



Feasibility study on options to limit unhealthy food marketing to children

Response to policy options for public consultation

March 2024

Government regulation is needed to protect Australia's children from the harmful effects of food marketing

The George Institute for Global Health (The George Institute) welcomes the Australian Government conducting a feasibility study on options to restrict unhealthy food marketing to children. The consultation paper, prepared by the University of Wollongong and Deakin University, presents a compelling statement of the problem of unhealthy food marketing in Australia, and the need for Government regulation to curb its impact.

The impetus for action is clear. To have a significant and long-lasting impact, the policy design must be comprehensive and detailed, and fit within a broader suite of initiatives to strengthen regulation on unhealthy foods in Australia.

The problem

There is no Australian Government regulation that specifically restricts the marketing of unhealthy foods to children.

Australian children are exposed to unhealthy food advertising in most parts of their daily lives: when they travel to school, when they watch TV, when they go to sporting events, and when they go online. One study found that Australian children, on average, will be exposed to at least four hours of unhealthy food advertising on television each year.ⁱ

About a quarter of Australian children are overweight or obese,ⁱⁱ increasing their risk of chronic diseases such as diabetes, cancer, and heart disease as they grow older. While the drivers of childhood obesity are complex, research shows that unhealthy food marketing has a negative impact on children's diet and health.ⁱⁱⁱ Unhealthy food marketing influences the foods that children prefer, choose, and eat. The WHO has recommended urgent global action to restrict unhealthy food marketing to protect children from the risks of obesity and poor nutrition.^{iv}

Companies carefully design their unhealthy food marketing to appeal to children, making their products appealing to children using promotional techniques such as cartoon characters on packaging.^v Children are being targeted as individual consumers -- despite lacking the cognitive skills to decipher marketing messages -- which is arguably an infringement of international human rights law.^{vi} Children from lower socio-economic households are exposed to greater levels of unhealthy food marketing, further compounding the socioeconomic gradient in childhood obesity.^{vii}

The opportunity

There is global momentum to address this issue: at least 16 countries have implemented statutory restrictions on unhealthy food advertising.^{viii} There is broad public support for Government intervention to restrict unhealthy food marketing to children, with two thirds of Australians supporting bans on junk food advertising on TV.^{ix} Debate on the *Healthy Kids Advertising Bill* in the Australian Parliament generated awareness and significant media attention on the lack of regulation of this issue in Australia.

The development of a feasibility study on restricting unhealthy food marketing to children is welcome progress. The George Institute recommends that the Australian Government institute the following when introducing any new policy on regulation of marketing to children.

Recommendations

1. New policy should be mandatory, managed by Government, and protect all children under 18

- Industry self-regulation, through voluntary codes of practice, has not reduced marketing of unhealthy foods, or reduce children's exposure to it.^x Countries that have implemented mandatory government regulation have seen a decrease in sales of unhealthy foods, while countries that have relied on industry self-regulation have seen an increase.^{xi}
- Other voluntary targets developed by the food industry have been ineffective in changing the healthiness of packaged foods, further demonstrating the need for government regulation in the food market.^{xii}

2. Unhealthy brands, not just products, should face marketing restrictions

- The practice of brand marketing is pervasive, and common in settings such as sports sponsorships.
- Brand marketing has been shown to increase children's preference for unhealthy foods, even when the advertisement is for healthy food items. Not including brands in the scope of the policy risks an increase in this type of brand marketing.^{xiii}

3. The policy should include all foods defined as unhealthy

- The George Institute suggests that further analysis is done that identifies the implications of each of the classification systems on the marketing of unhealthy foods. This could be done using the FoodSwitch database to compare the different classification systems.
- Analysis by The George Institute shows that each of the classification systems included in the feasibility study would continue to allow for marketing of products to children that are defined as "unhealthy" in the discussion paper: foods high in fats, sodium, and sugars. Our preferred food classification system is the World Health Organization (WHO) Regional Office for the Western Pacific (WPRO) Nutrient Profiling Model. However, we suggest the COAG Interim Guide could be investigated as the foundation, with modifications to strengthen its comprehensiveness, clarity, and effectiveness.

More detailed responses to the consultation questions are included in Appendix A.

APPENDIX A: RESPONSE TO SURVEY QUESTIONS

- **Which is the most appropriate policy objective?**

The George Institute recommends that the policy objective is: 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). We agree with the strengths and weaknesses of this approach outlined in the discussion paper, noting that the disadvantages identified for this preferred option can be addressed.

