

Week 4 Final Paper – Children: Advertising’s Most Captive Audience

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## Children: Advertising's Most Captive Audience

### **Introduction**

Advertising goes way back. Thanks to town criers in Medieval Europe, widespread illiteracy did not stop merchants from successfully hawking their goods. Even archeological findings include advertisements for property in Ancient Rome and Pompeii. It is easy to imagine that children became advertising targets somewhere along the way. In fact, the British Parliament passed legislation in 1874 to stop kid-friendly street vendors from issuing lines of credit to youth (Newby, 2018).

Marketing to consumers under 18 is big business. With the spread of TV came channels dedicated to children's program—and youth-targeting advertisements. Along with internet, magazines, and even schools, youth are bombarded daily with sales pitches that do more than just encourage spending. A body of research shows the potential ill health effects on children, both mentally and physically. Both will be considered in this paper, along with the legal protections that exist (and those that have failed) in an attempt to shield this nation's youth from harmful advertising practices. In short, children are vulnerable and it is the job of government to make sure protections exist when a society fails to do so.

### **Summary of the issue(s)**

The issue of marketing to children is two-fold in both the negative health effects of junk food/tobacco/alcohol advertising and also how advertisements shape youth thinking and cognitive development.

Marketing executives know that “Children acquire consumer socialization skills early in life, developing consumer motives and values as they are exposed to commercial activities” (McGinnis, 2006, p.20). This is the whole point of advertising techniques like action figure tie-ins from TV shows, product placements in movies, fast food collaborations with movie characters (Sargent et al., 2001). The question though, is what of it? We as Americans tend to make pretty good money and we are proud to be a consumer culture, and all this spending by youth, teens, and their parents helps the economy so is there any real harm? Psychologists and researchers say yes. “Research has shown that young children—younger than 8 years—are cognitively and psychologically defenseless against advertising” (“Children,” 2006). In fact, several ill effects of marketing campaigns targeting children exist. Not surprisingly, increases in parent-child conflicts over requests for an advertised item is an obvious side-effect (Buijzen & Valkenburg, 2003).

Other countries including Australia, Canada, and several European countries have had strict child-advertising bans in place for some time, supported by the public and politicians alike. In Greece toys cannot be advertised on any TV channel until 10:00 PM and in Norway and Sweden it is illegal to advertise to children under 12 (Valkenburg, 2000). The United States has been trying to do the same since the 1970s when it attempted to ban all advertising to the youngest children when it was determined that “it is unfair and deceptive to advertise to children under 6” (Federal Trade Commission (FTC), 1981).

One of the most ambitious regulation moves by the FTC was a 1975 attempt to “Restrict the television promotion of highly sugared foods to children – particularly those too young to understand either the nature of commercial advertising or the health risks of excessive sugar consumption” known as *kidvid* (FTC, 1981). The petition came from the Food and Drug

Administration, the Action for Children's Television, the Center for Science in the Public Interest, and the Consumers Union. After 60,000 pages of investigative reports, 3 years of litigation and 6,000 pages of official transcript, kidvid was ruled unconstitutional because of the 1975 Supreme Court decision *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, known as the "unfairness theory" which determined that an attempt to restrict advertising is a First Amendment violation of freedom of commercial speech. Although the Court decided that concern over the health effects of advertising to children was a valid, "it may not do so at the expense of public knowledge about lawful competitive pricing terms" (Virginia State Board, 1975).

This court decision and the media crucifixion that followed led to a 10-year shutdown of the FTC along with a congressional ban on any attempt of the FTC to regulate children's advertising based on the unfairness theory. The reputation of the FTC was irreversibly damaged as well. In an editorial by *The Washington Post* "[T]he proposal, in reality, is designed to protect children from the weaknesses of their parents – and the parents from the wailing insistence of their children...It is not a proper role of government" (Pertschuk, 1982).

In an official report by the FCC titled *A Regulatory Retrospective that Advises the Present* the authors openly admit that that the backlash from both government and media following the failure of the kidvid restrictions wrecked the organization. Former FTC Chairman Pertschuk cites the *Post editorial* as the turning point in which the FTC gave up the fight for children's health protections and from then on narrowly focused on "practices that parents themselves cannot control (for example, misrepresenting toy performance, having children incur toll charges on their parents' phone bill, and collecting information from kids online without parental consent)" (FTC, 1981).

In 1980 the courts further defined just how protected commercial speech is in *44 Liquormart Inc. v. Rhode Island* which made it clear that advertising restrictions can only occur when the danger to the consumer is clear in “more than a speculative or purely theoretical way” (which high-sugar breakfast cereals could not be directly blamed for children’s poor health) *Liquormart Inc.*, 1996).

