



Submission on

Draft National Preventive Health Strategy

on behalf of

Australian Association of National Advertisers

April 2021

Executive summary

The Australian Association of National Advertisers (AANA) welcomes the opportunity to provide this submission on the *Draft National Preventive Health Strategy*.

The AANA is the peak body for advertisers and has represented national advertisers for over 90 years. It represents the common interests and obligations of companies across all business sectors involved in the marketing communication, advertising, and media industry. As the guardian of the self-regulatory system component of regulation controlling advertising and marketing communication in Australia, the AANA has a strong ongoing commitment to self-regulation.

In relation to the advertising of food and non-alcoholic beverages, the self-regulatory system provides a set of comprehensive standards for responsible advertising with particular protections for children. The system also delivers a free complaints-handling mechanism to ensure community concerns about advertising can be heard, and action taken to remove non-compliant advertising from broadcast or publication. The AANA codes apply to all advertisers across all media, including traditional, digital, and social media.

There have been many research studies undertaken on the possible connection between advertising and consumption. However, the studies do not show a causal relationship between responsible advertising and overconsumption of food and beverage products.

As our submission shows, TV advertising of food has declined significantly, by 63 per cent over the last 15 years, while obesity levels have significantly increased.

In fact, other major factors combine to account for rising levels of obesity and over-weight people; from the individual and family level, such as dietary mix, nutritional knowledge, to environmental and societal factors, such as declines in incidental exercise, a rise in sedentary leisure activities and increased use of motorised transport.

When it comes to the behaviour of children, it is clear from the research discussed in this submission that there are multiple factors driving children's food preferences and consumption are multi-factored and that a rise in obesity levels must be viewed against a backdrop of key lifestyle changes over the past few decades. Critically, parents see themselves as primarily responsible for improving children's diets and the role of government or industry is not perceived to be as important.

The AANA has recently completed a public consultation into the operation of the Food & Beverage Advertising Codes that has led to a number of measures to strengthen the provisions ensure that children are not targeted with advertising for occasional foods. The major changes are:

- a world-first common nutritional test to determine what constitutes occasional foods, based on FSANZ nutrient profile score criteria;
- harmonising and raising the definition of a child to under 15 years of age;
- prohibiting advertising of occasional foods where children constitute 25 per cent or more of the audience; and
- broadening the reach of the Code to cover sponsorships.

Multiple studies show that education of both adults and children is a crucial component in increasing healthy diets and lifestyles in our society. Our members are committed to helping drive positive change through education and our submission details some of these initiatives.

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The AANA believes there is a misconception that obesity is attributable to particular foods, rather than poor diets. Regulating particular foods, or the responsible advertising of those foods, ignores the reality that there is a need to focus on educating people about diet and consumption choices in line with the Australian Dietary Guidelines¹, while encouraging people to be more active, if there is to be a significant impact on the problem.

Given the lack of causation between responsible advertising and overconsumption, further restricting the advertising of certain products is highly unlikely to yield significant improvements in health outcomes but will instead lead to economic and societal costs in terms of reduced employment in the marketing/advertising industry and less funding for media and journalism at a time when many outlets have already closed, and others are struggling.

Finally, section seven of the draft strategy concerning “Commercial Determinants of Health” diverts this draft preventive health strategy away from evidence-based policy making into a highly contentious field of social theory and, as such, will be counter-productive to the strategy’s effectiveness and likelihood of it gaining broad support from Australians. We ask that these assertions be removed from the final strategy.

AANA self-regulatory system

Background

Self-regulation is an essential part of the Australian business landscape and contemporary society. The current self-regulatory system for advertising and marketing communication in Australia was established by the AANA in 1997 as advertisers recognise that they have a responsibility to deliver marketing that is aligned to community standards and expectations.

The AANA system of self-regulation sits alongside and complements systems of regulation, co-regulation, and other self-regulation mechanisms. The AANA’s over-arching system of self-regulation provides a flexible mechanism to meet the challenges of major technological and other changes to the advertising, marketing, and media landscape, while responding to evolving community expectations.

The system applies to all media, including digital platforms and social media and encompasses virtually all forms of commercial advertising and marketing communication. The AANA protects the rights of consumers by helping to ensure advertising and marketing communication is conducted responsibly, including through its development and evolution of sector-specific codes and the overall self-regulatory system.

The self-regulatory system, including complaints handling, operates at no cost to the taxpayer. The AANA is largely funded by membership fees. Funding for the operations of Ad Standards’ secretariat, its independent Ad Standards Community Panel and Ad Standards Industry Jury, is provided through a voluntary levy on advertising spend.

