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Organisation: Australian Chronic Disease Prevention Alliance (ACDPA)

Policy objective and approach

This page explores views on the policy objectives and approach outlined in the consultation paper.

4a). Which is the most appropriate policy objective? (Required)

- ~~• To reduce the amount of unhealthy food marketing that children are exposed to and the persuasive content of marketing messages (power) (short-term objective, within 1-2 years).~~
- **To reduce the amount of unhealthy food marketing that children are exposed to and the persuasive content of marketing messages (power) (short-term objective, within 1-2 years) AND to improve children's dietary intakes (medium-term objective, within 3-4 years).**
- Other, specify below.

Please provide evidence/rationale for your selection. This may include: i. costs and benefits; ii. barriers and enablers; iii. impact on priority populations; and iv. monitoring and evaluation. Include references where possible.

ACDPA supports objective 1.2 to reduce both exposure to harmful food marketing and to improve children's diets, as marketing restrictions should be one of the means to the ends of improved nutrition and nutrition outcomes.

To appropriately track progress against these objectives, an accountability framework including monitoring against specific policy actions (such as reduced exposure across specific medium) and progress toward targets, should be established. This would require new approaches and regular monitoring of children's nutrition and diet patterns, and could be undertaken in conjunction with national diet and health surveillance complementing monitoring of implementation of Australia's Dietary Guidelines. Foods high in sugar, salt, fat, ultra processed, discretionary foods, and quick service/fast foods, which would be the specific subject of unhealthy food marketing restrictions should be specifically monitored for decreases. Industry could augment monitoring by providing accurate data on food purchase patterns.

Notably, mechanisms for accountability including regular monitoring and reporting should be undertaken by a body independent from those with vested interests in food or food marketing, whose conflicted interests risk undermining the integrity of such a mechanism and regulations. It must be resourced adequately to support its agility in responding to contraventions of regulations to minimise further risk of harmful marketing exposure risk.

Furthermore any monitoring and accountability mechanism should impose meaningful penalties and sanctions on any companies contravening regulations. Financial penalties could be a source of revenue to support administration of the mechanism.

We note several other important food policy measures would complement and reinforce food marketing restrictions' contribution to improving diets, having a cumulative impact on de-normalising unhealthy food. Stacked packages of measures, such as a levy on sugary drinks manufacturers, enhanced front of pack labelling, enhanced access to affordable nutritious food, limits on unhealthy ingredients such as salt or sugar in foods, and nutrition literacy promotion will have an overall cumulative positive impact on diets. Attribution of impact to individual measures may be complex, however given the high prevalence of diet related chronic disease in Australia, we would encourage the Government to pursue a comprehensive package of measures none-the-less, in order to realise the seismic shift in dietary patterns necessary to improve children's health. Indeed to achieve the improvements of diet desired within the stated 3-4 year timeline, a package of complementary policy measures such as those noted above would be optimal.

4b). Which policy approach has the greatest chance of achieving the policy objective(s)?

(Required)

- ~~• Status quo, which relies on a self-regulatory approach whereby food marketing is governed by industry Codes of Practice.~~
- **A mandatory legislative approach with policy development, monitoring and enforcement led by the Australian Government.**

Please provide evidence/rationale for your selection. This may include: i. costs and benefits; ii. barriers and enablers; iii. impact on priority populations; and iv. monitoring and evaluation. Include references where possible.

ACDPA supports option 2.2, a mandatory legislative approach with policy development, monitoring and enforcement led by the Australian Government.

We believe the status quo has been maintained for too long, to the detriment of thousands of Australian children and subsequently adults. Unhealthy diet is now among the leading causes of chronic disease and also contributes to co-morbidities such as obesity and mental health conditions. This in mind, ACDPA has been advocating a regulatory approach to unhealthy food marketing, administered by Government for several years, to help reverse the trend of deteriorating diets in Australia, and is pleased to see this option being recognised as a priority.

