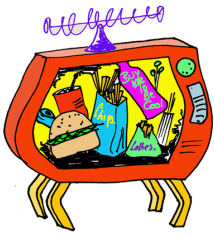


**CFAC**



# Coalition on Food Advertising to Children

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*Speaking out against unhealthy food advertising to children*

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## **Submission to the Community Affairs Committee of the Australian Senate on Protecting Children from Junk Food Advertising (Broadcasting Amendment) Bill 2008**

**October 2008**

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## 1.0 Overview

The Coalition on Food Advertising to Children (CFAC) appreciates the opportunity to offer this submission to the Community Affairs Committee of the Australian Senate.

The CFAC was formed in July 2002 and includes key organisations that recognise that the commercial promotion of foods and beverages high in fat, sugar and salt to children is a significant concern to their nutrition and future health. The Coalition's goal is to improve the diets and overall health of Australian children through a marked reduction in the commercial promotion of foods and beverages to children. The vital first step is to extend statutory regulations to prohibit unhealthy food and beverage advertising during television programs where a significant number of children are watching. This does not preclude the promotion of healthy eating messages to children through non-commercial social marketing.

The member organisations of the CFAC are:

- ❑ Australian and New Zealand Obesity Society
- ❑ Australian Dental Association
- ❑ Australian Dental and Oral Health Therapists Association
- ❑ Australian Health Promotion Association
- ❑ Australian Medical Association
- ❑ Cancer Council Australia
- ❑ Home Economics Institute of Australia
- ❑ Nutrition Australia
- ❑ Public Health Advocacy Institute of Western Australia
- ❑ Public Health Association of Australia
- ❑ Royal Australasian College of Physicians, Paediatric Branch
- ❑ Royal Australian College of General Practitioners
- ❑ Young Media Australia
- ❑ Ms Kaye Mehta, Senior Lecturer in Nutrition and Dietetics, Flinders University
- ❑ Dr. Rosemary Stanton, OAM

The CFAC wholeheartedly supports the spirit of the proposed Protecting Children from Junk Food Advertising (Broadcasting Amendment) Bill 2008 (hereafter referred to as "the Bill"). In particular, we are impressed the proposed legislation aims to restrict junk food marketing through both television advertising, as well as other marketing channels, specifically in-school advertising and sponsorship. However, we wish to offer our extensive experience and expertise on this issue, to ensure the effectiveness of this legislation in protecting children from the harms of food marketing.

Food\* advertising to children impedes the ability of parents and government programs to promote healthy eating, and contributes to an obesity-promoting environment, whereby unhealthy food choices are increasingly normalised and become the routine food choices.

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\* In this submission, the word "food" refers to food and beverages

The CFAC supports a comprehensive, whole of government approach to obesity prevention, which includes the restriction of unhealthy food marketing to children through all media channels. The overwhelming weight of the scientific evidence suggests strong links between food promotions and children's food preferences, household purchases, and children's food consumption patterns. As such, restrictions on food marketing to children are a necessary ingredient for change and are also likely to be a cost-effective obesity prevention strategy.

There is a substantial body of evidence to suggest that unhealthy food advertising represents a serious harm to children. The evidence clearly demonstrates that

- food advertising is an important contributing factor in the obesogenic environment;
- there is a strong link between exposure to television food advertising and children's food preferences, food purchasing and food consumption;
- improved regulation will be a cost effective strategy for government to reduce childhood obesity;
- children are not sufficiently cognitively developed to understand the persuasive intent of advertising; and
- the current high level of unhealthy food advertising undermines the role of parents and government programs in promoting healthy eating.

The time for government intervention is now. It is imperative that the Federal Government introduce restrictions on unhealthy food marketing to children, as part of a comprehensive obesity prevention strategy. Such an approach will not only have major benefits for the future health and wellbeing of children, but will also have symbolic relevance; indicating to Australians that the government is willing and able to take strong decisive action to tackle important social issues.

For this Bill to contribute significantly to childhood obesity prevention efforts, the CFAC proposes that the following amendments to the Bill are considered:

- extend television food advertising regulations to reflect children's peak viewing times more accurately. That is, between 7am to 9am and 4pm to 9pm weekdays and 7am to 9pm on weekends;
- extend the remit of the Bill to better reflect the broad range of marketing media that are used to target children with commercial promotions for unhealthy food;
- broaden the definition of children to those people aged 16 or under;
- incorporate safeguards into the Bill to ensure that the process for approving foods permitted to be advertised to children cannot be undermined by the food and advertising industries; and
- address monitoring of compliance and ensure there are prompt and appropriate sanctions for breaches.

## 2.0 The Need for Government Action on Unhealthy Food Marketing to Children

### 2.1 *The serious problem of childhood obesity in Australia*

Childhood obesity has reached alarming levels in Australia, and is now amongst the highest in the world,<sup>1</sup> with almost a quarter of all children and adolescents either overweight or obese.<sup>2,3</sup> Immediate action is needed to halt the rising obesity prevalence, which is increasing at an alarming rate. Over the decade between 1985 and 1995 in Australia, the prevalence of childhood obesity more than trebled and that of combined overweight and obesity almost doubled.<sup>1,4</sup>

Recent research conducted by the Federal Government on the prevalence of overweight and obesity in Australian children, the Children's Nutrition and Physical Activity Survey, indicates that 23% of Australian children aged 2 to 16 years are overweight or obese (17% overweight and 6% obese).<sup>2</sup> Further, 17% of children had a waist circumference above recommendations. This figure is particularly worrying as fat carried around the waist area is associated with increased health risks.<sup>5</sup>

These findings are supported by data from the NSW Schools Physical Activity and Nutrition Survey (SPANS) conducted in 2004 with 5500 children.<sup>6</sup> In this study, almost a quarter of students aged 5-16 were overweight or obese, and this increased for children from lower socioeconomic areas.<sup>6</sup>

Childhood overweight and obesity contribute to very serious health problems, which can impact on both their immediate health and wellbeing, and increase their risk of chronic morbidity and premature mortality in later life. The health risks associated with overweight and obesity include:

- *Physical/medical risks in childhood* - orthopaedic disorders (back pain, flat feet, slipped growth plates in hips, knock knees), type 2 diabetes, fatty liver disease, menstrual problems, asthma and obstructive sleep apnoea<sup>7,8</sup>
- *Psycho-social problems* – social isolation, discrimination, poor self esteem, depression, learning difficulties, and longer term poorer social and economic outcomes<sup>7</sup>
- *Long term disease risks in adulthood* – type 2 diabetes, cardiovascular disease, stroke, hypertension, some types of cancer, musculoskeletal disorders and gall bladder disease<sup>7,8</sup>
- *Reduced life expectancy* – increased mortality in later life may make this the first generation to have a shorter life expectancy than their parents<sup>9</sup>

Importantly, *both* overweight and obesity in children are a concern. The NSW SPANS study mentioned above looked at blood biomarkers (i.e. early indicators of disease risk) for diabetes, cardiovascular disease and fatty liver disease.<sup>6</sup> Disturbingly, more than 20% of boys who were overweight or obese had two or more risk factors for serious chronic disease.<sup>6</sup> Almost 70% of obese boys, and an additional 30% of overweight boys, had elevated insulin levels, an early indicator of diabetes.<sup>6</sup>

The health problems of childhood overweight and obesity often carry on into adulthood. Growing out of “puppy fat” is a fallacy. Obese children have a 25-50% chance of progression to adult obesity, and this may be as high as 78% in obese adolescents.<sup>7</sup>

Overweight and obesity are attributed to 7.5% of the total burden of disease and injury in Australia, succeeded only by exposure to tobacco (7.8%) and high blood pressure (7.6%).<sup>10</sup> The disease burden caused by overweight and obesity is only likely to increase as the proportion of the population who carry excess weight soars. In 2005, 3.24 million Australians were estimated to be obese – 1.52 million males (15.1% of all males) and 1.72 million females (16.8% of all females).<sup>11</sup> By 2025, a total of 4.2 million Australians (16.7% of the population) are predicted to be obese.<sup>11</sup> However the true obesity prevalence could be as high as 7.2 million Australians by this time (28.9% of the population) if obesity continues to increase at historical rates.<sup>11</sup>

## **2.2 *The cost of obesity***

The health care costs of obesity are significant and provide a compelling reason for government to take action in this area. The direct medical costs of obesity are at least 4-5% of total health care costs,<sup>12</sup> but these are dwarfed by the lifetime personal costs, the costs of lost productivity and reduced quality of life.

Diabetes Australia commissioned Access Economics to estimate the economic cost of obesity in 2008.\* The total financial cost of obesity in 2008 was estimated at \$8.3 billion.<sup>13</sup> This figure includes productivity losses, health system costs, carer costs, taxation revenue foregone, and other indirect costs. This figure increases to \$58.2 billion when the cost of lost wellbeing (the total dollar value of the burden of disease) was included in the calculation.<sup>11</sup>

## **2.3 *Strong and convincing evidence of an association between food marketing and dietary behaviours that contribute to childhood obesity***

The environment in which we live has become increasingly obesogenic in recent decades. The term “obesogenic” refers to an environment that is conducive to unhealthy behaviours, and where unhealthy food and physical activity choices are the easy and normal choices. For example, technology is typically designed to be labour saving and promote passive transport, and our food system supplies a large range of cheap, highly processed, energy dense foods, and these are heavily promoted. Large volumes of unhealthy food and beverage marketing are a significant contributor to the obesogenic environment that Australian children live in today.

Public health experts agree that a focus on “upstream” policy interventions is necessary to curb the obesity epidemic. Upstream interventions include population-wide influences on health, such as government policies. One such intervention is the introduction of more effective marketing regulations relating to children.

There have been frequent assertions by some politicians and members of the food and advertising industries that a child’s dietary behaviours are solely the responsibility of parents, and that education is the way to address the rising rates of obesity. The CFAC and its member organisations believe that this is a naïve and overly simplistic solution to a complex problem. Strategies are needed to overcome the environmental factors

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\* This report only estimates the costs for obesity, not the cost of overweight and obesity combined.

that induce obesity-promoting behaviours in individuals. It is unrealistic and impracticable to expect parents to exercise the necessary control, such as requiring televisions to be switched off at each advertisement break or selectively prohibiting their children from watching television channels that show advertisements, or refusing all subsequent requests for the products advertised, no matter how insistent. The CFAC believes it is unacceptable that advertisers have the right to manipulate and exploit children with high volumes of appealing food advertisements, and yet the onus of responsibility is solely placed on parents to monitor and moderate the consequences of advertisements. Even the most cautious and conscientious parent cannot monitor their child's viewing behaviour constantly.

The CFAC's preferred view is that parents have a key role in guiding their children's food choices, and that government regulation should support them in that role.

In 2003, the World Health Organization, in the *Diet, Nutrition and the Prevention of Chronic Diseases Report*, recognised that the heavy marketing of fast food and energy-dense micronutrient-poor foods and beverages is a probable causal factor in weight gain and obesity, and is a target for preventive action.<sup>14</sup>

There have been at least five major systematic reviews of the scientific evidence relating to the impact of food marketing to children.<sup>15-19</sup> In 2006, a systematic review commissioned by the United Kingdom (UK) Food Standards Agency, and considered the most comprehensive study of its type conducted to date, found that food advertising to children affects food choices and influences dietary habits, with subsequent implications for weight gain and obesity.<sup>18</sup>

This review also concluded that food advertising has effects on children's food preferences at both the brand and the food category level. For example, advertisements for a particular brand of chocolate not only persuade children to desire that particular brand over another, but also influence children to prefer chocolate over other foods, such as fruit. In fact, the authors found only weak evidence of brand switching and much stronger evidence of category switching upon exposure to food advertising.<sup>18</sup> This evidence refutes claims by industry that advertising only serves to influence consumers to buy one brand over another. Such industry claims are also reminiscent of the equally flawed arguments used by the tobacco industry, which argued that cigarette advertising had no effect on non-smokers and sought only to change brand preferences among existing smokers.

The review conducted by the Institute of Medicine in the United States,<sup>15</sup> concluded that:

- there is strong evidence that television advertising influences the food and beverage preferences, purchase requests, and the short term consumption of children ages 2-11 years;
- there is moderate evidence that television advertising influences the food and beverage beliefs of children ages 2-11 years;
- there is moderate evidence that television advertising influences the usual dietary intake of younger children ages 2-5 years and weak evidence that it influences the usual dietary intake of older children ages 6-11 years; and

- there is strong statistical evidence that exposure to television advertising is associated with adiposity (i.e. body fatness) in children ages 2-11 years and teens ages 12-18 years.