¹ https://www.eatforhealth.gov.au/sites/default/files/content/n55_australian_dietary_guidelines.pdf

Codes

Overview

The AANA Code of Ethics provides the overarching set of principles to which advertising and marketing communication, across all channels, should comply. The object of the Code of Ethics is to ensure that marketing communication is legal, decent, honest, and truthful; that it has been prepared with a sense of obligation to the consumer and society, and a sense of fairness and responsibility to competitors. The Code of Ethics is widely regarded as the standard for ethical behaviour by advertisers and marketers as well as advertising and marketing agencies. The vast majority of complaints dealt with by Ad Standards relate to elements of this over-arching Code.

In addition to the Code of Ethics, the AANA currently administers four other codes:

- Food & Beverages Advertising and Marketing Communications Code (“F&B Code”)
- Code for Advertising & Marketing Communications to Children (“Children’s Code”)
- Environmental Claims Code
- Wagering Advertising Code.

The F&B Code and the Children’s Code are discussed further below; however, they contain a range of consumer protections and advertising standards in relation to responsible advertising of food and non-alcoholic beverages, with additional protections covering the advertising of those products to children.

Definition of advertising

In the AANA Codes, **Advertising or Marketing Communication** means:

any material which is published or broadcast using any medium or any activity which is undertaken by, or on behalf of, an advertiser or marketer, and

- *over which the advertiser or marketer has a reasonable degree of control, and*
- *that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation, or line of conduct,*

but does not include:

- *labels or packaging for products*
- *corporate reports including corporate public affairs messages in press releases and other media statements, annual reports, statements on matters of public policy and the like*
- *in the case of broadcast media, any material which promotes a program or programs to be broadcast on that same channel or station.*

Medium is defined as *any medium whatsoever, including, without limitation, cinema, internet, outdoor media, print, radio, television, telecommunications or other direct to consumer media, including new and emerging technologies.*

Platform neutral, national approach

These definitions mean the AANA Codes apply to all advertisers, regardless of whether they are members of the AANA or not. They also apply to consumer facing marketing communication in any media or on any digital or social media platform. The Codes also cover brand-owned websites and other direct-to-consumer platforms that the advertiser may own. In this way, the self-regulatory system ensures universal application to all advertisers, however they communicate to consumers.

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The AANA codes have been acknowledged and supported by successive governments as an important self-regulatory mechanism to assist in achieving public policy outcomes. The self-regulatory system in Australia is rooted in a model of best practice² developed with regulators, NGOs, consumer and public health groups, providing consensus not only on the model but the critical role that effective self-regulation plays to help ensure robust qualitative advertising standards. The model ensures consultation of relevant third parties in the development of codes and the complaints handling and resolution system is independent, speedy, and transparent.

The system is recognised and endorsed through inclusion in other self and co-regulatory systems, and all major media owners have agreed to support the decisions of Ad Standards Community Panel.

It should be noted that food and beverage labelling and packaging is subject to a range of regulation under the Australian New Zealand Food Standards Code, which contains requirements relating to food identification, health alerts, ingredients listing, nutrition information and nutrition and/or health-related claims³.

The platform neutral, national self-regulatory model allows complaints to be made without the consumer having to consider the medium or geographical location in which the relevant advertisement appeared. The AANA Codes will continue to evolve as new technology and means of communication emerge so that they remain relevant and universal.

Complaints

Complaints about advertising are directed to Ad Standards, which administers the operation of the independent adjudicators who comprise its Community Panel⁴. Complaints can be made about any advertising, regardless of the advertiser, the product, or the location of the advertising.

Consumers can make a complaint to Ad Standards easily and quickly. There is no cost to the consumer, they are not required to have detailed knowledge of the Code, they merely need to say why they object to or are offended by a particular advertisement. Once a complaint is received, Ad Standards will review the advertisement against all relevant Code provisions, not just with respect to the issues the complainant has raised and ask the Advertiser to respond to any potential breaches.

Complaints are adjudicated by the Ad Standards Community Panel, which includes people from a broad range of age groups and backgrounds and is gender balanced and representative of the diversity of Australian society. Individual Community Panel members do not represent any particular interest group and must be independent of industry and have a good sense of community values and sentiment. The Community Panel seeks to discharge its responsibilities with fairness and impartiality.