Like many other forms of industry self-regulation, unhealthy food industry self-regulation is notoriously ineffective at protecting public health interests when public health is the objective of the regulation, given the priorities and profit motives of the food industry can be at odds with the public health interest. Industry self-regulation can do more harm than good, as has been seen in the alcohol industry and internationally. Similarly,

allowing those with interests in unhealthy food and marketing industries to influence policy, monitoring and enforcement would compromise the integrity and potentially limit the impact of regulations, and as such should be developed by government and experts with no conflicts of interests (particularly relating to unhealthy food and unhealthy food marketing).

ACDPA: Unhealthy Food Marketing <https://www.acdpa.org.au/unhealthy-food-marketing>
ACDPA: Submission to Diabetes Inquiry:
https://www.acdpa.org.au/files/ugd/6eeba7_4f67cb6b5ccf482c81c4ad365b5715e2.pdf

5. Which age definition is most appropriate? (Required)

- **Children are defined as less than 18 years of age.**
- ~~Children are defined as less than 15 years of age.~~

Please provide evidence/rationale for your selection. This may include: i. costs and benefits; ii. barriers and enablers; iii. impact on priority populations; and iv. monitoring and evaluation. Include references where possible.

ACDPA supports option 3.1, defining children as less than 18 years of age, in line with international recommendations and norms. The Australian Government's own response to the Privacy Act Review Report noted that protection should be applied to children under 18 years of age, and as such definitions should be aligned. As adolescents between ages 14-18 consumer the most unhealthy food, it would be remiss to define the age of children at a point any less than 18, as doing so would undermine the potential and achievement of objectives to improve children's diets.

The 2020 WHO-UNICEF-Lancet Commission on the Future Child, which considered children aged 0-18, recommended robust new measures to address commercial marketing which it deemed a 'grossly underappreciated risk' to children's health and well-being. (see ref). This is in addition to existing rights under the UN Convention on the Rights of the Child.

Australia is a signatory to the UN Convention on the Rights of the Child, which also defines children as aged up to 18. Under the UNCRC and through authoritative interpretations children should enjoy protection in addition to those of every person's Human Rights. Among the additional protections pertinent to marketing of unhealthy food the right to regulated media (GC7), the right to participate in digital media, the right to protection of their health and privacy (GC20), the right to protection from economic exploitation (GC3, GC16, GC20), and the specific right to regulation of marketing of fast foods (GC15) (see reference). The CRC also expects that policy decisions consider the best interest of the child, weighting the rights of other actors (including commercial) against children's rights when policy decisions will affect them.

WHO Unicef Lancet Commission on the Future Child:

[https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(19\)32540-1/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(19)32540-1/fulltext)

UN CRC General Commitment 15 regarding Health

docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsqlkirKQZLK2M58RF%2F5F0vHCIs1B9k1r3x0aA7FYrehlNUfw4dHmlOxmFtmhaiMOKH80ywS3uq6Q3bqZ3A3yQ0%2B4u6214CSatnrBlZT8nZmj

6a). Which food classification approach has the greatest chance of achieving the policy objective(s)? (Required)

- **A government-led food classification system aligned with national dietary guidance that restricts marketing of unhealthy food products AND food brands that are associated with unhealthy products.**
- A government-led food classification system aligned with national dietary guidance that restricts marketing of unhealthy food products. Marketing of food brands (without referring to a specific product) would be exempt from restrictions.
- A government-led food classification system aligned with national dietary guidance that restricts marketing of unhealthy food products. Marketing of food brands would only be permitted when a healthy food product owned by the brand was included in the marketing content.

Please provide evidence/rationale for your selection. This may include: i. costs and benefits; ii. barriers and enablers; iii. impact on priority populations; and iv. monitoring and evaluation. Include references where possible.

