



Submission to

**Feasibility Study on options to limit unhealthy food
marketing to children: Policy Options for Public
Consultation**

on behalf of

Australian Association of National Advertisers

March 2024

Introduction

The AANA is the peak body for advertisers and, since 1997, the AANA and Ad Standards have been the custodians of Australia's advertising content self-regulation system, successfully developing advertising codes and operating an impartial complaints handling process with a high compliance rate that meets prevailing community standards. The AANA develops, reviews and updates the codes whereas Ad Standards adjudicates complaints made by members of the public through the independent Community Panel which includes people from a broad range of age groups and backgrounds, is gender balanced and as far as possible representative of the diversity of Australian society.

As the owner of the self-regulatory component of regulation controlling advertising and marketing communication in Australia, the AANA is committed to ensuring the advertising Codes keep pace with the rapid technological changes within the industry as well as community expectations.

We recognise that the advertising industry has a role to play in supporting the government's efforts to tackle the problem of obesity. The rules contained in the AANA's *Food and Beverages Advertising Code* ('F&B Code') mirror many of the proposals contained in the National Obesity Prevention Strategy, with particular focus on protecting children and the WHO guidelines.

The policy options ('the Proposal') being put forward in this survey go beyond protecting children and extend to protect the whole population from seeing food and beverage advertising. Given that food and non-alcoholic beverage products in Australia are subject to strict food safety laws and are safe and legal for anyone to purchase and consume, we believe such restrictions are not required and would not be effective to combat obesity in the proposed form.

Summary

The AANA recognises the concerns held by health authorities and the community regarding the exposure of children to advertising for occasional foods and the AANA has taken steps accordingly to strengthen the F&B Code and Children's Code so as to minimise the potential for children to be targeted with such advertising. These new F&B Code and Children's Code rules took effect on 1 November 2021 and 1 December 2023 respectively and apply to all food and non-alcoholic beverage advertising in Australia, on all platforms and media, including sponsorship and point of sale advertising within the retail environment.

The AANA Code approach to food and beverage advertising recognises the issue of obesity and is aimed at:

- Supporting parents and caregivers to be the appropriate decision-makers when it comes to what their children eat;
- Restricting how many ads children see for occasional food/drinks and ensuring appropriate content of such advertising;
- Increasing how many ads children see for essential healthy food/drinks and using all the tools in the advertising toolkit to make essential, everyday food/drink appealing to children.

We have confidence - based on our extensive stakeholder outreach which was well received in addressing previous concerns and has been evident through recent case application - that this strengthened Code, which is supported by all major media and technology platforms (including outdoor, TV and digital) is delivering on its stated objective to ensure that advertisers and marketers maintain a high sense of social responsibility in advertising food and beverage products in Australia.

AANA undertakes widespread industry training to ensure all levels of the advertising industry (advertisers, media and platforms) understand and comply with the rules.

Given the various pressures on governments and health authorities, the AANA is pleased to play a role in supporting the government’s efforts to tackle obesity.

However, AANA believes that the Proposal is overly broad and will ban almost all food marketing communications *to adults* in the name of limiting the incidental receipt of such communications by children. By unnecessarily banning advertising to adults, the Proposal is a blunt instrument that will miss the intended target, children, most of the time. By restricting advertising to adults, the Proposal is likely to inflict economic damage on the ad-supported media sector, the advertising industry, the food industry, and others - without any corresponding benefit. This is because there is no published good quality evidence and many research gaps to support the idea that reducing food advertising will drive improved public health outcomes.

Evidentiary Background

AANA is concerned that large research and data gaps exist in terms of the cause and effect of various factors on obesity. For example, the impact food environments at school or home have on children’s affective and behavioural intervention toward familiar/unfamiliar food is largely under researched and unknown.

Advertising bans overseas like the ones being proposed in this study have failed to reduce obesity but we don’t know why. As outlined in the table below, the following jurisdictions have implemented advertising bans however these bans have failed to reduce obesity:

Country	Ad restriction	Date of ban	Impact of ban
Quebec, Canada	Imposed a ban on all advertising to children under 13	1980	In the first 15 years of the Quebec ad ban, the prevalence of overweight and obesity amongst Quebec children grew by 140% a faster increase than in numerous provinces where no advertising ban was in place ¹ . In more recent years, Quebec’s childhood obesity problem has far surpassed that of the rest of Canada ² .
UK	World’s strictest restrictions rules targeting HFSS ads aimed at children under the age of 16	2006	Child exposure to food ads in the UK was cut almost in half between 2008 and 2017 ³ and yet obesity rates have remained near constant ⁴ .

