

Code on Marketing Food and Non-Alcoholic Beverages to Children

Prepared by the European Network on reducing marketing pressure on children

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BACKGROUND

The negative impact of the marketing of food and non-alcoholic beverages to children is increasingly a topic for debate and a cause for concern among policy makers worldwide. Worrying levels of childhood overweight and obesity and the related non-communicable diseases (NCDs) form the backdrop of this concern. Furthermore, the right of children to be protected from adverse effects of marketing is increasingly being referred to as a rationale for reducing the marketing pressure on children.

Increasing levels of childhood overweight and obesity have speeded up the need for broad-based preventive efforts. One of the important measures is to reduce the marketing pressure on children of energy-dense, micronutrient-poor foods and beverages that are high in fat, sugar and/or salt. Actions in this area need to align with and support the *United Nations Convention on the Rights of the Child*¹ and the *Rome Declaration on World Food Security*², which endorse the rights of children to adequate, safe and nutritious food.

A stronger focus on the negative effects of marketing of food and beverages to children followed the endorsement at the 57th World Health Assembly (WHA) in May 2004 of the *Global strategy on diet, physical activity and health* which stated that food advertising affects food choices and influences dietary habits. The Global strategy calls on governments to work with consumer groups and the private sector (including advertising) to develop appropriate multisectoral approaches to deal with the marketing of food to children, and to deal with such issues as sponsorship, promotion and advertising.

The Global Strategy also recognises that the burden of mortality, morbidity and disability attributable to NCDs is currently greatest and continuing to grow in developing countries. It recognises that governments have a central role, in co-operation with other stakeholders, to create an environment that empowers and encourages healthy behaviour.

As part of the implementation of the Global strategy, World Health Organization (WHO) Headquarters, in collaboration with WHO Regional Office for Europe, organized a Forum and Technical meeting in Oslo in May 2006 on the marketing of food and non-alcoholic beverages to children, hosted by the Norwegian Directorate for Health and Social Affairs. The recommendations from the experts at the Technical meeting included that in order to address the international nature of commercial promotion of energy-dense, micronutrient-poor food and beverages, WHO should take the lead in the development of an international code on the commercial promotion of food and beverages to children in association with international partners, United Nations Agencies, Member States and other stakeholders.

The conclusion of the WHO Technical Meeting was that:
'The goal of any regulatory action should be to protect children from marketing which adversely affects their diets by substantially reducing the volume and impact

¹ United Nations Convention on the Rights of the Child, General Assembly resolution 44/25 of 20 November 1989.

² Rome Declaration of World Food Security, FAO World Food Summit, Italy, 1996.

of commercial promotion of energy-dense, micronutrient-poor food and beverages to children. Moderate increases in the promotion of better foods are judged to be insufficient.'

The call to reduce the marketing of certain energy-dense, nutrient-poor foods and drinks to children was later repeated at European regional level in the WHO European NCD Strategy *Gaining Health*, endorsed by Member States at the Regional Committee's 56th session in September 2006. Not much later, in November 2006, the *European Charter on Counteracting Obesity* was endorsed at the European Ministerial Conference on Obesity, further calling for the adoption of regulations to substantially reduce the extent and impact of commercial promotion of energy-dense foods and beverages, particularly to children. And more recently, the *Second WHO European Action Plan for Food and Nutrition Policy (2007-2012)*, endorsed by Member States at the Regional Committee's 57th session in September 2007, calls for the need to ensure adequate control of the marketing of foods and beverages to children.

A new big step in this series of events calling for reduced marketing pressure on children happened at the WHA in Geneva in May 2007. In its 60th session the resolution on the *Prevention and Control of Noncommunicable Diseases: Implementation of the Global Strategy* (WHA 60.23) was adopted by the Assembly, calling on the Director-General of WHO to develop a set of recommendations on marketing of foods and non-alcoholic beverages to children. The resolution clearly stated the need for further action:

"...greater efforts are required globally to promote physical activity and healthy lifestyles, and to improve the nutritional quality of food and drink products, the way in which they are marketed, and the quality of information and its availability to consumers and their families, in particular children, young people and other population groups in vulnerable circumstances;"

On this background and with several European countries wanting to take further action in this area, a good environment for international cooperation was created. When the WHO Regional Office for Europe facilitated the setting up of various region-wide action networks to support the implementation of the *Second WHO European Action Plan for Food and Nutrition Policy*, several countries expressed an interest in a network on reducing the marketing pressure on children of foods and non-alcoholic beverages.