The discussion paper outlines the problem, which is that currently Australian children's diets are unhealthy, and around 25% of children are now overweight or obese, leading to higher risks of a range of diseases including coronary heart disease, type-2 diabetes and mental health conditions. Given the acknowledged links between marketing and consumption, a policy which successfully reduces children's exposure to marketing of unhealthy products will likely lead to reductions in intakes of unhealthy products. Reducing intakes of unhealthy food is the ultimate purpose of the policy itself, and as such this should be clearly expressed in the policy objective. This will also help with efforts to understand whether the policy is designed and/or implemented effectively. It also suggests the need for improved monitoring of dietary intakes in Australia in general.

However, "children's dietary intakes" as an objective must provide clarity on what is being measured and monitored. For example, dietary intakes can be estimated using purchasing data, however more frequent, comprehensive nutritional surveys are needed to accurately monitor dietary patterns, products consumed and nutrients. This would greatly assist in understanding linkages between dietary patterns and health outcomes, therefore enabling better policies and programs to be implemented to improve health outcomes.

As the discussion paper notes, a comprehensive suite of actions will be required to meaningfully improve population nutrition status and reduce the population prevalence of obesity. It may be challenging therefore to attribute changes in childhood obesity and other health indicators to the policy, given the various influences on a child's food consumption and nutrition. A clear definition of "children's dietary intakes" will assist in identifying the data and information necessary to support assessment of policy effectiveness. It may also be a valid policy objective to ensure that children's diets do not get worse.

As such, while we recommend the inclusion of children's dietary intakes as an over-arching objective, we suggest that reducing children's exposure to and the power of unhealthy food marketing remain the priority objective. This allows for a clear definition and metric of success. It is important that this policy also explicitly incorporates a definition of "marketing to children" that refers to any, and all, marketing that children are exposed to, regardless of the intended audience.

- **Which policy approach has the greatest chance of achieving the policy objective(s)?**

The George Institute recommends a mandatory legislative approach with policy development, monitoring and enforcement led by the Australian Government. We note the evidence presented in the discussion paper and the assessment of strengths and weaknesses of this approach, which demonstrate that a mandatory, legislative approach is optimal for public health. The paper shows that the status quo, where food marketing is governed by voluntary industry Codes of Practice, would lead to children continually being exposed to unhealthy food marketing. A mandatory, government-led approach will help set clear guidance, as well as incentives and a level playing field for industry. However, a mandatory approach will only ensure children are protected if coverage is comprehensive across all marketing settings. To maximise the public health impact of a mandatory policy, strong terms and conditions and governance processes must be put in place.

Evidence on governance principles underpinning the design and implementation of effective public health nutrition interventions, including restrictions on unhealthy marketing, is clear [1-4]. Transparency, independence, and rigour in government processes will be essential to the development and implementation of a policy that effectively restricts unhealthy food marketing to children. We strongly advise that processes are put in place to ensure the design, implementation, and monitoring and evaluation of the policy remain free from inherent conflicts of interest. It must be recognised that the manufacturers of products treated unfavourably by marketing restrictions have a commercial interest in stopping, delaying, or weakening implementation of effective public health policy. Best-practice safeguards are required that protect the development and implementation of such policies from undue industry interference. For example, it has been recognised that the development of nutrient profiling criteria for food policies is a particularly important task which must be independent and/or government-led and free from commercial conflicts of interest [5].

1. Jones, A., et al., Front-of-pack nutrition labelling to promote healthier diets: current practice and opportunities to strengthen regulation worldwide. *BMJ Global Health*, 2019. 4(6): p. e001882.
2. Reeve, B. and R. Magnusson, Regulation of Food Advertising to Children in Six Jurisdictions: A Framework for Analyzing and Improving the Performance of Regulatory Instruments. *Arizona Journal of International and Comparative Law*, 2018. 35(1).
3. Ngqangashe, Y., S. Friel, and A. Schram, The regulatory governance conditions that lead to food policies achieving improvements in population nutrition outcomes: a qualitative comparative analysis. *Public Health Nutr*, 2021. 25(5): p. 1-11.
4. Ngqangashe, Y., et al., A narrative review of regulatory governance factors that shape food and nutrition policies. *Nutrition Reviews*, 2021. 80(2): p. 200-214.
5. World Health Organization, Guiding principles and framework manual for front-of-pack labelling for promoting healthy diets. 2019, World Health Organization: Geneva.

- **Which age definition is most appropriate?**

The George Institute recommends the age definition as: children are defined as less than 18 years of age. We agree with the assessments of the options listed in the discussion paper: there are no negatives for this recommended approach, and substantial drawbacks to defining children as less than 15 years old. The age of majority in Australian jurisdictions is 18 years and various pieces of legislation (for example, *The Family Law Act 1975*) includes a definition of children as under 18 years of age. A recent Australian Government response to the Privacy Act Review Report endorsed applying protections to all children under 18

years of age, and as outlined in the discussion paper, this would align with international best practice. The discussion paper highlights that adolescents are particularly vulnerable to the impacts of marketing, and its influence of unhealthy food consumption, despite them being able to identify what constitutes marketing. Dietary patterns across the entire childhood, but particularly amongst adolescents (i.e. including children up to 18 years of age), may also be a strong determinant of adult dietary patterns and health outcomes [6, 7].