ACDPA Supports option 4.1, with a food classification system that includes restricting marketing of unhealthy foods and restricting of brands associated with unhealthy food products. For many large unhealthy food brands, their elements of their brand identities – including logos, names, colours, sounds, and smells – are closely linked to the unhealthy products in their portfolios and their marketing is about building both product and brand loyalty. Including brand marketing mitigates the risk of gaps in policy which could undermine the objectives of the policy.

The Access to Nutrition Initiative provides a potential model for defining unhealthy food brands for this purpose, <https://accesstonutrition.org/>

Bandy, Jewell, Rayner et al (2023) have developed an approach to determining the healthiness of food businesses' portfolios

<https://globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-023-00992-z>

Further development of the system of defining brands healthiness would require additional consultation of public health experts.

6b) . Which specific food classification system do you prefer?

- National interim guide to reduce children's exposure to unhealthy food and drink promotion (COAG Definition)
- FSANZ Nutrient Profile Scoring Criteria
- Health Star Rating System
- **Other**

Please provide evidence/rationale for your selection. This may include: i. costs and benefits; ii. barriers and enablers; iii. impact on priority populations; and iv. monitoring and evaluation. Include references where possible.

ACDPA supports a definition of unhealthy foods that reflects the Australian Dietary Guidelines (current and forthcoming) considering that the ADGs identify discretionary foods and/or those which should be limited; a category of discretionary (unhealthy) foods which shouldn't be advertised; applies nutrient thresholds to food categories with both unhealthy and healthy variations of products; is applicable to packaged foods and fast or quick service meals.

The COAG National Interim Guidelines is a useful basis, however we recommend that this should be expanded and the definitions evolved to be more comprehensive and aligned with WHO guidance including nutrient profile models for the Western Pacific Region, of which Australia is a member and supported the development of said guidelines. (see reference)

WHO WPRO Nutrient Profile Model:

<https://www.who.int/publications/i/item/9789290617853>

ACDPA does not support using the Health Start Rating or FSANZ Nutrient Profiling Scoring Criteria as these balance positive and negative nutrients and may have the consequence of allowing products to be advertised which should not due to added sugar, for example.

7. Which option for restricting TV food advertising has the greatest chance of achieving the policy objective(s)?

- ~~• Restrict unhealthy food advertising on TV between 5:30am and 11:00pm. Restrictions apply across all TV services and platforms.~~
- ~~• Restrict unhealthy food TV advertising that is 'directed to children', including in children's programs (C and P programs), on children's channels and during children's peak viewing times (based on the number of children watching). Restrictions apply across all TV services and platforms.~~
- **Restrict unhealthy food advertising on all broadcast media between 5:30am and 11:00pm (all TV services and platforms, radio, cinema, podcasts and music streaming services).**
- Other, please specify below.

Please provide evidence/rationale for your selection. This may include: i. costs and benefits; ii. barriers and enablers; iii. impact on priority populations; and iv. monitoring and evaluation. Include references where possible.

ACDPA supports option 5.1.3 to restrict all unhealthy food marketing on all broadcast media between 5.30am and 11pm. Given children's high viewing of television during these hours, policy should protect children during those times. Broadcast media restrictions should be applied to streaming, subscription and catch up television services, and

cinema and radio (digital, podcast and streaming) and be adaptable to the evolving nature of broadcast mediums.

Simply restricting food advertising on television directed at children would not effectively protect children given they consume diverse television and related programming at wider peak viewing times.

8. Which option for restricting online food marketing has the greatest chance of achieving the policy objective(s)?

- ~~• Restrict all 'paid for' (monetary and non-monetary) marketing for unhealthy foods through online media. Restrictions apply across all online communication technologies.~~
- **Restrict all marketing for unhealthy foods through online media. This includes all marketing that has been 'paid' for (monetary and non-monetary) and 'non-paid' marketing where a company has acted to promote an unhealthy food (e.g. through sharing user content or encouraging user generated content with the intention of promoting an unhealthy food or brand).**
- Other, please specify below.