¹ See J.D. Willms et al., Geographical and Demographic Variation in the Prevalence of Overweight Canadian Children, Obesity Research, May 2003, 11(5):668-673, at 670, available at <https://onlinelibrary.wiley.com/doi/epdf/10.1038/oby.2003.95>

² Quebec’s rate of childhood obesity and overweight rose substantially between 2004 and 2015, measuring at 23.2% amongst children 2-11 by 2015, whereas the rate in the rest of Canada (where no ad ban is in place) declined over that same period to 18.7%. See Statistics Canada, Table 13-10-0797-01: [Measured children and youth body mass index \(BMI\) \(Cole classification\), by age group and sex, Canada and provinces, Canadian Community Health Survey – Nutrition.](#)

³ Advertising Standards Authority, [Children’s exposure to age-restricted TV ads](#), February 2019

⁴ Public Health England, [Patterns and trends in child obesity: A presentation of the latest data on child obesity, Feb. 2018.](#)

Chile	Adopted stricter nutrition criteria and imposed a 10pm watershed ban for TV. HFSS products cannot be advertised from 6am to 10pm, all packs and visual ads for HFSS products must display warning labels, and the use of cartoons and characters of appeal to children are also prohibited	2016	Childhood obesity continued to rise from 51.2% in 2016 to 54% in 2020 ⁵ and 58% in 2022 ⁶ .
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As such, AANA believes further research on the cause and effect of obesity and various policy solutions should be undertaken before proceeding with further advertising restrictions.

It is acknowledged that obesity is a complex and multi factorial problem with many influencing factors that are continually being researched, however, the Proposal assumes that reducing child exposure to certain food advertising is a viable and meaningful approach to addressing childhood obesity. It is worth noting that the UK government conceded that advertising bans would reduce calorie consumption by about 6 calories per day based on 2017 ad exposure. Such small reductions in calorie consumption are highly unlikely to have any impact on obesity rates.

In 2006, the Institute of Medicine was commissioned by the United States Congress to identify a causal link between advertising and obesity. In their report, however, the authors could only reach the following conclusion: “[E]vidence is not sufficient to arrive at any finding about a causal relationship from television advertising to adiposity among children and youth.”⁷ Though many years have now passed since that conclusion was first published, nothing in the intervening period has yielded a different result.

Given the economic implications of wide-scale advertising bans, we believe that such proposals should be based on robust research and evidence which unfortunately does not exist at this time.

Exposure of Children to Marketing

In the study, references 16 and 17 are used to support a claim that Australian children of lower socio-economic areas are exposed to higher rates of unhealthy food advertising. The research referred to in the study was conducted in Perth only and counted all types of advertising within a 500m radius of 64 schools in Perth, not just food and beverage advertising. Only 22% of these ads were for discretionary foods/drinks and the researchers included milk, cheese and yoghurt in their

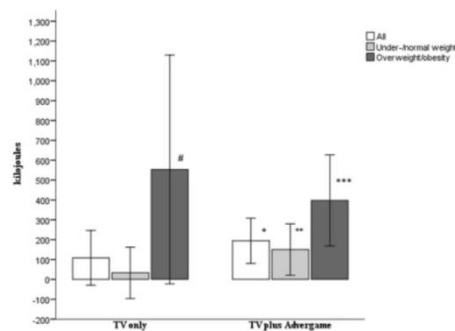
⁵ BBC article: The labels encouraging Chileans to buy healthier food, <https://www.bbc.com/news/worldlatin-america-57553315>, August 2021. Overweight and obesity data from JUNAEB, the National Board of School Aid and Scholarships, under the Ministry of Health in Chile.

⁶ In 2022 there are approximately 34% of students with a normal weight, 31% with some degree of obesity, and 27% overweight, that is, in total, 58% are overweight (in 2020 they were 54.1%). Since 2009 total obesity has increased 15.1pp, almost doubling in 13 years (from 15.9% to 31%), while severe obesity has increased 6.6pp. Source: The Chilean Society of Obesity (SOCHOB), <https://www.sochob.cl/web1/31-de-ninosobesos-junaeb-detecta-niveles-sin-precedentes/>.

