



November 26, 2024

Supplemental Brief of the Canadian Association of Broadcasters to the Senate Committee on Social Affairs, Science and Technology with regard to Bill C-252, *An Act to amend the Food and Drugs Act (prohibition of food and beverage marketing directed at children)*

As the national representative of commercial television and radio broadcasters, the Canadian Association of Broadcasters wishes to convey its appreciation for the opportunity to present to the Standing Committee as part of its study on Bill C-252.

The CAB wishes to share supplemental evidence based on the questions raised within the meeting to provide greater clarity and context.

Clarifying Terminology and the Scope of the Bill

In the meetings studying Bill C-252, there were several terms and concepts that were used interchangeably, which perhaps have served to obscure the true potential impact of the legislation, as well as the scope of the problem the bill is intended to address.

“Advertising” vs “Marketing” – The proponents of the bill have used these two terms interchangeably to demonstrate what they propose as the problem that this bill will solve. Dr. Monique Potvin Kent spoke at length of her research that demonstrated that number of commercial messages that reach children in the course of a year. However, in her accounting of these numbers, she is including a vast number of instances of branding or marketing that are not in scope of this bill. This includes exterior visual branding of restaurants, in-store marketing and food packaging.

Bill C-252 only proposes to address the very narrow field of advertising, specifically on Canadian television services and perhaps in digital advertising, although enforcement on the latter remains in question.

“Directed to” vs “Reach” – The proponents have used these terms interchangeably as well, in part to present a magnified sense of the problem. In his testimony, Dr. Tom Warshawski referred to instances of “advertising that may reach children.”

Advertising of food products will still enter Canadian homes and screens through global services and platforms, despite this bill. U.S.-based broadcasters such as NBC, ABC and CBS – some of whom carry blocks of children’s programming – will continue to be available in Canadian homes, and Health Canada will not have the power or oversight to implement these restrictions on foreign broadcasters.

Moreover, non-Canadian influencers and content creators on global digital and social media platforms who promote brands will not be captured by this legislation.

On Health Canada's Regulations

At the conclusion of the November 21st meeting, the CAB put forward the recommendation to set parameters around the definition of "advertising directed primarily at children", recommending language used in Section 249 of *Quebec's Consumer Protection Act*.

7.1 (2) In determining whether or not an advertisement is directed primarily at children, account must be taken of the context of its presentation, including:

- (a) the nature and intended purpose of the goods advertised;*
- (b) the manner of presenting such advertisement; and,*
- (c) the time and place it is shown.*


In response to this, the witnesses were told that Health Canada had indicated a willingness to work with stakeholders to develop the regulations. Witnesses representing the media and advertising sector were presented by the bill's sponsor, Sen. Donna Dasko, with a "yes or no" question:

"Would you be willing to work with Health Canada on the development of these regulations, yes or no?"

Three things should be very clear to senators when considering this legislation:

1. The CAB will always represent its members in any legislative or regulatory process that will affect them. This is a given. However, this should not be taken as our assent to the Senate committee transferring its critical role as part of the legislative branch to departmental officials.
2. Our preference is for the legislation to provide specific and very reasonable direction Health Canada that cannot be changed at the whim of a departmental official.
3. Moreover, Health Canada already has engaged in a regulatory consultation on this legislation, ***before the legislation even reached the Senate***. Stakeholders such as the CAB, who wish to have a meaningful discussion on how these regulations will be enacted, and how they will inequitably impact our members cannot have faith that the department will engage us further, beyond the perfunctory paper process that has already concluded.

All of which is submitted respectfully,



Kevin Desjardins
President