Please provide evidence/rationale for your selection. This may include: i. costs and benefits; ii. barriers and enablers; iii. impact on priority populations; and iv. monitoring and evaluation. Include references where possible.

ACDPA supports option 5.2.2 to restrict all paid and non-paid unhealthy food marketing on online media. Children use digital media and online spaces for study, information, communication, and leisure and entertainment. They consume a combination of child targeted and designed media, as well as media that is designed for adult audiences. Broad restrictions on marketing of unhealthy food across all digital media is most likely to achieve the policy objective and protect children best.

Both paid and unpaid advertising should be restricted, as 'in kind' payments such as to influencers, and 'freemium' games and apps developed by brands and embedding advertising risk surreptitiously engaging children and exposing them to immersive, viral, powerful advertising.

As noted under question 7, online mediums subject to restrictions should include digital streaming and other content delivery services which have blurred lines with broadcast media.

9. Which option for restricting outdoor food advertising has the greatest chance of achieving the policy objective(s)?

- **Restrict unhealthy food advertising on all outdoor media.**
- ~~• Restrict unhealthy food advertising on outdoor media at government-owned and managed places, on public assets, within 750m around schools and along major transport corridors.~~
- ~~• Other, please specify below.~~

Please provide evidence/rationale for your selection. This may include: i. costs and benefits; ii. barriers and enablers; iii. impact on priority populations; and iv. monitoring and evaluation. Include references where possible.

ACDPA supports restrictions on unhealthy food marketing on all outdoor media, including all public spaces and at events. Children, particularly as they gain greater independence, are not limiting their time to being around schools, on public transport or government areas, although these are important spaces where children should not be exposed to unhealthy food (or other marketing). Other spaces they inhabit include high-streets, shopping centres, cultural precincts, and recreation and sporting facilities, in cities, suburbs and remote and regional areas. Policies restricting unhealthy food marketing needs to apply to advertising in all the places and spaces children inhabit.

10. Do you support restricting marketing on food packaging?

- **Yes**
- ~~No~~

Please provide evidence/rationale for your selection. This may include: i. costs and benefits; ii. barriers and enablers; iii. impact on priority populations; and iv. monitoring and evaluation. Include references where possible.

ACDPA supports support a restriction on child-directed marketing on unhealthy food packaging.

Product packaging is a commonly used form of marketing to children, with cartoon characters and other features with strong appeal to children, and gimmicks and marketing messages seeking to convince parents and carers to purchase products. The policy should prohibit the use of features which may appeal to children such as images, characters, games, promotions, competitions and prizes, on unhealthy foods. Advertising on packaging also not be allowed to be used to compel a parent or carer to purchase an otherwise unhealthy product for their children with misleading claims, such as health claims.

11. Do you support restricting food sponsorship of sports, arts and cultural events?

- **Yes**
- No

Please provide evidence/rationale for your selection. This may include: i. costs and benefits; ii. barriers and enablers; iii. impact on priority populations; and iv. monitoring and evaluation. Include references where possible.

ACDPA supports restrictions on unhealthy food sponsorship of sports, arts and cultural events where children are participants AND where children are likely to be attending. This should be both marketing of unhealthy food and brands deemed unhealthy per question 6a. This policy should be comprehensive in terms of the types of sponsorship (such as naming rights, product placement to give aways) and adaptable and flexible so to

incorporate evolving sponsorship opportunities that unhealthy food brands may pursue into the future.

With respect to sport, this policy should apply at all levels of sport, from community through to professional and elite sports, and in the context of both domestic and international events. Concurrently, sport precincts should sign up to be 'health promoting venues' aligned with WHO guidance.

Unhealthy food advertising through sports sends a confusing message to children – 'sport washing' can exacerbate the illusion that a person can 'outrun an unhealthy dietary pattern'. Importantly, unhealthy food brands should not be permitted to sponsor places and activities relating to early years, primary or secondary education (such as schools, sport carnivals, fetes or fairs).

