Childhood obesity has catapulted to among the top priorities in the United States. With the recent announcement of First Lady, Michelle Obama’s initiatives to end childhood obesity, she has elevated the issue and increased the public’s awareness of this major public health crisis. However, childhood obesity is a global health problem and the United States is among the many countries facing this significant health epidemic. With staggering rates of childhood obesity in industrialized and developing countries all over the world, there have been increasing efforts by government agencies to institute policies that may reverse this trend.

As we already know, obesity is a complex issue with a diverse range of contributing factors beginning with an individual’s genetic makeup and extending to the environment in which that person lives. As the United States considers its next steps, it may be useful to consider solutions other countries, such as South Korea, have implemented.

Childhood Obesity

Leading health organizations, experts and international agencies have undertaken significant efforts to identify key factors that may be contributing to childhood obesity as well as developed strategies to improve the health of our youth. In fact, the World Health Organization (WHO) has identified childhood obesity as one of the most serious public health challenges of the 21st century.\(^1\) The WHO estimated that in 2007, 22 million children under the age of five years were overweight throughout the world. Surprisingly, more than 75 percent of overweight and obese children live in low- and middle-income countries. Although it may appear to be a problem faced only by industrialized countries, the WHO statistics demonstrate the global effects of this problem.

In 2004, the National Academy of Sciences, Institute of Medicine (NAS/IOM) published its report, which stated that there is strong evidence that exposure to television advertising is associated with obesity.\(^2\) Additionally, most of the food and beverage products promoted to children are high in calories, sugar, salt and fat and low in nutrients.

The NAS/IOM findings are not isolated. Many in the public health arena have identified media and advertisements as a significant factor contributing to childhood obesity. As we already know, children do not understand commercials in the same way adults do. Most children under age six cannot distinguish between program content and commercials. Moreover, most children under age eight do not understand that the purpose of advertising is to sell a product.\(^3\)

As part of the NAS/IOM recommendations, a federal task force was convened to develop guidelines to curb marketing “unhealthy” food products to children. This task force included officials from the Federal Trade Commission (FTC), the Food and Drug Administration (FDA), and the Centers for Disease Control and Prevention (CDC). With childhood obesity nearly tripling in the last 30 years,
regulators in the United States are struggling to identify possible solutions. Other organizations are also seeking solutions. At the local level, many nonprofits have developed programs to increase physical activity and encourage healthy eating habits through community gardens and farmers markets. On their own initiatives, many food companies have instituted self-imposed marketing restrictions and pledged to promote healthy lifestyles with good eating habits and increased physical activity advertisements. These are just a few examples in which the private sector is participating in the solution to childhood obesity.

**Advertising Restrictions in Korea**

With increasing awareness of childhood obesity and the mounting evidence of the negative impact of advertising on children, many countries including South Korea were compelled to act and limit advertisers’ ability to reach this audience. In March 2008, Korea passed the Children’s Safe Eating Habit Management Act (CSEHMA). As articulated by the Korean National Assembly, the CSEHMA recognizes that children do not have the ability to accurately judge the potentially harmful effects that may result from the consumption of unhealthy foods and takes steps to limit their exposure to this type of advertisement.

The CSEHMA requires that a list of foods preferred by children be developed. CSEHMA also establishes “Green Food Zones” around schools and voluntary “traffic light” color labeling to assist consumers in quickly identifying the nutrient value of the product. The children’s preferred food products list includes candy, chocolate, ice cream, dairy products, noodles, beverages and other food items considered to be “junk foods.” Green Food Zones are areas, generally around schools, that are designated as “healthy food zones.” For example, certain food products that are high in calories and low in nutrient content (as referred to as “high-low foods”) and preferred by children may not be served or offered in Green Food Zones. The traffic light color labeling is a voluntary program that helps identify foods that meet healthy food standards. The nutritional value of the product is indicated by red (unhealthy), yellow (moderately healthy) or green (healthy) coloring along with some nutrient information.

More importantly, CSEHMA limits its advertising of the high-low foods preferred by children. As part of the CSEHMA, regulations were promulgated that identify details associated with implementing the advertising restrictions. This includes developing:

- Nutrient standards for high-low snack foods and meal substitutes preferred by children;
- List of foods preferred by children;
- Time restrictions for high-low food advertisements on main broadcasting television; and
- Restrictions on the advertisements that may be aired during children’s programs on cable and satellite television.

The Korea Food and Drug Administration (KFDA) has developed standards that identify a food product as a “high-low snack food preferred by children” if it meets any of the following criteria (per serving size):

- more than 250 calories and less than 2 g of protein;
- more than 4 g of saturated fat and less than 2 g of protein;
- more than 17 g of sugars and less than 2 g of protein; and
- more than 500 calories or more than 8 g of saturated fat or more than 34 g of sugars if not included in the categories above.

Similarly, if the food product falls into any of the categories below, it is considered a “high-low meal substitute preferred by children”:

- more than 500 calories and less than 9 g of protein;
- more than 4 g of saturated fat and less than 9 g of protein;
- more than 4 g of saturated fat and more than 600 mg of sodium;
- more than 500 calories and more than 600 mg of sodium; and
- more than 1,000 calories or more than 8 g of saturated fat if not included in the categories above.

As part of the regulations, food products that fall within these standards will be identified as “high-low snack foods and meal substitutes preferred by children” and listed on the KFDA website.

In addition to identifying certain foods, the Korea Ministry for Health, Welfare and Family Affairs (MIHWAF) announced specific times when the advertisements for those high-low snack and meal substitute food products preferred by children are prohibited from being aired on public television. Initially, the MIHWAF was to ban advertisements from 5 pm to 9 pm. Due to resistance from the media and the food industry, the MIHWAF reconsidered and modified the hours from 5 pm to 7 pm. The KFDA may also ban, regardless of the time of the day, television commercials for high-low foods during the programs targeting children as main audience.