Brand owners that are found to be in breach of the standards are required to remove or amend the relevant marketing material, irrespective of the platform or cost involved. The resulting commercial consequences of breaching the Codes include:

- the direct and indirect costs of withdrawing an advertisement;

² <http://www.easa-alliance.org/>; <http://www.codescentre.com/>

³ <http://www.foodstandards.gov.au/code/Pages/default.aspx>

⁴ <https://adstandards.com.au/about>

- reputational risk because all Ad Standards decisions are made public; and
- the risk of loss of sales as a consequence of possible adverse consumer reaction.

Food and beverage advertising self-regulation

Overview

The AANA F&B Code was first published in March 2007, gaining international recognition as a world first. It was designed to help ensure a high sense of social responsibility in advertising and marketing of food and beverage products and services in Australia.

The F&B Code provides responsible advertising standards for advertising and marketing communication of any food or beverage products other than alcoholic beverages (which are subject to regulation by the Alcohol Beverages Advertising Code⁵). It aligns with the International Chamber Commerce Consolidated Code of Advertising and Marketing Communications Practice and Framework for Responsible Food and Beverage Communications⁶.

The F&B Code and the Children's Code provides a range of requirements in relation to responsible food and beverage advertising and marketing communication. The key protections are that food and beverage advertising, and marketing communication must:

- be truthful and honest and not misleading or deceptive;
- not undermine the importance of healthy or active lifestyles;
- not encourage excessive consumption;
- have appropriate substantiation for claims made; and

in relation to children, advertising and marketing communication must not:

- encourage an inactive lifestyle or unhealthy eating or drinking habits;
- employ ambiguity or a misleading sense of urgency;
- feature inappropriate price minimisation;
- undermine the role of parents e.g. by encouraging 'pester power';
- feature ingredients or premiums unless they are an integral element of the product;
- claim the product will give a child a physical, social, or psychological advantage over other children.

In 2009, The Australian Food & Grocery Council's (AFGC) Responsible Children's Marketing Initiative (RCMI) and Quick Service Restaurant Initiative for Responsible Advertising and Marketing to Children (QSRI), introduced in 2009, provide an additional self-regulatory layer for advertising and marketing to children for food and beverages promoted by signatory brand owners⁷. The RCMI and QSRI applied to advertising or marketing communication directed primarily to children as well as advertising or marketing communication that are placed in a medium that is directed primarily to

⁵ www.abac.org.au

⁶ <http://www.iccwbo.org/>

⁷ <http://www.afgc.org.au/our-expertise/health-nutrition-and-scientific-affairs/advertising-to-children>

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children and/or where children represent 35% or more of the relevant audience. These requirements align with those of the EU Pledge⁸ and International Food & Beverage Alliance Pledge⁹.

Since 1 June 2019, the AANA F&B Code has contained a requirement that occasional food advertisers must adhere to the AFGC initiatives, making them applicable to all advertisers, irrespective of whether they are signatories to the AFGC initiatives or not.

The effect of this move was that food advertising to children must only include healthier products (as determined by nutrition criteria) and must encourage good dietary habits and physical activity. The RCMI and QSRI contain restrictions regarding advertising to children in primary schools, preschools, and day care centres, with the QSRI also restricting product giveaways at children's sporting events unless they comply with specified nutrition criteria.

Many advertisers also have their own 'marketing to children' policies that are enforced at a global level which in some instances go above and beyond what is required under self-regulatory codes.

Importantly, complaints under the F&B Code, Children's Code, RCMI and QSRI are all heard by the Ad Standards Community Panel ensuring continuity of decision making and ensuring that consumers have a 'one-stop shop' for their complaints.

F&B Code Review

In May 2020, the AANA announced a full review of the self-regulatory system for food advertising and released a discussion paper for public comment¹⁰.

The purpose of the review was to ensure that self-regulation remained aligned to community expectations, took into account any new evidence relating to the impact of food marketing and kept abreast of new marketing techniques and technologies.

On 19 April 2021, the AANA formally approved an updated F&B Code that will come into effect on 1 November 2021.

The new Code amalgamates all the existing protections contained in the previous F&B Code, RCMI and QSRI initiatives into one unified Code. Where the scope of the old Code and initiatives differed, the new Code has either adopted the most stringent measure or introduced new provisions that set a higher bar. For example, under the F&B Code the definition of 'medium' included 'consumer public relations' activity but such activity was excluded under the RCMI and QSRI. Under the new Code all such marketing activity is captured.