⁷ Institute of Medicine, *Food Marketing to Children and Youth: Threat or Opportunity?*, 2006, at 292, available at <https://doi.org/10.17226/11514>.

definition of discretionary food. The ads in the study were not assessed as to whether or not it was designed to target children. Therefore, we believe the research provided does not support the conclusion that children in low-socio economic areas are exposed to a higher rate of unhealthy food advertising when compared to more affluent areas.

Reference 19 is used to support the claim that “*food marketing increases children’s energy intake to an extent that would lead to excess body weight over time*”. However, another study from 2018⁸ found that overweight children ate more than normal/underweight kids after watching the same ads and given the same conditions indicating the totality of evidence isn’t clear that marketing alone causes an increase in food consumption.



Mean daily additional kJ (95% CI) consumed at the camp after exposure to food advertising by children with under-/normal weight and overweight or obesity within the two media conditions. * Significant increase in total kJ consumed after food advertising compared with non-food advertising ($p = 0.001$). ** Significant increase in total kJ consumed after food advertising compared with non-food advertising ($p = 0.024$). *** Significant increase in total kJ consumed after food advertising compared with non-food advertising ($p = 0.002$). # Non-significant increase in total kJ consumed after food advertising compared with non-food advertising ($p = 0.058$)

There appears to be a lack of research to support a solid understanding of the key influences on children’s diet and long-term eating habits. A recent study⁹ identified the following research gaps when formulating effective policies to combat childhood obesity:

- To what extent and how do children’s awareness and knowledge influence their:
 - (a) perception and
 - (b) attitude toward food sustainability and advertisement of well-being through food?
- How does the food environment at school/home influence children’s affective and behavioural intervention toward familiar/unfamiliar food?
- How can parents and caregivers effectively support children’s emotional regulation in the face of food marketing?
- What are the perspectives and attitudes of children towards child-targeted food advertisement regulation across different platforms?
- How does social media food marketing impact children’s:
 - (a) engagement with food cues,
 - (b) coping strategies,
 - (c) food preference/choices,
 - (d) food evacuation of food brands and (e) obesity?

⁸ <https://ijbnpa.biomedcentral.com/articles/10.1186/s12966-018-0672-6>

⁹ 2023, Volume 190, 1 November 2023, 106989, *Revisiting 42 Years of literature on food marketing to children: A morphological analysis*, S. Lianbiaklal *, Varisha Rehman, Department of Management Studies, Indian Institute of Technology Madras, India <https://doi.org/10.1016/j.appet.2023.106989>

- What role does parenting style play in children's:
 - (a) obesity and mental illness risk and
 - (b) engagement with social media food advertisement?
- How children's food choices are influenced by:
 - (a) parents' food and health literacy and
 - (b) parental mediation strategy?
- To what extent does parenting behaviour mediate children's preferences for food promoted by an Instagram influencer?
 - To understand the extent of how food marketing in school, supermarket, outdoors influences children's (a) preferences, (b) evaluation, (c) consumption of healthy food?
- How do parents' emotion regulation play a role in children's consumption at home?
- How parents' health literacy influences their mediating strategies for children's food behaviour at home?
- How do children's socioeconomic level and their exposure to un/healthy food marketing impact children's food behaviour?
- How are children's food behaviour affected by the pricing strategy used by social media influencers?
- To what extent do siblings' food literacy influence children's (a) perception, (b) attitude and (c) food behaviours?
- How are the roles of social media and behaviours of siblings and parents played in shaping children's perception and choices of unhealthy food?

Without a solid evidence-based approach, it is unlikely that we can be confident that a particular policy will have any meaningful effect, especially when we know that similar ad bans overseas have failed to reduce obesity.

[Policies to restrict children's exposure to unhealthy food marketing](#)

Reference 24 in the study is used to support the finding that policies to restrict food marketing to children may improve the healthfulness of foods purchased by or for children, and reduce children's exposure to food marketing and its persuasive power. The particular systematic review referred to in the study examined the effectiveness of policies restricting the marketing of foods and/or non-alcoholic beverages to children to inform updated World Health Organization (WHO) guidelines.

The review referenced in the study relies on old information including a review of old Australian Codes that are no longer in place and which were superseded by the much stricter AANA F&B Code in 2021. The review found that policies are more likely to be effective when:

- they were mandatory;
- were designed to restrict marketing exposures of children up to more than 12 years; and
- when the policy used a government-led nutrient profile model to determine the foods that were not permitted to be marketed.

