to obtain, advocates, teachers, and school officials have told me that state and federal rules are routinely ignored. To begin with, soft drink companies circumvent sales rules by donating sodas to schools for free distribution during school meal periods, a development that prompted Senator Leahy to introduce additional legislation to stop such practices. *Nutrition Week* quoted him as saying, “Nutrition doesn’t go better with Coke or Pepsi at lunchtime.... [T]his is a loophole—big enough to drive a truck through—that hurts our children.... [I]t’s not unlike the old days when the tobacco companies would hand out free cigarettes to kids.⁵⁸ Furthermore, the companies have now developed sweetened fruit “drinks” that can be

sold on lunch lines; these contain just enough juice (5%) to circumvent definition as a food of minimal nutritional value.

Research provides suggestive evidence for rule-breaking. A survey of 55 Minnesota high schools found that 95% of schools that had vending machines left them unlocked and thus accessible during some school hours, 29% left them unlocked all day, and 15% of them left them open during the lunch period—despite state regulations that discourage sales of soft drinks during lunch periods. The survey also found that 60% of the vending machines were located in cafeterias, and another 33% near cafeterias.⁴ A nationwide survey by the federal General Accounting Office found that 20% of US schools gave students

access to vended snacks and drinks during lunch periods and two-thirds allowed other competitive foods to be sold during lunchtimes.⁵⁹

Advocates in New York City have organized a class action suit against the Board of Education, Chancellor of Education, and five school principals to enforce what they view as a universally ignored city regulation that flatly prohibits “the sale of non-nutritious food, either directly or through vending machines” in public schools. Noting that the money for competitive “junk” foods in schools “comes from the poorest section of New York City—public school parents—who can least afford it,” the suit argues that officials are obligated to comply with existing laws.⁶⁰ At the time of this writing, this suit is still pending.

COMPETING WITH SCHOOL MEALS

Advocates maintain that if schools are doing their job properly, the meals programs should contribute to healthful eating habits, be fully integrated into educational activities, and receive adequate financial support. They believe such purposes would be best served if all sales of food in schools were managed by food service departments rather than administrators or sports officials, for whom nutrition and health are not necessarily a high priority.⁵⁰ Advocates especially fear that competitive foods jeopardize the economic viability of school meal programs, as these programs are expected to be self-supporting with federal reimbursements and must have adequate sales volume to survive.^{2,3} The short time devoted to lunch periods in many schools also discourages students from eating full meals and encourages purchase of competitive foods that can be eaten on the run.

That soft drink companies deliberately compete with school meals seems quite evident from testimony at Congressional hearings. During hearings for the 1994 School Lunch amendments, for example, a high school food service director testified that when the Coca-Cola company distributed free 20-ounce bottles of soda, participation in the school lunch program declined by half. She reported that Coca-Cola had provided cash incentives, bicycles, computers, and catered events to her school, and that it would be difficult for her principal to give up such perquisites. She concluded that “without government regulations, Coca-Cola will always win.”⁵³ Soft drink industry lobbyists, however, consistently argue that no scientific evidence links the sale of their products to poor nutrition, any other health problems, or low participation rates in school lunch programs.⁵²

From its inception, the purpose of the School Lunch Program was to improve the nutritional status of children while providing an outlet for surplus agricultural commodities. Figuring out how to use school meals to promote nutritional goals has not been easy, however, and has occu-

ried Congress since 1966.³⁹ In implementing the provisions of the 1994 School Lunch amendments, the USDA accepted improved nutrition as a goal when it recognized that school meal programs could establish “childhood eating patterns that influence lifelong habits” and specified reductions in the fat, sugar, and salt content of the lunches to bring them into compliance with federal dietary guidelines.⁶¹

Healthy People 2010 objectives call for information about healthful dietary patterns to be included as part of comprehensive health education curricula in middle, junior high, and senior high schools.¹ Part of the reason for attention to school nutrition education is that it has been demonstrably effective, especially when supported by meals served in school cafeterias.⁶² Participants in school meal programs have been shown to consume better diets than non-participants; if they replace school meals with competitive foods of minimal nutritional value, the quality of their diets can be expected to deteriorate.^{18,63}

THE PUBLIC HEALTH CHALLENGE

Soft drink companies’ more recent attention to children in grades K–12 can be seen as part of the increasing intrusiveness of commercial interests into US schools.^{31,64} Companies routinely use the methods summarized on page 311 (see “Examples of Methods Used by Soft Drink Companies...”) to market food products to children in school; these activities are now so common as to be taken for granted. Soft drink companies—and school officials who contract with them—implicitly assume that soft drinks are appropriate fare for school-age children rather than milk, juice, or water, any of which would be a better nutritional choice.