The major changes to the self-regulatory Code for F&B advertising are:

- The definition of occasional foods will be determined by FSANZ nutrient score criteria rather than a brand owner selecting criteria that it has chosen based on expert advice or another published official standard;
- The definition of a child will be a person under the age of 15;

⁸ <http://www.eu-pledge.eu/>

⁹ <https://ifballiance.org/>

¹⁰ https://aana.com.au/wp-content/uploads/2020/05/AANA_Food_and_Bev_Code_Discussion_Paper.pdf

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- The child audience threshold test will be lowered from 35 per cent to 25 per cent when considering whether occasional foods can be advertised;
- The Code will now apply to commercial sponsorships; and
- Specific reference to the requirement that only healthier options be marketed to children so that brand owners do not advertise occasional foods near places where children congregate.

Community concern in relation to food and beverage advertising

Ad Standards administers the complaints handling service for the AANA Codes, and the AFGC's RCMI and QSRI. This complaints-based system offers the public an opportunity to participate in facilitating advertisers' compliance with the codes. It provides a free, open, and transparent mechanism to address concerns about the content of advertisements and other marketing communication. Independent determinations by the Community Panel, which is composed of individuals who are representative of the wider community, ensure consumer complaints are dealt with impartially and in a timely manner.

Research conducted for Ad Standards shows there is a high level of understanding within the community about the ability to make a complaint to them in relation to advertising content. There has been a consistently low level of complaints about the impact of food advertising on preventive health outcomes since the F&B Code was introduced in 2009.

For the five calendar years (2016 to 2020), an average of 1% of the complaints received by Ad Standards were about potential breaches under the F&B Code or the AFGC initiatives.

By way of comparison with the statistics in relation to food and beverage complaints detailed above, in the same five-year period, the average number of complaints in relation to other categories were far higher, suggesting community concern in relation to food advertising (as it relates to health) is not significant:

| Topic | Percentage of Ad Standards complaints 2016-2020 |
|--|--|
| Sex, sexuality and nudity | 23% |
| Discrimination or vilification | 18% |
| Violence | 17% |
| Language | 11% |
| Exploitative and degrading sexual appeal | 10% |
| Health & Safety | 7% |
| AANA F&B and AFGC Initiatives | 1% |

It is the AANA's view, given the above, that the self-regulatory system as a whole is working appropriately to ensure that food and beverage advertising meets community expectations, when it comes to healthy eating.

Impact of advertising on consumption and obesity

General

In one of the most comprehensive studies to date on the subject, the UK Government commissioned the Foresight Obesity System Map¹¹, which identified more than 100 factors that may be connected to driving people to become overweight or obese. Of these factors, marketing (highlighted in green in the attached diagram) represents only one of the many drivers captured by the analysis. Action on responsible marketing is part of the wider effort of industry to make a meaningful contribution to addressing the societal challenge of childhood obesity.

For example, in the UK, a literature review (Livingstone Review¹²) for the Office of Communications (Ofcom), concluded that multiple factors combine to account for obesity; from the individual and family level to systemic factors such as food formulation, distribution and pricing and influences, such as media and social and cultural norms. These factors act indirectly, as well as directly, making it overly simplistic to regard each as playing a separate role. Based on this, the Livingstone Review found agreement among experts that the most effective intervention strategy should be multi-faceted.

Television

The Livingstone Review was used by Ofcom to inform a report it produced (Ofcom Report¹³) which used quantitative and qualitative research to identify influences on children's food preferences, purchase behaviour and consumption and the role of television advertising in this context. The Ofcom Report concluded that:

- children's food preference, consumption and behaviour are multi-determined;
- the rise in obesity levels amongst children is similarly multi-determined, against a backdrop of key lifestyle changes over the past few decades;
- people see parents as primarily responsible for improving children's diets. Schools and food manufacturers are also seen to play an important role. The role of government, the media, supermarkets and broadcasters is not perceived to be as important as these three;
- solutions to the problem of obesity need to be multi-faceted.

In Australia, the Australian Communications and Media Authority (ACMA) conducted a review of the Children's Television Standards and commissioned a review of the relevant research relating to television advertising to children (Brand Review)¹⁴.