Importantly, the association between obesity and exposure to television advertising remained even after taking into account other recognised harms of television viewing, such as sedentary behaviour.

As well, the Office of Communications (Ofcom) in the UK commissioned an independent review of available evidence as part of its process of guiding policy development relating to this issue,<sup>19</sup> which was updated to take account of more recent research.<sup>20</sup> Major conclusions from this review were that:

- television, including television advertising is one of many major influences on children's food choices including other individual, social, environmental and cultural factors;
- experimental research has identified causal relations between food advertising and food choice, but it remains unclear how these operate under the complex conditions of daily life at home and school;
- experimental evidence suggests that television food advertising has a modest direct effect on children's (age 2-11 years) food preferences and on their food choices. While the absolute measured effects of advertising/television are small, and are likely to account for approximately 2% of the variation in food choice and obesity, even small effects in statistical terms can have an appreciable affect at the population level; and
- the growing body of evidence shows a consistent association between overall television exposure and weight gain and obesity. This applies to children of all ages **up to 16 years**.

As a result of this review, together with consideration of the strong community views on this issue, Ofcom introduced restrictions on unhealthy food marketing to children (<16 years) in 2007.

A summary of the key findings of the three most recent systematic reviews, as discussed above, is shown in Table 1, and leaves no doubt as to the strong and convincing evidence that food marketing to children influences children's food preferences, their purchase requests (the food that they request from their parents) and their food consumption.



**Table 1:** Key findings from the most recent systematic reviews of the literature on the effects of food marketing on children

<b>Finding – effect of food promotion on children</b>	<b>Hastings et al (2006)<sup>18</sup></b>	<b>Livingstone (2006)<sup>20</sup></b>	<b>Institute of Medicine (2005)<sup>15</sup></b>
Influences food preferences	Reasonably robust evidence	Modest direct effect on children’s food preferences (also likely to have indirect effect)	Strong evidence – influences children to prefer high-calorie and low-nutrient foods and beverages
Influences purchase requests	Strong evidence	Evidence not reviewed	Strong evidence - influences children to request high-calorie and low-nutrient foods and beverages
Influences consumption	Modest evidence	Modest direct effect on children’s food choices/eating habits (also likely to have indirect effect)	Strong evidence that food promotion influences children’s short-term consumption
Influences diet and health status	Small but significant associations between television viewing and diet, and television viewing and obesity  Direct link between food promotion and weight gain is probable	Modest but consistent association between overall television exposure and weight/obesity. This applies among children and teenagers	Moderate evidence that food promotion influences the ‘usual dietary intake’ of children aged 2-5 years, with weaker evidence for 6-11 year olds  Strong evidence that exposure to television advertising is associated with adiposity in children ages 2-11 years and teens aged 12-18 years  Food promotion is a ‘likely contributor’ to less healthful diets

More recent research relating to the effect of food advertising on children also supports findings from these systematic reviews, and develops upon evidence of a causal link between food advertising and obesity. New Australian research, which examined associations between children's television viewing habits and their food-related attitudes and behaviour, found increased advertisement exposure was associated with more positive attitudes towards unhealthy food, the perception that other children ate more unhealthy food, and higher self-reported frequency of consumption of junk food among children.<sup>21</sup> This indicates that constant exposure to unhealthy advertising normalises the consumption of these unhealthy foods.

Further, in a Dutch study conducted in 2008, Buijzen and colleagues found that exposure to food advertising in children aged 4 to 12 years was not only associated with their consumption of advertised brands but also with consumption of unhealthy food products.<sup>22</sup> Therefore, this research indicates that food advertising operates at both the brand and food category level; affecting children's brand choice as well as their consumption of other unhealthy foods.

Emerging experimental studies also provide convincing evidence of a causal relationship between food advertising and children's food behaviours and food preferences. Halford and colleagues exposed children aged 5 to 7 years to advertisements for both food and non-food products and found that children's consumption of sweet and savoury, and high and low-fat foods (except fruit) increased significantly after watching food advertisements.<sup>23</sup> As foods were presented to children with their packaging removed, this experiment further demonstrates how the effect of food advertising on children's food consumption extends beyond brand preferences to food category preferences.

#### ***2.4 The nature and extent of food marketing to children in Australia***

Australian research on food advertising on Australian commercial television has repeatedly shown that children are exposed to high levels of food advertising and that the majority of these advertisements are for unhealthy foods and beverages.

A study that was conducted in 2005, the largest in Australia to date to measure the frequency of television food advertising to children, assessed 645 hours of television data from two Australian capital cities (Sydney and Brisbane) and two regional areas (Tamworth in NSW and Ballarat in Victoria). Food advertisements were classified according to the Australian Guide to Healthy Eating, a nationally recognised food guide for Australians. Unhealthy food advertisements contributed to 81.5% of all food advertisements between 7:00am and 9:00pm, with a higher frequency of unhealthy food advertisements between 6:00pm and 9:00pm.<sup>24</sup> Data obtained from OzTAM (Australian Television Audience Measurement) indicate that this time period corresponds to peak children's viewing times.<sup>25</sup> The overall average frequency of high fat/high sugar advertisements was over four per hour per channel, which was more than four times the frequency of core food advertisements, such as for fruit and vegetables.

Similar research has also been conducted in 2006<sup>26</sup> and 2007<sup>27</sup>, which both assessed food advertising on all three Sydney commercial television channels (357 hours), using a more conservative food classification system. Both of these studies found that during the times currently set out as children's viewing hours (or 'C' periods) by the Australian Communications and Media Authority in the Children's Television Standards (Monday to Friday 07:00-08:00 and 16:00-20:30, Saturday to Sunday 07:00-11:30), there were significantly more high fat/high sugar food advertisements, when compared to viewing times outside of these designated children's hours.<sup>26,27</sup> In 2006, high fat/high sugar food advertisements made up 49% of all food advertisements during children's viewing times, compared to 39% during other viewing hours; in 2007 these advertisements contributed to 48% of all food advertisements during children's viewing times, compared with 31% in other times.

This slight decrease of 1% of high fat/high sugar food advertisements during children's viewing times between 2006 and 2007 was **not** statistically significant, and does not represent any real reduction in unhealthy food advertising during this time.