The new AANA Food & Beverage Advertising Code either meets or exceeds these requirements, in that it:

- applies to all advertisers, regardless of whether or not they have signed up to the Code;
- applies to all advertising platforms, all times of the day;
- defines children as under 15 years; and

- uses the government-led Australian Food Standards Nutrient Profile Score Criterion as the basis for determine which foods are permitted to be marketed.

Evidence informing the proposed policy objectives

Reference 13 of the study is used to support the claim that “*there is good evidence that children’s exposure to unhealthy food marketing influences their purchasing and consumption of unhealthy products*”. However, that study states “*Very little evidence was available on the association between food marketing and body weight or BMI. This review identified a single, moderate-quality observational NRS with no significant associations.¹⁰ The certainty of evidence was very low (risk of bias, indirectness).*”

Cost/Benefit of Proposal

A recent Deloitte analysis of the Australian market found that advertising contributes \$53 billion to the economy (2.1% of GDP) and accounts for 153,400 jobs (with a growth rate that outpaces the general labour market by a factor of two).¹¹ Advertising also supports an additional 91,000 jobs across a range of media-oriented industries.¹² Every dollar spent on advertising has a multiplier effect, driving several more dollars in associated economic activity across the economy.¹³ With food advertising accounting for around 4% of those totals, the severe restrictions on food advertising reflected in the Proposal will affect billions in economic activity and thousands of jobs.

Given that overseas advertising bans similar to those contained in the Proposal have failed to have any impact on childhood obesity rates, AANA is concerned that the Proposal would have a large economic cost in exchange for no direct measurable improvement in children’s dietary habits.

Response to Survey Questions

1.0 Policy objective

- Option 1.1 To reduce children’s exposure to unhealthy food marketing and the persuasive power of this marketing (short-term objective, within 1-2 years).
- Option 1.2 To reduce children’s exposure to unhealthy food marketing and the persuasive power of this marketing (short-term objective, within 1-2 years) AND to improve children’s dietary intakes (medium-term objective, within 3-4 years).

Which is the most appropriate policy objective? (Select one option or other(specify))

AANA supports the option of ‘Other, please specify’.

¹⁰ Minaker LM, Storey KE, Raine KD, et al.. Associations between the perceived presence of vending machines and food and beverage logos in schools and adolescents’ diet and weight status. *Public Health Nutr.* 2011;14(8):1350-1356. doi: 10.1017/S1368980011000449

¹¹ Deloitte Access Economics, Advertising Pay: Second Edition (2023), available at <https://advertisingpays.com.au/>. This report was commissioned by the Advertising Council of Australia, The Media Federation of Australia and the AANA.

¹² *Id.*

¹³ See, e.g., Deloitte LLP, Advertising Pays: How Advertising Fuels the UK Economy, 2013, at 9, available at https://www.adassoc.org.uk/wp-content/uploads/2014/09/Advertising_Pays_Report.pdf (last visited 5 June 2019) and other reports cited in SLG Economics expert report, most of which reflect a multiplier effect of 5 to 7 times total ad expenditure. See SLG Economics report, available at <https://www.isba.org.uk/knowledge/isbaibipa-hfss-joint-consultation-response>.

AANA believes that, to have a demonstrable impact on obesity, any policy must impact children's diet and/or exercise.

As such, AANA recommends the policy objective be:

- To reduce the amount of unhealthy food marketing that children are exposed to (short-term objective, within 1-2 years) AND
- to improve children's dietary intakes (medium-term objective, within 3-4 years).

In addition, further research should be undertaken into the factors affecting children's diets to ensure that any policy solution has a good likelihood of success.

As noted in the consultation paper, the evidence shows that drivers of poor diets are multi-faceted and complex. Any single intervention or policy is likely to have a modest impact on population nutrition, with many factors required to influence this outcome. Further, children's dietary intakes may be difficult to measure as the National Nutrition Survey is conducted infrequently. AANA believes that the medium-term objective should be more specific to the policy framework and quantifiable in the medium term.

2.0 Policy approach

Option 2.1 Status quo, which relies on a self-regulatory approach whereby food marketing is governed by industry Codes of Practice.

Option 2.2 A mandatory legislative approach with policy development, monitoring and enforcement led by the Australian Government.