While the Brand Review found a link between *television viewing* and obesity in children, it found no causal relationship between *television advertising* and obesity or consumption levels. Watching television is a sedentary activity, and studies indicate that the association between television and childhood obesity is not simply due to inactivity but also relates to increased energy consumption e.g. snacking while watching television. In essence, the relative contribution of advertising,

¹¹ <https://www.gov.uk/government/publications/reducing-obesity-obesity-system-map>

¹² <http://stakeholders.ofcom.org.uk/binaries/research/tv-research/appendix2.pdf>

¹³ https://www.ofcom.org.uk/__data/assets/pdf_file/0020/19343/report2.pdf

¹⁴ https://www.acma.gov.au/-/media/Research-and-Analysis/Information/pdf/television_advertising_to_children-pdf.pdf?la=en

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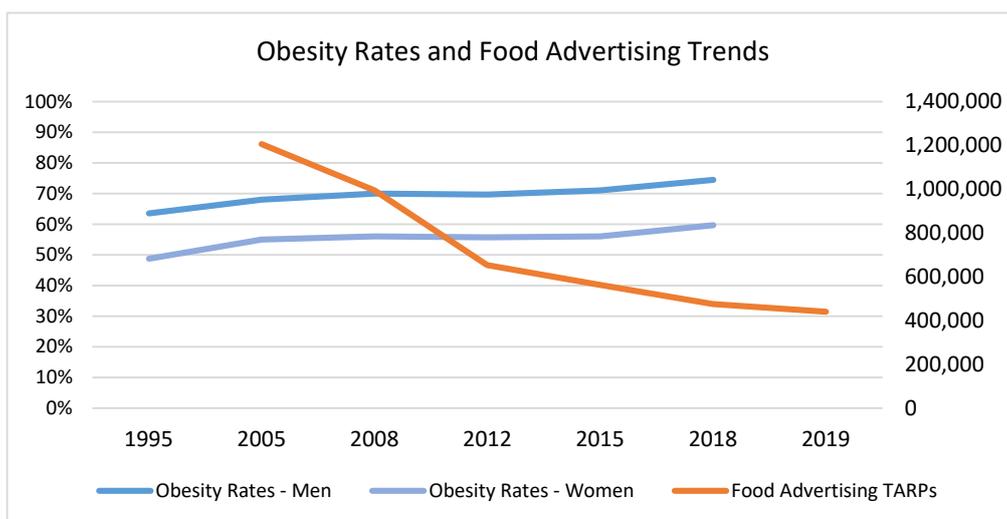
compared to all the other factors that influence children's food choice and health, has not been isolated.

A more recent academic review of the evidence base in relation to the effect of advertising on food consumption was published in 2016 (Boyland Review)¹⁵. An analysis of the available data indicated a small-to-moderate effect of advertising on food consumption with participants eating more immediately after exposure to food advertising than after control conditions. The studies mainly focused on TV advertising with some studies looking at advergames. However, the review also noted that the effect that food advertising exposure has on food consumption in children appears highly variable with the meta-analysis showing high heterogeneity across studies.

Given the variance in results and study designs, the review called for longer-term research to explore the impact of the types of exposures explored in the evidence on diet and weight gain.

In terms of advertising industry data, Total Advertising Rating Points (TARPs) indicate that while TV advertising of occasional foods in Australia has declined by 63% over the last 15 years (2005-2019), adult obesity (18 years and over) has steadily increased. The trend for childhood obesity tells the same story, advertising levels and overweight or obesity levels have no discernible correlation.

While spend on occasional food advertising on digital media has increased during the same period, there has been a significant net reduction overall on spend on occasional food advertising.



Source: Australian Bureau of Statistics, *Overweight and Obesity 2017-18* | Source: Nielsen AdIntel

TARP: The average viewing audience for a demographic expressed as a percentage of the relevant Universe Estimate. TARPs measure how well advertising is reaching the audience. TV shows that 'rate well', delivering higher ratings have higher TARPs. Size of audience, advertising expenditure and number of spots are all factors of TARPs.

Online

Most of the research focuses on the impact of television advertising, or more generally, television viewing, and the impact it has on children. However, the UK *Literature Review of Research on Online*

¹⁵ <http://ajcn.nutrition.org/content/103/2/519>

Food and Beverage Marketing to Children concentrated on online and other interactive media¹⁶. The review notes that the evidence from research on the relationship between food marketing and childhood obesity is not conclusive and, despite claims that there is an emerging consensus on a relationship existing, reviewers of the research disagree in their overall conclusions. The review found that there are significant limitations to the literature available, most notably there is a need for evidence of a causal effect of online advertising on children's actual eating habits.

The studies reviewed did not consider other factors likely to influence children's eating habits, such as family and peer dynamics, taste preferences and their wider social and cultural environment. The review also found insufficient data on the frequency at which children are exposed to advertising online and the length of time they interact with it.

