



Standing Committee on Health

House of Commons

Parliament Buildings

Ottawa, Ontario, K1A 0A6 Canada

By email to: sean.casey@parl.gc.ca

And by upload at: <https://www.ourcommons.ca/Committees/en/HESA/StudyActivity?studyActivityId=11516550>

May 10, 2022

Re: Committee study on children's health

Dear Mr. Casey:

I am providing a brief to the Committee in the form of copy of my organization's recently updated shadow report to the United Nations Human Rights Council's Committee on the Rights of the Child that is presently conducting a periodic review of Canada's progress in implementing the United Nations *Convention on the Rights of the Child*. Canada's hearings will be held virtually May 17-18 this month, the first review since 2012.

The Centre for Health Science and Law is a non-profit health advocacy organization specializing in food and nutrition issues. I have advocated public food- and nutrition-related reforms to improve public health in Canada and internationally for nearly 25 years. Since 2018, I have also provided consulting public health legal services for UNICEF, primarily in Sub Saharan Africa.

If invited, to appear, I could also stress the importance that the Committee soon turn its attention to the seven-year Parliamentary review mandated by [section 80.1 of the Pest Control Products Act](#), which is now overdue. At least one recent decision of Health Canada's Pest Management Regulatory Agency illustrates the need for Parliamentary oversight in relation to a recent decision related to the health of children: approval and subsequent gradual ban of the [brain-wasting pesticide, chlorpyrifos](#), which was previously banned in the United States for concern about the harm to children's cognitive development. Canada provisionally approved it without a health evaluation.

If you hold hearings on the topic. I would be happy to testify.

Respectfully submitted,

Bill Jeffery, BA, LLB

Centre for Health Science and Law

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Att. CHSL submission to the United Nations Committee on the Rights of the Child entitled:
"Canada's fulfillment of key health obligations under the U.N. Convention on the Rights of the Child"

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[NOTE: This excerpt was condensed for brevity for the Standing Committee on Health; see the full submission at: www.tinyurl.com/food-child-rights-CANADA]



Committee on the Rights of the Child
United Nations High Commissioner for Human Rights
1211 Geneva 10
Switzerland

April 20, 2022

Re: Canada's fulfillment of health obligations of the U.N. Convention on the Rights of the Child

Dear Madame Chair Mikiko Otani:

Children's Commissioner: Paragraph 17 of the Government's [April 4, 2022 reply](#) stated:

Bill S-210, An Act to Establish the Office of the Commissioner for Children and Youth in Canada, equivalent to former S-217, was introduced in the Senate in September 2020. The Bill died when Parliament dissolved in August 2021.

It seems disingenuous to cite the example of Private Member's Bills that the government never declared an intention to support in the 43rd Parliament. Similar *Bills C-451*, and *C-441* were also introduced by different opposition parties late in the 42nd Parliament, signifying that all-party support would have been achievable.

1. Child nutrition in Canadian schools

Canadian children are all eligible for public healthcare and elementary and secondary education when attendance is mainly required by law. Paragraph 120 of the government's report does not acknowledge that adherence to school nutrition standards is voluntary, weakly monitored, and not enforced or that government funding is only enough to feed 4% of students. So, programs court community and food industry donations of cash and food with the attendant governance risks. The [Coalition for Healthy School Food estimates that a fully funded program would cost approximately 2% of the public expenditures on elementary and secondary education](#). Numerous experts have stressed the importance and viability of a national program. The former U.N. Special Rapporteur on the Right to Food recommended that Canada:

Formulate a comprehensive rights-based national food strategy...[and] create a nationally funded children and food strategy (including school-feeding food literacy and school garden programmes) to ensure that all children, at all times, have access to healthy and nutritious food;

In its [March 2019 Federal Budget Plan](#), the federal government stated:

"Critically important for a child's education is ensuring they have healthy meals before and during school. Currently, Canada has a mix of different school breakfast

*and lunch programs, but much more could be done. Budget 2019 announces the Government's intention to work with provinces and territories toward the creation of a **National School Food Program**.*" [emphasis in original]

In December 2021, Prime Minister Trudeau publicly mandated the Minister of Families, Children and Social Development to work with the Minister of Agriculture and Agri-Food to create the first national policy for school food with the CAD\$1 billion distributed over five years as promised in the governing party's 2021 election platform. This is a transformative step forward, though the combined federal, provincial and local financial commitment would need to be approximately 10-fold higher when fully rolled out to fund the universal program recommended by the Coalition for Healthy School Food. Canada has not yet committed to the [global School Meals Coalition](#) declaration currently supported by 63 national governments and by civil society organizations, and 65 civil society organization of which the [Centre for Health Science and Law](#) and the 190-group [Canadian Coalition for Healthy School Food](#) are two.

The April 2022 Federal Budget stated the following instead of information indicating the manner in which the first annual CAD\$200 million tranche would be spent:

National School Food Policy

Ensuring that the most vulnerable children have the healthy, nutritious food they need to grow and learn is vitally important. However, nearly two million children in Canada are at risk of going to school hungry on any given day. Over the next year, the Minister of Agriculture and Agri-Food and the Minister of Families, Children and Social Development will work with provinces, territories, municipalities, Indigenous partners, and stakeholders to develop a National School Food Policy and to explore how more Canadian children can receive nutritious food at school.

