



Recommendations for an International Code on Marketing of Foods and Non-Alcoholic Beverages to Children



Background

Agreement was reached by Member States at the Sixtieth World Health Assembly in 2007 for the World Health Organization (WHO) to 'develop a set of recommendations on marketing of foods and non-alcoholic beverages to children' as part of the implementation of the Global Strategy on the prevention and control of non-communicable diseases (NCDs)¹.

This document sets out a proposed approach for this set of recommendations in the form of an International Code of Marketing based on the experience of the membership of Consumers International and the International Obesity Task Force.

Consumers International (CI) is the global federation of consumer organisations with over 220 member organisations in 115 countries from all regions of the world. These proposals are based on a global consultation of CI's membership.

The International Obesity Task Force (IOTF) is the policy section of the International Association for the Study of Obesity, which has over 10,000 members in more than 50 countries and regional associations around the world. These proposals take account of the IOTF's Sydney Principles, developed with the aim of achieving a high level of protection for children against the commercial promotion of foods and beverages².

¹ Prevention and control of noncommunicable diseases: implementation of the global strategy, WHA60.23 23 May 2007.

² www.iotf.org/sydneyprinciples

Rationale for developing a set of recommendations

The Global Strategy on the Prevention and Control of Non-Communicable Diseases

The Global Strategy on the Prevention and Control of Non-Communicable Diseases (NCDs)³ recognised the enormous human suffering caused by NCDs and the leadership role WHO should play on promoting global action against them, including the promotion and adoption of international intersectoral policies, regulations and other appropriate measures that minimise the effect of the major risk factors.

The Global Strategy on Diet, Physical Activity and Health

The Global Strategy on Diet, Physical Activity and Health⁴ recognises that globally the burden of NCDs has rapidly increased and that unhealthy diets and a lack 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 and 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 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.

In this context, the role of marketing, advertising, sponsorship and promotion is highlighted. Member States are alerted to the fact (paragraph 40) that '*Food advertising affects food choices and influences dietary habits*' and are advised to '*work with consumer groups and the private sector (including advertising) to develop appropriate multi-sectoral 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 recommends (paragraph 61) that the private sector should '*practice responsible marketing that supports the Strategy, particularly with regard to the promotion and marketing of foods high in saturated fats, trans-fatty acids, free sugars, or salt, especially to children.*'

³ The Global Strategy on the Prevention and Control of Non-Communicable Diseases, World Health Assembly Resolution 53.17.

⁴ The Global strategy on Diet, Physical Activity and Health, World Health, World Assembly Resolution 57.17.

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

UN Convention on the Rights of the Child

The UN Convention on the Rights of the Child⁵ establishes that in all actions concerning children, the best interests of the child should be a primary consideration (Article 3). It also states (Article 24) that children have the right to enjoy the highest attainable standard of health. The Member States who are Parties to the Convention are required to take measures to fully implement this right, including combating disease and malnutrition through the provision of adequate nutritious foods and by ensuring that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition. It also recognises the importance of international co-operation in order to fully realise this right, taking particular account of the needs of developing countries.

European Charter on Counteracting Obesity

The 53 member countries of the WHO European Region have committed to implementing the European Charter on Counteracting Obesity⁶, which recognises that the epidemic of obesity poses one of the most serious public health challenges in the WHO European Region. The Charter includes in its framework for action: *'the adoption of regulations to substantially reduce the extent and impact of commercial promotion of energy-dense foods and beverages, particularly to children, with the development of international approaches, such as a code on marketing to children in this area'* (paragraph 2.4.7).

Evidence for action

WHO Technical Meeting on Marketing of Food and Non-alcoholic Beverages to Children.

The WHO Technical Meeting held in Oslo, Norway, 2-5 May 2006 on Marketing of Food and Non-alcoholic Beverages to Children⁷ 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.

A systematic review of the extent, nature and effects of food promotion to children commissioned by the WHO⁸ also indicates that children are likely to respond to advertising in the same way whichever part of the world they live in. However, it suggests that children in developing countries may be more vulnerable to food promotion because they are less familiar with advertising; they are a key entry point for developed country firms because they are more flexible and responsive than their parents; and because they may associate developed country brands with desirable attributes.

6 European Charter on Counteracting Obesity, World Health Organization Europe, Istanbul, 16 November 2006.

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

8 The extent, nature and effects of food promotion to children: A review of the evidence; Professor Gerard Hastings et al, World Health Organization, July 2006.

