



Public Health Association
AUSTRALIA

Protecting Children from the Marketing of Unhealthy Foods and Non-alcoholic Beverages

Background Paper

This paper provides background information to the PHAA Protecting Children from the Marketing of Unhealthy Foods and Non-alcoholic Beverages Policy Position Statement, providing evidence and justification for the public health policy position adopted by Public Health Association of Australia and for use by other organisations, including governments and the general public.

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Public health issue

1. In Australia, high levels of childhood overweight and obesity and children's high consumption of highly processed and/or energy-dense, nutrient-poor (EDNP) food and beverages (unhealthy food)¹ contribute to the growing rates of costly, but preventable, illness in children and adults, such as dental caries, high blood pressure, and high blood cholesterol.⁽¹⁾
2. The 2017-18 Australian Health Survey shows that 1 in 4 children aged 5-17 years are overweight (16.7%) or obese (8.2%)⁽²⁾ and that Australian children's diets are inconsistent with dietary recommendations for good health⁽³⁾, illustrated by the high proportion of energy (kilojoules) from unhealthy foods and beverages⁽⁴⁾ and low intakes of vegetables.⁽²⁾
3. The World Health Organization⁽⁵⁾ has determined that reducing the exposure and persuasive power of unhealthy food marketing to children is an important strategy for the prevention and control of non-communicable diseases (NCDs). At the 2010 World Health Assembly, Australia endorsed the World Health Organization's set of recommendations on the marketing of foods and non-alcoholic beverages⁽⁵⁾. In the most recent implementation guidance, The World Health Organization recommends that the policy aim of restrictions on unhealthy food marketing to children should be to "reduce both the exposure of children to, and power of, marketing of foods high in saturated fat, *trans*-fatty acid, free sugars, or salt".⁽⁵⁾
4. A recent review by the World Health Organization, synthesizing the global evidence on the association between food marketing and food-related attitudes, beliefs, and behaviours concluded that exposure to unhealthy food marketing influences social norms and increases children's perceptions and consumption of unhealthy food products and brands.⁽⁶⁾
5. This corporate capture of childhood by transnational food companies through marketing tactics undermines children's rights to the highest attainable level of health and their right to be free from economic exploitation. These marketing tactics create life-long loyal customers, over time increasing the risk of overweight, obesity and non-communicable diseases.

Background and priority

6. The WHO recommends that member states should take effective action to reduce children's exposure to unhealthy food marketing:
 - WHO's 2013 Global Action Plan for the Prevention and Control of NCDs⁽⁷⁾ calls on member states, to implement the WHO set of recommendations on the marketing of foods and non-alcoholic beverages to children as part of their effort to support healthy diets.
 - WHO's 2015 guidelines for sugar intake, recommend that adults and children reduce added sugar intake to less than 10% of total energy and suggest a further reduction to less than 5%, based on evidence of the relationship between free sugar consumption and obesity and

¹ The term 'unhealthy food' in this paper refers to highly processed, energy-dense, nutrient-poor food and beverages; and 'food' generally refers to both food and non-alcoholic beverages.

dental caries. Guideline implementation recommendations include regulating the marketing of food and non- alcoholic beverages that are high in added sugars (such as soft drinks and confectionery).⁽⁸⁾

- The WHO Commission on Ending Childhood Obesity stated that the wide availability and promotion of unhealthy food and beverages has a negative impact on children’s dietary intake and weight. It is further stated that any attempts to tackle childhood obesity include reducing children’s exposure to, and the power of, marketing of unhealthy foods, and that voluntary industry initiatives are likely to be insufficient, suggesting that regulatory and statutory approaches are needed to ensure adequate reductions in children’s exposure.⁽⁹⁾