Norway took on the responsibility to lead and facilitate the network and nine other countries expressed an interest to join. The network was established as a response to several calls for action, especially the *Second WHO European Action Plan for Food and Nutrition Policy 2007-2012* (Sep 2007) and the *European Charter on Counteracting Obesity* (Nov 2006).

EVIDENCE FOR ACTION

*The WHO Global Strategy on Diet, Physical Activity and Health*³ recognises that globally the burden of NCDs has rapidly increased and that unhealthy diets and a lack

² The WHO Global strategy on Diet, Physical Activity and Health, World Assembly Resolution 57.17, 2004.

of physical activity are among the leading causes of the major NCDs, including cardiovascular disease, type 2 diabetes and certain types of cancer.

The elevated consumption of energy-dense, nutrient-poor foods that are high in fat, sugar or salt is identified as a risk factor and it specifies that dietary recommendations for populations and individuals should include the following:

- achieve energy balance and a healthy weight
- limit energy intake from total fats and shift fat consumption away from saturated fats to unsaturated fats and towards the elimination of trans-fatty acids
- increase consumption of fruits and vegetables and legumes, whole grains and nuts
- limit the intake of free sugars
- limit salt (sodium) consumption from all sources and ensure salt is iodised.

The *WHO Technical Meeting on Marketing of Food and Non-alcoholic Beverages to Children⁴ in 2006* concluded that a strong scientific rationale is available through the robust science and research that links commercial promotion of foods and beverages to poor diets in children. The evidence shows that:

- there is extensive food and beverage promotion to children
- children are aware of, appreciative of, and engage with this promotion
- this food promotion is overwhelmingly for energy-dense, micronutrient poor foods and undermines recommendations for a healthy diet
- this food promotion has a deleterious effect on children's food knowledge, attitudes, purchase behaviour and consumption.

Systematic reviews have shown that there is extensive marketing to children all over the world and that most of this marketing is for foods high in fat, sugar or salt (Hastings et al 2006⁵, McGinnis et al 2006⁶). Furthermore, the effects of marketing restrictions of foods high in fat, sugar or salt have recently been evaluated (OFCOM 2008⁷).

⁴ Marketing of Food and Non-alcoholic Beverages to Children, Report of a WHO Forum and Technical Meeting, Oslo, 2-5 May 2006.

⁵ Hastings G, Mc Dermott L, Angus K, Stead M, Thomson S (2006). The extent, nature and effects of food promotion to children: a review of the evidence. Geneva, World Health Organization. (http://whqlibdoc.who.int/publications/2007/9789241595247_eng.pdf).

⁶ McGinnis JM, Gootman JA, Kraak VI, eds. (2006). Food marketing to children and youth: threat or opportunity? Washington D.C., Institute of Medicine, National Academies Press. (http://www.nap.edu/catalog.php?record_id=11514#toc).

⁷ Office of Communications (OFCOM) (2008). Changes in the nature and balance of television food advertising to children: A review of HFSS advertising restrictions. (<http://www.ofcom.org.uk/research/tv/reports/hfssdec08/>).

ABOUT THE NETWORK

The European Network on reducing marketing pressure on children consists of countries in the WHO European Region who want to work together to find ways to reduce the marketing pressure on children of energy-dense, micronutrient-poor foods and beverages. Taking part in the network does not imply any particular policy preference with regards to regulatory approach. The Network was established in January 2008 when the first meeting in the network was organised in Oslo, Norway.

The network currently consists of the following 16 countries in the WHO European Region: Belgium, Bulgaria, Cyprus, Denmark, Finland, France, Greece, Ireland, Israel, the Netherlands, Norway, Portugal, Serbia, Slovenia, Sweden and the United Kingdom.

