

Public Consultation: Feasibility study on options to limit unhealthy food marketing to children

The consultation survey is open until **15 March 2024** and can be accessed here: <https://consultations.health.gov.au/chronic-disease-and-food-policy-branch/public-consultation-feasibility-study-on-options-t/>

****NOTES****

Text highlighted in yellow includes the preferred response to survey questions.

Survey Responses

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Organisation: Infant and Toddler Foods Research Alliance

Policy objective and approach

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.

Answer:

We support policy option '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).'

Improvement in children's diets must be included as an objective of the policy to ensure the policy is designed and implemented with diets as a primary outcome. Regular, comprehensive monitoring of children's dietary intakes will be needed to monitor the effect of this policy. Improvement in diet should be defined by reference to the Australian Dietary Guidelines and Infant Feeding Guidelines and should have a focus on a decrease in consumption of discretionary foods and foods that are high

in added sugars/sodium and/or saturated fat. Monitoring must include data on all Australian infants and children, and by population demographic including age group, Aboriginal and Torres Strait Islander status, socio-economic position, children with disabilities, children from cultural and linguistically diverse backgrounds and children in rural and remote areas.

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.

Answer:

We support the policy approach of 'A mandatory legislative approach with policy development, monitoring and enforcement led by the Australian Government.'

We strongly recommend a mandatory legislative approach with policy development, monitoring and enforcement led by the Australian Government for regulation of unhealthy food marketing and marketing of breastmilk substitutes and food for infants and toddlers. With respect to regulation of marketing of breastmilk substitutes and foods for infants and toddlers up to 36 months of age the Australian Government has a responsibility to provide a supportive breastfeeding environment using regulatory and legislative levers. This includes appropriate regulation of marketing of breastmilk substitutes as set out in The International Marketing of Breastmilk Substitutes.

We strongly oppose self-regulation as this does not effectively protect children from exposure to unhealthy food marketing. The limitations of self-regulation are demonstrated in evidence from around the world (as set out in the consultation paper), and demonstrated by the past and current rules that industry sets, monitors and enforces for itself in Australia that have not resulted in positive outcomes.

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.

Answer:

We support the definition of a child as anyone under 18 years of age.

As the consultation paper notes, children of all ages are negatively influenced by unhealthy food marketing. Including children from birth to age 18 ensures the policy is fit for purpose to achieve its objectives to reduce children's exposure to unhealthy food marketing and to improve children's diets.

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.

Answer:

We support option 4.1 and recommend a food classification approach that includes all marketing of food brands that are strongly associated with unhealthy food products. If brand marketing is not covered, companies that are synonymous with unhealthy food, like global fast food chains or soft drink companies, will simply replace their unhealthy food advertising with advertising that prominently features their brand either alone or placed with a healthier food in their product line. This will significantly reduce the effect of the policy and may mean that it cannot achieve its objectives.

To support this policy, an appropriate definition of a 'brand strongly associated with unhealthy food' or similar will need to be developed in consultation with public health experts, with careful consideration of how it will apply to different brands in practice. The brands of highest concern are those that are well-known, are frequent advertisers and that are mostly known for unhealthy foods that contribute to poor diets and overweight and obesity, and/or are likely to appeal to children.

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

- National interim guide to reduce children's exposure to unhealthy food and drink promotion
- 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.

Answer:

We support a definition of unhealthy food that:

- reflects the Australian Dietary Guidelines, noting they are currently under review, and best captures foods that are discretionary and/or should be limited in accordance with the guidelines;
- is category based, with clear categories of discretionary food that cannot be advertised at all, including sugary drinks, confectionery, desserts and ice-creams, sweet snacks, drinks sweetened with non-nutritive sweeteners, high fat/salt snacks, fast food meals such as burgers, chips, pizzas, fried foods, pies, cakes and others;
- applies appropriate nutrient thresholds to some food categories that can include healthy and unhealthy products, such as breakfast cereals and yoghurts; and
- applies effectively to fast food and meals as well as packaged food.