7. A report of the United Nations Special Rapporteur on the Right to Health focused on the links between unhealthy foods and diet-related NCDs, recommending that governments regulate the marketing, advertising and promotion of unhealthy foods, particularly to women and children, to reduce their visibility. This report highlights the need to address structural changes to the food environment, which have a negative impact on the people’s enjoyment of the right to adequate and nutritious food, which in turn is an underlying determinant of the right to health.⁽¹⁰⁾
8. Protecting children from the marketing of unhealthy food is in line with the United Nations Convention on the Rights of the Child (UNCRC), which mandates that the best interests of the child is a primary consideration in all actions concerning children.^(11, 12) The Committee on the Rights of the Child, which monitors the Convention, has indicated in its interpretive comment on children’s right to health (article 24 of the Convention) that states should take measures to prevent childhood obesity, including by regulating to limit children’s exposure to marketing for unhealthy foods and beverages. General comment 25 on children’s rights in relation to the digital environment (adopted by the Committee on the Rights of the Child in 2021) states that children should be protected from all forms of exploitation (including economic) in digital environments through government-led laws and policies. Persuasive messages or inducement to consume unhealthy products has also been identified as a threat to children’s nutrition security. Extending the International Code of Marketing Breast-milk Substitutes to include an International Code of Food Marketing to Children has been proposed as one of the policy measures to protect and promote children’s nutrition security.⁽¹³⁾
9. Marketing restrictions have been identified by the World Cancer Research Fund International as part of their policy framework that defines what works to prevent cancer and other NCDs.⁽¹⁴⁾ The report *Lessons on implementing robust restrictions of food and non-alcoholic beverage marketing to children* uses case studies to outline common challenges and how to overcome them when designing and implementing food marketing policy.⁽¹⁵⁾
10. The Australian Government’s National Preventive Health Strategy has restrictions on exposure of children to unhealthy food and drink marketing, including in retail spaces and through digital media, as a policy achievement by 2030.⁽¹⁶⁾

International and Australian recommendations

11. WHO recommends that it is the governments’ role to lead development of policy to reduce the impact of unhealthy food marketing on children.⁽¹⁷⁾

12. While countries around the world are increasingly adopting policies to reduce children's exposure to unhealthy food marketing,^(14, 18) no government has yet adopted a comprehensive approach. Examples of international government-led policies to reduce unhealthy food marketing can be found at the World Cancer Research Fund International NOURISHING database.⁽¹⁴⁾
13. In 2016, Chile introduced the *Labelling and Advertising Law*, which included a ban on the marketing of all foods and beverages high in sugars, fats and sodium (across all media and settings, including, but not limited to broadcast, online, schools, outdoors) when considered to be i) 'child-targeted', ii) where >20% of the audience consists of children aged <14 years and iii) where advertising appeals to children by including characters, toys or other strategies considered to be 'directed to children'. In 2018, in recognition that the 'child-directed' approach did not adequately protect children from unhealthy food marketing, the provisions of the law related to broadcast media was updated to a time-based restriction of all unhealthy food marketing on TV between 5.30am and 10pm.
14. In 2022, the UK enacted into law a ban on all unhealthy food marketing on broadcast media between the hours of 530am and 9pm and on all unhealthy food marketing online that has been 'paid-for' (through monetary or non-monetary means). The policy objective is to reduce children's exposure to high fat, salt, sugar (HFSS) advertising, in order to help reduce their overconsumption of HFSS products'. The law is due to be implemented in 2025.
15. Strong and consistent evaluations assessing the effectiveness of global food marketing policies have shown that mandatory government-led approaches are more effective at reducing the power and exposure of unhealthy food marketing compared to industry-led regulations.⁽¹⁹⁾ For example, in Australia, the frequency of food advertising and children's exposure to unhealthy food marketing remained unchanged after the implementation of industry self-regulatory pledges.⁽²⁰⁻²²⁾ This contrasts with countries that have implemented mandatory restrictions – Evaluation of the Chilean *Labelling and Advertising Law* has revealed that the policy has been successful in reducing the exposure of unhealthy food marketing to children on TV and reducing child-directed marketing strategies on breakfast cereal packages, post policy implementation.^(23, 24)
16. In Australia, in September 2009, the National Preventative Health Taskforce's recommendations for reducing obesity included phasing out unhealthy food marketing on free-to-air and pay television before 9 pm within four years; phasing out the use of premium offers, toys, competitions and promotional characters in marketing unhealthy food across all media sources; adopting an appropriate set of definitions and criteria for determining unhealthy food and drink; and exploring restrictions in other media.⁽³⁾
17. Following a national government-led seminar in 2012,⁽²⁵⁾ a national working group was established to identify potential options to reduce children's exposure to the marketing of EDNP foods and beverages and report to Health Ministers.⁽²⁶⁾ The outcome was negligible, with the food and advertising industry representatives unable to agree to make any significant changes to their voluntary self-regulatory food marketing to children initiatives and advertising codes.
18. In 2012 the Australian National Preventive Health Agency (ANPHA) consulted on draft frameworks to