Professor Knut-Inge Klepp, Director of the Public Health and Welfare Division of the Norwegian Directorate of Health, chair the network. Norway serves as the network secretariat and the secretarial functions are carried out by the Norwegian Directorate of Health.

Two working groups were established at the first network meeting. Working group 1 has looked at ways in which marketing regulation may be carried out in practice: content of regulations, aims and various approaches to regulation. Working group 2 has taken a closer look at monitoring systems. This has entailed assessing various ways to monitor marketing, both policies & regulations and exposure and content. Working group leaders have been Filippa von Haartman, National Institute of Public Health, Sweden (working group 1) and Joao Breda, General Directorate for Health, Portugal (working group 2).

Representatives from the World Health Organization, the European Commission, the United Nations Standing Committee on Nutrition, the Food and Agriculture Organization of the United Nations, the International Obesity TaskForce and Consumers International have participated as network observers.

The network steering committee has consisted of the working group leaders, the network secretariat and WHO Regional Office for Europe. The steering committee has supported and facilitated follow-up action between the network meetings to ensure that objectives stated at the network meetings were met.

The work and experiences of the network have aspired to be transparent and provide information to all interested parties.

MANDATE

The following long term goal was agreed upon at the first network meeting: To protect children's health through sharing experiences and best practices in order to identify and implement specific actions which will substantially reduce the extent and impact of all marketing to children of energy-dense, micronutrient-poor foods and beverages.

Objectives of the network

- (1) To constitute a coalition of committed countries who can identify and demonstrate specific actions to protect children against pressure from marketing of energy-dense, micronutrient-poor foods and beverages.

- (2) To discuss and share experiences in order to identify best practices in monitoring the exposure of children to food and beverage marketing and ensure that information is exchanged between the network countries and available to other countries in the Region and globally, including countries in transition.
- (3) To discuss alternative approaches to regulation, such as statutory regulation, self-regulation, voluntary measures and co-regulation and identify content and principles which may contribute to international recommendations on the regulation of marketing of food and non-alcoholic beverage to children.
- (4) To discuss and come up with advice on the use of nutrient profiling as a tool to control the marketing of food and beverages.
- (5) To prepare reports to various international meetings such as to the World Health Assembly and Regional Committee meetings in the WHO European Region.

The network has aimed to contribute with knowledge and experiences to support the work at WHO Headquarters to develop a set of recommendations on marketing of foods and non-alcoholic beverages to children (WHA 60.23).

PROCESS

Network meetings have been organized twice a year, on a rotating basis. There have been 4 network meetings:

- Oslo, Norway, 17-18 January 2008
- Belgrade, Serbia, 29-30 September 2008
- Ljubljana, Slovenia, 9-10 February 2009
- London, the United Kingdom, 8-9 June 2009

Meeting participants have included 1-2 representatives from the network countries that were able to attend.

For more information and network reports, see www.helsedir.no/marketing.
Network secretariat: marketing@helsedir.no

Code on Marketing of Foods and Non-Alcoholic Beverages to Children

Preamble

In accordance with the European Charter of Obesity and as part of the implementation of the second action plan on nutrition and food policy in WHO EURO the European Network on reducing marketing pressures on children:

- RECOGNISES the importance of a multi-faceted approach to tackle non-communicable diseases as established in the Global Strategy on Diet Physical Activity and Health (Resolutions of the World Health Assembly 57.17 and 60.23);
- RECOGNISES the high rates of non-communicable diseases globally and the burden that this presents in both developed and developing countries;
- RECOGNISES that the spread of non-communicable diseases is a global problem with serious consequences for public health that calls for the widest possible international co-operation and the participation of all countries in an effective, appropriate and comprehensive international response;
- RECOGNISES that nutrient poor diet is an important risk factor for non-communicable diseases;
- RECOGNISES the impact that marketing communication, including advertising, promotion and sponsorship has in encouraging children to consume energy-dense, nutrient-poor foods and beverages that are high in fat, sugar and/or salt(henceforth referred to only as HFSS foods);
- ACKNOWLEDGES that the UN Convention on the Rights of the Child affirms the right of children to the highest attainable standard of health, to protection from exploitation and recognises the importance of ensuring that all segments of society, but particularly parents and children are supported in the use of basic knowledge of child health and nutrition;

