Marketing of Food and Beverages to Children

Background Paper

This paper provides background information to the PHAA Marketing of Food and Beverages to Children 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 energy-dense nutrient-poor (EDNP) food and beverages (unhealthy food) 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 2014-15 Australian Health Survey shows that 1 in 4 children aged 5-17 years are overweight (20.2%) or obese (7.4%) and that Australian children’s diets are inconsistent with dietary recommendations for good health, illustrated by the high proportion of energy (kilojoules) from unhealthy foods and beverages and low intakes of vegetables.2

3. The World Health Organization has determined that reducing the persuasive power of unhealthy food marketing and children’s exposure to such marketing is an important strategy for the prevention and control of non-communicable diseases (NCDs) and in 2010 released a set of recommendations on the marketing of foods and non-alcoholic beverages to children, followed in 2012 by a framework to help governments to implement the recommendations.6 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. Experiments with children show that exposure to food advertising increases food preferences and food intake.7,9 Studies have shown associations between children’s food attitudes/preferences and food marketing exposure in various media including television and online,9,10 front-of-pack promotions,11 toy premiums,12 and sports sponsorship.13,14 Messages about nutrition and physical activity in child-directed advertisements for nutrient-poor foods offer a health halo to those foods and advertising for ‘healthy’ meal bundles does not drive healthier choices.15

5. Increasing evidence from systematic reviews show that food marketing across a range of media and settings generates positive beliefs about the foods advertised and influences children’s nutrition knowledge, food and beverage preferences, purchase requests and behaviours (at brand and category levels), food consumption and related health indicators.17,19

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 NCDs20 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

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1 The term ‘unhealthy food’ in this paper refers to 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).²¹

- 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.²²

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.²³

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.²⁴ ²⁵ 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. Other articles of the Convention, including article 6 on the right to life, support the argument that states are obliged to regulate unhealthy food marketing to children in order to fulfil their obligations under the UNCRC.²⁶

9. 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.²⁷

10. 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.²⁸

11. Legislation to implement time-based restrictions on exposure of children (under 16 years of age) to unhealthy food marketing on free-to-air television until 9:30pm is one of ten priority actions identified as the best ways to address the obesity epidemic in a 2017 Australian consensus document, Tipping the Scales.²⁹

Current situation

International and Australian recommendations

12. WHO’s marketing recommendations underline that it is governments’ role to lead development of policy to reduce the impact on children of unhealthy food marketing.³⁰

13. While countries around the world are increasingly adopting policies to reduce children’s exposure to unhealthy food marketing,³⁸ ³¹ no government has yet adopted a comprehensive approach. An
increasing number of governments are implementing mandatory restrictions on food marketing in various media including television. Examples of implemented government policy actions to reduce food marketing from around the world can be found at the World Cancer Research Fund International NOURISHING database.28

14. In 2016 Chile introduced a multipronged strategy including mandatory warning labels on unhealthy foods and beverages that exceed defined limits for calories (275 calories/100g or 70 calories/100ml), saturated fat (4g/100g or 3g/100ml), sugar (10g/100g or 5g/100ml) and sodium (400mg/100g or 100mg/100ml), as well as bans on advertising to children under the age of 14 for foods that carry warning labels. The advertising bans cover media including TV programmes or websites directed to children or with an audience of >20% children, radio, newspapers, magazines and promotional strategies and incentives, such as cartoons and animations that could attract the attention of children. These products are also banned from being associated with contests, prizes or toys.28

15. An international review of initiatives to limit the advertising of unhealthy food to children showed high levels of exposure to unhealthy food marketing, with no or only small reductions in children’s exposure to this marketing, except in response to statutory regulation.32

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 2012,3 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.34 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 television35 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.36 However, ANPHA was abolished in 2014 and a final monitoring framework was not released. There is currently no government-led national action on reducing the impact of unhealthy food marketing on children.

Australian children’s exposure to unhealthy food marketing

19. While companies spend a substantial amount of money on the marketing of food and beverages, it is difficult to find figures on the amount or proportion that is targeted at children. In 2009, Australian food companies spent an estimated $402 million and $149 million respectively on food and non-alcoholic beverage marketing.37

20. 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).  

21. In line with the international situation, there is a large amount of unhealthy food promotion on Australian television as well as in other marketing media including: outdoor signage near schools, on and around public transport, children’s sport sponsorship and supermarkets.

22. 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.

23. 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.

24. Around 80% of Australian adults support bans on unhealthy food advertising to children and there is strong support for government involvement in restrictions.

25. 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. 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.

Current Australian regulation is inadequate.

26. Despite food marketing being widespread across a range of media, specific statutory regulation is very limited and the predominant industry self-regulation is weak and ineffective at reducing children’s exposure to advertising. None of the regulation that applies to unhealthy food marketing to children – including food industry self-regulation – has reduced children’s exposure to this form of marketing, which is the objective recommended by the WHO for regulation of unhealthy food marketing to children.

27. In 2011-12, Australian children (age 5-17 years) watched an average of 85 minutes of television per day. 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). 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.

28. 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.\textsuperscript{67} There are also advertising industry\textsuperscript{68} and food industry\textsuperscript{69} voluntary codes and initiatives. The aim of the latter is to provide a framework for food companies to advertise and market to children, not to reduce children’s exposure to unhealthy food marketing.

