

Chapter 7

Marketing and advertising of discretionary foods

7.1 The World Health Organisation (WHO) reported that there is unequivocal evidence that the marketing of discretionary foods and sugar-sweetened beverages is linked to childhood obesity, and recommends reducing the exposure and influence of the marketing of discretionary foods as part of a comprehensive approach to addressing childhood obesity.¹

7.2 Submitters expressed deep concerns about the failure of the current self-regulatory system in reducing the exposure and influence of discretionary food marketing campaigns to children.²

Link to obesity

7.3 The Public Health Association of Australia described the marketing of discretionary food, including packaging and retail promotion, advertising, and sponsorship, as a major threat to child health because it encourages overconsumption and influences children's food preferences.³

7.4 Other submitters expressed similar concerns and pointed out that children are particularly vulnerable because they lack the cognitive ability to recognise the persuasive intent of advertising and cannot critically evaluate advertising content.⁴

7.5 Mr Steve Pratt from the Australian Chronic Disease Prevention Alliance stressed the link between exposure to food marketing and weight:

There is an absolute, demonstrated causative link between children's exposure to food marketing, the foods they choose and their subsequent weight.⁵

7.6 Professor Bridget Kelly from the University of Wollongong cited new research that establishes the link between food advertising and increased consumption of food:

1 Australian Chronic Disease Prevention Alliance, *Submission 106*, p. 13.

2 See for example: Food Fairness Illawarra, *Submission 27*, Attachment 1, p. 11; Obesity Policy Coalition, *Submission 135*, p. 20; WA Cancer Prevention Research Unit, *Submission 8*, p. 8; Food Governance Node, *Submission 58*, p. 4.

3 Public Health Association of Australia, *Submission 73*, p. 11.

4 See for example: Australian Chronic Disease Prevention Alliance, *Submission 106*, p. 13; Australian Medical Association, *Submission 126*, p. 2; The Boden Institute, University of Sydney, *Submission 130*, p. 18; Obesity Policy Coalition, *Submission 135, Supplementary Submission*, p. 7; Professor Greg Johnson, Chief Executive Officer, Diabetes Australia, *Committee Hansard*, Sydney, 6 August 2018, p. 20.

5 Mr Steve Pratt, Nutrition and Physical Activity Manager, Cancer Council Western Australia and Member, Australian Chronic Disease Prevention Alliance, *Committee Hansard*, Sydney, 6 August 2018, p. 15.

We found food advertising to be so powerful and persuasive that even children who had a better capacity to self-regulate their food consumption were overcome by the commercial messages and ate more after watching the food advertisements in our study. So simply teaching children to be more aware and critical of marketing will not work, given the power of that marketing over children.⁶

Self-regulatory system

7.7 Australia has in place a self-regulatory system, which sets the rules for food and beverage marketing to children.

7.8 The Australian Association of National Advertisers (AANA) has developed a series of codes, which is applicable to all food and beverage advertisers and to a wide range of media. This includes the AANA Food & Beverage Code and the AANA Code for Advertising and Marketing Communications to Children (AANA Children's Code).⁷

7.9 The Australian Food and Grocery Council (AFGC) has developed voluntary codes for the food and beverage and fast food restaurant industries in relation to advertising to children:

- the Responsible Children's Marketing Initiative (RCMI) for the Australian Food and Beverage Industry; and
- the Australian Quick Service Restaurant Initiative for Responsible Advertising and Marketing to Children (QSRI).⁸

7.10 The RCMI applies to advertising to children under 12 years, and limits marketing communications to children only when it is for healthier dietary choice products and where the message of the advertisement will promote healthy dietary choices and a healthy lifestyle.⁹

7.11 The QSRI applies to advertising to children under 14 years. It obliges signatories to ensure that only food and beverages that represent healthier choices are promoted directly to children, and that parents or guardians can make informed product choices for their children.¹⁰

7.12 There are currently seven signatories to the QSRI and 18 companies participating in the RCMI.¹¹

6 Associate Professor Bridget Kelly, Associate Professor of Public Health, Food and Movement research Theme, Early Start, University of Wollongong, *Committee Hansard*, Melbourne, 4 September 2018, p. 46.