The proposed approach

The set of recommendations that we propose is based on the following key considerations:

- 1** The importance of restricting the promotion of energy-dense, nutrient poor foods and beverages that are high in fat, sugar or salt to children, while continuing to allow the promotion of foods that are in line with WHO dietary recommendations⁹.
- 2** The public health imperative to ensure that all children are protected.
- 3** The importance of ensuring that all forms of current and potential promotional marketing techniques are incorporated and are treated equally.

This is consistent with the conclusion of the WHO Technical Meeting 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 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.'*

Where appropriate, we have drawn on the experience of relevant documents, including regulations, codes and expert recommendations that are already in existence.

Proposal for an International Code on Marketing of Foods and Non-Alcoholic Beverages to Children

Preamble

The Member States of the World Health Organization:

- **AFFIRMING** 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);
- **CONSCIOUS** of the high rates of non-communicable diseases globally and the burden that this presents in both developed and developing countries;
- **RECOGNISING** 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;
- **CONCERNED** about the impact of marketing techniques, including advertising, promotion and sponsorship encouraging children to consume energy-dense, nutrient-poor foods high in fat, sugar or salt;

9 Diet, Nutrition and the Prevention of Chronic Diseases, report of a Joint WHO/FAO Expert Consultation, WHO Technical Report 916, 2003.

- ASSERTING that poor diet is an important risk factor for non-communicable diseases;
- ACKNOWLEDGING 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;
- CONVINCED of the importance of ensuring that food marketing, particularly to children, does not undermine efforts to meet dietary guidelines and goals as established by the World Health Organization (WHO);
- RECOGNISING 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 energy-dense, micronutrient poor foods and undermines recommendations for a healthy diet;
- AWARE of the wide range of marketing techniques and media that are used to promote foods to children;
- RECOGNISING 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;
- ACKNOWLEDGING 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;
- CONSCIOUS that methods for nutrient profiling are now available that can be used to differentiate healthier and less healthy foods;
- BELIEVING that commercial operators have a responsibility to ensure that their marketing practices do not undermine children's health irrespective of national borders;
- COGNISANT of the need to implement comprehensive multi-sectoral measures to avoid exacerbating health inequalities;

Therefore:

Hereby agree as follows:

Article 1. Aim of the Code

This Code aims to protect present and future generations from the damaging health, social and economic consequences of consumption of energy dense, nutrient poor foods high in fat, sugar or salt, and to promote responsible food marketing to children that supports the Global Strategy on Diet, Physical Activity and Health by restricting the marketing of these products to children.

Article 2. Scope of this Code

This Code applies to all forms of food marketing to children.

Article 3. Definitions

“Brand” means any name, logo, slogan or Trademark associated with or owned by the food company.

“Children” means people under the age set by Member State legislation and in any case, no less than 16 years old.

“Commercial operators” means all industries that have a role advertising or promoting foods to children including food companies, marketers and the advertising industry.

“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 drugs¹⁰.

“Food marketing” means a trade practice whose express or implied purpose is to directly or indirectly promote the sale or consumption of a food product or brand or whose effect is to do so. This includes but is not limited to promotion through the use of all media and forms of broadcast and non-broadcast promotion including television, radio, cinema, Internet, text messaging and other new media, product placement, ‘viral’ marketing, information services, magazines, posters, sponsorship, product packaging, product design and point of sale positioning.

Article 4. Energy dense, nutrient poor foods high in fat, sugar and salt

4.1. There should be no marketing to children of energy-dense, nutrient poor foods that are high in fat, sugar or salt and brands associated with such foods.

4.2. (1) Categorisation of energy-dense, nutrient poor foods that are high in fat, sugar or salt and brands associated with such foods for the purpose of implementing this Code should be based on dietary recommendations established by WHO¹¹ and defined by nutrient profiling.

4.2. (2) WHO should propose an international approach to the categorisation of energy-dense, nutrient poor foods that are high in fat, sugar or salt within a year of the adoption of these recommendations.

¹⁰ Codex Commission Procedural Manual (FAO/WHO)

¹¹ Diet, Nutrition and the Prevention of Chronic Diseases, report of a Joint WHO/FAO Expert Consultation, WHO Technical Report 916, 2003.