29. There has been substantial growth in the number and diversity of self-regulatory schemes initiated by corporate actors in recent decades. These have overlapped and in many instances supplanted government regulation across a diversity of food issues, including in Australia.\textsuperscript{70-72} Self-regulation is a part of a broader industry response to increasing pressures from civil society and regulators, and a deliberate strategy to delay the adoption of mandatory state regulation.\textsuperscript{71, 73}

30. While industry evaluation of their own voluntary self-regulatory initiatives shows high company compliance in Australia,\textsuperscript{74} conclusions from scientific, peer-reviewed papers, including in Australia, show that high levels of unhealthy food marketing persist despite industry initiatives.\textsuperscript{39, 40}

31. The continued exposure by children to unhealthy food advertising on television reflects the limitations of the current self-regulatory initiatives including: many companies are not signatories; the nutrient criteria for defining unhealthy food are weak and vary widely, permitting a wide range of unhealthy products to be marketed to children; the narrow definition of when the initiatives apply (on TV, in P- and C-rated programs and in other programs primarily directed at children or where the audience comprises more than 35% children, a criteria which is satisfied by very few programs; not all media (eg food packaging), marketing techniques, or types of advertising are captured (e.g., the initiatives exclude product packaging and labelling, brand advertising, “equity brand” characters, and apps); complaints to the Advertising Standards Board are rarely upheld and the ASB has no power to impose sanctions for breaches.\textsuperscript{32, 60, 64} Further, there was no external consultation in the creation of the initiatives, and governance processes are largely food industry dominated, with little in the way of external stakeholder engagement or input. There is also a lack of independent monitoring, regular review, or meaningful sanctions for non-compliance. Accordingly, the initiatives do not accord with recommendations for effective self-regulation, nor are they transparent or accountable to interested or affected parties outside the food industry.\textsuperscript{61, 75}

Policy action is needed

32. 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.

33. 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.\textsuperscript{76-78} Adolescents are also vulnerable to the pressures of unhealthy food marketing.\textsuperscript{79, 80}

34. 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.

35. The public health problems of poor diet and obesity cannot be solved by education and personal responsibility alone.
36. The current advertising and food industry voluntary self-regulatory codes and initiatives and the associated complaints mechanism do not adequately protect children from exposure to unhealthy food marketing.

37. 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.

38. Governments have a responsibility to provide an effective regulatory system to protect children from the marketing of unhealthy food and beverages.

39. 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.

40. Marketing of unhealthy food and beverages should be prohibited in children’s settings in and near schools, preschools, kindergartens, day-care centres, play areas, children’s sports and children’s health services.

Policy options

41. 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 leading a strengthened national regulatory approach to effectively restrict children’s exposure to unhealthy food and beverage marketing in all marketing platforms. This should include the use of statutory regulation.

- Define key terms to form the basis of a proposed strengthened regulatory approach, including:
  - an independently developed standard definition for which foods can and cannot be promoted to children. Previously, the Nutrient Profiling Scoring System (NPSC) in the Nutrition Content and Health Claims Standard has been suggested as suitable for defining unhealthy foods and beverages for the purposes of restricting unhealthy food marketing as it is already within Australian standards. An Also, in 2016, The WHO Regional Office for the Western Pacific developed the WHO Nutrient Profile Model for the Western Pacific Region and this could be adapted for use in Australia.
  - advertising and marketing communications that are ‘directed to children’ to capture relevant marketing including brand promotion and marketing which is directed to or likely to appeal to or to be seen or heard by children regardless of its appeal to and being seen by other audiences;
  - adopt a definition of ‘children’s peak viewing times’ on free-to-air television to 9pm.
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- Develop an independent system to monitor, evaluate and regularly report on the extent of children’s exposure to broadcast food and non-alcoholic beverage marketing, as well as food marketing in non-broadcast communication channels. For the monitoring of unhealthy foods and non-alcoholic beverages on television, and outdoor advertising (school zones) it is recommended that the INFORMAS protocol be used.\(^{83, 84}\)

- Prioritise restrictions to television advertising, as recommended by the Preventative Health Taskforce and Tipping the Scales,\(^{29}\) as the first focus of a step-wise approach, followed by other marketing channels.

- Also prioritise children’s settings including early childhood services, schools, playgrounds and children’s sport to eliminate children’s exposure to unhealthy food marketing.

- Address emerging media channels through which children are exposed to unhealthy food marketing by investigating regulatory methods to address online marketing to children.

- 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.

42. An audit of food marketing to children in the ACT shows opportunities for states and territories to regulate.\(^{85}\) 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 for regulation.\(^{86}\) 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

43. The Australian, State and Territory governments should:

- Prioritise the protection of children and adolescents from the influence of the marketing of unhealthy energy-dense nutrient-poor food and beverages.

- Lead development of a national regulatory approach that effectively reduces Australian children’s exposure to unhealthy food and beverage marketing, including:
government endorsed criteria, such as the Nutrient Profiling Scoring System in the Nutrition Content and Health Claims Standard or an adaptation of the WHO Nutrient Profile Model for the Western Pacific Region, to determine which foods and beverages can/ cannot be marketed to children

- a robust definition of marketing ‘directed to children’
- a focus on television, online, children’s settings such as schools, children’s and family events, playgrounds and children’s sport as initial priorities
- establishing an effective complaints mechanism and meaningful sanctions for breaches,
- establishing an effective monitoring system
- ensuring that administrative and governance processes are transparent, independent, and accountable
- providing for systematic, independent review of the regulatory scheme to ensure that it is meeting the objective of reducing children’s exposure to unhealthy food marketing.

44. It may be practical to use a phased approach, such as introducing limitations to TV advertising to 9:00pm as an initial step. However, limiting only TV advertising is likely to shift marketing effort and expenditure to other marketing channels, without necessarily achieving meaningful reductions in children’s exposure.

45. Online marketing to children, children’s settings such as schools, children’s and family events, playgrounds and children’s sport are also priorities.

46. 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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