6. Darnton-Hill, I., W.P.T. James, and C. Nishida, A life course approach to diet, nutrition and the prevention of chronic diseases. Public Health Nutrition, 2004. 7(1a): p. 101-121.

7. Baird, J., et al., Developmental Origins of Health and Disease: A Lifecourse Approach to the Prevention of Non-Communicable Diseases. Healthcare, 2017. 5(1): p. 14.

- **Which food classification approach has the greatest chance of achieving the policy objective(s)?**

The George Institute recommends Option 4.1 (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). The practice of brand marketing is prominent in settings such as sports sponsorship. Given its wide-reaching impact in the community, it should be a priority for policy intervention.

This option will close loopholes that would otherwise allow brands that are primarily associated with unhealthy products (e.g. fast-food manufacturers who may offer one or two healthy options on a menu of high-selling unhealthy products) to continue to be marketed to children, as noted in the discussion paper. Implementing an alternative option means that brands themselves can continue to market their brand as opposed to a specific product, which would likely mean continued consumption of their unhealthy products, regardless of a healthier product on offer. The recommended option also supports other efforts to improve the healthiness of product portfolios, though this should be considered as proportion of sales or top selling products rather than product range in isolation.

Methodologies for assessing unhealthy brands are available and some examples are already being applied by researchers [8] and global organisations [9]. Any product classification system adopted could be applied to identify unhealthy brands. We strongly suggest that the classification of an unhealthy brand rely on sales (total and/or top-selling, by volume and/or value) and not product range, be regularly re-assessed, and not provide exclusions for smaller companies or brands. Consideration must also be given to the level at which healthiness is assessed, i.e. at the brand- or company-level to avoid marketing shifting to different entities.

It is acknowledged that such data may be difficult to collect. We recommend using independent purchasing data rather than industry data to ensure transparency. Purchasing data is regularly collected by third-parties and readily combined with product composition databases [10]. For example, The George Institute's comprehensive FoodSwitch datasets, which in 2024 will include fast food data, and cover around 90% of packaged retail foods sold in Australia.

8. Bandy, L., et al., The development of a method for the global health community to assess the proportion of food and beverage companies' sales that are derived from unhealthy foods. *Globalization and Health*, 2023. 19(1): p. 94.
9. Access to Nutrition Initiative. New Release: ATNI's journey with product profiling. 2022; Available from: <https://accesstonutrition.org/news/new-release-atnis-journey-with-product-profiling/>.
10. Bandy, L., et al., The use of commercial food purchase data for public health nutrition research: A systematic review. *PLoS One*, 2019. 14(1): p. e0210192.

- **Which specific food classification system do you prefer?**

To effectively reduce unhealthy food marketing to children in Australia, regulation should be underpinned by a valid food classification system that effectively identifies unhealthy foods and brands. The George Institute recommends adoption of a food classification system that:

1. Reflects the Australian Dietary Guidelines (noting that they are currently under review);
2. Considers the entire retail food supply i.e. encompasses all packaged, fresh and prepared food; and
3. Includes discrete categories of products, with certain products entirely disqualified and others having appropriate compositional thresholds applied.

In our view, the classification system that would best meet these objectives is the World Health Organization (WHO) Regional Office for the Western Pacific (WPRO) Nutrient Profiling Model, specifically developed to support efforts to restrict unhealthy product marketing to children. It is a region-specific system that was developed in collaboration with WHO WPRO member states, including Australia, and released in 2016. The WHO WPRO model sets out 18 categories of products that cover the entire food supply, including meals, with some categories entirely restricted from marketing and others applying various compositional thresholds to assess eligibility.

For the purposes of understanding the implications of the systems discussed here (COAG Interim Guide, NPSC, HSR, WHO WPRO model), we have assessed and compared classifications of a targeted sample of products in categories such as breakfast cereals, yoghurts, savoury and sweet snacks, beverages, and snack-type processed cheeses. We found that the WHO WPRO model would best restrict unhealthy food marketing to children by effectively targeting products of concern and retaining sufficient discrimination between more and less healthy varieties of products that may form part of a healthy diet.

