



Senate Committee on Social Media and Online Safety
Inquiry into Social Media and Online Safety

Obesity Policy Coalition: 8 March 2022

Background

The Obesity Policy Coalition (OPC) is a partnership between Cancer Council Victoria, Diabetes Victoria, VicHealth and the Global Obesity Centre at Deakin University; a World Health Organization (WHO) Collaborating Centre for Obesity Prevention. The OPC advocates for evidence-based policy and regulatory change to address overweight, obesity and unhealthy diets in Australia, particularly among children. We welcome the opportunity to provide feedback on the Terms of Reference for the Inquiry into Social Media and Online Safety (the Inquiry).

The OPC's key focus in this area is on children's exposure to unhealthy food marketing online, including on social media, and use of children's data and personal information to target and enhance its reach and influence. Children should be able to be online and use social media without being exposed to marketing that is harmful to their health, including marketing of unhealthy food. We know that digital media is an important part of children's daily lives, with Australian children going online as part of their education, to access information of all kinds, to communicate with their friends and family, and to have fun.

Instead of an environment that promotes their health and wellbeing, when children go online they are often bombarded with sophisticated digital marketing campaigns for unhealthy food. These campaigns use technologies and delivery systems designed and supported by powerful online platforms and social media companies, to harness children's data and personal information to enable marketing to be highly targeted, engaging and effective.

There is clear and robust evidence that children's exposure to unhealthy food marketing influences their food choices, influences their diets, and can contribute to poor diets, overweight and obesity.ⁱ Despite Australian children's high rates of overweight and obesity, there are few controls on marketing practices targeting advertisements for unhealthy foods and beverages to children in Australia.

We strongly advocate for broad government regulation to ensure children are fully protected from digital marketing of unhealthy food. The Australian Government has an important role to play in protecting children online and creating an environment that restricts commercial exploitation of children and enables children to participate as digital citizens, while having their best interests protected. Our community expects and supports government action in this area. We welcome the Committee's consideration of this important issue.



Terms of Reference (a) and (b)(i) – online harm: harmful industry marketing, including unhealthy food marketing and its impacts

We know that children are accessing platforms that offer a wide range of content for all ages, not just child specific content.ⁱⁱ Social media platforms popular with children include YouTube, TikTok, Instagram, Snapchat and Facebook, as well as online gaming.ⁱⁱⁱ Australian children also spend significant amounts of time online and, as they do so, are often exposed to large amounts of unhealthy food marketing. Australian research shows that Australian teens aged 13-17 years are exposed to almost 100 online promotions for unhealthy food every week.^{iv} The types of marketing that children see online and on social media include paid advertising, for example in social media feeds or on a webpage, brand owned content, for example on a brand's own social media page, and that can then be promoted or shared, branded apps and games, content created or shared by influencers and content shared by friends, among others.^v

While children are on these platforms and social media sites there are few protections in place to prevent them from being exposed to harmful marketing. With half of all global advertising spending spent online, online platforms and social media are key spaces for commercial marketing.^{vi} In addition to the cost effectiveness of marketing online, the reach and access companies have to consumer information is unprecedented. Online platforms can collect, use and disclose large amounts of personal information, including specific information about an individual's online behaviour, purchase preferences, social networks and physical location.^{vii} This information is being used by marketers, including corporations who market unhealthy food, to target their marketing directly to particular groups of consumers, including children, based on their individual profiles.^{viii} This poses a significant risk to children's privacy, health and wellbeing, particularly as it is difficult to monitor and to prevent.

The marketing of harmful industries, like unhealthy food and drinks, alcohol and gambling, is particularly concerning. Unhealthy food marketing has been shown to impact strongly on food preferences and consumption patterns.^{ix} Children are particularly susceptible to marketing messages and there is now broad acceptance that exposure to unhealthy food marketing is a risk factor for the development of childhood obesity.^{x,xi} It is now recognised that the impact of digital marketing on all children, including teenagers, is significant. Adolescents are likely to have access to money making them an attractive target for marketers. In the past it was assumed that adolescents had the cognitive capacity to recognise advertisements and their persuasive intent, however previous analysis didn't consider the unique emotional, implicit and social impact of digital marketing. Adolescents are susceptible because of neurological and hormonal changes which cause them to be more subject to peer influence, including risky decision making.^{xii} It is accordingly crucial to consider the vulnerability of teenagers as well as younger when considering the online harms.

In light of the evidence, the World Health Organization (WHO) has called for countries to implement effective controls to limit children's exposure to unhealthy food marketing, to reduce their risk of a poor diet, weight gain and chronic disease.^{xiii} This is now reflected in



Australia's National Obesity Strategy, which includes a strategy to reduce exposure to unhealthy food marketing, promotion and sponsorship especially for children.^{xiv}

There is also growing recognition on the importance of action to address digital marketing. For example, last year the UN Committee on the Rights of the Child released its General Comment on children's rights in the digital environment, a broad framework to ensure children are protected online while still being able to participate. This included that States should prohibit digital profiling or targeting of children for commercial purposes and that targeted or age inappropriate digital marketing should be regulated to prevent children's exposure to the promotion of unhealthy products, including certain food and drinks.^{xv}

We support broad government regulation to ensure Australian children are not exposed to any digital marketing of unhealthy food.

Recommendation: Children should not be exposed to any unhealthy food marketing when online or using social media.

Vulnerable individuals

As well as protections for children, we support the introduction of regulation to address the digital marketing model and the way it collects, uses and discloses personal information or other data that may target particular individuals in a way that may be more likely to result in harm. This is particularly the case for marketing of harmful products. It is important that this must be done in a way that does not enable or encourage the collection, use or disclosure of additional personal and sensitive information in order to identify a user as vulnerable.