RECOGNISES that fair restrictions on expression in the form of advertising to children are necessary in the meaning of Article 19(3) of the International Covenant on Civil and Political Rights to protect these rights of children;

- RECOGNISES the particular need to keep settings where children are gathered free from commercial inducements to consume HFSS foods. Such settings include but are not limited to nurseries, schools, school grounds and pre-school centres, playgrounds, sporting and cultural activities, family and child clinics and paediatric services;
- RECOGNISES the importance of ensuring that food marketing, particularly to children, does not undermine efforts to meet recommendations for diet as set out in the World Health Organization (WHO);

- RECOGNISES the recommendation from the WHO Technical Meeting on Marketing of Food and Non-Alcoholic Beverages to Children that there is now a strong scientific rationale linking commercial promotion of foods and beverages to poor diets in children and that food promotion is overwhelmingly for HFSS foods and undermines recommendations for a healthy diet;
- RECOGNISES that a wide range of marketing techniques and media are used to promote foods to children;
- RECOGNISES that national and domestic regulations and standards should ensure that advertising is legal, decent, honest, true, fair and not misleading regardless of the product or audience;
- ACKNOWLEDGES that the WHO's International Code of Marketing of Breast Milk Substitutes and subsequent relevant World Health Assembly recommendations already apply to the marketing of breast milk substitutes including infant formula and these are therefore outside the scope of this Code;
- RECOGNISES that methods for nutrient profiling are now available that can be used to differentiate healthier and less healthy foods;
- CONSIDERS that commercial operators have a responsibility to ensure that their marketing practices do not undermine children's health irrespective of national orders;
- RECOGNISES the need to implement comprehensive multi-sectoral measures to avoid exacerbating health inequalities;

Therefore agrees the need to develop an international code on marketing of foods and non-alcoholic beverages to children.

Article 1. Aim of the Code

1.1 The Code aims to protect present and future generations from the damaging health, social and economic consequences of consumption of a diet high in HFSS foods, and to promote responsible food marketing communications to children that supports the Global Strategy on Diet, Physical Activity and Health by restricting the marketing communications of these products to children.

1.2 This Code lays down minimum standards. Parties are encouraged to implement measures going beyond those required by this Code, and nothing in this Code should prevent a Party from imposing other requirements ensuring a higher level of human health.

Article 2. Scope of the Code

The Code applies to all forms of marketing communication of food to children.

Article 3. Definitions

the term “*marketing communication*” includes advertising as well as other techniques, such as promotions, sponsorships, packaging, direct marketing, and should be interpreted broadly to mean any form of communication produced directly by or on behalf of traders intended primarily to promote products or to influence consumer behavior;

the term “*market research*” which includes social and opinion research, is the gathering and interpretation of information about individuals or organizations using statistical and analytical tools to gain insight or support decision making. It is implicit that the identity of the respondent will only be revealed to the user of the information for research purposes, and that no sales approach will be made to them as a direct result of their having provided information;

the term “*brand*” means any name, logo, slogan or Trademark associated with or owned by the trader;

the term “*children*” means people under the age set by Member State legislation and in any case, no less than 16 years old;

the term “*trader*” means any natural or legal person who, in marketing communication, is acting for purposes relating to his trade, business, craft or profession and anyone acting in the name of or on behalf of a trader;

the term “*food*” means any substance, whether processed, semi-processed or raw, which is intended for human consumption, and includes drink, chewing gum and any substance which has been used in the manufacture, preparation or treatment of ‘food’ but does not include cosmetics or tobacco or substances used only as drugs

Article 4. HFSS foods

Categorisation of HFSS foods for the purpose of implementing this Code should be based on a nutrient profiling approach, taking account of nutrient profiling systems already developed by member governments for the purpose of marketing communications. The nutrient profiling systems should ideally be in line with population nutrient intake goals recommended in the *Report of a Joint WHO/FAO Expert Consultation Diet, Nutrition and the Prevention of Chronic Diseases*⁸ and dietary recommendations in the *WHO Global strategy on Diet, Physical Activity and Health*⁹.