7 Ad Standards, *Submission 19*, p. 18.

8 Ad Standards, *Submission 19*, pp. 3-4.

9 Ad Standards, *Submission 19*, p. 19.

10 Ad Standards, *Submission 19*, pp. 19-20.

11 Ad Standards, *Submission 19*, p. 20.

7.13 According to Ad Standards, which administers the complaint resolution component of the codes, the system is effective, with a record of nearly 100 per cent compliance by industry.¹²

7.14 The Australian Industry Group pointed out to the committee that there is broad compliance with the codes and that the confectionery industry is actively involved in the promotion of responsible advertising.¹³

Issues with the codes

7.15 The Food Governance Node is of the view that initiatives to regulate food marketing to children have failed to reduce children's exposure to the marketing of discretionary foods.¹⁴

7.16 Many submitters told the committee that the current system does not adequately protect children from the harmful effects of discretionary food advertising.¹⁵

7.17 The Obesity Policy Coalition (OPC) explained that the AANA codes contain extremely weak restrictions on the marketing of food to children.¹⁶

7.18 Submitters were critical of the RCMI and QSRI initiatives and identified the following issues:

- the codes apply only to marketing that is 'directed primarily to children' and those words are defined and interpreted extremely narrowly;
- the codes do not provide a clear definition and framework of what is considered 'healthier choices';
- the codes do not apply to all types of marketing;
- the codes have failed to keep pace with the changing media landscape and the rise of digital marketing;
- children over 12 (RCMI) or 14 years (QSRI and AANA Children's Code) are not protected by the codes;
- food companies can choose not to sign up to the voluntary industry codes;
- the codes are not independently monitored; and
- there are no effective enforcement mechanisms.¹⁷

12 Ad Standards, *Submission 19*, p. 2.

13 Australian Industry Group, *Submission 117*, p. 23.

14 Food Governance Node, *Submission 58*, p. 4;

15 See for example: Food Fairness Illawarra, *Submission 27*, Attachment 1, p. 11; Obesity Policy Coalition, *Submission 135*, p. 20; WA Cancer Prevention Research Unit, *Submission 8*, p. 8.

16 Obesity Policy Coalition, *Submission 135, Supplementary Submission*, p. 8.

Narrow interpretation of 'directed primarily to children'

7.19 Submitters raised issues around the narrow interpretation by the food and beverage industry of the term 'directed primarily to children'.¹⁸

7.20 The QSRI and RCMI define an advertisement to be 'directed primarily to children' by reference to either the placement or content of the advertisement.

7.21 To meet the test, the advertisement must be placed in a medium that is directed primarily to children such as a television program rated C or P, placed in a medium where children are 35 per cent or more of the audience, or be directed primarily to children, when considering the themes, visual and language of the advertisement.

7.22 The OPC argued that the rule around content directed primarily to children also rarely applies as food and beverage companies claim that their ads are aimed at both parents and children, not 'primarily to children'.¹⁹

No clear definition of 'healthier choices'

7.23 Submitters are concerned that the codes do not include a specific definition of unhealthy food. At present, nutrition criteria of 'healthier choices' are determined by the individual food companies themselves.²⁰

7.24 As a result, advertising of many discretionary foods and beverage items remains unrestricted.²¹

The codes do not cover all types of marketing

7.25 The RCMI and QSRI codes do not apply to sport sponsorship, product packaging, in-store promotions, competitions and giveaways. This means that a significant amount of marketing to children is not covered by the codes and that children are exposed to a variety of discretionary food marketing that greatly influence their food choices and preferences.

7.26 For example, the committee received compelling evidence that children's taste preferences are influenced by packaging.²² Food companies often display on

17 See for example: Obesity Policy Coalition, *Submission 135, Supplementary Submission*, pp.7-20; Dr Belinda Reeve, Co-Founder, Food Governance Node, *Committee Hansard*, Sydney, 6 August 2018, p. 22; Dr Joanne Walker, Director, Policy and Strategy Development, National Rural Health Alliance, *Committee Hansard*, Melbourne, 4 September 2018, p. 42.