In 2006, the most frequently advertised foods during children's viewing periods were fast food restaurants (15% of all food advertisements during children's viewing hours) and confectionery (12%). In 2007, the proportion of advertisements for fast food restaurants during children's viewing hours increased to 17% of all food advertisements.

The frequency of high fat/high sugar food advertisements was consistently highest during programs most popular with children aged 5 to 12 years, as determined by OzTAM data. In 2006, during these programs 66% of food advertisements were for high fat/high sugar foods. This compares to 42% during programs most popular with adults, aged 18 years and above. Based on a very conservative estimate of one hour of television viewing per day, the authors estimated children's exposure as 96 food advertisements per week, of which 63 would be for high fat/high sugar foods.<sup>26</sup> In 2007, this already exceedingly high proportion increased still further, with 72.5% of all food advertisements during the most popular children's programs being for high fat/high sugar foods.

Australian research has also shown that children are also frequently targeted with unhealthy food marketing from other non-broadcast (non-television) media. One study, which looked at the extent of food marketing to children on the Internet, identified a range of marketing techniques used to specifically target children and adolescents. Researchers coded and analysed 315 websites, including 119 food product websites and 196 popular children's websites (as based on website traffic data). Food marketing techniques on food product websites included branded education (79% of websites), competitions (34%), promotional characters (35%), downloadable items (35%), branded games (29%) and designated children's sections (22%).<sup>28</sup> As such, Internet marketing uses a range of techniques to ensure that children are immersed in product related information and activities for extended periods, thereby increasing brand exposure. Overall, food references on popular children's websites were significantly skewed towards unhealthy foods (61% vs. 39% healthy food references), with three times more branded food references for unhealthy foods.<sup>28</sup> The relatively unregulated marketing environment and increasing use of the Internet by children, point to the potential increase in food marketing via this media.

Research has also been conducted looking at the nature and extent of food marketing in children's popular magazines.<sup>29</sup> A sample of sixteen popular children's magazine titles reviewed over a 12-month period (n=76 magazines in total sample) were screened for food references, and each reference was assessed according to food category (22 food categories, and as either healthy or unhealthy), referencing type and classified as branded or non-branded. Food references were significantly skewed towards unhealthy foods (64% unhealthy vs. 36% healthy food references), and for non-branded items (66% non-branded vs. 34% branded food references). The food groups with the highest proportion of branded (paid) food references were ice cream, fast food restaurant meals and high sugar drinks.<sup>29</sup>

Further research also indicates that food marketing in the area surrounding primary schools is high, and is predominately for alcohol and unhealthy foods. In a study which examined outdoor food advertising within a 1km radius of primary schools in the Sydney and Wollongong areas (n=40 schools) food advertisements were skewed towards unhealthy foods (80% of all food advertisements), and were concentrated in retail areas and in areas close to schools (less than 250 metres from the school grounds, as compared to areas 250 to 500 metres from schools).<sup>30</sup>

Lastly, Australian research examining the extent of supermarket packaging promotions to target children, found that within seven different food categories between 9 and 35% of food products used some sort of promotional tactic, such as cartoon and movie character promotions or the use of premium offers, such as giveaways and competitions.<sup>31</sup> Further, 82% of all food promotions were for unhealthy foods.<sup>31</sup>

### ***2.5 Inadequacies of current food advertising regulations***

The current statutory regulations that govern television food advertising to children, the Children's Television Standards (CTS), are ineffective in protecting children from the harms associated with unhealthy food advertising on television.

The CTS is very limited in scope, covering only 'C' and 'P' programs/periods, when in reality the majority of children watch television outside of these times. Television audience rating data indicate that child audience numbers on commercial free-to-air television is low at the times C and P programs are broadcast. Rather, the peak viewing time for 0–14 year olds on commercial free-to-air television is in the evening between 7.00 pm and 8.00 pm, and with large numbers of children still watching until 9pm.<sup>32</sup> At this time the average child audience rises to 500,000 persons, compared with 80,000 during C and P programs. Child audience ratings are also high (exceeding 100,000 persons) from 7.00 am to 11.00 pm on Saturdays and Sundays, with peaks between 8.00 am and 10.00 am (200,000) and 7.00 pm to 8.00 pm (450,000).<sup>32</sup> During children's popular programs and peak viewing times, there are no standards to limit advertisements for unhealthy foods.

Further, the CTS does not address the full scope of marketing techniques that are used to target children and capture their attention. Such techniques include, but are not limited to:

- repetition of food advertisements during programs of popular appeal to children and at times when a significant number of children are watching;
- offers of premiums with products, such as collectable cards, free toys and entry into competitions;
- manipulation of peer pressure by using techniques to make children think consumption of products is socially desirable or will attract peer admiration or acceptance;
- association of unhealthy products with improved energy levels, performance, strength, skill or abilities;
- appeals to children's imagination through use of fantasy characters and scenes;
- association of food products with fun, happiness, adventure;

- food shaped, coloured and packaged in ways designed to appeal to children;
- use of techniques, such as catchy jingles, animation and special effects, to attract children's attention;
- 'tie-in' promotion of unhealthy food products with popular children's films;
- the portrayal of nutrition as tiresome or 'nagging'; and
- manipulation of "pester power" by use of techniques, such as those described above, to make children want products so they will pester parents to buy them.

While the proposed CTS 2008 offers some progress towards restricting the use of promotional characters, such as celebrities and cartoon characters, being used to promote food products to children, importantly these restrictions only apply when lesser numbers of children are watching television.

Another failing of the current CTS is the lack of an adequate monitoring and compliance system. The current system relies on complaints from the public to monitor compliance with standards. This is unsatisfactory for a number of reasons: (1) members of the public do not always have the time to lodge complaints; (2) members of the public do not have an adequate understanding of the details of the Standards to make informed complaints; (3) members of the public do not fully understand the process for making complaints; and (4) members of the public may be fearful of the threat of litigation from food industry. Due to this ineffective monitoring system, several research studies have found serious and repeated breaches of the current standards.<sup>24,33,34</sup>

Most importantly, current statutory regulations for food marketing to children apply only to television advertising. While television is the primary source of advertising used by the food industry,<sup>15,18</sup> previous systematic reviews of the scientific literature indicate that the effect of television food advertising to children is likely to be further reinforced by various forms of additional food marketing through other non-broadcast (non-television) media.<sup>15</sup> Further, as indicated above, these other non-broadcast marketing media predominately promote unhealthy food to children.