Which policy approach has the greatest chance of achieving the policy objective(s)? (Select one option).

AANA supports option 2.1 - Status quo.

Given that the current AANA F&B Code, which is one of the strictest self-regulatory systems for food and beverage advertising in the world, delivers or exceeds the WHO's list of best-practice policy response features, AANA believes the current self-regulatory system is working well and represents the best and most effective policy response.

It would be difficult for the Federal and State governments to implement a system as comprehensive and far-reaching as the AANA F&B Code and Ad Standards complaints handling system given the legislative restrictions and hurdles within the Australian constitution and Federal/State power and cost sharing arrangements when it comes to health. Also, the AANA Codes are reviewed at least every 5 years and are therefore able to keep pace with evolving community standards, whereas legislation is more difficult and cumbersome to review and amend.

There is no widespread concern about food and beverage advertising, which is underscored by the fact that complaints to Ad Standards that fall under the AANA F&B Code represent only 2.36% of total complaints received by Ad Standards¹⁴.

¹⁴ Ad Standards *Review of Operations 2022*, https://adstandards.com.au/sites/default/files/adstds_review-of-operations_final_web_version.pdf

3.0 Age definition of children

Based on the context and evidence outlined above, and through targeted consultation, the following child age definitions are proposed.

Option 3.1 Children are defined as less than 18 years of age.

Option 3.2 Children are defined as less than 15 years of age.

Which policy approach has the greatest chance of achieving the policy objective(s)? (Select one option).

AANA supports option 3.2 - Children are defined as less than 15 years of age.

The AANA Code approach to food and beverage advertising recognises the issue of obesity and is aimed at:

- Supporting parents and caregivers to be the appropriate decision-makers when it comes to what their children eat;
- Restricting how many ads children see for occasional food/drinks and ensuring appropriate content of such advertising;
- Increasing how many ads children see for essential healthy food/drinks and using all the tools in the advertising toolkit to make that essential, everyday food/drink appealing to children.

The AANA Code uses a government definition to determine the definition of a child. The definition of child in the Broadcasting Services (Australian Content and Children's Television) Standards 2020 is defined as under 15 years of age.

More recently, the Australian government has ratified an international treaty on child employment, which states children should be aged 15 to work¹⁵. According to the Department of Employment and Workplace Relations (DEWR), a survey in June 2022 found an estimated 214,500 children in Australia under 15 years of age had worked at some time in the past 12 months. A survey conducted in August 2022 found 367,100 children between the ages of 15 and 17 had been employed in the week of the survey.²⁰

Because the product the subject of this Feasibility Study is food and beverages, it is important to recognise that it is legal and safe for people of any age to buy and eat these products. Once a person is aged 15 years and undertaking paid employment, query what impact advertising restrictions will have on that person if they can legally and safely handle, sell, purchase and consume a product without parental consent or involvement.

Children's food preferences form at an early age¹⁶, with tastes and eating patterns tending to be developed by ages 6 – 7 and once those patterns are developed, they track into adolescence and

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https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Treaties/ILOMinimumAge/Report/Section?id=committees%2Freportjnt%2F025043%2F80628

¹⁶ Mura Paroche M, Caton SJ, Vereijken CMJL, Weenen H, Houston-Price C. How Infants and Young Children Learn About Food: A Systematic Review. *Front Psychol.* 2017 Jul 25;8:1046. doi: 10.3389/fpsyg.2017.01046. PMID: 28790935; PMCID: PMC5524770
[https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5524770/#:~:text=At%20first%2C%20children%20do%20not,accept%20\(Hammer%2C%201992\)](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5524770/#:~:text=At%20first%2C%20children%20do%20not,accept%20(Hammer%2C%201992)) .

adulthood and are very hard to change. It is vital children are encouraged to eat a healthy diet at a young age to establish lifelong, healthy eating habits. The AANA Code aims to support the formation of early healthy eating habits through the restriction of advertising occasional food/drinks and promotion of healthy, essential food/drinks to children. The AANA Code uses the FSANZ NPSC to determine essential, everyday food/drinks.

There is no evidence to suggest that extending such protections to people aged over 15 years will have any impact on the eating habits of children or the rates of childhood obesity.