18 See for example: Food Governance Node, *Submission 58*, p. 5; Obesity Policy Coalition, *Submission 135, Supplementary Submission*, p. 12.

19 Obesity Policy Coalition, *Submission 135, Supplementary Submission*, p. 12.

20 See for example: Food and Movement Research Team, Early Start, University of Wollongong, *Submission 69*, p. 13; Obesity Policy Coalition, *Submission 135*, p. 24.

21 Food and Movement Research Team, Early Start, University of Wollongong, *Submission 69*, p. 13.

22 See for example: Centre for Research Excellence in the Early Prevention of Obesity in Childhood, *Submission 10*, p. 8; Obesity Policy Coalition, *Submission 135, Supplementary Submission*, p. 9.

children's food products cartoon graphics or familiar characters to make them more attractive. Common products displaying child-targeted packaging include confectionery, sweet biscuits, chips, dairy snacks and ice cream.²³

Sport sponsorship

7.27 Submitters raised concerns about the prevalence of sponsorship of Australian sport by food and beverage companies producing discretionary foods and sugar-sweetened beverages.²⁴

7.28 The OPC explained to the committee that sport sponsorship has a strong influence on children because they consider sponsors 'cool' and often like to return the favour of sponsorship by buying the sponsor's products.²⁵

7.29 As the codes do not apply to sport sponsorship, children participating in sport are exposed to high-impact marketing through:

- the food brand forming part of the competition's name;
- the brand and logo displayed on sporting equipment, uniforms, drink bottles, hats and other items; and
- the prominent signage at children's weekly sporting events.²⁶

7.30 Research conducted in 2011 revealed that 63 per cent of food promoted by sponsors of children's sport did not meet healthy food criteria.²⁷

Codes do not apply to adolescents

7.31 Children over 12 (RCMI) or 14 years (QSRI and AANA Children's Code) are not protected by the codes. The OPC argued that children are vulnerable beyond these ages as their decision-making capacities are limited by their brain development, which is not complete until late adolescence.²⁸

7.32 Submitters are of the view that the codes should apply at least to children under 16 years of age, as there is evidence showing associations between market exposure and increased likelihood of poor dietary intake among adolescents.²⁹

23 Obesity Policy Coalition, *Submission 135*, p. 20.

24 See for example: Australian Chronic Disease Prevention Alliance, *Submission 106*, p. 15; Obesity Policy Coalition, *Submission 135, Supplementary Submission*, p. 9; Mr Steve Pratt, Nutrition and Physical Activity Manager, Cancer Council Western Australia and Member, Australian Chronic Disease Prevention Alliance, *Committee Hansard*, Sydney, 6 August 2018, p. 15.

25 Obesity Policy Coalition, *Submission 135*, p. 20.

26 Obesity Policy Coalition, *Submission 135, Supplementary Submission*, p. 9.

27 Obesity Policy Coalition, *Submission 135, Supplementary Submission*, p. 9.

28 Obesity Policy Coalition, *Submission 135, Supplementary Submission*, p. 18.

29 See for example: Obesity Policy Coalition, *Submission 135, Supplementary Submission*, p. 18; Food and Movement Research Team, Early Start, University of Wollongong, *Submission 69*, p. 14.

Advertising on free-to-air television

7.33 The content of commercial free-to-air television is regulated by the Commercial Television Industry Code of Practice (Free TV Code). The Free TV Code is reviewed annually by Free TV Australia in consultation with the public and then registered with the ACMA.³⁰

7.34 The ACMA is tasked to enforce the Free TV Code, with penalties for non-compliance.³¹

7.35 The Free TV Code requires advertisers to comply with the AANA Code of Ethics, the AANA Children's Code, the RCMI and QSRI.³²

7.36 As previously discussed, the QSRI and RCMI define an advertisement to be 'directed primarily to children' for ads placed in a medium where children make up at least 35 per cent of the audience.

