

Would you like

LIES

with that?

**FOOD, KIDS AND
TV ADVERTISING**



obesity action coalition

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A Call to Action from the Obesity Action Coalition

The Obesity Action Coalition (OAC) aims to reduce the prevalence and impacts of obesity in New Zealand by promoting changes in the physical, social and legislative environments that make it easier for people to maintain a healthy weight. In particular, OAC's efforts are focused on:

- (a) advocating to reduce the prevalence of obesity
- (b) ensuring that initiatives are effective for high-risk groups, and are appropriate and effective for Māori and Pacific people
- (c) encouraging the development of efforts related to obesity prevention and the promotion of healthy lifestyles
- (d) influencing healthy public policy on the prevention of obesity.

OAC's goal is to improve the diet and overall health of New Zealand children through a marked reduction in the commercial promotion of foods and beverages to children under 14. The vital first step is to extend the statutory regulations to prohibit all television food and beverage advertising during programmes where children make up a significant proportion of the viewing audience.[#] This does not preclude the promotion of healthy eating messages to children through non-commercial social marketing.

Purpose of this report

This report aims to inform stakeholders (including policy makers, politicians, industry and the public) about the influence of food and beverage television advertising on children's health, and to build support for OAC's goal.

OAC would like to thank the following for their valuable input to components of the booklet.

- Coalition on Food Advertising to Children (CFAC), for allowing this booklet to be based on the Australian version: *Children's Health or Corporate Wealth: The case for banning television food advertising to children*.
See www.chdf.org.au/i-cms_file?page=664/CFAC_BriefingPaper_Jan07.pdf.
- Dr Jan Pearson (Cancer Society) and Professor Janet Hoek (Massey University), for their valuable comments.
- Quigley and Watts Ltd, for compiling and developing the booklet.
- Communiqué Ltd, for editing, layout and design.

[#]Significant proportion = when 10% or more children are in the viewing audience of a timeslot. This can be understood as: Children in the audience / Children in New Zealand.

Executive Summary

Most New Zealand children have good health however this is rapidly changing. The incidences of childhood obesity tripled between 1989 and 2001, with the latest figures showing one in three are now overweight or obese. These children are exposed to a lifetime of negative social, economic and health outcomes such as diabetes, discrimination, low workplace productivity and fewer years of life. These outcomes are all preventable.

Dietary patterns have changed remarkably in recent decades due to the increased range, availability and marketing of energy-dense and nutrient-poor foods and beverages, increased portion sizes and low cost. These factors all increase the risk of New Zealanders becoming obese.

Evidence

There is strong evidence from systematic evidence reviews that advertising/marketing has an effect on what children prefer, buy and eat.

Television is the main means of marketing to children. Common methods to attract children include use of famous role-models or characters, games or competitions, tie-ins with movies, and animation and giveaways.

Up to the age of 10 years children are easily misled by advertising, as they see it as entertainment or information. From 10 to 12 years children begin to understand the motives and aims of advertising more. However, children at this age still do not understand sales techniques.

Most New Zealand children watch more than two hours of television per day, with just one in 20 children watching less than one hour per day. Māori and Pacific children watch more hours of television than other children and are also over-represented in obesity statistics.

Television is the main means of marketing to children.

Most New Zealand children watch more than two hours of television per day.

In 2005, TV2 had an average of 12.8 food advertisements per hour between 3pm and 5pm.

Most New Zealanders think advertisements for unhealthy food and drink products should be banned during children's television programmes.

In 2005, TV2 had an average of 12.8 food advertisements per hour between 3pm and 5pm. Eighty percent of TV3 food advertisements were for foods high in fat and/or sugar. Total advertising in 2005 on chocolate, confectionery, and carbonated drinks (\$57,289,000) was over nine times the amount spent on advertising vegetables and fruit (\$6,215,000). Advertising independently increases brand-level and category-level sales of products, so not just increasing sales of a soft drink brand, but of the whole category of soft drinks as well.

Regulation

Advertising in New Zealand is self-regulated by the industry-run Advertising Standards Authority. Recent revisions of Codes of Advertising are insubstantial, and the Advertising Standards Complaints Board has no authority to impact on the number of adverts, and little authority over quality and

content. Self-regulation continues to serve the purpose of effective marketing and increasing demand for products, and fails to protect children's health.

Recent industry-agreed reductions in advertising during 'children's television viewing hours' (finishing at 5pm) are misleading. The supposed 'children's television viewing hours' have only four of the top 60 children's programmes showing in those times. Instead, children watch television and view food advertisements well into the evening.

Most New Zealanders (71%) think advertisements for unhealthy food and drink products should be banned during children's television programmes.