4.0 Foods and beverages to be restricted from marketing

- Option 4.1 A government-led food classification system aligned with national dietary guidance that restricts marketing of unhealthy food products AND food brands that are associated with unhealthy products.
- Option 4.2 A government-led food classification system aligned with national dietary guidance that restricts marketing of unhealthy food products. Marketing of food brands (without referring to a specific product) would be exempt from restrictions.
- Option 4.3 A government-led food classification system aligned with national dietary guidance that restricts marketing of unhealthy food products. Marketing of food brands would only be permitted when a healthy food product owned by the brand was included in the marketing content.

Which food classification approach has the greatest chance of achieving the policy objective(s)? (Select one option).

AANA supports option 4.2.

The focus of any policy should be on occasional food and beverage products in a way that restricts the advertising of occasional food and beverages and rewards brands for having or developing products that meet the relevant nutrient criteria test. There is no evidence that penalising brands merely for having some products or association with such products that do not meet the nutritional criteria would have any impact on obesity rates. As such, AANA believes that brands and logos should be exempt from restrictions and the focus should be on the food and drink items themselves.

Currently, manufacturers may work to design or reformulate products likely to be consumed by children to meet the NPSC criteria. By improving their nutritional composition of products, brands are able to increase the number of healthier products available in their portfolio and to consumers. Applying a broad rule prohibiting brands from advertising based on their unhealthy perceptions creates less incentive for these brands to improve the nutritional profile of existing products or to address the healthiness of their overall portfolio.

Which specific food classification system would be most appropriate?

AANA preferred option: FSANZ Nutrient Profiling Scoring Criteria

The Health Star Rating (HSR) system is a comparative tool for shoppers for comparing foods within product categories – not an indication of whether or not a food or beverage item is an everyday, essential food. For example, Diet soda can get 3.5 stars in the HSR system however it is NOT an everyday, essential beverage. The HSR was not designed to be used as a marker of healthiness of a product in a marketing to children context and its application in this area has not been validated either. Given the reasons for which it was developed, the HSR has many exclusions, meaning it is not able to be applied across all food and beverage products in the same way that the NPSC is readily able to do.

Part of the issue with obesity rates is people not eating enough of the right foods. The AANA Code allows the promotion of products that support or contribute positively to achieving a healthy balanced diet aligned with dietary guidelines. For the purposes of our Code, the best tool is one that easily and in a transparent way determines food and drinks that are aligned with dietary guidelines. For this reason, the Food Standards NPSC is the best tool as it is designed by nutrition experts and importantly, is able to be applied to all food and beverage products across many different formats, including both packaged foods and those sold ~~via~~ or prepared for the consumer to consume (e.g. via quick serve restaurants).

The added benefit of the NPSC is that it results in a black and white score which can be easily used by authorities to determine compliance. It is a criterion that has been in use in Australia by food and beverage manufacturers since 2016, and its application is well understood by those using it.

Other guides such as COAG use a principle based approach, but they do not provide the clarity to the food and beverage industry around compliance. For example, descriptors such as “burgers” or “nachos”. Both burgers and nachos can be nutritious if prepared appropriately. It is not the name of the food or drink that is important, rather the nutritional composition. The NPSC looks beyond a name and assesses the nutritional content in food and drinks in an evidence-based transparent way.

In other countries, like the UK, where guides similar to the COAG guide have been used, much work has been undertaken by retailers and industry with Government to align food and category definitions. A further overlay of nutrition criteria (HFSS) has also been required to make the policy practical, consistent and well understood/applied at the implementation level. We believe any type of broad categorisation of foods or drinks would mostly likely result in the application of an NPSC style criteria overlay. It seems overly complicated and restrictive to apply a 2-tier criteria system in this way and we should look to experience in other markets to avoid undue complication that comes from such "undefined" approaches.

5.0 Media platforms, settings and marketing techniques to be restricted

Proposed TV food advertising restrictions for consultation

Option 5.1.1 Restrict unhealthy food advertising on TV between 5:30am and 11:00pm. Restrictions apply across all TV services and platforms.

Option 5.1.2 Restrict unhealthy food TV advertising that is ‘directed to children’, including in children’s programs (C and P programs), on children’s channels and during children’s peak viewing times (based on the number of children watching). Restrictions apply across all TV services and platforms.

Option 5.1.3 Restrict unhealthy food advertising on *all* broadcast media between 05:30 and 11:00 pm (all TV services and platforms, radio, cinema, podcasts and music streaming services).