The level of cynicism revealed in these marketing efforts is especially disturbing. What are we to make of statements like the one attributed to a consultant who helps schools obtain soft drink contracts? In his view, pouring rights contracts make schools more realistic for children. “If you have no advertising in schools at all, it doesn’t give our young people an accurate picture of our society.”³³ Pouring rights contracts clearly teach students that school officials are willing to compromise nutritional principles for financial reasons,² even when the linking of payments to higher consumption goals puts them in the position of advocates for soft drink consumption. When a school administrator tells a reporter that nutrition is important, but he is “ambivalent about it,”⁶⁵ he says a lot about his priorities; this kind of ambivalence contributes to student attitudes that nutrition and health are not important concerns. It is an all too rare school administrator who is willing to state that “matters involving money properly stop at the schoolhouse door.”⁶⁶

The well-financed promotion in schools of soft drinks

and other foods of poor nutritional quality directly undermines federal efforts to improve the dietary intake of children and reduce rates of obesity.¹ Even though colleges (and now even cities such as Huntington Beach, California^{67,68}) have become advertising vehicles for soft drink companies, elementary and secondary school students deserve some protection against commercial interests that contribute to poor nutrition.

Public health professionals could reverse such trends through policy interventions in several areas. We could promote changes in dietary guidelines to more strongly encourage consumption of water, juices, and low-fat milk and discourage consumption of sodas and sweetened fruit drinks—both in guidelines targeting children 2 to 6 years old⁶⁹ and those targeting the rest of the population. The year 2000 edition of the *Dietary Guidelines for Americans*, the official policy statement on nutrition and health jointly issued by the USDA and the Department of Health and Human Services is a case in point.⁷⁰ Reportedly under intense pressure from sugar and soft drink producers,^{71,72} the agencies successively changed the guideline on sugar intake from “Go easy on beverages and foods high in *added* sugars”⁷³ to “Choose beverages and foods that *limit* your intake of sugars”⁷⁴ to the final “Choose beverages and foods to *moderate* your intake of sugars” (all emphases added).⁷⁰ Despite industry pressures, the text accompanying the guideline identifies soft drinks as the leading source of added sugars in US diets, and as a source of excess calories that might contribute to weight gain or replace intake of more nutritious foods. This guideline could be stated much more explicitly to make it consistent with its intended meaning: “Limit intake of soft drinks as a source of added sugar.”

Public health professionals could also support community and state efforts to organize students to identify and resist commercialism,⁷ to require firm adherence to existing regulations,⁶⁰ to disallow exclusivity agreements,⁷⁵ and to refuse pouring rights contracts altogether.^{28,65,76} School districts in California, Tennessee, and Wisconsin, for example, have refused to enter into such contracts after protests by parents, students, and school officials,⁷⁷ and the Center for Commercial-Free Public Education reports that 31 school districts have refused pouring rights contracts in the past two years (Personal communication, Andrew Hagelshaw, July 2000). Clearly, such efforts can be successful. At the national level, we could join advocates for federal regulations to restrict sales of competitive foods in general,^{2,3} and those of minimal nutritional value in particular, expanding the definition of such foods to include the new “juice” products and other such foods.⁵⁰ We also could consider a range of pricing, tax, and other “environmental” strategies to improve the diets of schoolchildren, similar to those that have been proposed by the present author and others to address current trends in obesity.^{78,79}

Although pouring rights contracts are only one component of an arsenal of food company marketing techniques,²⁹ issues related to societal inequities are central to the significance of these contracts as a public health concern. Congressional reluctance to favor children’s health above the rights of soft drink producers is a direct result of election laws that require legislators to obtain corporate funding for their campaigns.⁸⁰ Like most corporations, soft drink companies donate funds to local and national candidates. Although research findings have not proved that such contributions buy influence, they certainly suggest a strong correlation between contributions and desired outcomes. Most “hard money” contributions are distributed to incumbents. The largest contributions go to representatives who vote in the donors’ interests, and the larger the contribution, the more likely the representative is to support industry positions.^{81–83} Nearly everyone who has examined this question concludes that campaign contributions have an important effect on voting decisions. Thus, more rational campaign financing laws might permit Congress to take positions based on public good rather than private greed.

Similarly, if American public schools were funded adequately, the blatant commercialism inherent in pouring rights contracts would almost certainly be subjected to greater scrutiny, and departments of education, school boards, principals, and coaches would be less likely to enter into such agreements without far more public debate than is now the case.

Pouring rights contracts may solve immediate problems of school funding, but their social cost is high, not least because they undermine efforts to establish adequate federal, state, and local funding for public education. These contracts, therefore, point to the need for public health professionals to pay much greater attention to commercial pressures on children and to initiate a much higher level of critical analysis of such pressures from school officials, legislators, and the public.

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