As well, industry self-regulation is inadequate to protect children against heavy marketing of high energy, low nutrient foods.<sup>35</sup> Industry self-regulation has been likened to "foxes guarding the hen-house".<sup>36</sup>

The Australian Association of National Advertisers (AANA) *Food and Beverages Advertising and Marketing Communications Code* and *Code for Advertising to Children* do not address community concerns about the levels of unhealthy food advertising directed at children, are ambiguous and open to interpretation. These codes primarily address advertising problems that do not actually exist or are of minor concern. Most importantly they fail to tackle the core of the problems associated with food marketing to children, namely:

- the very raison d'être of marketing which is to create desire for the product (the basis for pester power),
- the subject matter of the advertisements (i.e. unhealthy foods) and the volume and intensity of food advertisements watched by children, and

- many advertisements are inherently misleading to children through their use of language, techniques and visuals, and these codes do not attempt to provide practical guidance in avoiding misleading and deceptive practice.

While the *Code for Advertising to Children* extends beyond television advertising, to other non-broadcast media channels, the code only applies to advertising or marketing where a third party has been paid to publish or broadcast. Consequently, direct marketing to children from a food company, including on food company websites, SMS messages or mail outs are not covered by the code. The CFAC believes that regulations covering food marketing to children should apply to all food advertisements and marketing directed at children, regardless of the involvement of a third party.

Furthermore, the issue of food advertising to children does not meet the criteria specified in the Commonwealth Interdepartmental Committee on Quasi-regulation's checklist for when self-regulation should be considered,<sup>37</sup> namely when:

- there is no strong public interest concern, in particular, no major health and safety concern;
- the problem is a low risk event, of low impact/significance;
- the problem can be fixed by the market itself, that is, there is an incentive for individuals and groups to develop and comply with self-regulatory arrangements;
- there must be a viable industry association with adequate coverage of the industry concerned and a cohesive industry with like-minded participants committed to achieve the goals; and
- cost advantages from tailor made solutions and less formal mechanisms, such as access to quick complaints handling and redress mechanisms.

As documented in this submission and the overwhelming scientific evidence available, there is very strong community concern and a legitimate health concern about the impact of food advertising on nutrition related behaviours that can impact on obesity.

## **2.6 Action in other jurisdictions**

The Australian communication regulations are lagging behind other countries in relation to the issue of television food advertising to children. The UK has moved beyond debate over the effect of food advertising to children and, taking account of available evidence, is taking action to protect children from harm.

Conversely, in Australia, advertising and broadcast industry groups, who do not wish to move this issue forward, have dominated this debate.

It should be noted that while the UK has at least taken some decisive action on this issue, the Office of Communications (OfCom) regulations are not as effective as they initially appear. The UK restrictions apply to programs that attract a high proportion of child viewers, respective to the overall audience for that program (when proportion of the audience watching a particular program is more than 20% higher than the proportion of under-16s in the UK), rather than the absolute number of children watching at a particular time period. Because of this, many of the most popular

children's programs are not covered by the new regulations. Research by the UK consumer organisation Which? shows that 16 of the top 20 children's programs, in a typical broadcast period spanning two weeks, were not covered by the restriction.<sup>38</sup>

To avoid such major shortcomings, the Australian Government should consider the restriction of unhealthy food advertising during broadcast periods when high **numbers** of children are watching.

Additionally, Consumers International, a consumer organisation spanning 155 countries and including over 220 member organisations, has developed recommendations for an *International Code on Marketing of Foods and Non-Alcoholic Beverages to Children*.<sup>39</sup> Briefly, this code specifies a ban on radio or TV advertisements promoting unhealthy food between 6:00am and 9:00pm; a restriction on unhealthy food marketing using new media (including the Internet and SMS messaging); restrictions on the promotion of unhealthy food in schools; and the prohibition on the inclusion of free gifts, toys or collectible items which appeal to children and the use of celebrities, cartoon characters, competitions or free gifts to market unhealthy food.<sup>39</sup> This code has also been endorsed by the International Obesity Taskforce and the International Association for the Study of Obesity.

## **2.7 Community support for better regulation**

Community surveys of Australian parents conclusively show that the majority of Australian parents believe the government should provide leadership in the area of unhealthy food marketing to children.

A nationwide survey, commissioned by the CFAC in 2007, questioned 400 randomly selected parents about their views on the CTS and found that:

- 86% of parents supported a ban on advertising of unhealthy foods at times when children watch TV;
- 89% agreed the government should introduce stronger restrictions on food advertising at times when children are watching; and
- 75% parents were concerned about advertising using toys and giveaways to promote unhealthy food to children.<sup>40</sup>

These findings have been supported by more recent new research, conducted in March 2008 by the consumer group Choice, which found that 88% of parents think the marketing of foods specifically to children contributes to difficulties ensuring children develop healthier eating habits.<sup>41</sup> The Choice survey also found that 82% of parents were in favour of tighter restrictions over the way unhealthy food is marketed to children in Australia.<sup>41</sup> These results have remained stable since an earlier survey conducted by Choice in 2006, which reported that 82% of respondents were in favour of government regulating the way food and drink is advertised and marketed to children.<sup>42</sup>

In 2004, a South Australian government health survey, which asked 2000 randomly selected households about their opinion on television food advertising to children also found strong support of restrictions on food advertising to children, and:

- 71% agreed that there is too much advertising of unhealthy food during children's viewing time,

- 89% agreed that television advertisements for food such as confectionery and fast food cause children to persuade their parents to purchase the advertised foods, and
- 94% agreed or strongly agreed that the advertising on television of toys and giveaways associated with food products influence children to want to buy the food.<sup>43</sup>

These surveys strongly show that consumer concern about the issue of unhealthy television food advertising to children is consistently high and pervasive. The community has indicated strong support for restrictions to unhealthy food advertising during broadcast periods when high numbers of children are watching, and want the government to take decisive action on this issue.

Members of Parents Jury, an online network of Australian parents who are concerned about food and physical activity environments, have also called for more effective regulations that limit food and beverage advertising directed at children. Currently Parents Jury has 3,559 members across Australia.