Which option for restricting TV food advertising has the greatest chance of achieving the policy objective(s)? (Select one option)

AANA supports option 5.1.2 - Restrict unhealthy food TV advertising that is ‘directed to children’, including in children’s programs (C and P programs), on children’s channels and during children’s peak viewing times (based on the number of children watching). Restrictions apply across all TV services and platforms.

The AANA Code applies to all advertising at all times in all media - no exceptions. This includes TV advertising, including live, streaming and on-demand content. Occasional food and beverages ads cannot be shown during children's content, C or P rated programs, 150 meters from schools or where the proportion of adults in the total audience is less than 75% anytime of the day or night. This allows for changing viewing patterns of children.

It should be noted that Australian free-to-air TV relies on advertising to fund Australian-made content, sport and journalism. Any further restrictions on food and beverage advertising will have an impact on that revenue. For example, in Germany, it was estimated that the Food Ministry’s plans for an 11pm watershed ban would have represented a loss of 3.3 billion euros in gross advertising revenue every year to media outlets¹⁷.

In Chile, where a 10pm watershed ban was imposed on TV advertising, certain research claimed success¹⁸ because children in Chile, it claimed, saw 73% fewer TV ads for unhealthy food and drinks. However, following the implementation of these bans, childhood obesity in Chile continued to rise from 51.2% in 2016 to 54% in 2020¹⁹ and 58% in 2022²⁰. As such, there is no evidence that further TV advertising restrictions beyond the ones currently in place under the AANA F&B Code would have any impact on decreasing the rates of childhood obesity.

¹⁷ <https://www.wiwo.de/politik/deutschland/werbesprech-oezdemirs-werbeverbot-gefaehrdet-medienvielfalt-und-demokratie/29074236.html>

¹⁸ <https://www.globalfoodresearchprogram.org/children-in-chile-saw-73-fewer-tv-ads-for-unhealthy-foods-and-drinks-following-trailblazing-marketing-restrictions/>

¹⁹ BBC article: The labels encouraging Chileans to buy healthier food, <https://www.bbc.com/news/worldlatin-america-57553315>, August 2021. Overweight and obesity data from JUNAEB, the National Board of School Aid and Scholarships, under the Ministry of Health in Chile.

²⁰ In 2022 there are approximately 34% of students with a normal weight, 31% with some degree of obesity, and 27% overweight, that is, in total, 58% are overweight (in 2020 they were 54.1%). Since 2009 total obesity has increased 15.1pp, almost doubling in 13 years (from 15.9% to 31%), while severe obesity has increased 6.6pp. Source: The Chilean Society of Obesity (SOCHOB), <https://www.sochob.cl/web1/31-de-ninosobesos-junaeb-detecta-niveles-sin-precedentes/>.

Proposed online media food marketing restrictions for consultation

- Option 5.2.1 Restrict all 'paid for' (monetary and non-monetary) marketing for unhealthy foods through online media. Restrictions apply across all online communication technologies.
- Option 5.2.2 Restrict *all* marketing for unhealthy foods through online media. This includes all marketing that has been 'paid' for (monetary and non-monetary) and 'non-paid' marketing where a company has acted to promote an unhealthy food (e.g., through sharing user content or encouraging user generated content with the intention of promoting an unhealthy food or brand).

Which option for restricting online food marketing has the greatest chance of achieving the policy objective(s)?

AANA supports 'Other, please specify'.

The AANA F&B Code which covers online marketing, including paid, non-paid, website and email marketing, is working well to adequately restrict online marketing of occasional food and beverage products. The F&B Code restrictions are based on child audience data and these restrictions apply regardless of the time of day, to ensure that the Code keeps pace with changing child viewing habits.

Digital Platform Tools for Targeted Advertising

Advertisers use targeting tools both to exclude or include certain people seeing their ads. Digital platforms have tools that assist the advertiser to do this:

- Age:
 - o Age-gating - limiting access to a platform to people over a certain age (e.g. user must be over 13 yrs to use TikTok).
 - o Age targeting – most platforms (Facebook, Insta, Twitter, Youtube, Snapchat) enable advertisers to restrict their advertising, brand page or individual post to certain age groups.
 - o Age verification – platforms are developing age verification algorithms that check a user's behaviour against purported age (e.g. a user posts about their 10th birthday when they purported to be 13).
- Keyword or content inclusions or exclusions: these tools allow a brand to ensure that their ad either does or does not appear near certain content or served to people who have searched a certain topic. Users can also utilise tools to opt-out of seeing certain ads.
- Segmentation targeting: depending on the platform's data, a brand can target advertising to certain segments based on the consumer's location or interest.