7.37 In practice, this captures some TV programs designed specifically for young children but does not capture the programs seen by the highest number of children, such as sporting events, family movies and reality TV programs.³³

7.38 For example, popular TV watching times in the morning and evening are not covered by the codes because children never exceed 35 per cent of the audience.³⁴

7.39 The Food and Movement Research Team at Early Start, University of Wollongong, explained that the peak viewing time for 0-14 year olds on commercial free-to-air television is from 7.00am to 9.00am in the morning and in the evening between 7.00pm and 8.00pm. However, during peak viewing times adults are also watching, and in numbers large enough to push the child proportion to below 35 per cent. During peak viewing times, the average child audience rises to 435 000 persons, compared with just 80 000 during C and P rated programs.³⁵

7.40 Parents' Voice pointed out that 'children continue to be exposed to high levels of food advertising during peak TV viewing times' and is of the view that 'current regulations do not sufficiently cover the extent and impact of children's food marketing exposures'.³⁶

30 Free TV Australia, *Submission 91*, p. 7.

31 Free TV Australia, *Submission 91*, p. 7.

32 Free TV Australia, *Submission 91*, p. 7.

33 See for example: Food Governance Node, *Submission 58*, p. 5; Obesity Policy Coalition, *Submission 135*, p. 23.

34 Obesity Policy Coalition, *Submission 135*, p. 23.

35 Food and Movement Research Team, Early Start, University of Wollongong, *Submission 69*, p. 11.

36 Parents' Voice, *Submission 43*, p. 2.

7.41 The vast majority of inquiry participants recommended implementing time-based restrictions on exposure of children to discretionary food and drink marketing on free-to-air television up until at least 9.00pm.³⁷

Committee view

7.42 The committee is of the view that there are inadequacies with the current regulatory framework aimed at reducing the exposure and influence of discretionary food marketing on children. The committee is of the view that the current codes and initiatives, set by the AANA and administered by the Advertising Standards Bureau, as well as broadcasting codes of practice, need to be reviewed and strengthened to ensure children and adolescents are better protected from the harmful effects of discretionary food advertising. Community expectations around responsible advertising are evolving and the industry should respond accordingly and update the codes. In particular, the codes should apply to all forms of advertising, marketing and promotion, including sponsorship of children's sport and product packaging and should apply to all forms of media. The committee believes that a key weakness of the codes is their failure to define what are 'healthy food' and 'healthier choices'. The committee is of the view that the codes should use the Health Star Rating (HSR) system to define healthier choices, and apply restrictions to foods and drinks, that attract a rating of less than 3 stars. Finally, the codes should also apply to advertising aimed at children aged up to 16 years.

7.43 The Committee notes that it has been a decade since the ACMA reviewed the Children's Television Standards, including the relationship between advertising, children's food and drink preferences and obesity and that, since then, new evidence on children's viewing patterns, advertising and food preferences has emerged, along with new advice and recommendations on tackling childhood obesity. For example, the Committee is aware that children watch C and P programs on free to air television, and on many occasions, the committee heard that children watch TV programs until at least 9.00pm.

Recommendation 11

7.44 The committee recommends that, as part of the 2019 annual review of the Commercial Television Industry Code of Practice, Free TV Australia introduce restrictions on discretionary food and drink advertising on free-to-air television until 9.00pm.

Recommendation 12

7.45 The committee recommends that the Australian Government consider introducing legislation to restrict discretionary food and drink advertising on free-to-air television until 9.00pm if these restrictions are not voluntarily introduced by Free TV Australia by 2020.

37 See for example: Global Obesity Centre, *Submission 13*, p. 7; Parents' Voice, *Submission 43*, p. 2; Associate Professor Bridget Kelly, Associate Professor of Public Health, Food and Movement research Theme, Early Start, University of Wollongong, *Committee Hansard*, Melbourne, 4 September 2018, p. 50;

7.46 The committee is of the view that children and their parents need to be better informed about the nutritional value of the foods and drinks advertised on all forms of media. The committee believes applying the HSR system to all advertisements for food and drink products would help consumers make better informed choices about their food and drink purchases.

Recommendation 13

7.47 The committee recommends the Australian Government make mandatory the display of the Health Star Rating for food and beverage products advertised on all forms of media.