monitor unhealthy food advertising to children on television⁽²⁷⁾ and these included criteria to define unhealthy foods and beverages. Other research has suggested that the Nutrient Profiling Scoring System (NPSC) in the Nutrition Content and Health Claims Standard could be suitable for defining unhealthy food for the purposes of restricting unhealthy food marketing.⁽²⁸⁾ However, ANPHA was abolished in 2014 and a final monitoring framework was not released.

19. In 2018 the COAG Health Council endorsed a national interim guide for classifying foods and drinks not recommended for promotion and marketing⁽²⁹⁾. The guide is available for use by Australian governments and is consistent with the Australian Dietary Guidelines and the Australian Guide to Healthy Eating. The guide performs similarly to the WHO nutrient profile model for food marketing policies and provides a simple, easy to use profiling criteria.⁽³⁰⁾
20. In 2021, Obesity Policy Coalition developed *Brands off our kids*, outlining four actions to protect all Australian children from the processed food industry's unhealthy food marketing.⁽³¹⁾ The PHAA has joined many organisations and individuals in signing up in support.
21. In 2021, the National Obesity Strategy and the National Preventive Health Strategy were released, both of which include recommendations to reduce children's exposure to the marketing of unhealthy foods and beverages.
22. In 2023 Independent MP Sophie Scamps developed a Private Members ([Healthy Kids Advertising Bill 2023](#)) which aims to protect children from unhealthy food marketing on broadcast media between the hours of 6am and 930pm and through all online media (with a total ban).

Australian children's exposure to unhealthy food marketing

23. In 2019 the food industry spent in excess of AUD\$250 million on advertising, with the majority of this spent on television advertising (>AUD\$160M), followed by out of home advertising (>AUD\$45 million).⁽³²⁾ Similarly, the soft drink industry spent more than AUD\$115 million on advertising in 2019, with almost \$70 million on television advertising, followed by out of home advertising with almost \$25 million in advertising spend.⁽³²⁾ Whilst digital advertising spend by the food and beverage industry remains lower than television and out of home advertising, it is the fastest growing medium in terms of advertising spend.
24. Research shows that the types of foods and beverages most commonly marketed to children in Australia, as well as internationally, are unhealthy foods such as sugar-sweetened breakfast cereals, savoury snacks, fast food, confectionery and sugar-sweetened beverages and this marketing is inconsistent with government dietary recommendations for good health and the prevention of non-communicable diseases (NCDs).⁽³³⁾
25. In line with the international situation, there is a large amount of unhealthy food promotion on Australian television^(22, 34) as well as in other marketing media including: outdoor signage near schools,⁽³⁵⁻³⁷⁾ on and around public transport⁽³⁸⁻⁴⁰⁾ children's sport sponsorship⁽⁴¹⁻⁴³⁾, through digital devices⁽⁴⁴⁾ and at supermarkets.^(45, 46)
26. Analysis of one Adelaide television network (four channels) over a one-year period found the frequency and duration of advertisements for discretionary foods during children's peak viewing times was