Our results show that if the HSR were applied as a criteria, only higher thresholds (≥ 4.5 , 5.0), would sufficiently restrict some high-sugar breakfast cereals and yoghurts, most sweet and savoury snacks, and most sugar and non-sugar sweetened dairy, fruit, energy and carbonated drinks. These thresholds would still permit some sweet and savoury snacks. The COAG Interim Guide would allow marketing of high-sugar breakfast cereals and yoghurts, high-sodium and -saturated fat snack-type cheeses, and potentially dairy, fruit, energy, and carbonated drinks with non-sugar sweeteners, but not allow marketing of sweet and savoury snacks. The NPSC and lower-thresholds of the HSR (≥ 3.5 , ≥ 4.0), allowed marketing of most high-sugar breakfast cereals and yoghurts, a range of sweet and savoury snacks, high-sodium and -saturated fat cheeses, and dairy, fruit, energy and carbonated drinks with non-sugar sweeteners.

A number of studies have been published that compare products in Australia against various systems for assessing product healthiness, for the purposes of comparing eligibility for marketing to children. In addition to the studies already referenced in the discussion paper, one study of products found at transport hubs (n=220 products) identified that the NOVA system would be strictest in limiting marketing to children (16% eligible), following by the WHO WPRO model (16%), then equally the COAG Interim Guide and WHO Regional Office for Europe (EURO) model (17%), and finally HSR applying a ≥ 3.5 HSR threshold (28%) [11]. In a study of advertising on busses (n=55 products), NOVA was again found to be the most restrictive (16% eligible), followed by WHO WPRO and WHO EURO models (24%), the COAG Interim Guide (31%), the NPSC (38%), and the HSR applying a ≥ 3.5 HSR threshold (40%) [12].

Another study of products with child-directed marketing on pack (n=901 products) found that the recently introduced Mexican nutrient profiling model was strictest (4.5% eligible), then WHO WPRO (6.1%) and NOVA (19.0%) [13]. Data subsequently provided by the authors also showed how eligibility increased with progressively lower HSR thresholds (for thresholds of 5.0, ≥ 4.5 , ≥ 4.0 and ≥ 3.5 : 7.6%, 11.2%, 17.7% and 25.3% respectively, across the subsection of products eligible for HSR (n=668). Our analysis and published research indicate that each of the classification systems included in the discussion paper would continue to allow for marketing of products to children that are defined as “unhealthy” in the discussion paper, and so it will be important retain scope for strengthening the options in the discussion paper to better protect children's health as the policy is progressed’.

Analysis by The George Institute shows that the three food classification systems presented as policy options would almost entirely exempt less healthy breakfast cereals and yogurts that are high in saturated fats, sodium, and sugars. Such products are of considerable public health concern as they are generally eaten in greater quantities, potentially perceived to be “healthy” or “healthier” overall, and frequently marketed to both children and people that are purchasing foods for them. It is important that any system for classifying product healthiness covers not only products which are always unhealthy (such as confectionery), but also product categories for which there may be both more healthy and less healthy versions (such as breakfast cereals and yoghurts) to ensure it fulfils its policy objectives.

The food classification system adopted will have implications for the approach to brand marketing: if a limited/permissive system is adopted, brands are more likely to be able to advertise. For example, many products (e.g. flavoured waters, non-sugar sweetened beverages) within the portfolios of large sugar-sweetened beverage companies score ≥ 3.5 HSR and are only covered by the “optional” component of the COAG guide. Policy lessons from adoption of nutrient criteria in Australia for other settings, including voluntary adoption of the HSR system, highlight the likelihood of public attention on ‘outliers’ in the system (e.g. apparently unhealthy products that can still be marketed), and the risk of damage to public confidence in the policy itself. While no scoring system is perfect, this underscores the need for development of robust, well validated criteria that relate to the latest nutrition science, and embedded processes for reviewing and updating criteria over time.

The George Institute suggests that further analysis is done that identifies the implications of each of the classification systems on the marketing of unhealthy foods. This could be done

using the FoodSwitch database to compare the different classification systems. From our initial analysis, while our preference is the WHO WPRO classification, we suggest the COAG Interim Guide could be further investigated as the foundation, with modifications to strengthen its comprehensiveness, clarity, and effectiveness in protecting children from exposure to marketing of unhealthy products demonstrated before it is applied in practice.

11. Watson, W.L., P.Y. Khor, and C. Hughes, Defining unhealthy food for regulating marketing to children—What are Australia’s options? *Nutrition & Dietetics*, 2021. 78(4): p. 406-414.
12. Watson, W.L., K. Richmond, and C. Hughes, Comparison of nutrition profiling models for food marketing regulation. *Nutrition & Dietetics*, 2023. 80(4): p. 372-376.
13. Jones, A., et al., Chocolate unicorns and smiling teddy biscuits: analysis of the use of child-directed marketing on the packages of Australian foods. *Public Health Nutr*, 2023. 26(12): p. 3291-3302.