For example, in our submission to the review of the *Privacy Act 1988* (the Act), we recommended that the Act be amended to prohibit the collection, use or disclosure of personal information related to a person's physical or mental health and wellbeing or financial situation, for the purposes of marketing harmful products. Similar protections could be considered as part of this Inquiry.

Terms of Reference (c) effectiveness, take-up and impact of industry measures

In Australia, the food and advertising industries have been allowed to set their own rules for when they can market unhealthy food to children. We have seen, over time, that these industry codes are not effective in protecting children. Self-regulation has been shown to be ineffective in reducing children's exposure to unhealthy food marketing in any meaningful way in Australia and around the world.^{xvi}

The Australian Association of National Advertisers recently released a new self-regulatory code that sets out the rules it has developed for how and when the food and drink industry can promote unhealthy food to children – the *Food & Beverages Advertising Code* (the Code). This Code, as with previous codes, will not effectively protect children from unhealthy food marketing online and on social media. There are many reasons why there are likely to be significant gaps in the Code, including that it only applies to children under 15 years old,



and that it does not appear to apply to brand marketing and so is still likely to allow brands strongly associated with unhealthy food to be marketed to children.

A key reason is that the Code includes a test that marketing must 'target children', and many advertisements children see online may not meet the test. A key element of this test is whether children make up 25% or more of the audience. This is highly unlikely on social media platforms, video streaming sites, websites or gaming platforms other than where content appeals only to children. This is because these platforms have a wider audience base and because many platforms have an age limit of 13 years, although younger children commonly use them by providing an incorrect age.

For example, a complaint about an Instagram post promoting KFC on the Cricket Australia page was found not to target children because it would appeal to adults as well as to children, and because it was found that the percentage of children in the audience would not be sufficient to meet the test.^{xvii} In a complaint about Coca Cola product placement during a livestream on the gaming platform Twitch, Ad Standards found it did not target children despite involving a game that is popular with children (Fortnite).^{xviii}

It is clear that industry codes are not effective, and we strongly support comprehensive government regulation to effectively protect children from unhealthy food marketing, including online and on social media.

Recommendation: The Australian Government must introduce comprehensive regulation to protect children from unhealthy food marketing, including online and on social media.

Terms of Reference (d) the effectiveness and impact of industry measures to give parents the tools they need to make meaningful decisions to keep their children safe online

In respect of harmful industry marketing, including unhealthy food marketing, we support effective protections to ensure children are not exposed to it when online or using social media. Parents should not be able to provide consent for a child's exposure to unhealthy food marketing – all children should be protected.

Terms of Reference (e) the transparency and accountability required of social media platforms and online technology companies regarding online harms experienced by their Australian users

While the role of data in developing and delivering marketing continues to grow, there is little requirement for organisations to report on digital marketing practices, and on the overall digital marketing model generally. Transparency is important to ensure that online platforms are accountable for the harm caused by the digital marketing model and for specific forms of harmful marketing, including by unhealthy food, gambling and alcohol companies.

In our submission on the Online Privacy Bill, we recommended that the Online Privacy Code should require relevant organisations to provide information to the Information Commissioner



about how they collect, use and disclose individuals' data and personal information for the purposes of marketing. We said that this must extend to information on how automated systems and algorithms are used to deliver marketing to individuals or groups of individuals. The detail of what should be provided and when should be subject to further consultation with public health and digital rights organisations. Similar requirements could be considered as part of this Inquiry.

Recommendation: Social media organisations and large online platforms should be required to disclose information or report on how they collect, use and disclose individuals' data and personal information for the purposes of marketing, including how automated systems and algorithms are used to delivery marketing to individuals or groups of individuals.

Terms of Reference (f) the collection and use of relevant data by industry in a safe, private and secure manner

Strong protections should be put in place about the collection, use and disclosure of children's data for the purposes of commercial marketing. We do not support the collection, use or disclosure of children's personal information for the purposes of commercial marketing, in particular marketing for harmful industries, including unhealthy food.

Recommendation: Certain practices should not be permitted in relation to children, including:

- collecting, using or disclosing children's personal information for the purposes of commercial marketing, particularly marketing by harmful industries, including unhealthy food and drinks, alcohol and gambling. Parental consent should not be an option for enabling this. For marketing that is not for harmful products, some limited exceptions may be appropriate where such practices might overall be in children's best interests and do not put children at risk of harm. For example, public health social marketing campaigns.
- harmful industries, including unhealthy food, alcohol and gambling, cannot collect, use or disclose children's personal information for the purposes of analysing or influencing children's behaviour or decisions in any circumstances. No exceptions should apply and parental consent cannot be obtained to enable this.
- tracking, profiling, or monitoring the behaviour of children for commercial purposes online.



Terms of Reference (g) actions being pursued by the Government to keep Australians safe online

We note the recent consultations on the Online Privacy Bill and the Privacy Act Review, both of which have a role to play in protecting children from online harms, including unhealthy food marketing. The OPC made submissions to both of these consultations and have reiterated some of our recommendations as part of this submission.

The consultations on the Online Privacy Bill and the Privacy Act Review were primarily focused on the collection, use and disclosure of personal information, including children's personal information, rather than exposure to harmful marketing in a general sense. While important and significant changes, we highlight that, those reforms will not be sufficient to effectively protect children from exposure to digital marketing of unhealthy food in all areas. Comprehensive regulation is needed to protect Australian children and ensure they can fully participate in the digital environment in an environment that supports their health and wellbeing. We welcome the Committee's consideration of this important issue.

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