

Remarks of FTC Commissioner Julie Brill

NAAG Summer Meeting

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Panel on Consumer Protection: Update on State and Federal Efforts

Moderator: Janet Mills, Attorney General of Maine

Other Panelists: C. Lee Peeler, President of NARC,

Pamela Gilbert, former Executive Director of the Consumer Product Safety Commission

Good morning. I am very glad to be here. I would like to thank many people here in the audience and around the table who have been instrumental in my career and so helpful in the process of getting me to the Federal Trade Commission. The truth is, there are really too many of

In 2008, the FTC issued a landmark report based upon an analysis that the staff did of industry expenditures on food advertising to children and teens in calendar year 2006.¹ Some of

This was a front-of-package labeling program that launched last year. Food and beverage products could have the words “Smart Choice” on their packaging if they met the various nutritional standards established by participating companies.

It turned out, though, that a few products raised a red flag for many people. A few products that made the list and were being labeled as a “Smart Choice” included Fruit Loops, Lucky Charms, Chocolate Lucky Charms, and other cereals that have a substantial amount of sugar in them and do cause concern in some arenas within consumer groups, nutritional experts, and others with respect to whether or not those products really are a “Smart Choice.”

General Blumenthal and the Food and Drug Administration both raised concerns about this front-of-package labeling program. The program was stopped immediately—again, going back to what Governor Gregoire was talking about in terms of urging the kind of platform that you all have as Attorneys General. The program was stopped immediately and the FDA determined that it was going to revisit all front-of-package labeling programs. It really was a powerful effort that was engaged in by the state AGs and a good example of the kind of work that you all are doing in this area.

In addition to thinking about uniform and meaningful standards—that is, standards that consumers understand are applicable from product to product and from manufacturer to manufacturer, and standards that would not allow Fruit Loops to be labeled as a “Smart Choice”—the Commission is also asking the media and entertainment industry to do its part. Not just thinking about Saturday morning cartoons, but also thinking about the vast swath of advertising that takes place in this space: that is, the cross-promotional advertising, in-store promotions, product packaging, viral marketing, what is happening on Facebook, on MySpace, on the blogosphere. All of these areas should be focused on by industry and by the media in terms of what kinds of ads they are taking, which ads they will place on which programs, and then of course, what the ads actually say.

I also want to talk briefly about the enforcement work that the FTC has been involved in, as Attorney General Mills mentioned. There has long been an effort at the Federal Trade Commission to look closely at claims that food companies make about their products. Recently, we dealt with one company that was making claims about its cereal products, with two cases back to back within about six months of each other. The claims at issue are called “functional food claims;” they are the kind of claims that a manufacturer makes when it wants to say “Do not only eat this food because it provides you with the nutrition that you need to lead a normal life, but because if you eat this product it will actually do something to improve your life—give you better reasoning ability, make you more attentive,” things like that. These are the kinds of claims that we are going to look at very closely and, I would add, that you all should look at very closely.

Kellogg’s made the claim, with respect to Frosted Mini Wheats, that eating this cereal for breakfast was clinically shown to improve children’s attentiveness by nearly 20%. We had