At this time, it is unclear how to define the “programs targeting children as main audience.” The KFDA and the Korea Broadcast Advertising Corporation are scheduled to further discuss the scope of this restriction.
In addition, advertisement for “Bait Products” that promote free gifts is banned. Advertising a free gift, toy or other product designed to induce children to buy the foods preferred by children is prohibited on mass media outlets such as television, radio and the internet.

These advertising restrictions are new and have not yet been fully implemented. Therefore, the overarching effects are unclear. In fact, it does not appear that many food companies are aware of this recent limitation on advertising.

Factors Influencing Korea’s Advertising Restrictions Policy

Korea’s recent restrictions on advertising to children do not differ greatly from those instituted in other parts of the world. For example, in the United Kingdom (UK), the health authorities have also linked childhood obesity with, among other things, advertising and promotion of unhealthy food to children. The UK reported that a large portion of television advertising targeted at children is for processed foods with high fat, sugar or salt. In 2006, Ofcom, the regulator for the UK’s broadcasting, telecommunications and wireless communications sectors, established rules to ban certain food commercials aired during children’s programs.

Similarly to other industrialized countries, South Korea began critically evaluating the health statistics and identifying the risk of childhood obesity in its own population. Studies have shown that Korea is also experiencing a rise in its childhood obesity rates. Although such rates are not as rapidly increasing as in the United States, South Korea must consider the effects of childhood obesity on its relatively small population. Notably, South Korea is about 85,000 square miles (or approximately the size of Indiana) with a population of 50 million (less than 20 percent of the United States). Like other industrialized Asian countries, South Korea is also experiencing a decline in its birthrate and extended longevity of its aging population. Indeed, the youth of the population is essential to a continued growth and positive economic outlook of the country.

Other factors may also have influenced the policy decision for placing advertising restrictions. On average, Korean youth study seven hours and 50 minutes per day. This amount of time is about three hours more per day than adolescents from other developed countries. Conversely, South Korean adolescents spend an average of 13 minutes per day participating in physical activity, which is among the lowest of other industrialized countries. With education of paramount importance in Korea, it is unlikely that policies that shift attention away from academics, such as physical fitness programs and participation in sports, will be well received. Moreover, there is an expectation within the society that it is the government’s responsibility to develop and implement a solution. Indeed, when advertising restrictions were first announced there was a significant consumer support and approval.

Conclusion

Due to the broad scope and implication associated with the definition of “food preferred by children” and other elements of this regulation, these advertising restrictions will impact the entire food industry, including U.S.-based companies in South Korea. Snack foods, confectioneries, chocolates and beverages comprise a significant portion of products for many food companies. Limiting the ability for these companies to advertise and promote their products in such a ubiquitous medium like television and radio significantly hinders consumer awareness of new food products and brands. Moreover, it is unclear the effects that the list of high-low foods on the KFDA’s website would have on the food industry and consumer perceptions of these food products. Some within the food industry believe that it actually may brand the product as a “junk food” or possibly increase the product’s desirability because it is now an infamous product. It is without a doubt that these regulations will have a significant impact on the industry.

Importantly, the effects of childhood obesity are serious, long-lasting and may have far-reaching impact. Overweight and obese children are likely to stay obese into adulthood and more likely to develop chronic diseases such as diabetes and cardiovascular disease at a younger age. The costs associated with a lifetime of treatment are significant. Of course, these costs, along with the already mounting healthcare debt that many countries are currently facing, may have a devastating effect on local economies. Moreover, for the first time in decades, our youth are predicted to live shorter lives than the preceding generation, which may diminish the available workforce and future economic outlook.

Childhood obesity is a complex issue. A multitude of different factors must be considered as well as current environmental and societal influences. It becomes apparent that greater effort will be required by all stakeholders as well as impressing the importance of individual responsibility. Simply restricting the activities of one industry is unlikely to produce the desired outcome.

South Korea has taken steps to curb the increasing rates of childhood obesity by limiting advertising certain food
products in an effort to protect its youth. These regulations have been well received by consumers; however, there is mixed reception by the food industry. The approach by the United States, however, may be significantly different. Based purely on population size and landmass, the proportionate impact of childhood obesity is likely to affect the United States differently. Additionally, the United States has a strong history of entrepreneurialism and limiting involvement of the government in areas of speech. The United States may benefit from more closely evaluating the effects of such advertising policies in other countries such as South Korea.

1 See, WHO, Global Strategy on Diet, Physical Activity and Health, Childhood Obesity and Overweight, (http://www.who.int/dietphysicalactivity/childhood/en/)
2 IOM, NAS, “Preventing Childhood Obesity: Health in Balance” (Sept. 2004)
3 The Kaiser Family Foundation, The Role of Media in Childhood Obesity (Feb. 2004).


If you have an off-label issue you’re dealing with, you’re not alone.

Why? Because drugs, biologics and devices increasingly are used to treat patients in ways that were not specifically approved by FDA. And while FDA does not regulate off-label use nor forbid off-label prescribing, it does heavily regulate off-label promotion.

With this book, you’ll be able to:

- Avoid errors that may result in an inability to obtain reimbursement.
- Tailor compliance programs to help avoid government investigation and enforcement, which could lead to enormous fines, penalties and criminal prosecution.
- Learn about and understand defenses to products liability claims that may lead to an efficient strategy successfully to defend them.

Pricing $129 Member | $169 Non-member

To order or learn more, please visit www.fdli.org or call (800) 956-6293 | (202) 371-1420

The Food and Drug Law Institute | 1155 15th Street NW, Suite 800 | Washington, DC 20005 | www.fdli.org