Article 5. General requirements

- 5.1. There should be no marketing communication to children of HFSS foods
- 5.2 There should be no marketing communication to children of brands associated with such foods
- 5.3 There should be no marketing communication of HFSS foods or brands associated with such foods to adults responsible for children as being suitable for children.
- 5.4 Market research may not be used as proactive marketing communication.

Article 6. Application to broadcast marketing communications

Broadcast marketing communications restrictions for the purpose of 5.1 and 5.2 should include both programmes aimed at children and programmes with significant numbers of children watching as determined by member Governments. The following factors should be taken into consideration: the proportion of children watching, the proportion relative to the adult audience and the total number of children watching.

Article 7. Application to non-broadcast marketing communications

7.1. When determining whether non-broadcast marketing communications are aimed at children for the purpose of Article 5.1 and 5.2 the following factors should be taken into account but not limited to:

- (a) the language, colours and images used
- (b) whether children are represented
- (c) the target audience of the media or place in which the promotion is seen

⁸ Report of a Joint WHO/FAO Expert Consultation Diet, Nutrition and the Prevention of Chronic Diseases (2003).

⁹ The WHO Global strategy on Diet, Physical Activity and Health, World Health, World Assembly Resolution 57.17 (2004)

(d) whether children are potential recipients of the promotion in significant numbers regardless of the target audience, including but not limited to nurseries, schools, school grounds and pre-school centres, playgrounds, sporting and cultural activities, family and child clinics and paediatric services.

(e) the use of people, personalities, celebrities, their associates or other persons or individuals whose name or image may be familiar to or appeal to children

(e) the use of cartoon characters that appeal to children including brand owned and licensed

(g) the inclusion of free gifts, toys or collectible items with appeal to children

(h) the inclusion of competitions, vouchers or games with appeal to children

(i) the shape or novelty value of the food or food packaging

(j) sponsorship of materials, products, people, events, projects, cultural, artistic or sporting activities or places popular with children or with a significant child audience including but not limited to nurseries, schools, school grounds and pre-school centres, playgrounds, sporting and cultural activities, family and child clinics and paediatric services.

7.2. Products that are clearly produced for consumption on special occasions and are clearly special treats (e.g. birthday cakes, confectionery for cultural or religious festivals) may be exempted from Article 7.1.

Article 8. Implementation

8.1. Traders should honour and apply all relevant provisions of this Code.

8.2. Governments should take action to give effect to all provisions of these recommendations through the measures deemed most effective by the regulatory authority.

8.3. These measures may include but are not limited to according consumers a private right of action to challenge violations of the Code. To this purpose an open, transparent mechanism should be made available.

Article 9. Monitoring and enforcement

9.1. The application of this Code and the monitoring of its compliance is the responsibility of each member state.

9.1.2. Governments should effectively enforce national implementation of the Code including applying sanctions for non-compliances by traders.

9.2. Independently of any other measures taken to implement this Code, traders within the scope of this Code should regard themselves as responsible for monitoring their marketing communication practices according to the provisions of this Code, and should take steps to ensure that their conduct at every level conforms to it.

9.3. Non-governmental organisations, professional groups, institutions and individuals concerned are called upon to draw the attention of governmental authorities and manufacturers and other relevant operators to activities which are incompatible with the provisions of this Code, so that appropriate action can be taken.

9.4. Commercial operators within the scope of this Code should inform each member of their marketing and advertising personnel of this Code and their responsibilities under it.

9.5. At a European level the monitoring of the development and adoption of national policies and measures, including laws and regulations, to give effect to the principles and aim of this Code will be seen as part of the system developed by the WHO Regional Office for Europe to monitor the implementation of commitments and the progress made towards the ensurance of adequate control of the marketing of foods and beverages to children by Member States.