Action

Regulation is the only method with the potential to control the number of adverts, along with their quality and content. Such regulation to protect children has been used in other countries, and New Zealand can learn from these when setting up a regulatory system.

Mathematical modelling of possible obesity interventions shows that regulation of advertising is by far the single most effective intervention available.

Regulation of television advertising would not solve the obesity issue by itself, but it would be a very important part of the current multi-sector response. We know what causes obesity, we know how to prevent it, and we just need to act effectively.

Obesity and Overweight in New Zealand Children

The incidence of childhood obesity tripled between 1989 and 2001 and the incidence of overweight in children doubled.¹ Research also found that 14-year-olds in 2002 were no taller than a comparative group in 1985 but the 2002 group weighed (on average) around 6.3kgs (about one stone) more than the 1985 cohort.²

The Government's National Children's Nutrition Survey³ found that in New Zealand:

- 31.1% of children were too heavy for their height
- 29% of boys and 33.5% of girls were overweight or obese
- 27% of children aged 5 to 6 were overweight or obese and that figure jumped to 34% for children aged 11 to 14
- 62% of Pacific children were overweight or obese and 41.3% of Māori children were overweight or obese, while 24% of New Zealand European and Other children were overweight or obese.

Changed eating behaviours

In recent years, New Zealanders' eating patterns have changed considerably, with more people eating meals prepared outside the home and snacking between meals. These changes and other changes listed below contribute to excessive weight gain.

Increased range of processed and convenience foods

- These foods contain high levels of fat and sugar which increase their tastiness.
- Consumption of these energy-dense nutrient-poor foods has resulted in increased energy intake.⁴

Increased portion sizes

- Portion sizes also appear to be increasing, with larger portion sizes generally offering the best value for money. However, larger meals are higher in energy and have been linked to weight gain.⁵

Increased energy intakes

- Changing dietary patterns have led to an increase in the proportion of energy provided by foods considered energy-dense and nutrient-poor, such as cakes and biscuits, pizza and other fast foods, salty snacks, confectionery, and sugar-sweetened drinks.
- A study looking at changes in food supply estimated there was a rise of 8% in total energy intake per day among New Zealanders between 1985 and 1995.⁶
- Many convenience foods and those eaten away from home are energy-dense foods, that is, they supply a large number of kilojoules relative to their volume and weight. According to the World Health Organization, there is 'convincing evidence that a high intake of energy-dense foods promotes excessive weight gain'.⁷
- Soft-drink consumption has also been increasing in recent years among children. A recent New Zealand review found 'extensive evidence that sugary drinks contribute to weight gain in children'.⁸
- Increased energy intakes contribute to excessive weight gain in children.

Health consequences of childhood overweight and obesity

The health effects of overweight and obesity accumulate over time and a child who is overweight or obese has about an 80% chance of being overweight or obese at age 20. These children are exposed to a lifetime of negative social, economic and health outcomes that are preventable. Overweight and obesity are associated with numerous health risks, as outlined below.

Psycho-social and mental health impacts: social isolation and discrimination, poor self-esteem and depression, learning difficulties, behavioural problems and long-term poorer social and economic outcomes.

Physical/medical risks in childhood: orthopaedic problems (back pain, flat feet, slipped growth plates in hips, knock knees), fatty liver, type 2 diabetes, menstrual problems, asthma and obstructive sleep apnoea.

Long-term risks in adulthood: type 2 diabetes, heart disease, stroke, high blood pressure, some types of cancer, musculoskeletal disorders, gall bladder disease and low bone density due to inadequate calcium intake.

Reduced life expectancy: increased death rates for younger adults may make this the first generation to have a shorter life expectancy than their parents.

The health costs of overweight and obesity

- Based on research undertaken in New Zealand in 1997,⁹ conservative estimates of the direct medical costs of obesity are at least 2.5 percent of total health care costs. For New Zealand in 2006/07 this figure of 2.5 percent would be equivalent to \$297.5 million per annum.
- Financial costs are dwarfed by the lifetime personal costs (including attempts to lose weight), the 'costs' of lost productivity and reduced quality of life – around 11,000 deaths per year are estimated to be attributed to the joint effect of poor diet and physical inactivity.¹⁰

Marketing Food to Children: Big Business

Food and beverage marketing is an important contributor to the obesogenic environment New Zealand children live in today. An obesogenic environment is one where it is easier and 'normal' to be inactive and eat too much food. For example, technology provides labour-saving devices, mechanised transport and a food system which supplies a large range of highly-processed, energy-dense foods. Add marketing to this mix and you have a recipe for an obesogenic environment.

Children and youth are a primary focus of food and beverage marketing initiatives and children now grow up bombarded with advertising, branding and other forms of promotion of unhealthy foods.