This one-year delay in fulfilling the election promise is still an encouraging placeholder that might partly signify political obstacles in negotiating financial arrangements with provincial counterparts that are nearly universally led by different political parties. However, the Finance Department's analysis appears to envision a means-testing approach to restrict the benefit to the "most vulnerable children," which would stigmatize beneficiaries of the program and likely undermine its impact as well as foment feelings of shame in many of the students that would benefit most from the program.

The eight guiding principles urged by the Canadian Coalition for Healthy School Food include that the new school food program be: (1) health-promoting, (2) universal (like education and health care, not just for low-income students), (3) cost-shared, (4) flexible and locally adapted, (5) indigenous controlled where applicable, (6) supportive of community economic development, (7) supportive of food literacy, and (8) supported by conflict-of-interest and accountability safeguards.

REMEDY: Launch a national universal, publicly funded, environmentally sustainable, healthy school food program with commercial conflict-of-interest safeguards and cost-shared with other levels of government.

2. Commercial advertising and promotion children is still weakly regulated outside Quebec.

The federal government supported a Senator's bill to restrict advertising nutrient-poor foods, but weakened the protections (from age 16 to age 12) and was unable or unwilling to ensure the bill proceeded to a final vote before the summer recess preceding the 2019 election. Advertising nutrient-poor foods to children (especially soft drinks and restaurant foods) and sedentary leisure activities (e.g., video games, television and social media) contribute to life-long unhealthy dietary and activity patterns of which obesity is only one stigmatizing and easily measured consequence.

Since 1981, the Quebec *Consumer Protection Act* has prohibited commercial advertising to children under age 13 of all products, services, and companies, not just certain foods, based on the premise that children are uniquely vulnerable to marketing and serving of protection. The Supreme Court of Canada rejected a constitutional challenge to the Quebec advertising ban in 1989 brought by an aggrieved toy company, by concluding that all advertising to children is:

"...per se manipulative. Such advertising aims to promote products by convincing those who will always believe."

The Prime Minister's December 2021 [mandated the Minister of Health Dr. Yves Duclos to support "restrictions on the commercial marketing of food and beverages to children."](#) Though he has not yet acted on that mandate, in February 2022, a Liberal MP proposed [Bill C-252 An Act to amend the Food and Drugs Act \(prohibition of food and beverage marketing directed at children\)](#) which would restrict the advertising only of foods considered high in fats, sugar, or salt targeting children aged 12 and under. This bill would do nothing to protect teenagers and would not prohibit advertising brands, logos, restaurants, or artificially sweetened soft drinks and energy drinks to any children. These loopholes render the proposal largely ineffective.

The federal *Competition Act* and *Food and Drugs Act* already prohibit misleading advertising. So, interpretive guidance from the enforcement agencies, the federal Cabinet, or Parliament could confirm in writing that all advertising aimed at children under the age of 18 or 19 is prohibited. This would prevent the courts from settling ambiguity in favour of self-serving companies whose business models depend on manipulating children and teenagers. Provincial age-of-majority statutes stipulate that childhood ends at age 18 (like the *Convention*) or 19. And section 9 of the federal *Competition Act* states that only persons 18 years or older may officially complain about misleading ads.

REMEDY: Promulgate Quebec-style restrictions on advertising to children under the *Competition Act* and *Food and Drugs Act* protecting all minors to age 18 or 19.

3. Advertising and promotion of breast-milk substitutes is still weakly regulated.

Advertising and promoting breast-milk substitutes and related products contributes to low breastfeeding rates which evidence shows undermines babies' immune systems and has other negative health effects. Canada endorsed the WHO's *International Code of Marketing of Breast-milk Substitutes* in 1981 and supported nearly two dozen subsequent relevant resolutions adopted by

its Geneva Assembly. In 2012, the UN Committee urged Canada to implement the *Code*. In 2018, UNICEF reported that Canada is one of only a handful of 36 OECD countries designated as having “no legal measures in place” to curb the advertising and promotion abuses that the *International Code* aims to prevent. [The rate of exclusive breastfeeding babies from birth to age six months remains low in Canada, 26%](#), despite high rates of initiation (89%). Canadian law allows powdered baby formula—which can be [intrinsicly contaminated with dangerous bacteria because powder cannot be manufactured under sterile conditions](#)—to be sold without warnings of this risk and even allows them to carry preparation instructions that specifically expose infants to this risk. .

REMEDY: Promulgate regulations to restrict the advertising and promotion of breastmilk substitutes in Canada.

4. Governance safeguards do not protect children from economic exploitation.

Unlike many other countries, Canada does not constitutionally guarantee protection against economic exploitation of children. In responding to a question from the Committee at [paragraph 166 of CRC/C/CAN/5-6](#) in 2020, the Government of Canada indicated only that Canadian children are *de facto* protected from labour force exploitation by being obliged by law to attend school full-time to the age of 16.

Since 2019, the federal Department of Justice has developed a draft webinar and model tool for conducting Child Rights Impact Assessments, though this tool has not yet been finalized. Nor have plans been announced to trigger the application of CRIAs to law-making or budgeting processes or to ensure that Canada’s 400,000 K-12 teachers incorporate the webinar tool into the curriculum studies of five million students. Creating such a tool was [not included in the Minister of Justice’s mandate letter](#) the Government of Canada’s April 4, 2022 reply UN Committee.

REMEDY: Urge Canada to (a) prepare future reports as full **child rights impact audits** of its implementation of the *Convention* and quantify the number of Canadian children protected by each measure, (c) institute robust **commercial conflict of interest safeguards** in government advisory committees, such as the proposed [Canadian Food Policy Advisory Council](#),

Respectfully submitted,



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