2.3/hour and 0.7 minutes/hour, respectively. For the average 5–8-year-old who watches about 80 minutes of television per day, this level of exposure amounts to viewing approximately 4 hours of unhealthy food advertising a year.⁽³³⁾

27. In 2019, a study⁽⁴⁴⁾ that captured the mobile screen devices of 95 children aged between 13-17 years in Australia, reported that children saw a median of 17.4 food promotions for each hour spent on the internet. When considering the usual time spent on the internet on mobile devices, children would be exposed to a median of 168.4 food promotions on the web on mobile devices per week, 99.5 of which would not be permitted to be marketed based on nutrient profiling criteria. More than half of these unhealthy food promotions were peer endorsed and derived from third-party sources.
28. Children are exposed to outdoor advertising for unhealthy food, particularly on public transport,⁽⁴⁷⁾ including routes to school⁽⁴⁸⁾ and around schools.⁽³⁴⁾ In Perth, 74% of all outdoor food advertising within 500m of schools was for unhealthy foods.⁽³⁶⁾ In NSW, a study looking at advertising on the trip to school found a similar proportion (75%) of unhealthy food advertisements.⁽⁴⁸⁾ And another study found one third of food/beverage advertisements on buses and at train stations in a Sydney sample were for sugar sweetened drinks and one in five were for fast food meals.⁽⁴⁷⁾
29. Unhealthy food marketing is becoming more sophisticated and integrated across a range of platforms and companies are increasingly using relatively low-cost digital media to promote food brands and products to children and adolescents.⁽⁴⁹⁻⁵¹⁾
30. Around 80% of Australian adults support bans on unhealthy food advertising to children and there is strong support for government involvement in restrictions.^(52, 53)
31. Sport is a popular pastime in Australia and a particular setting for unhealthy food promotion. Unhealthy food and beverages are the major canteen sales at children's sporting events.⁽⁵⁴⁾ Sport is associated with sponsorship of events and athletes by unhealthy food and beverage brands and exposure to these products during televised events can be significant.⁽⁵⁵⁻⁵⁷⁾ This occurs at all levels of sport from elite through to community level. For example, approximately one quarter of junior sports clubs accept unhealthy food sponsors in Victoria, with clubs in regional areas more likely to be affiliated with an unhealthy food sponsor compared to metro areas.⁽⁵⁸⁾

Current situation

32. Despite food marketing being widespread across a range of media, statutory regulation is very limited and industry-led codes have a history of being weak and ineffective at reducing children's exposure to advertising.⁽⁵⁹⁻⁶¹⁾
33. In 2011-12, Australian children (age 5-17 years) watched an average of 85 minutes of television per day.⁽⁶²⁾ The only government regulation of food marketing to children (outside of general restrictions on misleading and deceptive advertising and marketing found in the Australian Consumer Law and state-level food acts) is the Children's Television Standards (CTS).⁽⁶³⁾ The CTS place restrictions on the content and timing of advertising to children during programs specifically designed for children (C-rated) or preschool children (P-rated), with only one provision dealing specifically with food advertisements, stating that an advertisement for a food product must not contain any misleading or incorrect information about the nutritional value of that product. The largest child television audiences are during timeslots when the CTS and industry initiatives do not apply, particularly between 6pm and 9pm in the evening.⁽⁶⁴⁻⁶⁶⁾