- **Which option for restricting TV food advertising has the greatest chance of achieving the policy objective(s)? For media industry: please provide available data to update estimates of children’s TV viewing patterns and peak viewing times.**

The George Institute recommends that unhealthy food advertising be restricted on all broadcast media between 05:30am and 11:00 pm (all TV services and platforms, radio, cinema, podcasts, and music streaming services). As we have noted previously, restrictions on marketing to children must comprehensively encompass any marketing that children are exposed to, regardless of when, how, and why they are exposed. Only the recommended option, of the three outlined, will effectively do this.

We further note that it will be important to future-proof this policy to ensure that it will still be applicable and effective in restricting unhealthy food marketing to children in broadcast media regardless of how settings, services and platforms develop and change over time.

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

The George Institute recommends that all marketing for unhealthy foods is restricted 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). Digital media and online platforms and services are now ubiquitous in children’s lives, whether for the purposes of education, recreation, or socialising. As per the discussion paper, the recommended option will best protect children from the various, subtle, and often hidden ways that unhealthy food marketing manifests in these settings.

However, this policy must be broadly designed and implemented. It is important that all settings are included, as children are likely to also access media and platforms that are not specifically targeted to children. Any policy must also be comprehensive and future-proofed to ensure that marketing simply does not shift to other strategies and other digital or online

settings, whether new or left as a gap during development of the policy. We suggest that “non-monetary” marketing be further defined and clarified for practical application. The discussion paper suggests that both options involve difficulties with monitoring and enforcement. We note that various researchers in Australia and around the world are currently developing a range of automated approaches to support the capture of marketing in online media and platforms.

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


The George Institute recommends that unhealthy food advertising be restricted on all outdoor media. As the discussion paper notes, the alternative option leaves considerable gaps that will mean that children continue to be exposed to unhealthy food marketing in a range of settings. We further suggest that “all outdoor media” be broadly defined to explicitly include all spaces and events that children may access, whether these are privately or publicly owned and/or managed, as children will still be exposed to unhealthy food marketing in these settings; various levels of government have the potential to influence these settings. Though the discussion paper highlights that monitoring and enforcement under this option may be resource intensive, clear requirements that avoid ambiguity or loopholes will encourage better compliance in the first instance.

- **Do you support restricting marketing on food packaging?**

The George Institute recommends Option 5.4.1 (Restrict on-pack marketing considered to be ‘directed to children’ on unhealthy foods). As our recent analysis has shown, the use of techniques such as cartoons and characters are a common and influential practice [13]; the evidence and analysis presented in the discussion paper provides a clear case and path for action. A policy targeting food packaging must also encompass other techniques at physical and digital/online retail outlets (including but also extending beyond placement-based and price-based promotion as discussed below), as marketing may simply shift to the display of relevant material next to or near the product itself.


We note that voluntary claims made on products, whether nutrition- or health-related (e.g. “high in protein”) or general (e.g. “natural”, “healthy”, “good for growing bodies”, “fuel for activities”) are not explicitly included. These are also influential marketing tools. Claims are commonly applied, including to products targeted at or consumed by children, and many products displaying claims are unhealthy [14-18]. It is likely that claims will be more frequently and prominently applied if other on-pack marketing strategies are restricted. Given their potential to encourage purchases and consumption, we strongly recommend that relevant claims also explicitly fall within the remit of this policy. We further note that product names, which largely do not fall under the remit of the Food Standards Code but may be relevant to Australian consumer law, may also literally or indirectly convey meanings invoking marketing to children and thus comprise marketing in themselves.

Additionally, we caution that many products consumed by children are not purchased by children, regardless of age. While “pester-power” may decrease with the removal of explicit child-directed marketing on product packaging, further consideration must be given to restricting marketing which influences adults to purchase unhealthy products for children.

While the concerns noted in the discussion paper regarding this option are valid, these are not insurmountable. All products imported into Australia must already meet relevant requirements. Most notably, products are still imported into the country, despite the requirement for adaptations to packaging to meet the nutrition, ingredient and allergen information mandated in Australia. 

13. Jones, A., et al., Chocolate unicorns and smiling teddy biscuits: analysis of the use of child-directed marketing on the packages of Australian foods. *Public Health Nutr*, 2023. 26(12): p. 3291-3302.
14. Wellard-Cole, L., et al., Changes in nutrition content and health claims post-implementation of regulation in Australia. *Public Health Nutr*, 2020. 23(12): p. 2221-2227.
15. Wellard-Cole, L., et al., How effective is food industry self-substantiation of food-health relationships underpinning health claims on food labels in Australia? *Public Health Nutr*, 2019. 22(9): p. 1686-1695.
16. Thompson, B., et al., Consumer perceptions of nutrient content claims in Australia: A qualitative study. *Journal of Human Nutrition and Dietetics*, 2024. 37(1): p. 168-181.
17. Pulker, C.E., J.A. Scott, and C.M. Pollard, Ultra-processed family foods in Australia: nutrition claims, health claims and marketing techniques. *Public Health Nutrition*, 2018. 21(1): p. 38-48.
18. Simmonds, L., et al., Health-related marketing messages on product labels of commercial infant and toddler food packaging in Australia: a cross-sectional audit. *BMJ Paediatrics Open*, 2021. 5(1): p. e001241.