In addition, to coincide with the review of the CTS in August 2007, the CFAC ran a postcard advocacy campaign to identify community support for government regulations on unhealthy television food advertising to children. During this campaign, we collected 20,521 signed postcards from members of the Australian community pledging their support towards the need for a ban on junk food advertising.

## ***2.8 Food advertising restrictions are a cost-effective intervention to address childhood obesity***

The Assessing Cost Effectiveness (ACE) of Obesity Report, commissioned by Victoria's Department of Human Services in 2006, showed that a restriction of unhealthy food advertising on television was the most cost-effective and cost saving intervention for government, after considering 13 potential interventions for preventing and managing childhood obesity.<sup>44</sup>

Specifically, the interventions considered in the ACE Report included a range of school based nutrition and physical activity interventions, surgical and pharmacotherapies for overweight and obese children, whole family approaches and the restriction of advertisements for high sugar and/or high fat foods and beverages or fast food outlets during television viewing hours where 15% or more of the viewing audience were children ( $\leq 14$  years). Whilst restrictions on television food advertising to children were predicted to have only a small individual impact on reducing children's risk of obesity, as this intervention would have wide reach, overall population benefits would be significant.

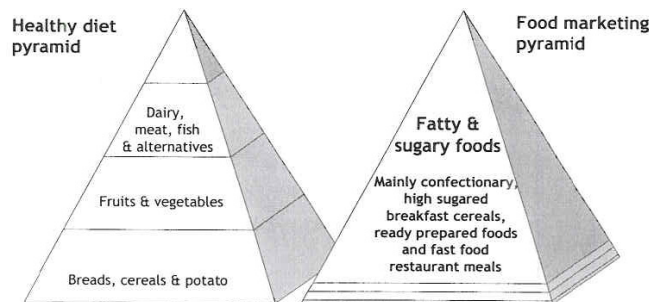
Projected costs of each intervention were presented as disability adjusted life years (DALYs); a measure of the number of life years lost due to premature death or premature mortality. A restriction of unhealthy food advertisements to children was estimated to cost just \$3.70 per DALY saved. This compares to other interventions, which cost many thousands of dollars for each DALY saved. Whilst this estimation was based on only one randomised control trial, which assessed food choice following



reduced advertising exposure in a camp environment, it also considered corresponding evidence for other product marketing, including toys, tobacco and alcohol. To achieve these public health impacts, there is a need for the current regulations governing television advertising to children to be extended; with clearer definitions, improved monitoring and better enforcement of regulations.

## 2.9 *Unhealthy food marketing is counter productive to government guidelines and programs to promote children’s health*

The current food advertising messages directed to children undermine government guidelines for healthy eating and the prevention of childhood obesity. Food advertising in Australia has been depicted as an inverted healthy food pyramid (see Figure 1). The healthy food pyramid is a graphical representation of dietary guidelines, whereby the base of the pyramid consists of the foods that should be eaten most often, the middle section contains the foods that should be eaten in moderation, and the top section, occupying the smallest volume, contains the foods that should be eaten less frequently or only occasionally. Australian research has shown that food marketing to children is predominantly for foods in the ‘eat least’ section.<sup>24,28-31,45-48</sup> Importantly, this unhealthy food marketing extends beyond television to other media channels such as children’s magazines, the Internet, outdoor advertising and food packaging, to name but a few. As a result, children and their families are constantly bombarded with messages for foods that should only be eaten in small amounts.



**Figure 1:** Comparison between the “diet” that is broadcast to children on television to dietary guidelines

This “broadcasting diet” is also in opposition to the National Health and Medical Research Council’s (NHMRC) *Dietary Guidelines for Australian Adults, and Children and Adolescents*.<sup>49,50</sup>

The recently released National Preventative Health Taskforce Paper, which outlines strategies to tackle the rise in overweight and obesity, with an aim of making Australia the healthiest country by 2020, includes as one of its major imperatives the protection of children and others from inappropriate marketing of unhealthy food and beverages.<sup>51</sup> Specifically, recommendations from this paper include “*curb[ing] inappropriate advertising and promotion, including consideration of banning advertising of energy-dense, nutrient-poor foods on free-to-air television during*

*children's viewing hours (i.e. between the hours of 6.00am and 9.00pm), and reducing or removing such advertising in other media such as print, internet, radio, in-store and via mobile telephone.*"<sup>51</sup>

As well as undermining government dietary guidelines and health agendas, unhealthy food marketing also challenges government led social marketing campaigns to promote healthy eating. One example is the *Go for 2 & 5*<sup>®</sup> campaign, which promotes the importance of fruit and vegetables. Australian research has shown that television advertising for fruit and vegetables is diminutive when compared with unhealthy food advertising, even during social advertising for the *Go for 2 & 5*<sup>®</sup> campaign.<sup>52</sup> In this research, which compared rates of television advertising between 2002, 2005 and 2006; while the rate of fruit and vegetable advertising was highest in 2005, during the *Go for 2 & 5*<sup>®</sup> campaign, this still only represented 4.6% of all food advertisements. This compares to advertisements for unhealthy foods, which contributed to 81.5% of all food advertisements at this time.<sup>52</sup>

While the *Go for 2 & 5*<sup>®</sup> campaign did increase the promotion of fruit and vegetables above normal levels (0.1% in 2002, and 3% in 2006) it represents merely a drop in the ocean of food advertising, compared to unhealthy food advertisements. This is despite the \$5 million spent by the Federal Government on this campaign. Campaigns such as these will have only limited impact and waste taxpayer dollars while they are positioned in an environment of relatively unrestricted unhealthy food advertising.