34. The Commercial Television Industry Code Of Practice (created by a broadcast industry body within the co-regulatory framework for broadcast advertising) was updated in 2015 with removal of clauses covering food marketing to children and in 2018 clauses were added to regulate gambling advertising in live sport during children's viewing hours.⁽⁶⁷⁾
35. The Australian Association of National Advertisers (AANA) have a set of codes for pre-packaged food manufacturers and quick service restaurants on how to responsibly market their products. However, the codes are limited in that they only apply to marketing that is 'targeting' children under the age of 15 years (a subjective and narrow interpretation which has shown to be ineffective at protecting children from the exposure of unhealthy food marketing), the codes do not apply to marketing on food packages, they allow marketing using master branding (e.g., a fast food restaurant can still advertise their logo - the predominant form of marketing for sponsorship arrangements) and are self-governed with little transparency and accountability and no penalties for breaches.
36. While there are not yet any studies evaluating the AANA Food & Beverages Advertising Code, due to its recent implementation, several studies have shown that prior industry-led codes have been ineffective.⁽⁶⁸⁻⁷⁴⁾ For example, television advertising rates for unhealthy foods remained unchanged despite earlier industry self-regulatory policies (i.e., the Responsible Children's Marketing Initiative and the Quick Service Restaurant Initiative) being in place. Premiums were also used in television advertisements despite being restricted by policies. Complaints about advertisements were frequently dismissed due to advertisements being determined as not primarily directed to children.

Policy principles

37. The ubiquitous marketing of unhealthy food undermines the public's ability to consume a healthy diet in line with government recommendations for good health and the prevention of disease.
38. Children require special measures, as they are less able than adults to judge critically and must be protected from commercial exploitation when this has the potential to compromise their health. Young children lack the cognitive capacity to distinguish between advertising and marketing, and can only critically evaluate advertising between the ages of 11 and 16 years.⁽⁷³⁻⁷⁵⁾ Adolescents are also vulnerable to the pressures of unhealthy food marketing as they are reward driven, heavily influenced by their peers, consume high volumes of unhealthy foods and beverages and have their own purchasing power.⁽⁷⁶⁻⁷⁹⁾
39. While parents have a key role to play in their children's food choices, it is unrealistic and unfair to expect parents to consistently refuse children's requests for products, when these requests are spurred on by a large and powerful food industry that invests large marketing budgets in encouraging children to desire and request predominantly unhealthy foods.
40. The public health problems of poor diet and obesity cannot be solved by education and personal responsibility alone.
41. The current advertising and food industry voluntary codes and initiatives and the associated complaints mechanism do not adequately protect children from exposure to unhealthy food marketing. Unhealthy food marketing through online devices is particularly problematic with highly

targeted and personalised marketing messages.

42. It is government's role to act in the interest of the population to create a healthy food environment, which then enables the population to exercise their personal responsibility in relation to food choices.
43. Governments have a responsibility to provide an effective regulatory system to protect children from the marketing of unhealthy food and beverages.
44. Requiring positive healthy eating messages in an attempt to counteract unhealthy food marketing in the media is insufficient. The money that governments and primary industry groups spend on social marketing campaigns and promotion to increase the consumption of and demand for healthy foods is overshadowed by the increasingly pervasive marketing of unhealthy food.

Policy options

45. The Australian Government, state and territory governments must:
 - Prioritise the protection of children and adolescents from the influence of the marketing of unhealthy food and beverages by implementing a comprehensive national legislative approach to protect children from the harmful impacts of unhealthy food and beverage marketing, across all media and settings, including through digital media.
 - Introduce food marketing policies as part of a broad whole-of-systems approach for addressing childhood obesity (see PHAA Healthy weight policy).
 - Define key terms to form the basis of a proposed legislative approach, including:
 - An independently developed standard definition for which foods can and cannot be promoted to children. In 2018, the Council of Australian Governments Health Council developed a guide for voluntary use by governments within Australia to define food and drink categories not recommended for promotion.⁽⁸⁰⁾ The *National intermin guide to reduce children's exposure to unhealthy food and drink promotion* has been found to be as strict as the the WHO Nutrient Profile Model for the Western Pacific Region⁽⁸¹⁾ but also is simple, easy to use and aligned with Australian dietary advice.⁽³⁰⁾
 - Define short- and long-term policy objectives. Short term policy objectives should be centred around reducing the exposure and power of unhealthy food marketing to children. Reducing the prevalence of obesity should be considered a long-term policy objective.
 - Recognise that children share the same media and spaces as adults and are exposed to, and influenced by, all types of food marketing, not just what 'intended' or 'directed' at them. Narrowly focussing on marketing that is 'directed to children' will not adequately protect children from all unhealthy food marketing and is more likely be legally challenged by industry.⁽⁸²⁾ Define marketing as any form of commercial communication of messages that are designed to, or have the effect of, increasing the recognition, appeal and/or consumption of particular products and services - it comprises anything that acts to advertise or otherwise promote a product or services',⁽⁸³⁾ including the advertising of corporate social responsibility initiatives.