Children and youth are a primary focus of food and beverage marketing initiatives and children now grow up bombarded with advertising, branding and other forms of promotion of unhealthy foods. Over time, promotion to children of traditional minimally processed and fresh foods has been replaced by promotion of pre-sugared breakfast cereals, soft-drinks, confectionery, savoury snacks and (more recently) fast-food outlets.¹¹

Increased advertising expenditure

- In New Zealand in 2005, total advertising expenditure on fast-food chains, restaurants and cafes was over \$67 million.
 - Advertising expenditure from 2000 to 2005 tended to be lowest for staples such as meat, poultry and fish; vegetables and fruit; bread; butter and margarine; and pasta and rice. Advertising expenditure was higher on staple food items where there was considerable processing and added value or choice (e.g. breakfast foods, milk).
 - Advertising expenditure was very high on foods and beverages that are not core components of a healthy diet and provide few nutrients other than energy. For example, in 2005 the total advertising expenditure on chocolate, confectionery and carbonated drinks was over nine times the amount spent advertising vegetables and fruit.¹²
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Children are Vulnerable and Easily Misled

Table A. Children's understanding of advertising¹³

Up to age 4 years:	Advertisements seen as entertainment
Ages 6 to 7 years:	Believe advertisements provide information
Ages 7 to 8 years:	Cannot distinguish between information and intent to persuade
Ages 10 to 12 years:	Can understand motives and aims of advertising, but most unable to explain sales techniques

- Language and imagery used in advertisements can misrepresent products and mislead children. Young children do not comprehend the intended meaning of widely used disclaimers, such as 'part of a balanced breakfast'. Disclaimers do not inform young viewers about the importance of a nutritious breakfast, and can obscure certain information about the advertised product.
- Overweight children and youth are especially vulnerable because they are more likely to have feelings of low self-worth, making them vulnerable to advertisements that promote personal enhancement (by the use of attractive, energetic young people) through food consumption.¹⁴
- Preferences are easily developed. Product preference has been shown to occur with as little as a single commercial exposure and to strengthen with repeated exposures.¹⁵

Television Advertising's Impact on Children

The power of television advertising

Television advertising is the most effective method of reaching young children for the following reasons.

1. Television is the easiest way to gain access to large numbers of children nationwide.
2. Television gives marketers access to children at much earlier ages than print media.
3. Much is known about how children are influenced by television advertising.¹⁶

Food marketing influences children

- Marketing helps define what is normal. Packaged snacks, frequent sweet and fatty treats, takeaway foods and sweetened drinks are now 'normal'.
- Children request and demand advertised products (pester power).¹⁷

Children influence the purchase of household groceries

- In Australia, 73% of 5 to 12 year olds influence the purchase of household groceries.¹⁸ No New Zealand research has measured the influence children have on family food purchases but there is little reason to believe their influence would be any different from that exerted by Australian children.
- A US study shows that at least half of all parents concede to these requests (pester yield).¹⁹
- In a comprehensive report commissioned by the UK Food Standards Authority, Hastings et al²⁰ systematically reviewed 122 studies and concluded that:

Overall, the studies indicated that food promotion is noticed and enjoyed by children, and seems to influence their communication and shopping behaviour... studies found that exposure to food promotion increased children's purchase influence behaviour observed in a natural setting (supermarket shopping with parent).

Influence of television food marketing on children's diets

The influence of food marketing on the diets of children and youth is of particular concern and has been the subject of at least two noteworthy comprehensive international literature reviews.

- The report *Review of the Research on the Effects of Food Promotion to Children*,²¹ commissioned by the UK Food Standards Agency was released in 2003, and the Institute of Medicine (US) released the report *Food Marketing to Children and Youth: Threat or opportunity?* in 2006.²²

Both reports show that advertising does have an impact on children's food choices and that children's advertising tends to promote unhealthy food.

Television viewing promotes childhood obesity

Children spend a substantial portion of their lives watching television, and numerous studies have documented a relationship between hours spent watching television and increased body weight.²³

- A New Zealand study tracked the television viewing habits and BMI of about 1000 babies born in Dunedin in 1972 and 1973. It found that having a higher BMI at age 26 was substantially attributed to having spent greater time spent watching television between ages 5 to 15.²⁴
 - There are four ways television viewing might cause obesity: (1) the influence of advertising (2) eating while watching (3) displacement of physical activity, and (4) reduced resting metabolism.²⁵ Longer hours spent watching television results in
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more exposure to a greater number of advertisements for obesity-promoting foods, greater opportunities for snacking, reduced time for exercise, and a longer period when body metabolism is low.