- **Do you support restricting food sponsorship of sports, arts and cultural events?**

The George Institute recommends Option 5.5.1 (Restrict unhealthy food sponsorship of elite and professional sports, community sports and arts and cultural events volving children as participants). However, coverage of the various settings mentioned in this option is currently unclear; we suggest that marketing of any events that children attend also be included. Children should be free to participate in and view sports, arts and cultural activities and events without being overwhelmed with unhealthy food marketing. This is an opportunity for community-minded organisations and platforms to demonstrate real, positive impact on children and support their health and wellbeing.

There are several issues relevant to sports, particularly revolving around concerns with funding. The discussion paper notes that sponsorship by food companies is not a major contributor to community sports funding. We further highlight that food company sponsorship often comes in the form of rewards for participation rather than direct funding or other resources [19, 20]. Representatives of community sports clubs report that this practice is becoming increasingly common and some identify it as problematic, particularly as it may encourage extra purchases [20]. This suggests that food companies are less interested in supporting the capacity of community sports to deliver programs and services to children, but more concerned with promoting visits to their outlets and increasing sales. We also note the comprehensive overview of alternative models identified in the discussion paper. Unhealthy marketing of healthy activities cannot be justified. We note high profile examples of the food industry systematically sponsoring physical activity programs to deflect attention from the harms of their products, using the concept of “energy imbalance/balance”.

19. Kelly, B., et al., Food and drink sponsorship of children's sport in Australia: who pays? *Health Promotion International*, 2010. 26(2): p. 188-195.

20. Zorbas, C., et al., Perceptions towards unhealthy food sponsorship in junior sports in Victoria, Australia. *Australian and New Zealand Journal of Public Health*, 2023. 47(2): p. 100024.

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

The George Institute recommends restrictions on placement-based and price-based promotion of unhealthy foods within food retail outlets. The evidence and analysis presented in the discussion paper is clear. Retail environments are important to overall dietary patterns, placement- and price-based marketing strategies are influential in these settings, and approaches that are not comprehensive will ensure continuing marketing of unhealthy food products to children. We suggest that consideration of options for this setting also include reference to recent government strategies. For example, restrictions on price promotions are included in the National Obesity Strategy and resections on placement promotions are included in the National Preventive Health Strategy.

To strengthen this option, we suggest that the definition of “retail” be broad to capture all relevant strategies and settings, i.e. all outlets and locations that sell food for purchase and consumption by an end-user, regardless of whether that food is fresh, packaged, or pre-prepared, and including the food service sector. This policy must also explicitly include online environments, covering all platforms (including webpage-, app- and email-based services) and service providers (both in-house and third-party). Forthcoming research by Maganja et al. shows the advanced potential for more covert placement-type marketing techniques online (e.g. order of default product listings/search results) and a considered, comprehensive approach will be required for the online setting, noting that consumers online cannot simply view options on shelves or menu boards but are intentionally presented with specific products. Other forms of marketing linked to retail settings, such as membership- or rewards-type schemes and other displays and links to other material or platforms, must also be included and regardless of setting.

Price promotions are predominantly placed on unhealthy products and encourage increased expenditure overall, rather than displacing the purchasing of healthier products [21].

Australian industry stakeholders report that unhealthy products are more likely to be price promoted in supermarkets due to their increased propensity to be purchased on impulse and repeatedly, as well as the greater financial capacity of unhealthy food companies to fund price promotions. As Australians experiencing social and economic disadvantage are more likely to experience diet-related chronic disease in Australia as unhealthy food environments are disproportionately and inequitably distributed, action to restrict unhealthy food marketing will help to remedy this inequity.

There are many options within the remit of the Australian Government exist to improve the financial accessibility of healthy food in retail settings and this should be considered a complementary priority.

21. Obesity Evidence Hub. Unhealthy food price promotions. 2024; Available from: <https://www.obesityevidencehub.org.au/collections/prevention/new-approaches-restrictions-on-price-promotions>.