Article 5. Broadcast marketing

5.1. When determining which media containing broadcast advertisements and promotions the restriction laid down in Article 4.1. should apply to, both the absolute number of children likely to be watching or listening and the number of children as a proportion of the overall audience should be taken into account.

5.2. This restriction should include, but is not limited to, all advertisements and promotions broadcast between the hours of 06.00 and 21.00.

Article 6. Non-broadcast marketing

6.1. When determining whether non-broadcast marketing techniques are aimed at children, and thus prohibited under Article 4.1, the following factors should be taken into account:

- (a) the overall presentation, features, content, form and manner
- (b) the language, colours and images used
- (c) whether children are represented
- (d) the target audience of the media or place in which the promotion is seen
- (e) whether children are potential recipients of the promotion in significant numbers regardless of the target audience
- (f) 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
- (g) the use of cartoon characters including brand owned and licensed
- (h) the inclusion of free gifts, toys or collectible items with appeal to children
- (i) the inclusion of competitions, vouchers or games with appeal to children
- (j) the shape or novelty value of the food or food packaging
- (k) sponsorship of materials, products, people, events, projects, cultural, artistic or sporting activities or places popular with children or with a significant child audience

6.2. 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 6.1.

6.3 Settings where children are gathered should be free from commercial inducements to consume energy-dense, nutrient-poor foods that are high in fat, sugar or salt. Such settings include but are not limited to nurseries, schools, school grounds and pre-school centres, playgrounds, family and child clinics and paediatric services.

Article 7. Indirect advertising to parents or adults

7.1. Energy-dense, nutrient poor foods that are high in fat, sugar or salt or brands associated with such foods should not be promoted to adults responsible for children as being suitable for children. This includes stating, suggesting or implying:

- (a) that an adult who purchases such a food is a better, more intelligent, more caring or more generous adult than one who does not do so;
- (b) that the child they are responsible for, when fed these products, will be more intelligent and gifted; or
- (c) that a balanced and varied diet cannot provide adequate quantities of nutrients in general.

Article 8. Interpretation

8.1. The spirit as well as the letter of this Code applies.

8.2. This Code lays down minimum standards only. Parties are encouraged to implement measures going beyond those required by this Code, and nothing in this Code should prevent a Party from imposing stricter requirements ensuring a higher level of human health, provided that such requirements are compatible with international law.

8.3. In setting and implementing their public health policies Parties should act to protect these policies from commercial and other vested interests of commercial operators in accordance with national law.

Article 9. Implementation

9.1. Governments should take action to give effect to all provisions of these recommendations through the adoption of legislation, regulation or other statutory measures.

9.2. Commercial operators should honour and apply all relevant provisions of this Code.

Article 10. Monitoring and enforcement

10.1. Monitoring and application of this Code lies with governments acting individually and collectively through the WHO.

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

10.3.1. Non-governmental organisations, professional groups, institutions and individuals concerned should be encouraged 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.

10.3.2 This encouragement may include but is not limited to according consumers a private right of action to challenge violations of the Code.

10.4. 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.

10.5. In accordance with Article 62 of the Constitution of the WHO, Member States should communicate annually to the Director-General information on action taken to give effect to this Code.

10.6. The Director-General should report annually to the World Health Assembly on the status of implementation of this Code and the World Health Organization should, on request, provide technical support to Member States preparing national legislation or regulations, or taking other appropriate measures to implement this Code.

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Consumers International (CI) is the only independent global campaigning voice for consumers. With over 220 member organisations in 115 countries, we are building a powerful international consumer movement to help protect and empower consumers everywhere.

Consumers International is a not-for-profit company limited by guarantee, company number 4337856, and registered charity number 1122155.

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The International Association for the Study of Obesity (IASO) is an umbrella organisation for over 10,000 professional researchers and clinicians in over 50 national and regional obesity associations.

IASO's mission is to improve global health by promoting the understanding of obesity and weight-related diseases through scientific research and dialogue, whilst encouraging the development of effective policies for their prevention and management.

The IOTF is a global network of expertise, a research-led think tank and advocacy arm of the International Association for the Study of Obesity.

The IOTF is working to alert the world to the growing health crisis threatened by soaring levels of obesity. It works with the World Health Organization, other NGOs and stakeholders to address this challenge.

The IOTF's mission is to inform the world about the urgency of the problem and to persuade governments that the time to act is now.

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