High volume of television watched by children

- On average, New Zealand children watch more than two hours of television every day.^{26 27}
- Few children watch less than one hour of television per day (5.7% of boys and 7.9% of girls), and they watch more as they get older.²⁸
- Television viewing is highest at the weekend – 40% of children watch more than four hours per weekend and 7% watch eight hours or more.²⁹
- Māori, Pacific, low-income children, and boys watch more television and videos than other children.³⁰
- Children with a television in their bedroom watched up to 40 additional minutes of television per day, compared with those without a television in their bedroom.³¹ Almost half of year 5 to 10 students in New Zealand reported having their own television.³²

Evidence summary

In all, there have been five major reviews of the evidence on the impact of food and beverage marketing to children. The summary of the reviews' findings, shown in the table below indicates agreement on five key points.

Table B: Influences and effects of food marketing – summary of the evidence

	Institute of Medicine 2006 ³³	Escalante de Cruz et al., 2004 ³⁴	Hastings et al., 2003 ³⁵	Dalmeny et al., 2003 ³⁶	McNeal, 1987 ³⁷
Children unaware of persuasive intent	✓	✓	✓	✓	✓
Influence food preferences	✓	✓	✓	✓	✓
Generate positive beliefs	✓	✓	✓	✓	✓
Influence purchase requests	✓	✓	✓	✓	✓
Influence Consumption	✓	✓	✓	✓	✓

Television Food Advertising Aimed at Children

New Zealand has 10 to 12 food advertisements directed at children per hour. This is similar to Australia, the US and the UK.

In a recent study of advertising during weekday afternoons, advertising for chips, biscuits, muesli bars and confectionery were significantly more common in the 3.30 to 4.30pm timeslot. While these advertisements declined after 4.30pm, the advertising for sugary drinks, and for fast foods increased in the lead-up to the evening meal-time.³⁸

Food advertised on New Zealand television is high in fat and/or sugar

A study of advertisements during children's television viewing times in New Zealand showed that in 2005 both TV3 (80%) and TV2 (69%) had more advertisements for foods classified as being 'high in fat and/or sugar' than did Australian channels (54%).³⁹ The average number of afternoon food advertisements on TV2 in 2005 (12.8) was higher than in 1997 (8.0).⁴⁰

Television advertising techniques engage children

Television advertising engages children through techniques that portray strong emotions and feelings such as fun, humour and happiness,⁴¹ and success, winning, and popularity.⁴²

Promotion

- Advertisers use familiar and exciting characters/activities to attract children's attention. These include favourite characters (e.g. Winnie the Pooh), movie tie-ins (e.g. Shrek with McDonald's Happy Meals), and competitions (e.g. Coca Cola and the All Blacks).
- In one study, nearly three-quarters of children said they purchased food or drink products advertised on television with offers of prizes or free gifts.⁴³
- Nearly 65% of children purchased the products even when the promotion had ended.⁴⁴
- Animation, magic, and violence (50% children's food advertisements), catchy jingles and songs, and fast pace are all used to attract children's attention.^{45 46}

Product endorsement

- Popular celebrities and sports stars are used to endorse products: for example, Hamish Carter and Sarah Ulmer (McDonalds), the All Blacks (Coca Cola), and Graham Henry and the All Blacks (Powerade).

Product placement

- Product placement involves paying to integrate a commercial product into a programme, film, or event. It is known as an 'embedded' marketing strategy.⁴⁷
- From 1974 to 2004, all product placement in US television (including food and beverage) skyrocketed from US\$71 million to US\$1.88 billion. That amount did not include product placement in films, the Internet, books or music.⁴⁸

What the New Zealand Public Wants

Many people believe more needs to be done by government to control advertisements. Parents want a reduction in the volume of food advertisements directed at children and an increase in advertisements promoting healthy foods.

A survey which investigated attitudes towards banning advertisements of unhealthy food and drink products during children's television programmes found almost three-quarters (71%) of those surveyed 'agreed' or 'strongly agreed' that advertisements for unhealthy food and drink products should be banned during children's television programmes.⁴⁹

Submissions to the Parliamentary Select Committee Inquiry into Obesity and Type 2 Diabetes

There was very strong support for restrictions on advertising in submissions to the Parliamentary Select Committee Inquiry into Obesity and Type 2 Diabetes.⁵⁰ There was powerful support, particularly from the health sector, for regulation by government to address all forms of promotion of less healthy food. In terms of advertising specifically, 120 submissions proposed that some form of regulation of the advertising of less healthy food is required. No submission outside the industry or industry-funded sectors opposed advertising regulation.

The main regulatory change submitters wanted was for the advertising of less healthy food to children on television to be banned or strongly regulated by government. This was proposed in 106 submissions; 67 of these came from the health sector.⁵¹ The nine submissions opposing this proposition were all from industry.