As in the Brand Review, this research found that much of the research measures children's reported exposure to media rather than their exposure to advertising specifically. This is problematic as there are many possible ways in which media use might be associated with obesity, for example, watching television (as noted earlier) and surfing the internet are sedentary activities. In addition, people who spend a lot of time in front of a screen tend to exercise less and are more likely to prefer other sedentary activities.

Role of parents

Ultimately, parents are largely responsible for what they themselves consume and have a huge influence on their children's consumption and other lifestyle behaviours which can have positive and negative effects on health. The Ofcom Report found that:

- the overwhelming majority (79%) of parents say they have 'a great deal' of responsibility for the situation outlined in the recent publicity about children's diets;
- other groups are seen as having an important part to play, in particular schools (52%) and food manufacturers (43%);
- one third see the Government (33%) and the media (32%) as 'having a great deal of responsibility', and even fewer the supermarkets (28%) and broadcasters (23%).

Asked which one of the same groups could do most to ensure that children eat healthily, 'parents/family' are again named by just over half (55%). Only a small minority name food manufacturers (16%) and schools (14%). Very few name the media (5%), government (4%), supermarkets (3%) and broadcasters (1%).

This is further illustrated by an Ipsos ASI survey of 500 parents in regard to consumer attitudes conducted on behalf of the AANA in 2012. It revealed that the top influences on in-home purchasing decisions by parents for food are nutritional value (32%), price (26%) and taste (16%), rather than advertising (3%).

The survey indicated that the community accepts that parents are the biggest influencer of children's diets and that factors which reduce physical exercise - such as concerns about children's safety when playing outdoors and the rise of sedentary pastimes, such as electronic games, are by far the most profound causes of the rising levels of obesity among children. The very strong view of the parents

¹⁶ Dr Barbie Clarke and Siv Svanaes Literature Review of Research on Online Food and Beverage Marketing to Children 2014
https://www.cap.org.uk/News-reports/Media-Centre/2015/~/_/media/Files/CAP/Reports%20and%20surveys/Family%20Kids%20and%20Youth%20Literature%20Review%20of%20Research%20on%20Online%20Food%20and%20Beverage%20Marketing%20to%20Children.ashx

surveyed was that they accept and want responsibility for making health, nutrition, and exercise decisions for their children and only one in four believed this should be shared with the Government.

Empowering consumers through education to drive motivation and providing information to guide choice is the key to healthy eating. Advertising has a role to play, and can be very effective, in providing information and choice for consumers.

Role of ‘screen time’

It is important to note that the Ipsos survey, the Livingstone Review and the Ofcom Report were conducted before the most recent explosion in the use of social media, which has reduced face-to-face interaction and incidental play among teenagers particularly. According to the Australian Bureau of Statistics¹⁷, use of new electronic media, such as computers and electronic games, has become increasingly prevalent in children’s lives, with almost every Australian household with children under 15 years of age (96%) having access to the Internet at home in 2012–13. Watching television (including DVDs and movies) consumed more of children’s leisure time than other identified recreational activities, and so remains an important area to explore in relation to screen time.

Research by the Australian Institute of Family Studies (AIFS) published in 2015¹⁸ highlights that in the past decade, screen time has begun to play an increasing role in children’s lives. High levels of screen-based activities during childhood, however, have detrimental effects on aspects of children’s wellbeing and concerns about potential negative effects of excessive screen time have led to recommendations about placing limits on children’s screen time. For example, the Australian Government, as part of its physical activity and sedentary behaviour guidelines for children aged 5–12 years¹⁹ recommends that electronic media use for entertainment purposes be limited to a maximum of 2 hours per day.

Research by the ACMA published in 2016²⁰, shows that on average, children watch 10.6 hours of any screen content per week, with 37% watching screen content 11 or more hours per week. Interestingly, the AIFS research found that for both boys and girls, the proportion of children exceeding 2 hours of cumulative screen time on the sampled weekday was significantly lower among those who participated in a team sport or an art/music activity.

Categorising “unhealthy” foods

Much of the discussion around advertising of food and beverages seeks to classify food as “healthy” or “unhealthy” according to various criteria. The AANA’s concern with regard to the categorising food as “unhealthy” is that it makes no acknowledgement that it is the over-consumption of some foods, combined with a lack of physical activity, which creates unhealthy outcomes. It also overlooks the fact that the occasional ‘treat’ is not an unhealthy thing and, indeed, may make a positive contribution to the adoption and maintenance of healthy dietary patterns. It is the frequency and

¹⁷ <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4901.0Main+Features1Apr%202012?OpenDocument>

¹⁸ <https://aifs.gov.au/publications/childrens-screen-time>

¹⁹ [http://www.health.gov.au/internet/main/publishing.nsf/Content/health-publth-strateg-phys-act-guidelines/\\$File/Brochures_PAG_5-12yrs.pdf](http://www.health.gov.au/internet/main/publishing.nsf/Content/health-publth-strateg-phys-act-guidelines/$File/Brochures_PAG_5-12yrs.pdf)

²⁰ <https://www.acma.gov.au/theACMA/kids-tv-viewing-and-multi-screen-behaviour>

amount that is consumed that needs to be addressed, primarily through education of parents and children.

