



bbb.org

December 18, 2008

Mr. Ted Lampert, President  
Children Now  
1212 Broadway, 5<sup>th</sup> Floor  
Oakland, CA 94612

Ms. Jan Harp Domene, National President  
PTA  
541 N. Fairbanks Ct. Suite 1300  
Chicago, IL 60611

Dr. Reneé R. Jenkins, President  
American Academy of Pediatrics  
141 Northwest Point Blvd.  
Elk Grove Village, IL 60007

Dr. Michael Brody, Chair  
Television and Media Committee  
American Academy of Child and Adolescent Psychiatry  
3615 Wisconsin Ave. N.W.  
Washington, DC 20016

Dear Sirs and Madams:

Thank you for your letter regarding your organizations' position on corporate underwriting of children's programming on PBS and the advertising commitments of participants in the Council of Better Business Bureaus (CBBB) Children's Food and Beverage Advertising Initiative (Initiative). While expressing support for the advertising commitments of the Initiative's participants, your letter stated that you "strongly believe that PBS' underwriting messages should be treated as outside the scope of the food/beverage advertising commitments made by your pledge participants," given PBS' already-existing guidelines for underwriting messages on children's programming. Your proposed clarification would allow participants to continue underwriting children's programming on PBS and not require any changes to PBS' underwriting policies, which you support. For the reasons explained below, we have concluded that such underwriting, when done in compliance with PBS guidelines, is outside the scope of the CBBB Initiative.

According to your letter, the PBS Guidelines for On-Air Underwriting Credits provide that underwriters of programs must be identified with an on-air credit, but the underwriting credit for a food or beverage company sponsor may not depict or mention food or beverage products. You were concerned that companies that

**COUNCIL OF BETTER BUSINESS BUREAUS, INC.**

4200 Wilson Boulevard, Suite 800 · Arlington, VA 22203-1838 · Phone: 703.276.0100 · Fax: 703.276.0634

committed to devoting 100% of their advertising to better-for-you foods would be required, under the terms of the CBBB Initiative, to advertise better-for-you foods even in a PBS underwriting credit. You asked that we interpret the Initiative's guidelines in a way that would *not* require the identification and depiction of the company's "better-for-you" products in the actual PBS underwriting message. In your view, PBS' organizational policies, which prohibit program sponsors from depicting their products in underwriting messages, strike an appropriate balance that allow children to have access to quality, noncommercial programming.

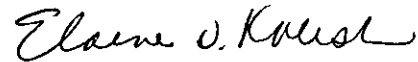
We believe that the Initiative's participants are making a positive shift in advertising directed to children by advertising better-for-you foods. At the same time, we respect that PBS has had long standing rules on underwriting on children's programming and that the policies regarding underwriting credits that are directed to children are applicable to all brands and products that may be especially appealing to children, not just food and beverage brands. (See Rule 2: Children's Programs, available at [www.pbs.org/producers/guidelines/uwcredits\\_2.html](http://www.pbs.org/producers/guidelines/uwcredits_2.html)).

PBS' policies are based on the laws and regulations enforced by the Federal Communication Commission (FCC). Under FCC rules, time limits on commercials, under the Children's Television Act, do not apply to noncommercial educational television stations, such as PBS. Under the Telecommunications Act of 1996, 47 U.S.C. § 399b (a), public broadcast stations are generally prohibited from airing commercials or advertisements, which are defined as program material that is broadcast in exchange for any remuneration and that is intended "to promote any service, facility or product offered by any person who is engaged in such offering for profit." The FCC permits contributors of funds to noncommercial stations to receive on-air acknowledgements but the purpose of underwriting credits is to identify the funder in the interests of full disclosure and not to promote the funder or its products. Under the FCC's policies, on-air acknowledgements may not contain comparative or qualitative descriptions, price information, calls to action, or inducements to buy, sell, rent or lease. See Public Notice, In the Matter of the Commission Policy Concerning the NonCommercial Nature of Educational Broadcasting Stations (1986), republished, 7 FCC Rcd 827 (1992) (available at <http://www.fcc.gov/mb/audio/includes/33-nature.htm>). Thus, it is clear from FCC rules and policies that underwriting credits are not considered to be advertising.

In light of these statutory and regulatory requirements prohibiting advertising on public broadcast stations and restricting the content of underwriting credits, we are deferring to the FCC and PBS and will consider underwriting credits that comply with PBS and FCC requirements not to be advertising. Thus, for the purposes of the CBBB's Initiative, underwriting in accordance with PBS and FCC regulations is outside the scope of the Initiative's requirements for advertising primarily directed to children under 12. Accordingly, participants in the Initiative may provide funding to and receive on-air acknowledgements on public broadcast stations, in accordance with PBS guidelines, without being considered in breach of their commitments under the Initiative.

Your letter and this reply are being posted on the CBBB Initiative webpage, [www.us.bbb.org/advertisers4healthykids](http://www.us.bbb.org/advertisers4healthykids), for the information of the public. If you have any questions about this response, please do not hesitate to contact me at 703-247-9382 or at [ekolish@council.bbb.org](mailto:ekolish@council.bbb.org).

Sincerely yours,

A handwritten signature in cursive script that reads "Elaine D. Kolish".

Elaine D. Kolish  
Vice President and Director  
Children's Food and Beverage  
Advertising Initiative