- CAPS Hauraki, a non-profit agency working with families and children to improve health and wellbeing, in its submission said:

*Total marketing controls across a wide range of media would help our clients. We are all saturated with advertising – it's everywhere – like oil on chips... Children want what is advertised and their 'pester power' is harnessed to put pressure on parents. Our parents are low income but they want their kids to have what everyone else has. They don't have the money to provide their kids with expensive outings and treats – but junk food is relatively cheap so that's an affordable option for them... Legislation is needed to eliminate this.*⁵²

- Linwood Avenue School, on behalf of 10 Christchurch primary schools, also wanted restrictions on the promotion of less healthy foods:

*The constant barrage of advertising for low-nutrient foods that appears on television, radio, in the print media, on billboards in the community, and on the internet leads children and their parents to believe that it is normal to eat 'treat foods' everyday.*⁵³

Animation, magic, adventure and violence (50% children's food advertisements), catchy jingles and songs, and fast pace are all used to attract children's attention.

Current Regulations in New Zealand: *The Fox Minding the Chicken Coop*

Internationally the main policy choices to control inappropriate advertising are statutory regulation (government control), self-regulation (industry control), and a mixture of the two: co-regulation. New Zealand operates on a system of industry self-regulation.

Regulation of advertisements in New Zealand is carried out by the Advertising Standards Authority (ASA), with no direct government involvement. The ASA is an advertising industry self-regulation body and its membership is made up solely of advertising and media industry representatives. The ASA has developed a set of voluntary codes of practice and one of those codes covers advertising to children. There is also a code which covers the advertising of food.

Limited regulation equals limited control

The ASA is limited in what it can address because the self-regulation model only addresses advertising (not marketing) which means there are no controls over packaging, labelling, the use of competitions, gifts, premiums and the many other ways advertisers influence children's food choices to promote their products. Neither does the ASA have any control over the *amount* of advertising directed at children.

Voluntary restrictions on advertising during children's viewing hours

As well as the Code for Advertising to Children, there are voluntary television industry broadcasting restrictions on advertising during children's viewing hours. However, the industry-defined children's television viewing times do not reflect the actual times children are likely to be watching television. Research shows the peak viewing time for school-aged children is during the evening,⁵⁴ although industry-specified school-aged children's viewing times finish at 5pm.

Complaints process

Any individual who considers there has been a breach of the codes may complain to the Advertising Standards Complaints Board (ASCB), a body appointed by the ASA. The board comprises four public representatives, one of whom is the chairperson (with a right to exercise a casting vote). Four other members are nominated by the ASA, representatives of the media, advertising agencies and advertisers.

The chair of the ASCB screens all complaints and decides which will be heard by the committee. A large number of the complaints are screened out by the chairperson and never heard by the ASCB (nearly half in 2006).⁵⁵

If a complaint heard by the ASCB is upheld, the advertiser, advertising agency and media are requested to withdraw the advertisement voluntarily. There are no penalties and no requirement for corrective advertising. As the complaints process is reactive and slow the advertisement may have been running for some time before the investigation is complete. By the time the complaint is finally adjudicated, any negative impact will have already occurred. Advertisers often have few qualms about pulling an advert after a complaint is upheld because the life-cycle of the advert is typically near its end anyway, if not completely finished.

Complaints and monitoring procedures are not effective

Recent examples of the ASA system show it is slow and ineffective.

- A complaint made about an advertisement for chicken nuggets which urged children to pester their parents to buy the product was not upheld by the ASCB on a technicality and continued to be shown. A second complaint on the same advert was upheld but

The current self-regulatory environment encourages the minimum standards required to stave off government intervention. There are no penalties for non-compliance and retrospective decisions foster a permissive advertising environment.

- by that time the advertisement was six months old and no longer running. The complainant invested several days of work on the complaint – well beyond the resources of most citizens.
- An advertisement which promoted Bluebird Potato Crisps as suitable for school lunches was withdrawn following a complaint. However, by the time the complaint had been heard the advertisement had already been running for six to eight weeks. The decision was not released to the public for another month and no corrective advertising was required, resulting in the public being left with the message that potato crisps were suitable as an everyday food for children.

Reviewing food advertising codes – cosmetic changes only

In 2006 the ASA reviewed the codes of advertising for food and the code covering advertising to children. Changes to the codes were insubstantial. The wording in the codes remains broad and open to interpretation. For example, terms such as ‘social responsibility’ are not defined and interpretation is left up to the ASCB which has no accountability to the government or to the public.

Statutory legislation is required to effectively control the content, quality and amount of advertising directed at children

Industry self-regulation protects the industry’s interests – not children’s health.