### **2.10 Children require protection from commercialisation**

There is substantial evidence from psychological research that children are highly vulnerable to advertising and marketing. Children are unable to interpret advertising messages critically as they lack the necessary cognitive skills and experience. The American Psychological Association has concluded that most children do not comprehend that the purpose of advertising is to persuade consumers until at least the age of eight years.<sup>53</sup> In effect, children cannot effectively evaluate advertising, and tend to accept advertising as truthful, accurate and unbiased. However, even at older ages, children's ability to understand advertising's intent tends to be only rudimentary. While children may understand that advertising is intended to sell a product, they may not be able to recognise the inherent biases in persuasive messages nor interpret these messages critically.<sup>53</sup>

Furthermore, advertisers utilise powerful and persuasive techniques to attract children's attention and create desire for their products. Recent Australian research has investigated the extent that premium offers (e.g. competitions and giveaways) and promotional characters (e.g. celebrities, spokes-characters, licensed characters and sports figures) are used to advertise food to children on television. In this study, which assessed two weeks of Sydney commercial television broadcasting, for a total of 20,201 advertisements, significantly more food advertisements broadcast during children's peak viewing times contained premium offers and promotional characters, compared to non-peak times.<sup>54</sup> Further, during the programs that were most popular with children, the rate of unhealthy food advertisements containing premium offers was more than 18 times higher, and the rate of advertisements containing promotional offers two times higher, than during adults' popular programs.<sup>54</sup>

The use of such persuasive techniques during programs that are clearly appealing to children demonstrates the advertising and broadcast industry's primary goal of product sales and not the protection of children. For these reasons, industry self-regulation is an ineffective approach to protect children from these harms.

There have been calls from industry and government that the solution to the high volumes of food marketing is to teach children media literacy skills. "Media literacy" assumes that children, who are not equipped to cope with commercial communications, nevertheless can be educated to understand and be aware of the purpose of advertising. Initiatives to improve media literacy in children are unlikely to be effective in counteracting the influence of food advertising on children's food choices and consumption, and the government must not rely on this as a solution.

This evidence demands effective restrictions on marketing of unhealthy foods to children for ethical reasons as well as health reasons. The marketing of food products to children that may be detrimental to their health is unfair, unethical, and contravenes children's right to be protected from influences that may harm their wellbeing.

### ***2.11 Evidence of benefits of food advertising restrictions***

Quebec, Norway and Sweden, and more recently the UK have all implemented bans on food advertising to children. Unfortunately no systematic evaluations of the impact of these bans have been conducted, and the nature of broadcasting in many of these jurisdictions has meant that children remain exposed to unrestricted television food advertising via satellite channels.<sup>55</sup> For example, in Sweden, advertising restrictions only apply to broadcasting that originates in Sweden, and not to other European Union member states.

Similarly, despite advertising bans, children in Quebec remain exposed to cross-border advertising from the United States. However, research has shown that French-speaking children living in Montreal, Quebec, who do not watch television broadcast from the United States, have a lower consumption of sugary breakfast cereals, compared to English-speaking children.<sup>56</sup> That is, English-speaking children continued to be exposed to unhealthy food advertisements for sugary breakfast cereals, and thus their consumption of these food products remained high.

While there is little available evidence on the effect of food advertising bans on children, due to a lack of published data and likely attrition of advertising bans by unrestricted cross-border broadcasting, tobacco advertising bans provide a clear precedent for the potential affects of advertising restrictions on product consumption. As part of a multi-strategy approach to tobacco control, tobacco advertising restrictions have assisted in lowering the smoking rate of Australians to one of the lowest in the world.

The ban on television advertisements for tobacco was phased in between 1973 and 1976, with very little, if any, negative economic impact. It is not possible to isolate the impact of the advertising ban on smoking prevalence rates, as advertising bans were part of a comprehensive public health approach to tobacco control. However, together with other interventions, tobacco advertising restrictions have assisted in lowering the smoking rate of Australians to one of the lowest in the world. The

general consensus amongst tobacco control advocates is that advertising bans have been a major contributor to the decline in smoking prevalence. In terms of these bans, one of the main achievements was the implementation of the *Tobacco Advertising Prohibition Act (TAPA)* in 1992.<sup>57</sup>

Following the introduction of tobacco advertising bans, a slight acceleration occurred in the rate of decline in overall smoking prevalence.<sup>58</sup> While smoking rates in females continued to increase during the phase-in period, these declined between 1976 and 1980. It is important to note that the tobacco industry and print media advertising extensively targeted women during the mid 1970s. However, smoking among women and men decreased after the television advertising ban was fully in force.

### **3.0 Response to the Protecting Children from Junk Food Advertising (Broadcasting Amendment) Bill 2008**

The CFAC strongly supports the introduction of legislation to limit unhealthy food marketing to children and commends the government for conducting this important inquiry. However, to ensure the effectiveness of this legislation in preventing childhood obesity, the following recommendations are made to the Committee.

#### **3.1 Scope of the Bill**

##### **i. Extend television advertising restrictions to children's peak viewing times**

Schedule 1 of the proposed Bill puts forward standards that restrict food and beverage advertising and program sponsorship during, and immediately before and after C periods and C programs that are broadcast outside of C periods.

While this proposed standard would provide some protection to children from unhealthy food advertising, as noted above the majority of children watch television outside of these designated C periods (refer to section 2.5).

Australian television audience measurement data shows that the highest numbers of children are watching television between 7am to 9am and 4pm to 9pm weekdays and 7am to 9pm on weekends, with peaks in viewing between 7.00 pm and 8.00 pm on weekdays and 8.00 am and 10.00 am, and 7.00 pm to 8.00 pm on weekend days.<sup>32</sup>

The CFAC urges the Australian Government to consider the extension of the Bill to cover television broadcast periods when high numbers of children are actually watching television.

##### **ii. Extend advertising restrictions to other non-broadcast media**

The CFAC is pleased that the proposed Bill incorporates standards relating to advertising and sponsorship by food companies within schools (Schedule 2). Schools are an integral part of children's social ethos, influencing children's behaviours and beliefs.<sup>59</sup>

This standard is particularly important as Australia currently has no mandatory regulations pertaining to in-school marketing. While voluntary guidelines on commercial activities in schools do exist, these guidelines are not enforceable.<sup>60,61</sup>

However, in developing this standard the CFAC recommends that all aspects of in-school marketing are addressed including product sales (including fundraising and canteens), direct advertising (including billboards in schools and advertisements in school publications), indirect advertising (including educational materials using company logos/brand) and sponsorship.<sup>16</sup> As such, the CFAC believes that this standard should be extended to include not only unhealthy food advertising and sponsorship, but also fundraising activities, branded school equipment and food company awards programs/sponsored awards.