For example, recent research in the United States by Cornell University Food and Brand Lab indicates that “soda, candy and fast food” are not likely to be a leading cause of obesity²¹. The research showed that consumption of those foods and beverages was not significantly different when comparing the habits of healthy weight and overweight individuals. By reviewing a nationally representative sample of adults in the United States and researchers found that, except for the 5% of the population at the extreme ends of the BMI range, that is, “chronically underweight” and “extremely morbidly obese”, consumption of soda, candy and fast food is not linked to Body Mass Index (BMI) for 95% of the population.

The researchers state that “...just because those things can lead you to get fat doesn’t mean that’s what is making us fat. By targeting just these vilified foods, we are creating policies that are not just highly ineffective but may be self-defeating as it distracts from the real underlying causes of obesity.”

Similarly, a research review in Australia by the Murdoch Children’s Institute²² highlights consistent inverse associations of confectionery consumption with overweight and obesity. The systematic review and meta-analysis did not reveal evidence of positive associations between confectionery consumption and overweight, obesity, or other obesity-related outcomes in children and adolescents. Finding that confectionery is not a major driver of obesity, the review suggested it might be better to focus interventions, which aim to reduce obesity, on other components of daily dietary intake.

The AANA believes there is a misconception that obesity is attributable to discretionary foods, rather than unhealthy diets and lifestyles. Further regulating particular foods, or the advertising of those foods, ignores the reality that there is a need to focus on diet and consumption in line with the Australian Dietary Guidelines, along with encouraging people to be more active through reducing sedentary activity, if there is to be a significant impact on the problem.

The food and beverage industry is committed to offering consumers a range of products to facilitate consumers’ management of their own diets, including evolving packaging, product reformulations and portion sizes to meet consumer preference. Brands recognise the important role they play in improving consumer choice while offering products that are consistent with consumers’ high expectations.

Role of advertisers and advertising

Advertisers’ commitments

It is important to acknowledge that Australian advertisers, through the universal application of the AANA Codes and the commitment of major local and international advertisers to further voluntary pledges, have long held themselves to standards that prevent advertising from promoting poor dietary habits or unhealthy lifestyles.

²¹ http://foodpsychology.cornell.edu/OP/fast_food_science

²² <https://www.ncbi.nlm.nih.gov/pubmed/27076575>

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The key question in relation to food and beverage advertising is whether such advertising encourages the *overconsumption* of food and beverages. Since the F&B Code and the AFGC Initiatives were introduced, the AANA considers that no significant new evidence on the effect of advertising on overconsumption of food and beverages has emerged which might present an evidence-driven basis for regulatory change. The evidence does not show a causal relationship between responsible advertising and the overconsumption of food and beverages.

The AANA's general policy objective is to set standards that ensure advertising and marketing communication is legal, decent, honest, and truthful and prepared with a due sense of responsibility to consumers and to society. The AANA is committed to ensuring that the advertising self-regulatory system continues to strike an appropriate balance in setting standards for food and beverage advertising, taking into account:

- the protection of consumers and children in particular;
- the right of businesses to advertise their products responsibly;
- the right of consumers to receive responsible advertising for products that may be of interest to them;
- any evidence of harm, or a real potential for harm;
- the proportionate application of advertising restrictions to achieve a legitimate aim.

The advent of digital advertising has led to a redefinition of marketing communication that allows the self-regulatory system to operate in this environment. The AANA is committed to working with the major digital platforms to ensure that the funding challenges for self-regulation caused by the significant increase in advertising content is addressed and that in the unlikely event that an advertiser should seek to flout a decision by Ad Standards the digital platforms would act to remove offending content. We are pleased to report that solid progress on both fronts has been achieved.

Promoting healthy lifestyle

The Healthy Food Partnership was created by the Federal Government Department of Health to provide a collaborative forum where the Government could work together with the health sector, consumer groups, academia, and broader food industry to improve the food supply and increase consumer awareness and understanding of the link between food choices and health outcomes. The Health Food Partnership's key initiatives are on food reformulation aimed at reducing saturated fat, sugar and sodium across nominated food categories, portion guidance and consumer messaging. The Australian Food and Grocery Council's submission details the progress that has been made during and since the Partnership has been active.