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An advertisement which promoted Bluebird Potato Crisps as suitable for school lunches was withdrawn following a complaint. However, by the time the complaint had been heard the advertisement had already been running for six to eight weeks.

Regulation that has the protection of children’s health as its focus is likely to be the only effective way to effectively control the content, quality and amount of advertising directed at children.

Regulations in Other Countries

Several countries have taken steps towards reducing food promotion to children through television advertising (Table C).

Table C. Restrictions on television advertising of unhealthy food to children in various countries

Sweden	Bans on all such advertising during children's programmes
Belgium	Bans on such advertisements to children in Flemish regions in Belgium
Denmark	Bans on such advertisements five minutes before and after children's programmes
Italy	Bans on such advertisements during cartoons
Ireland	Bans on all such advertisements during children's programmes by broadcaster
Canada (Quebec)	Quebec Province restricts all commercial advertising (for all products in all media) directed at children under the age of 13

New Zealand can learn from the experiences of other countries

The regulatory systems in Sweden, Norway and Quebec are based strongly on societal values of the rights of children to be protected from commercial exploitation.^{57 58 59} Bans on commercial advertising to children are enshrined in legislative frameworks,^{60 61 62} and monitoring compliance, responding to complaints and acting on regulation breaches is undertaken by the office of the Consumer Ombudsmen.^{63 64 65}

Compliance with the regulation

Quebec: For 10 years the Quebec regulation was under legal challenge, until the Superior Court in 1989 ruled that it was a valid limitation of 'commercial freedom of speech'.⁶⁶ Since that time, the Consumer Ombudsman has proactively reviewed proposed advertisements prior to broadcast, and resolved potential breaches by negotiation.⁶⁷

Evaluations of the Quebec ban show:⁶⁸

- a reduction in recognition of toys by children and fewer high-sugar breakfast cereals in homes
 - no reduction (in fact an increase) in the quantity of children's television programmes
 - no effect on quality (diversity) of children's programmes
-

- inconclusive effects on decrease in total advertising revenue (possibly around US\$10 million), but far lower than predicted by the advertising and television industries
- children in Quebec have the lowest prevalence of obesity across all Canadian provinces, and the second lowest prevalence of overweight (significantly lower than the Canadian average).⁶⁹

Norway and Sweden: The Consumer Ombudsman has significant powers to ensure compliance.^{70 71} Due to the strong cultural values towards child protection, the bans on commercial advertising to children are well accepted.⁷² However, children are exposed to commercial advertising during programmes transmitted from other countries⁷³ due to the European Television without Frontiers Directive which supports cross-border transmission of television programmes and requires compliance with the regulations of the transmitting country rather than the receiving country.⁷⁴ Despite this, OECD data shows that Norway and Sweden have lower rates of obesity than many other countries.⁷⁵

Industry Responses and Public Health Arguments

Calls for restrictions on television food advertising have traditionally evoked opposition from the food, beverage and advertising industries. The most common arguments are outlined in Table D below.

Table D. Industry arguments vs. Public health responses

Industry arguments	Public health responses
<p>There is no evidence that commercial marketing of foods and beverages causes childhood obesity and therefore restricting advertising will have no effect on childhood obesity.</p>	<p>The World Health Organization (WHO) has judged that it is a 'probable' cause.⁷⁶ No-one has claimed that commercial marketing is the only cause.</p> <p>Research which mathematically modelled the effectiveness of a number of different obesity prevention strategies suggested a 50% reduction in inappropriate food advertising exposure to 2 to 12 year old children would result in a 3.2% reduction in obesity in that age group (no other strategy exceeded a 0.5% reduction in obesity).⁷⁷ The overall effect would likely be higher if the age group was expanded and/or a greater reduction in exposure to advertising was achieved.</p> <p>Commercial marketing is clearly an adverse influence on children's diets, and restructuring food marketing to children is one very cost-effective strategy to help reduce childhood obesity.⁷⁸</p>

<p>Children should be taught media awareness rather than reducing advertising, as they will be exposed to it in later life anyway.</p>	<p>Children under the age of 12 lack the cognitive skills to ever be fully media literate. And while media literacy is valuable, it does not justify bombarding children with advertisements for unhealthy foods. Exposure to advertising or industry-supported 'media literacy' campaigns is unlikely to teach children to become critical consumers.⁷⁹</p>
<p>Television bans would be circumvented by other forms of advertising.</p>	<p>Television advertising is the most potent medium for reaching young children but companies are now increasing their use of sponsorships, websites, competitions, product placement and so on. Reducing TV ads is the initial step in reducing all promotions to children. Experience in restricting tobacco advertising suggests regulations need to be comprehensive and not cover only television.</p>
<p>Industry has a right to commercial free speech.</p>	<p>In the Quebec laws, the Supreme Court of Canada agreed that this 'right' was being restricted, but that children's rights to be free from commercial exploitation was a higher priority.⁸⁰ New Zealand is a signatory to the United Nations Convention on the Rights of the Child (UNCROC) which comprises 54 articles that cover actions to protect children from harm.⁸¹ The 2003 New Zealand Report to UNCROC noted the need for clearer regulation of advertising, to protect children.⁸²</p>
<p>Loss of income from advertising would be detrimental to the quality of children's television programmes.</p>	<p>Major advertising restrictions in Quebec had little impact on the quantity or quality of children's programmes.⁸³</p>