Additionally, as described above, food marketers use a broad range of media and techniques to promote unhealthy food to children (refer to section 2.4). Australian research has demonstrated that unhealthy food marketing to children is consistently high on the Internet, in children's magazines, in outdoor advertisements in the area

surrounding schools and at the point-of-sale. These studies are also supported by international research, which indicates that food marketers are increasingly using novel technologies, such as the Internet, mobile phone text messaging and email to target children.<sup>16</sup> Importantly, these other non-broadcast media are often used by children in the absence of parental supervision, making them more difficult for parents to monitor and control.<sup>62</sup>

Industry marketing expenditure data can also be used to assess the spread of marketing media used by food marketers. While such Australian data is limited, data from the USA (2001) indicate the cost of direct advertising to children and adolescents is estimated at \$1 billion, with an additional \$4.5 billion for promotions, \$2 billion on public relations and \$3 billion on packaging to appeal to children.<sup>15,63</sup> From this expenditure ranking, it is obvious that food marketers are using alternative media for targeting children with food marketing, with a shift away from traditionally used advertising modes, such as television.

The CFAC encourages the Australian Government to consider extending the proposed Bill to cover the range of media that food marketers use to promote unhealthy foods to children. The full range of marketing media and techniques that should be considered include:

- Broadcast media: television (including free-to-air and subscription), cinema and radio;
- New technology: the Internet and SMS/text messaging;
- Print media: magazines and newspapers;
- Promotions: including premium offers such as competitions and give aways, promotional characters, such as celebrities, cartoon characters and sports figures, health and nutrient claims, and product placements;
- Place: school canteens and vending machines, sporting events, supermarkets and outdoor advertising near these settings;
- Packaging: that is appealing to children; and
- Public relations and sponsorships: sponsorship of television programs and sporting events, fund-raising and establishing or donating money to charity.

### **iii. Extend the definition of children**

Schedule 1 of the proposed Bill outlines the definition of children as people younger than 14 years, in accordance with the Broadcasting Services Act 1992. The CFAC recommends the Australian Government review this age definition and ensure consistency with other health policies and the age restrictions established in other jurisdictions, such as Ofcom in the UK, which classify children as 16 years or younger.

As noted above, the literature indicates that children less than eight years of age lack the cognitive skills necessary to interpret advertising messages, however, at older ages children's ability to understand advertising's intent remains relatively undeveloped.<sup>53</sup>

### **3.2 Definition of unhealthy foods**

The CFAC supports the use of the proposed Food Standards Australia New Zealand (FSANZ) Nutrient Profiling model as a tool for classifying food products as more or less healthy. While this tool has been developed by FSANZ for the classification of foods permitted to use health claims on food, it was originally developed by Ofcom in the UK to classify foods as healthy and unhealthy for the purpose of television advertising restrictions. In fact, modifications made to this tool by FSANZ have substantially improved the tool's specificity in identifying healthy and unhealthy foods.<sup>64</sup>

New research from New Zealand, which applied the UK nutrient profiling tool to television food advertisements has shown that the tool could easily be applied to real world television food advertisements and could clearly identify unhealthy food products high in fat, sugar and/or salt.<sup>65</sup> This study assessed four weeks of television data broadcast between 3:30pm and 6:30pm daily on one popular children's free-to-air commercial television channel. The authors found that 66% of all food advertisements were classified as for HFSS products, according to the UK nutrient profiling tool.<sup>65</sup> These results are consistent with previous research from New Zealand and Australia, which have identified a similar proportion of unhealthy food advertising using different food classification systems.<sup>24,45,48,66</sup>

While the use of the nutrient profiling tool is appropriate, adequate safeguards must be established to ensure that the Minister, who is ultimately responsible for permitting food advertising, cannot be swayed by industry or personal preferences for a particular food company.

### **3.3 Monitoring and compliance**

It is unclear if and how compliance with the proposed Bill will be monitored. The CFAC recommends that the standards be monitored by an independent statutory body, which has the ability to act as a consumer watchdog with the full law enforcement powers of a government body, but acting independently of both government and industry. The monitoring body should enforce clear and transparent monitoring and enforcement, and information regarding this and recognized breaches should be made readily available to the public, both directly and through annual reporting to Parliament.

The CFAC agrees with the recommendation from the WHO Forum on *Marketing of Food and Non-Alcoholic Beverages to Children* that any fines for breaking codes of practice should take into account the annual turnovers of the business involved and should be an adequate disincentive.<sup>67</sup> Maintaining the reputation of a brand might be a sufficient incentive to most companies to avoid breaking the rules. In the case of a controversy about the legitimacy of a complaint, the burden of proof should be with the advertiser to prove that the advertisement is in line with regulations, rather than with the person or organisation complaining about the advertisement to uphold the complaint.<sup>67</sup>

## **4.0 Recommendations**

The CFAC makes the following recommendations to the Community Affairs Committee of the Australian Senate:

- ❑ *Extend television food advertising regulations to reflect children's peak viewing times more accurately*

The CFAC recommends that standards related to television food advertising need to apply to broadcast periods between 7am to 9am and 4pm to 9pm weekdays and 7am to 9pm on weekends.

- ❑ *Extend the remit of the Bill to better reflect the broad range of marketing media that are used to target children with commercial promotions for unhealthy food*

The CFAC recommends that the Bill include restrictions on unhealthy food marketing to children through a broad range of broadcast and non-broadcast media.

- ❑ *Broaden the definition of children to those people aged 16 or under*

The CFAC recommends that the definition of a child provided in the Bill be extended to those people aged 16 years or under; to better reflect the age of children and young people that are disproportionately affected by commercial messages.

- ❑ *Incorporate safeguards into the Bill to ensure that the process for approving foods permitted to be advertised to children cannot be influenced by the food and advertising industries*

The CFAC supports the use of the FSANZ Nutrient Profiling Model to establish criteria for the advertising of healthy foods. However, appropriate safeguards should be written into the standards to ensure that the Minister, who is ultimately responsible for permitting food advertising, cannot be swayed by industry or personal preferences for a particular food company.

- ❑ *Address monitoring of compliance and prompt and appropriate sanctions for breaches*

The CFAC recommends that the standards be monitored by an independent statutory body, with a clear and transparent monitoring and enforcement processes.



## **5.0 Conclusion**

We urge the Community Affairs Committee to take action against unhealthy food advertising that is pervasive and overwhelming in quantity, and that is unfairly manipulative in quality, by developing statutory regulations that specifically relate to food advertising. We applaud Senator Bob Brown's leadership on this issue and look forward to meaningful change.

Should you wish to discuss any of the issues raised in this submission, please contact the Chair of the CFAC, Ms Kathy Chapman, at the address below.

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