- **Do you support restricting unhealthy food marketing ‘directed’ to children, in addition to policy options 5.1-5.6?**

We recommend Option 5.7 (Restrict direct unhealthy food marketing to children and any unhealthy food marketing that uses promotional techniques with child appeal across all media and settings. This policy would be combined alongside time and media- or settings-based food marketing restrictions (e.g. Sections 5.1 to 5.6) to cover marketing not restriction under other provisions). We strongly recommend that this only be implemented **in addition to** concerted action on unhealthy food marketing in the settings and services discussed above. This approach cannot be solely relied on to adequately address unhealthy food marketing to children, but will be essential to cover potential gaps and loopholes that may only be identified after implementation. Three key elements should be included:

- Restrictions on unhealthy food marketing that uses any feature or technique that is likely to appeal to children, including images, activities, toys, characters and prizes;
 - Restrictions on unhealthy food marketing in any physical place or form of media that is targeted at children; and
 - Restrictions on unhealthy food marketing sent or displayed directly to a child by email, text message or in any other way.
- **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).**

The George Institute recommends the following priority list, on the assumption that the options we recommend for each setting, as above, are implemented:

1. Digital
2. TV
3. Retail
4. Sponsorship
5. Outdoor
6. Packaging
7. Child-directed

This list has been prioritised according to the relative exposure, influence, and impact of each setting. However, we note that restrictions in each of these settings is crucial to effectively prevent the exposure of children to unhealthy food marketing, and a comprehensive approach will be necessary to support action on specific marketing mechanisms that are referenced or possible under each setting (e.g. targeting marketing through sponsorship also requires targeting marketing in digital platforms, broadcast services, outdoors settings etc.). A failure to tackle the problem in its totality means marketing of unhealthy products will simply shift to other settings and techniques, continuing harm.

- **Is there any other information you would like to share to inform this consultation process?**

In addition to the above recommendations, we strongly encourage that:

- Consideration be given to the inequitable burden of obesity and chronic disease faced by low-income Australians, and the importance of addressing unhealthy food environments to improve health outcomes.
- A comprehensive, future-proofing approach be adopted to ensure that gaps and loopholes, do not lead to continued exposure or shifts in marketing strategies and settings.
- Further consideration be given to restricting marketing which influences adults to purchase unhealthy products for children.

Additional policies to improve the healthiness of food environments, particularly the availability of healthy and affordable products in the food supply, will be required to decrease consumption of unhealthy foods and realise full health, social and economic benefits. Finally, rigorous, transparent, and regular monitoring and evaluation will be important to support this policy. A monitoring framework will be needed to assess how well the policy is performing against its objectives, including monitoring of compliance. It will also be critical to assess any aspects of marketing that remain outside the policy, to understand whether and how children continue to be exposed to unhealthy food marketing. Monitoring should cover not only unhealthy products but also brands associated with unhealthy products. We suggest that monitoring and evaluation include separate assessments of:

- Compliance with the policy and whether it is being implemented as intended;
- Whether and how the policy is meeting its goals;
- Improvements that could be made to the policy to improve implementation, monitoring and/or impact; and
- Continuing or other exposure to unhealthy food marketing, as well as other influences on purchases and dietary intakes.

The George Institute recommends that monitoring and evaluation of this policy is performed by an independent organisation with relevant expertise to avoid conflicts of interest. We suggest that monitoring include specific subgroups including children of different ages, Aboriginal and Torres Strait Islander children, children in low socio-economic groups, children with disabilities, children from cultural and linguistically diverse backgrounds and children in rural and remote areas.

References

1. Jones, A., et al., *Front-of-pack nutrition labelling to promote healthier diets: current practice and opportunities to strengthen regulation worldwide*. *BMJ Global Health*, 2019. **4**(6): p. e001882.
2. Reeve, B. and R. Magnusson, *Regulation of Food Advertising to Children in Six Jurisdictions: A Framework for Analyzing and Improving the Performance of Regulatory Instruments*. *Arizona Journal of International and Comparative Law*, 2018. **35**(1).
3. Ngqangashe, Y., S. Friel, and A. Schram, *The regulatory governance conditions that lead to food policies achieving improvements in population nutrition outcomes: a qualitative comparative analysis*. *Public Health Nutr*, 2021. **25**(5): p. 1-11.
4. Ngqangashe, Y., et al., *A narrative review of regulatory governance factors that shape food and nutrition policies*. *Nutrition Reviews*, 2021. **80**(2): p. 200-214.
5. World Health Organization, *Guiding principles and framework manual for front-of-pack labelling for promoting healthy diets*. 2019, World Health Organization: Geneva.