We do not support the use of the COAG Guideline without further improvement. This is because it excludes some key categories of unhealthy products, including those that are commonly marketed to children, for example high sugar breakfast cereals. It also fails to adequately define foods for infants and toddlers. We recommend that definitions of healthy and unhealthy foods are applied to foods for infants and toddlers. For example, the WHO Nutrient and promotion profile model: supporting appropriate promotion of food products for infants and young children 6–36 months in the WHO European Region outlines nutrient composition guidelines that could inform evidence-based definitions of healthy and unhealthy foods for infants and toddlers. Available: <https://www.who.int/europe/publications/i/item/WHO-EURO-2022-6681-46447-67287>

We oppose the use of the Health Star Rating or the FSANZ Nutrient Profiling Scoring Criteria as these have not been designed for this purpose and are unlikely to effectively align with the dietary guidelines, as they permit some foods high in sugar/salt/saturated fat to achieve a high rating. Evidence shows these models are more likely than other models to permit foods to be marketed. For example, see the following references: Watson WL, Khor PY, Hughes C. Defining unhealthy food for regulating marketing to children—What are Australia's options? *Nutrition & Dietetics*. 2021;1–9, Watson WL, Richmond K, Hughes C. Comparison of nutrition profiling models for food marketing regulation. *Nutrition & Dietetics*. 2023; 80(4): 372-376.

We prefer labelling schemes that can be easily interpreted by consumers as recommended in the *WHO Report of the commission on ending childhood obesity*. *Report of the commission on ending childhood obesity*
https://apps.who.int/iris/bitstream/handle/10665/204176/9789241510066_eng.pdf;jsessionid=F6F5A722711A9D44868BE18C8BC1B1BB?sequence=1

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.

Answer

We strongly support the option to restrict all unhealthy food advertising on all broadcast media between 5.30am and 11pm (all TV services and platforms, radio, cinema, podcasts and music streaming services). As outlined in the consultation paper, evidence shows the highest numbers of children watch TV during these hours, and the policy should protect children during those times.

This policy option should apply to radio and cinema, as well as all streaming services, subscription and catch up TV, radio and movie services, podcasts and music streaming services. It is important to ensure that regulation is comprehensive, future proofed and extends to similar platforms to those where there is evidence of exposure and impact, where it can reasonably be assumed that a similar effect would be seen.

We do not support the option to restrict only TV advertising that is directed to children, as this is unlikely to effectively protect children at the times they are likely to be watching. A focus on TV alone will also not be sufficient to effectively protect children and should be expanded to all broadcast media as listed above. A comprehensive approach that is simple to apply will best achieve the policy objectives.

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.

Answer:

We support the option to restrict all paid and non-paid unhealthy food marketing on online media. As the consultation paper outlines, children spend significant amounts of time online, are exposed to large amounts of unhealthy food marketing during online activity and are negatively influenced by it. A broad restriction on all digital marketing of unhealthy food will best protect children online.

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.

Answer:

We support the option to restrict unhealthy food marketing on all outdoor media. We recommend this be broadly defined to include all public spaces and events. This policy should include all public outdoor advertising, as well as public transport vehicles and infrastructure, education, healthcare, sporting and recreation facilities, cultural institutions, for example libraries, museums and galleries, sporting, cultural and music events, and shopping centres. The policy should also extend to marketing on retail outlets and restaurants that is displayed so it can be seen from the street.

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.

Answer:

We strongly support the restriction of marketing on food packaging. We recommend a comprehensive definition of marketing in this context that includes claims used on food packaging.

Recent research with Australian parents of infants and toddlers found that parents are exposed to prolific marketing for infant and toddler food products across a range of media and settings.

Many of these products are nutritionally suboptimal, yet marketed and labelled in ways that can confer a 'healthy halo' over products and mislead parents about their true contents. Such marketing can influence parents' and carers' product preferences, purchases and ultimately what they feed their infants and toddlers. Ref: Dixon H, Scully M, Awoke M, Schmidtke A, McCann J, McAleese A, Morley B, Rhodes A, Martin J. The Big Sell: Marketing of infant & toddler foods: effects on parents & carers. Australian and New Zealand Obesity Society Annual Scientific Conference; Adelaide, Australia, 19 October 2023.

Cancer Council Victoria research supports this position, finding that nutrient content claims and sports celebrity endorsements influence pre-adolescent children's preferences towards unhealthy food products displaying them. Ref: Dixon H, Scully M, Niven P, Kelly B, Chapman K, Donovan R, Martin J, Baur LA, Crawford D, Wakefield M. Effects of nutrient content claims, sports celebrity endorsements and premium offers on pre-adolescent children's food preferences: experimental research. *Pediatr Obes.* 2014 Apr;9(2):e47-57. doi: 10.1111/j.2047-6310.2013.00169.x.

We also know that parents are influenced by product packaging aimed at children, for example recent research found that one in two parents of infants and/or toddlers (54.6%) reported being at least somewhat likely to be influenced by cartoons or characters on packaging that their child likes when purchasing ready-made food products. Ref: C. Gascoyne, R. Godwin, M. Chen, B. Morley; Australian parents' attitudes towards ready-made infant and toddler food product composition, labelling and promotion: Research insights report; Feb 2022.