In addition, our members have embarked on a number of initiatives to help encourage better consumer understanding of food choices, the importance of exercise and the link to health outcomes. Initiatives worth noting include:

<https://www.coles.com.au/healthier-living>

<https://www.woolworths.com.au/shop/discover/healthy-eating>

<https://www.n4hk.com.au/about>

<https://www.kinderjoyofmoving.com/int/en/global-activities/australia>

Economic benefits

The advertising, marketing and media industry plays a fundamental economic role in society – the positive impact of advertising on the economy is much bigger than direct spending, it is a critical foundation for the operation of a market economy²³. Advertising contributes approximately \$40 billion to the Australian economy leading to significant and positive long-term impacts on economic efficiency. It drives consumer choice in the commercial and non-commercial sectors and promotes competition. As a result, it helps consumers and the wider society to be better informed, to achieve insights and understandings and to secure value for money.

As a key driver of demand, advertising enables innovation to be brought to market and stimulates economic growth and employment. In aggregate, advertising is associated with employment of over 200,000 people in the Australian economy. This includes direct employment in the advertising sector as well as indirect employment in the advertising supply chain. In addition, advertising underwrites the economic viability of commercial (and some public sector) media and enhances the variety of media content.

There is a need to consider whether there is a clear rationale to increase commercial and regulatory burden on the advertising industry when there is no substantive evidence to show that responsible advertising drives overconsumption. It is vital to consider the potential negative impacts and unintended consequences of increasing regulation and to weigh the costs against what are highly questionable potential benefits.

In addition, there is no evidence that responsible advertising leads to obesity, or overconsumption of food and beverages. There are limits to what advertising restrictions can ever reasonably achieve (and be reasonably expected to achieve) in contributing to wider efforts to tackle poor diet. Given the lack of causation between responsible advertising and overconsumption, further restricting the advertising of products is unlikely to yield effective results compared to the negative impact of regulation in terms of economic costs to advertisers, media owners, and ultimately the community.

Corporate Governance

Full consideration of “Commercial Determinants of Health” as specific factors - as proposed in the Section 7 of the Draft Strategy - would divert this process from evidence-based policy making into a field of social theory that commonly sets health outcomes at odds with other factors that have had profoundly positive impacts on the wellbeing of Australians, such as globalisation, trade liberalisation, free markets, and individual choice. Indeed, proponents of this line of thinking have cited arguments defending free speech and personal choice as “obstructing policy processes”.²⁴

It is our view that if this preventive health strategy attempts to buy into an area of debate that is so subjective and controversial, and that if taken to its rhetorical conclusion draws into question the fundamental tenets of our society, it will be counter-productive to its effectiveness and likelihood of broad and bipartisan support amongst Australians.

Within the broader discussion on this point, we note that elsewhere in our submission we have made clear our concern with regard to categorising food as “unhealthy” as opposed to

²³ *Advertising Pays: the economic, employment and business value of advertising*, June 2016 <http://www.advertisingpays.com.au/>

²⁴ de Lacy-Vawdon C and Livingstone C 2020. Defining the commercial determinants of health: a systematic review. *BMC Public Health* 20(1022). <https://doi.org/10.1186/s12889-020-09126-1>

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acknowledging that it is the over-consumption of some foods, combined with a lack of physical activity, which creates unhealthy outcomes. So, we reject the assertion that marketers and advertisers are responsible for the “promotion of unhealthy products” or that their activity “enhances the desirability and acceptability of unhealthy products.”

The draft paper goes on to assert that corporate political activities such as lobbying and political donations can constitute a “barrier to public health policy”. We submit that this is not necessarily so; corporate lobbying and political donations are valid methods of political communication (and protected as such under the Constitution)²⁵ that can be used to help shape positive health outcomes and should be acknowledged as such. The AANA itself has engaged with policy makers to ensure self-regulation delivers positive outcomes for public health in Australia.

It is disturbing that such ill-informed opinion has found its way into the Draft National Preventive Health Strategy and we respectfully ask that it be removed.

Further Consultation

The AANA would welcome an opportunity to discuss in more detail with NPHT the issues raised in the Draft NPHS. Please contact Megan McEwin at megan@aana.com.au regarding opportunities for further consultation.

²⁵ *Unions NSW v New South Wales (2013) HCA 58, 30*