Please also see ACDPA's submission to the National Sport Plan consultation, which notes the importance of keeping unhealthy advertising outside of sport.

https://www.acdpa.org.au/_files/ugd/6eeba7_c53c6d436ad543a980b67819ab418af9.pdf

12. Which option for restricting retail marketing has the greatest chance of achieving the policy objective(s)?

- ~~• Status quo – food marketing within food retail outlets is determined by the retail industry. Restrict placement-based promotions of unhealthy foods within food retail outlets (e.g. end-of-aisle, check-outs).~~
- ~~• Restrict price-based promotions of unhealthy foods within food retail outlets (e.g. multi-buys, temporary price promotions).~~
- Restrict placement-based and price-based promotion of unhealthy foods within food retail outlets.**

Please provide evidence/rationale for your selection. This may include: i. costs and benefits; ii. barriers and enablers; iii. impact on priority populations; and iv. monitoring and evaluation. Include references where possible.

ACDPA supports restrictions on placement and price-based promotion of unhealthy food in in physical store and online retail environments.

In store restrictions should be applied to placing unhealthy food in prominent locations (eg near the point of sale (checkouts) and aisle ends, front of store by entry, at child eye height.

Online restrictions should limit placement of unhealthy food at the top of search results or on website/app homepages, and restrict 'one click' purchase and in-stream purchasing through online platforms.

Generally, across in store and online retail environments, price promotions designed to encourage unhealthy food purchases should be restricted, such as for buy-one-get-one free type 'multi-buy' offers.

This policy could also be used to nudge consumers toward nutritious foods, and should assist with improving the affordability, accessibility and appeal of more nutritious foods in line with those recommended in the Australian Dietary Guidelines.

13. Do you support restricting unhealthy food marketing 'directed' to children, in addition to policy options 5.1–5.6?

- **Yes**
- ~~No~~

Please provide evidence/rationale for your selection. This may include: i. costs and benefits; ii. barriers and enablers; iii. impact on priority populations; and iv. monitoring and evaluation. Include references where possible.

ACDPA supports restricting marketing directed at children, but in the context of minimising gaps, in addition to the policies outlined above, not instead of as a stand-alone policy, which would be insufficient to achieve the policy objectives.

14. Which media and settings do you see as the top priority for action? Please rank in order from 1 (highest priority) to 7 (lowest priority).

Please provide evidence/rationale for your selection. This may include: i. costs and benefits; ii. barriers and enablers; iii. impact on priority populations; and iv. monitoring and evaluation. Include references where possible.

- 1. Online/Digital**
- 2. Broadcast/TV**
- 3. Sponsorship**
- 4. Retail**
- 5. Food Product packaging**
- 6. Outdoor**
- 7. Child directed marketing**

15. Is there any other information you would like to share to inform this consultation process?

Please provide evidence/rationale for your response. This may include consideration of costs, benefits, barriers, enablers, monitoring and evaluation. Include references where possible.

- Supporting File option

The Australian Chronic Disease Prevention Alliance (ACDPA) welcomes the opportunity to respond to the consultation on the Feasibility study on options to limit unhealthy food marketing to children.

Unhealthy diets are Australia's second greatest risk factor for illness and early death including diet related type 2 diabetes and obesity, as well as cancers, stroke and kidney