Further, evidence demonstrates that children are exposed to marketing on food packing from a very young age. Analyses of commercially available foods for infants and toddlers demonstrates that on-pack marketing is pervasive and includes marketing techniques that target children, and their caregivers. This means that young children's diets are being influenced by child-directed and caregiver-directed marketing on food packaging. Please see the following references:

McCann JR, Russell CG, Campbell KJ, Woods JL. Nutrition and packaging characteristics of toddler foods and milks in Australia. *Public Health Nutr.* 2021;24(5):1153-65.

McCann JR, Russell CG, Woods JL. The Nutritional Profile and On-Pack Marketing of Toddler-Specific Food Products Launched in Australia between 1996 and 2020. *Nutrients.* 2021;14(1).

McCann J, Woods J, Mohebbi M, Russell CG. Regulated nutrition claims increase perceived healthiness of an ultra-processed, discretionary toddler snack food and ultra-processed toddler milks: A discrete choice experiment. *Appetite.* 2022;174:106044.

Brunacci KA, Salmon L, McCann J, Gribble K, Fleming CAK. The big squeeze: a product content and labelling analysis of ready-to-use complementary infant food pouches in Australia. *BMC Public Health.* 2023;23(1):656.

Chung A, Myers J, Skouteris H, Backholer K. Front-of-pack marketing on infant and toddler foods: Targeting children and their caregivers. *Australian and New Zealand Journal of Public Health.* 2023:100101.

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.

Answer:

We strongly support restricting unhealthy food sponsorship of sports, arts and cultural events. Children should be able to play sport, watch their favourite sports stars play and go to art and cultural events without being exposed to marketing for unhealthy food. This policy should stop all sponsorship by brands that are strongly associated with unhealthy food, with an appropriate definition being developed in consultation with public health experts.

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 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.

Answer:

We support the option to restrict both placement-based and price-based promotion of unhealthy food within in-store and online retail environments. We recommend that this includes price promotions of foods for infants and toddlers that are classified as unhealthy. Evidence-based criteria to define healthy and unhealthy commercial foods for infants and toddlers will need to be developed in consultation with public health experts, with careful consideration of how this will apply in practice.

The Codex Alimentarius Commission has defined follow-up formula as “a food intended for use as a liquid part of the weaning diet for the infant from the 6th month on and for young children”. The WHO and many paediatric societies consider these products as unnecessary and not recommended. See Page 16 of the following ref: <https://www.who.int/publications/i/item/9789240081864>

The WHO Nutrient and promotion profile model: supporting appropriate promotion of food products for infants and young children 6–36 months in the WHO European Region outlines nutrient composition guidelines and provides useful evidence for definitions of healthy and unhealthy foods for infants and toddlers. Available: <https://www.who.int/europe/publications/i/item/WHO-EURO-2022-6681-46447-67287>

We recommend the introduction of:

- restrictions to ensure that retailers cannot place unhealthy food in prominent locations in store, such as near the point of sale (checkouts) and at the ends of aisles, and online, such as at the top of search results or prominently featured on a webpage or mobile app; and
- restrictions on price promotions designed to encourage purchasing of unhealthy foods. This should include restrictions on temporary price discounts and multibuys (eg. Buy 2 for \$5) for unhealthy foods.

Any restrictions on retail marketing must apply equally to the in-store and online environments, including both apps and webpages.

Although this policy focuses on unhealthy food, it is also critically important that the Australian Government also introduces policies to increase affordability and accessibility of healthy foods across Australia, with particular focus on priority populations, including Aboriginal and Torres Strait Islander people, people in low socio-economic groups and people living in rural and remote areas.

Restrictions on price promotions are reflected in the National Obesity Strategy and restricted promotion of unhealthy food and drinks at the point of sale and end of aisle in prominent food retail environments is included in the National Preventive Health Strategy. Evidence shows that unhealthy food and drinks are more likely to be price promoted than healthier foods, with larger discounts applied, and that price promotions lead people to buy more unhealthy food than they usually would, and do not save consumers money overall. For references, please see:

This policy could also be expanded to ensure it is future-proofed and captures all forms of unhealthy food marketing within in-store and online retail environments, such as on-shelf promotions, interactive displays and promotions within branded apps.

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.

Answer:

Yes, we support restricting unhealthy food marketing 'directed' to children, in addition to policy options 5.1-5.6 to ensure that there are no gaps that allow the processed food industry to use marketing tactics that target children. We support this only as a restriction in addition to other policy options and not as a stand-alone policy.

As highlighted in the consultation paper, children are exposed to many forms of marketing that are not considered to be directed to children such as on television, online, sports sponsorship, and other media and settings.