### **Current Relevance**

In the United States over \$12 billion is spent yearly on TV advertisements aimed at children, while the average youth is exposed to 3,000 ads a day from TV, billboards, magazines, and internet (“Children,” 2006). While these numbers are massive, the return on investment is staggering. The under-12 crowd spends about \$25 billion a year, teenagers spend \$155 billion, and the influence of these youth and adolescents on their parents comes in at an additional \$200 billion (Span, 1999). Because of the privatization of media consumption such as televisions in children’s bedrooms or possession of a computer or smartphone, there is practically no way to make sure that ads targeting adults are not viewed by teenagers or that youth are not exposed to violent video game ads rated Mature—which is over 17-years-old (“Report,” 2018).

What makes the need for youth advertising research and protections more relevant today than ever before is the rapidly changing landscape of technology itself. For one, “Cellular phones are currently being marketed to 6- to 12-year-olds, with the potential for directing specific advertisers to children and preteens” (“Children,” 2006). These phones create a “user experience” that means when one ad is viewed, more of the same will be presented. So if a child views an ad for a violent video game or something sexual in nature, it will be added to his/her user data as part of the new power that is internet target marketing. As stated by the Children's

Media Policy Coalition, these new interactive technologies “allow advertisers to collect vast amounts of information about children's viewing habits and preferences and target them on the basis of that information” (Ferree, 2000).

Digital Television is another rapidly growing technology without clear advertising guidelines. Smart TVs offer on-screen promotions that can be clicked, leading the viewer to a website, giving advertisers “the ability to lure children away from regular programming, encouraging them to spend a long time in an environment that lacks clear separation between content and advertising” (“Children Now,” 2004). An important point of these new advertising mediums is they have “yet to attract almost any empirical study” (“Report,” 2018).

Advertising to children is clearly having ill effects on their health in a number of ways, but not in a way that the courts have seen fit to justify restriction. Childhood obesity rates have doubled and adolescent rates tripled since 1980. One solution that has been presented is an advertising ban on certain unhealthy food products to children which according to the FTC, “sends a shudder through those FTC staff members who remember all too clearly the aborted rulemaking of 25 years ago” and now more than ever due to the “current state of the law with regard to commercial speech and the First Amendment” (FTC, 1981).

Although, “Several studies have found strong associations between increases in advertising for non-nutritious foods and rates of childhood obesity” the Courts claim this is not reason enough to violate commercial speech rights (American Psychological Association, 2018). In fact, of the 40,000 TV ads seen each year by children 2 to 11 years old, half are for food and of these 97% are for foods “high in fat, sugar, or sodium” (Powell et al., 2007). On the other hand research shows “advertising healthy foods has been shown to increase wholesome eating in

children as young as 3 to 6 years of age” (Gorn & Goldberg, 1982). It is unfortunate that more companies are not advertising healthy foods in light of such research. It is very common for a kid to want to be a professional athlete of some kind and this can be a powerful motivator for guiding children to see food as performance fuel, yet it is absolute junk like Gatorade and Wheaties that come to mind when athletic fuel is mentioned.

Tobacco advertising has been directly linked to youth smoking and positive attitudes about smoking. A study by the National Cancer Institute showed that exposure to cigarette ads are a bigger risk factor than having family members who smoke (1995). Also, two large studies claimed that tobacco promotions are responsible for one-third of adolescent smoking and also that children as young as 13 have been specifically targeted by cigarette companies via movies and video games. In 2000, the tobacco industry spent \$217 million advertising in 38 youth-oriented magazines (King & Siegel, 2001).

Print media is just as guilty as television for influencing harmful behaviors in youth. “Young people see 45% more beer ads and 27% more ads for hard liquor in teen magazines than adults do in their magazines” (Consumer’s Union, n.d.). On TV, youth see an average of 2,000 alcohol ads yearly—which is hardly surprising considering that \$5.7 billion is spent each year on advertising. In music, a 1996 study analyzing 1,000 of the most popular songs with youth found that 17% mention alcohol. In movies, “alcohol was shown or consumed in 93% of the 200 most popular movie rentals for 1996-97” (National Research Council et. al., 2004).

In recent years technology such as Ti-Vo and Netflix allow viewers to watch shows without commercials. The FTC has used this as its reasoning for allowing a self-regulatory body to emerge and theoretically police targeting youth in advertisements. In schools though,

attendance is mandatory and “Ads are now appearing on school buses, in gymnasiums, on book covers, and even in bathroom stalls.” Nationwide, 3,000 Taco Bells and 4,500 Pizza Huts are in school cafeterias while over 200 school districts have exclusive contracts with various soda companies. As the federal government is cutting free lunch subsidies for schools that serve soda in the cafeterias, schools are getting around this by placing soda vending machines elsewhere on campus (Oleck, 1994).

**An interview with a lawyer, judge and/or judge about the issue(s).**

I got the chance to have a talk with Jim Clark, a defense attorney practicing in Placerville, California. While his specialty is not media law I still wanted his opinion on the First Amendment protections granted to commercial speech. While he was in the opinion that “rotten food advertisements make rotten teeth” he still agreed with the law based on the unfairness theory. He said a cereal company could just as easily advertise oat bran over Fruit Loops advertisements, which they probably have tried, but it’s about return on investment and the parents are going to buy what they are going to buy. He also said that no one is telling farmers they cannot pay to advertise broccoli to kids.

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