6. Darnton-Hill, I., W.P.T. James, and C. Nishida, *A life course approach to diet, nutrition and the prevention of chronic diseases*. Public Health Nutrition, 2004. **7**(1a): p. 101-121.
7. Baird, J., et al., *Developmental Origins of Health and Disease: A Lifecourse Approach to the Prevention of Non-Communicable Diseases*. Healthcare, 2017. **5**(1): p. 14.
8. Bandy, L., et al., *The development of a method for the global health community to assess the proportion of food and beverage companies' sales that are derived from unhealthy foods*. Globalization and Health, 2023. **19**(1): p. 94.
9. Access to Nutrition Initiative. *New Release: ATNI's journey with product profiling*. 2022; Available from: <https://accesstonutrition.org/news/new-release-atnis-journey-with-product-profiling/>.
10. Bandy, L., et al., *The use of commercial food purchase data for public health nutrition research: A systematic review*. PLoS One, 2019. **14**(1): p. e0210192.
11. Watson, W.L., P.Y. Khor, and C. Hughes, *Defining unhealthy food for regulating marketing to children—What are Australia's options?* Nutrition & Dietetics, 2021. **78**(4): p. 406-414.
12. Watson, W.L., K. Richmond, and C. Hughes, *Comparison of nutrition profiling models for food marketing regulation*. Nutrition & Dietetics, 2023. **80**(4): p. 372-376.
13. Jones, A., et al., *Chocolate unicorns and smiling teddy biscuits: analysis of the use of child-directed marketing on the packages of Australian foods*. Public Health Nutr, 2023. **26**(12): p. 3291-3302.
14. Wellard-Cole, L., et al., *Changes in nutrition content and health claims post-implementation of regulation in Australia*. Public Health Nutr, 2020. **23**(12): p. 2221-2227.
15. Wellard-Cole, L., et al., *How effective is food industry self-substantiation of food-health relationships underpinning health claims on food labels in Australia?* Public Health Nutr, 2019. **22**(9): p. 1686-1695.
16. Thompson, B., et al., *Consumer perceptions of nutrient content claims in Australia: A qualitative study*. Journal of Human Nutrition and Dietetics, 2024. **37**(1): p. 168-181.
17. Pulker, C.E., J.A. Scott, and C.M. Pollard, *Ultra-processed family foods in Australia: nutrition claims, health claims and marketing techniques*. Public Health Nutrition, 2018. **21**(1): p. 38-48.
18. Simmonds, L., et al., *Health-related marketing messages on product labels of commercial infant and toddler food packaging in Australia: a cross-sectional audit*. BMJ Paediatrics Open, 2021. **5**(1): p. e001241.
19. Kelly, B., et al., *Food and drink sponsorship of children's sport in Australia: who pays?* Health Promotion International, 2010. **26**(2): p. 188-195.
20. Zorbas, C., et al., *Perceptions towards unhealthy food sponsorship in junior sports in Victoria, Australia*. Australian and New Zealand Journal of Public Health, 2023. **47**(2): p. 100024.
21. Obesity Evidence Hub. *Unhealthy food price promotions*. 2024; Available from: <https://www.obesityevidencehub.org.au/collections/prevention/new-approaches-restrictions-on-price-promotions>.

ⁱ [Food advertising on Australian television: Frequency, duration and monthly pattern of advertising from a commercial network \(four channels\) for the entire 2016 - PubMed \(nih.gov\)](#)

ⁱⁱ [Overweight and obesity. Summary - Australian Institute of Health and Welfare \(aihw.gov.au\)](#)

ⁱⁱⁱ [Influence of unhealthy food and beverage marketing on children's dietary intake and preference: a systematic review and meta-analysis of randomized trials - Sadeghirad - 2016 - Obesity Reviews - Wiley Online Library](#)

^{iv}World Health Organization. Set of recommendations on the marketing of foods and nonalcoholic beverages to children. Geneva: WHO, 2010. Available from http://apps.who.int/iris/bitstream/10665/44416/1/9789241500210_eng.pdf

^v [Chocolate unicorns and smiling teddy biscuits: analysis of the use of child-directed marketing on the packages of Australian foods | Public Health Nutrition | Cambridge Core](#)

^{vi} [Holding Food Companies Responsible for Unhealthy Food Marketing to Children: Can International Human Rights Instruments Provide a New Approach? – UNSW Law Journal](#)

^{vii} [Intergenerational and socioeconomic gradients of child obesity - ScienceDirect](#)

^{viii} [Governmental policies to reduce unhealthy food marketing to children | Nutrition Reviews | Oxford Academic \(oup.com\)](#)

^{ix} [Polling-Advertising-on-TV-Web-1.pdf \(australiainstitute.org.au\)](#)

^x [The impact of initiatives to limit the advertising of food and beverage products to children: a systematic review - PubMed \(nih.gov\)](#)

^{xi} [The impact of junk food marketing regulations on food sales: an ecological study - PubMed \(nih.gov\)](#)

^{xii} <https://cdn.georgeinstitute.org/sites/default/files/2022-11/FoodSwitch-Food-Supply-Report-2022-251122.pdf>

^{xiii} <https://consultations.health.gov.au/chronic-disease-and-food-policy-branch/public-consultation-feasibility-study-on-options-t/>