disease, and a top priority of the National Preventive Health Strategy to deliver more years of life lived in good health. Only 1 in 10 Australian adults and children consume recommended and sufficient serves of nutritious foods like fruits and vegetables to meet the Australian Dietary Guidelines and thrive. Discretionary foods, often ultra processed and high in salt, sugar, and fat, commonly displace nutritious and health-promoting foods, particularly among young adults and those living with higher levels of socioeconomic and educational disadvantage. Around one third of Australians' energy intake is from discretionary foods. While NHMRC recommendations promote exclusive breastfeeding for the first 6 months of a child's life and continued breastfeeding for 12 months and beyond for optimal nutritional and health benefits for the baby and mother, only one third of children are still exclusively breastfed at six-months of age. There is increasing evidence that ultra-processed foods are independently associated with diet related NCDs including type 2 diabetes, heart disease and obesity. Industrially produced trans-fats are strongly associated with cardiovascular disease risk, and there is some evidence they may contribute to type 2 diabetes risk. Around one quarter of type 2 diabetes, stroke and bowel cancer burden, and half of heart disease burden can be attributed to dietary factors.

Obesogenic environments in which unhealthy foods are prominent are contributing to the increasing prevalence of diet related chronic conditions, with obesity now recognised as a form of malnutrition. Mexico, Chile, Argentina, Norway, and England are among dozens of countries implementing strong, evidence-based policies helping to reverse diet-related chronic disease trends – several of these countries have implemented food policy measures as a package in close succession, such is the urgency for action.

- More than 100 jurisdictions have a form of **tax on sugar-sweetened beverages**.
- **Warning labels** are mandated on packaged foods in more than 16 countries.
- At least 40 countries **restrict marketing of unhealthy foods** in broadcast and/or digital media or plan to.

Other countries pioneering and implementing policies on these measures has enabled WHO to assess evidence of their effectiveness and cost effectiveness, now recommending them to protect children and adults from diet related NCDs. Australian governments have not fully implemented these most powerful tools to support Australians to enjoy healthier diets, leaving untapped opportunities to improve food environments, protect and improve health by ensuring that the healthiest food options are the most affordable, available, appealing, accessible, and appropriate. WHO estimates that in many countries the return on investment for policies promoting healthier diets could be up to \$11.93 for every one dollar spent.

ACDPA recommends a package of evidence based, highly recommended food systems policies be implemented urgently. These measures can improve food options for all, make healthier choices easier, and reduce the burden of diet related chronic conditions:

- **Mandate and continually enhance the Health Star Rating system** on all processed and packaged foods.
- **Protect children from unhealthy food and beverage marketing** via comprehensive restrictions on product and brand promotions in broadcast, print and digital media, and food packaging advertising. This should also include more robust and enforced restrictions on marketing of alcohol products.
- **Apply a 20% levy on sugar sweetened beverages** to incentivise reformulation, reduce population level sugar intake, and raise revenue for health.

Additional measures to improve the nutritional quality of the food supply

- **Set new targets and timeframes for food reformulation to enhance the healthiness of products**, including salt, sugar, and fats, including eliminating and replacing industrially produced trans fats.
- **Mandate added sugar labels across the packaged food supply.**
- **Improve affordability and access to healthy food options**, particularly for Australians living in rural, regional, and remote communities.

To ensure the efficacy of new regulations,

- **Establish independent, clear and transparent monitoring and enforcement processes** with penalties to deter companies from breaching regulations.
- **Develop and implement national evidence based health promotion campaigns** to improve nutrition literacy, influence behaviour, strengthen self-efficacy and increase public support for improving the food environment.

For more information see ACDPA: Submission to the Inquiry into Diabetes (2023):
https://www.acdpa.org.au/_files/ugd/6eeba7_4f67cb6b5ccf482c81c4ad365b5715e2.pdf

ACDPA brings together Diabetes Australia; Cancer Council Australia; National Heart Foundation of Australia; Kidney Health Australia; the Stroke Foundation and the Lung Foundation. These leading non-government health organisations share a commitment to reducing burden of chronic disease attributable to modifiable risk factors and delayed detection. ACDPA members work together to support primary and secondary prevention of chronic diseases, focussing on chronic disease risk factors and determinants to improve health and reduce preventable illness; and promoting health checks to support people to understand, manage and reduce disease risk as early as possible.
www.ACDPA.org.au