It is important that all marketing that targets children is not permitted. This includes, but is not limited to:

- marketing that uses any feature or technique that is likely to appeal to children including images, activities, characters and prizes. This must prevent the processed food industry putting cartoon characters on unhealthy food packaging, designing children's games to promote unhealthy food brands, running competitions or promotions with prizes children want and giving away children's toys or books with unhealthy children's meals.
- marketing in any physical place or form of media that is primarily for children. This includes at children's sporting activities, including by sponsoring teams and giving out vouchers, and in any children's publications.

Marketing directed to children is just one way in which food marketing can influence children's diets. For example, parents and caregivers are targeted with on-pack marketing on foods for infants and toddlers. This marketing creates a health-halo around commercial foods for infants and toddlers and is often misleading for parents and caregivers.

Therefore, whilst we strongly support restricting unhealthy food marketing directed to children, we note that this alone is inadequate and additional policy options will need to be implemented to ensure a comprehensive approach to protect children from unhealthy food marketing.

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).

- Broadcast media (TV, radio, cinema, podcasts, streaming services)
- Online
- Outdoor
- Food packaging
- Sponsorships
- Retail
- Marketing 'directed' to children

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.

Answer

1. Online
2. Broadcast media (TV, radio, cinema, podcasts, streaming services)

3. Food packaging
4. Sponsorship
5. Retail
6. Outdoor
7. Marketing 'directed' to children

We strongly support a comprehensive policy that combines all media and settings to effectively protect children from exposure to unhealthy food marketing. It is important to consider the likely shift in marketing practices that will occur if restrictions are introduced in one or two areas and not in others and design a policy that is future-proofed.

Whilst we recognise that infants and toddlers are likely to be exposed to marketing in ways that differ from older children and have ranked our priorities with a focus on very young children, we strongly recommend a comprehensive package of restrictions that are evidence-based.

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.

Answer

As the consultation paper outlines, there is clear evidence that shows Australian children are exposed to high amounts of unhealthy food marketing as they go about their daily lives, and that unhealthy food marketing negatively influences the foods that children prefer, choose and eat. Evidence also indicates that parents and caregivers are influenced by food marketing and this in turn influences the foods that are provided to children.

Comprehensive regulation to protect children from unhealthy food marketing is an important policy in creating a healthier food environment, supporting Australian children to develop healthy dietary behaviours that contribute positively to their health, growth and development from infancy and throughout childhood.

Regulation to protect children from unhealthy food marketing should form part of a comprehensive set of actions to improve diets and reduce overweight and obesity in Australia, guided by the National Preventive Health Strategy and the National Obesity Strategy.

Parent and caregiver exposure to food marketing

Australian research has found that demonstrates that on-pack marketing on commercially available foods for infants and toddlers includes marketing techniques

that target parents and caregivers, as well as children. As a result, on-pack marketing is influencing young children's diets through two separate pathways, through child-directed, and caregiver-directed marketing. We recommend that consideration is given to the role of caregiver-directed marketing in influencing children's diets when developing policy objectives and policy approaches.

McCann JR, Russell CG, Campbell KJ, Woods JL. Nutrition and packaging characteristics of toddler foods and milks in Australia. *Public Health Nutr.* 2021;24(5):1153-65.

McCann JR, Russell CG, Woods JL. The Nutritional Profile and On-Pack Marketing of Toddler-Specific Food Products Launched in Australia between 1996 and 2020. *Nutrients.* 2021;14(1).

McCann J, Woods J, Mohebbi M, Russell CG. Regulated nutrition claims increase perceived healthiness of an ultra-processed, discretionary toddler snack food and ultra-processed toddler milks: A discrete choice experiment. *Appetite.* 2022;174:106044.

Brunacci KA, Salmon L, McCann J, Gribble K, Fleming CAK. The big squeeze: a product content and labelling analysis of ready-to-use complementary infant food pouches in Australia. *BMC Public Health.* 2023;23(1):656.

Chung A, Myers J, Skouteris H, Backholer K. Front-of-pack marketing on infant and toddler foods: Targeting children and their caregivers. *Australian and New Zealand Journal of Public Health.* 2023:100101.

Effect on health equity

Policies to protect children from unhealthy food marketing are also highly likely to have a positive impact on health equity. As the consultation paper outlines, international evidence suggests that children of ethnic minority and lower socio-economic position are at higher risk of exposure to unhealthy food marketing, and the impact of the marketing is likely to be higher for these children. This suggests policies to protect children from unhealthy food marketing are likely to have a positive impact on health equity.