Commercial marketing is clearly an adverse influence on children's diets, and restructuring food marketing to children is one very cost-effective strategy to help reduce childhood obesity.

New Zealand is a signatory to the United Nations Convention on the Rights of the Child (UNCROC) which comprises 54 articles that cover actions to protect children from harm. The 2003 New Zealand Report to UNCROC noted the need for clearer regulation of advertising, to protect children.

Industry Action in New Zealand: More ‘Window Dressing’ than Real Action

Advertisements featuring singing chocolate cartoon characters, which appeal to young children, appear in early evening television programming when many young children are known to be watching.

Foods high in fat, salt and sugar are still regularly advertised and discounted, and consumers are rewarded with loyalty gifts and competition entries for purchasing these.

Campaigns funded to promote ‘healthy messages’ often promote company brands that are primarily associated with high-energy foods.

Some companies claim to have taken steps to reduce their marketing to children. The Cadbury company website claims:

We’ve introduced a global marketing code of practice with specific reference to children. We don’t advertise to children under eight years where they’re the majority of the audience.⁸⁴

However, advertisements featuring singing chocolate cartoon characters, which appeal to young children, appear in early evening television programming when many young children are known to be watching.

Companies have started to make changes to existing products and now offer ‘healthier’ alternatives. However, companies fail to reveal that many of these ‘healthier’ alternatives continue to be high in energy or kilojoules and salt. Some companies have developed proprietary logos or icons that draw attention to their more nutritious products. While these changes are a positive step, without a valid industry-wide system and approach, efforts may fall short of their potential as guides to better food and beverage choices for consumers.⁸⁵

Product re-formulation can be beneficial but these benefits are unlikely to be realised if marketing and promotion still support less healthy menu items. The introduction of new

products that are lower in fat, salt and sugar needs to be matched by changes in marketing.

Foods high in fat, salt and sugar are still regularly advertised and discounted, and consumers are rewarded with loyalty gifts and competition entries for purchasing these. While this is the case, there is no incentive for consumers to change their behaviour and adopt new, more healthful menu items.

For example, *A burger combo sometimes simply isn’t enough. That’s why when you buy a burger combo from KFC we will upgrade you to the EXTREME BURGER MEAL for FREE.⁸⁶*

Self-regulation codes have been updated but the changes do not limit marketing tactics. According to the ASA’s own definitions, the codes apply only to advertisements, not to other marketing activities such as competitions and promotions.

Campaigns funded to promote ‘healthy messages’ often promote company brands that are primarily associated with high-energy foods. For example, McDonald’s funding of Jeni Pearce (Nutrition Foundation) and Olympic medallist, Sarah Ulmer to promote healthy eating messages.

Advertising and Food Promotion: Beyond Television

The food industry now has a vast commercial scope that includes various kinds of *unregulated* media and environments relevant to children. The Internet, sponsorship and point-of-sales promotions are common vehicles the food industry uses to promote food to children.

Internet

- In 2000-2001 children's websites with *no* advertising dropped from 10% to 2%.⁸⁷
- Boundaries between commercial and non-commercial content on the Internet are blurred, if not completely absent.⁸⁸ In 2001, 55% of all children's web advertising was in the form of high-energy, graphic rich games.⁸⁹
- In the 2001 New Zealand Census over half (52%) of households with a youngest member between the ages of five and 19 years had Internet access.⁹⁰

Sponsorship

- Sports sponsorship by companies that sell products classified as 'unhealthy' (e.g. food high in fat and/or sugar) are more than twice as common as sponsorship for products classified as 'healthy'.⁹¹
- Significantly more 'unhealthy food' sponsorships for junior teams and clubs exist compared to other sports.⁹² For example McDonalds sponsors junior soccer and netball in New Zealand, Burger King sponsors basketball and street ball, Milo sponsors junior cricket.
- In a submission to the NZ Parliamentary Select Committee Inquiry into Obesity and Type 2 Diabetes, Janet Hoek, Professor of Marketing, Massey University, wrote:

*... I believe sponsorship enables manufacturers of foods high in fat, salt and sugar to obtain widespread access to young children via sports sponsorship. Children are typically rewarded with vouchers that they (and their families) can redeem at a store outlet ...thus enabling companies to reach families who may not previously have purchased from them. More subtly, I believe sponsorship assists brands to become paired with highly desirable attributes that enhance and facilitate consumption ...I am concerned that these pairings not only reinforce the notion that brands promoted in this way are 'fun' but may also be interpreted as implying that regular consumption of these brands is not inconsistent with a healthy diet.*⁹³

Packaging and point-of-sales promotions

- A recent Australian study on product placements in supermarkets found over 70 different food products carrying promotions for children.⁹⁴
 - In New Zealand in 2006 a Consumer survey of breakfast cereals found 26 products directly marketed to children using cartoons and movie characters. None were recommended by Consumer as being a good nutritional choice for children.⁹⁵
 - Some displays target young children (point-of-sales promotions) by placing tempting products such as confectionery and chocolates at child height.
-

The Public Health Perspective

The case for regulations directed at food and beverage marketing to children can be argued from a public health law perspective. Public health law gives government the power to protect its citizens' health by identifying, preventing and reducing health and safety risks. Protection of citizens' health and safety is a government duty.

Individual and industry opposition to government regulation on the basis of autonomy and freedom, the degree of risk, or economic benefits are not sufficient arguments against public health law. Public health law is necessary because people (and corporations) do not always prioritise the interests and welfare of other citizens. Public health law can achieve a balance between law and individual rights.⁹⁶

Infringing on individual rights for public health gains: justifications

1. Risk to others: the harm principle

Personal (and corporate) freedoms only extend to activities that do not intrude on the health, safety or legitimate interests of the population.⁹⁷

Current high volumes of television food advertising negatively impact on children's dietary choices, with short and long-term consequences for their health, and health costs to society.

2. Protection of vulnerable persons: best interests

Children are vulnerable because they are not developmentally mature and are entitled to be 'protected against their own actions as well as against external injury'.⁹⁸

Young children do not understand the persuasive intent of advertising⁹⁹ and cannot make mature judgements in their own interests. Persuasive television food advertising also undermines the ability of parents and carers to protect children from poor dietary choices that have major health consequences.¹⁰⁰

3. Risk to self: self-regarding behaviour

Individual autonomy (which is a tenet of a democratic society) is sometimes curtailed by government regulation if the risks to the individual are deemed high enough. Established examples of this include taxes and bans on cigarette advertising; compulsory wearing of seatbelts; and restrictions on the sale and advertising of alcohol to minors.

Environmental and societal factors are often more influential than individual voluntary choice in health-related behaviours,^{101 102} especially for children. Current volumes of television food advertising directed at children are persuasive and excessive and contribute to an 'obesogenic' environment, in which the regular consumption of high fat/sugar/salt foods and beverages is portrayed as normal and even desirable.

The cumulative effect of food marketing helps create a culture in which, to the detriment of healthier foods, products high in sugar, fat and salt are associated with fun, modernity and social responsibility.¹⁰³

Key Messages

- Food and beverage advertising to children has a significant effect on what food children like, buy, ask for and eat.
- Children in New Zealand are exposed to large volumes of very persuasive advertising and marketing techniques which encourage them to choose energy-dense, low-nutrient foods over healthier options.
- Many New Zealand children watch a lot of television and are consequently exposed to large volumes of food and beverage advertising.
- It is well-documented that children lack the cognitive ability to recognise and defend against commercial persuasion.
- Advertising in New Zealand is controlled by an industry organisation. These self-regulation measures do little to control effective marketing techniques and the volume of advertising to children. Self-regulation measures ultimately continue to serve the purpose of effective marketing and increasing demand for a product. Self-regulation does more to serve marketers whose aim is to increase profits than it does to protect children's health. Statutory regulation must be strengthened in New Zealand to protect children.
- The public health case for strengthening regulation on food and beverage marketing to children is based on the United Nations Convention on the Rights of the Child, which was ratified by New Zealand in 1993. This perspective is also supported by the World Health Organization.
- The case for strengthening public health legislation to protect children's health is compelling. This should include prohibiting the commercial marketing of all foods and beverages to children.
- Substantial restrictions on commercial marketing of food and beverages to children can be justified as a cost-effective measure as part of a broad approach to reducing childhood obesity.

As a first step OAC is calling for a ban on all television commercial advertising for foods and beverages during programmes where children (aged under 14 years) make up a significant proportion of the viewing audience. This should not preclude the social marketing by government and non-commercial organisations which promotes healthy eating messages to children.

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