- Implement a comprehensive approach, covering all media and settings where children are exposed to unhealthy food marketing. This should include:
 - Ensure TV, radio and cinemas are free from unhealthy food marketing from 6am to 9.30pm
 - Prevent processed food companies from targeting children with their marketing
 - Ensure public spaces and events are free from *all* unhealthy food marketing
 - Protect children from online marketing of unhealthy food (through a complete ban)
 - Prohibit all location based and price-based marketing of unhealthy foods in food retail settings
 - Prevent processed food companies from sponsoring events, including sports and festivals
 - When designing legislation it is important to include mechanisms to prevent influence from commercial interests that conflict with the policy response. Such conflicts of interest may cause delay or undermine the impact of a policy, especially its scope and potential effectiveness.
 - Develop an independent system to monitor, evaluate and regularly report on the extent of children’s exposure to unhealthy food and non-alcoholic beverage marketing to ensure compliance and to evaluate its effectiveness against the stated objectives.
 - Engage with stakeholders including industry and consumer groups to establish a more transparent and responsive complaints mechanism with meaningful and timely sanctions for breaches with which the public can easily engage.
 - Establish transparent and independent governance processes for the regulatory scheme, including independent administration and monitoring (as described above), and regular, external review.
46. An audit of food marketing to children in the ACT shows opportunities for states and territories to regulate.⁽⁸⁴⁾ Barriers to implementing state level regulation have been reported as: the perception that regulation of television advertising is a Commonwealth responsibility; the power of the food industry and; the need for clear evidence of the effectiveness of regulation and community support.⁽⁸⁵⁾ State, Territory and local governments should consider areas where they can regulate independent of the need for national regulation. Areas under state or local government control include advertising on public transport infrastructure, sporting venues and state or local government owned land and property.

Recommended action

47. The Australian, State and Territory governments should:
- Prioritize the protection of children and adolescents from the influence of the marketing of unhealthy food and beverages.
 - Lead development of a national regulatory approach that effectively eliminates Australian children’s exposure to unhealthy food and beverage marketing, including:

- government endorsed criteria, such as the *National intermin guide to reduce children's exposure to unhealthy food and drink promotion* developed by the Health Council (formerly COAG Health Council), to determine which foods and beverages can/ cannot be marketed to children
 - a focus on all marketing that children are exposed to including online digital platforms, regardless of the intended audience
 - a comprehensive approach, covering all mediums and settings where children are exposed to unhealthy food marketing. This should include:
 - Ensure TV, radio and cinemas are free from unhealthy food marketing from 6am to 9.30pm
 - Prevent processed food companies from targeting children with their marketing
 - Ensure public spaces and events are free from *all* unhealthy food marketing
 - Protect children from digital marketing of unhealthy food (through a complete ban as per the Healthy Kids Advertising Private Members Bill 2023)
 - Prohibit all location based and price-based marketing of unhealthy foods in food retail settings
 - Prevent processed food companies from sponsoring events, including sports and festivals
2. Ensure that any regulatory approach to protecting children from unhealthy food marketing includes:
- an effective monitoring system for policy compliance and policy effectiveness and with meaningful sanctions for breaches,
 - transparent, independent, and accountable administrative and governance processes
 - systematic, independent review of the regulatory scheme to ensure that it is meeting the objective of reducing children's exposure to unhealthy food marketing.
48. State, Territory and local governments should consider areas where they can regulate independent of the need for national regulation, e.g., on transport infrastructure and at stadiums.

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