We believe that any advertising restrictions need to be utilising the tools and data available and make the most of that data rather than set blanket or time-based bans which may not capture shows or platforms that children are watching.

AANA supports the existing system which is working well and believes no additional regulation is required.

Proposed outdoor food advertising restrictions for consultation

Based on the context and evidence outlined above and through targeted consultation the following outdoor food advertising restrictions are proposed.

Option 5.3.1 Restrict unhealthy food advertising on all outdoor media.

Option 5.3.2 Restrict unhealthy food advertising on outdoor media at government-owned and managed places, on public assets, within 750m around schools and along major transport corridors.

Which option for restricting outdoor food advertising has the greatest chance of achieving the policy objective(s)?

AANA supports the 'Other, please specify'.

The AANA F&B Code already covers outdoor media and explicitly bans occasional food and beverage advertising from appearing within 150m of a school.

There is no evidence that extending these restrictions to all outdoor media or 750m from schools or transport corridors would have any greater impact than the current restrictions. However such wide-sweeping restrictions would deprive State and Territory governments of vital funding for public transport. According to recent research, advertising contributes approximately \$352m to public infrastructure²¹.

Proposed food packaging restrictions for consultation

Do you support restricting on-pack marketing?

AANA does not support further restrictions on food packaging for the following reasons:

- Existing food safety and labelling laws which are mandated under the Australia New Zealand Food Standards Code exist to ensure consumers are able to inform themselves of the health and safety of the contents of the food or drink they are buying;
- Enforcement of non-compliance with this requirement would likely require a product withdrawal and dumping of existing packaging which is not appropriate where the food or drink is otherwise safe to consume and no imminent threat to public safety is present;
- Consumers are increasingly switching to online shopping for their grocery shopping. The option of online shopping provides consumers with a way to avoid children seeing packaging for products they do not want them to consume. Research indicates that the shift to online shopping is a trend that will continue:
 - o According to NielsenIQ Homescan, 66% of online channel's sales growth is money spend reallocated from Bricks & Mortar equivalents;
 - o According to eCommerce Market Outlook, over the next 5 years (CAGR 22-27) it is predicted that online growth is expected to rise in the grocery sector by 15.5%.
 - o According to the Woolworths annual report:
 - group e-Com has grown by more than 35%;

²¹ Advertising Pays report by Deloitte Access Economics - <https://advertisingpays.com.au>

- food online sales increased 2.9% to \$5.1 billion with sales penetration of 10.7%; and
 - Food e-Com sales grew by 13.7%.
 - According to the Coles annual report:
 - Coles Group experienced ecom growth of 116; and
 - Food e-Com sales increased 1.1% to \$2.8 billion with sales penetration of 7.6%.
- There is no evidence that such repackaging would work to reduce rates of obesity. For example, in Chile, where plain packaging has been implemented, obesity rates have continued to climb.

[Proposed food sponsorship restrictions for consultation](#)

Based on the context and evidence outlined above and through targeted consultation, the following food sponsorship restrictions are proposed.

- Option 5.5.1 Restrict unhealthy food sponsorship of elite and professional sports, community sports and arts and cultural events involving children as participants

Do you support restricting sports and arts food sponsorship?

AANA supports the option 'No'.

The consultation paper recognises the lack of funding for children's sport currently. Community clubs proactively approach brands to sponsor their team and club because they don't have enough government support.

Extending the proposed sponsorship blanket ban to arts events would similarly deprive funding from an already underfunded part of the community.

A blanket ban on sponsorship would have the sub-optimal outcome of reducing funding to areas of sport and arts that need it the most, increasing the ticket price of events at which children run, play and dance and potentially further reducing the access to the amount of exercise that children are getting.

This ban may also prohibit food trucks and stalls from attending community and arts events which again reduces a source of income to such events.

The AANA Code allows branded equipment, merchandise and funding – no actual occasional food and drinks and no visuals of occasional food and drinks or their packaging in any sponsorship advertising. This position recognises the importance of sponsorship of children's sports which play an important role in reducing obesity and allows for funding and support.

[Proposed food retail marketing restrictions for consultation](#)

Based on the context and evidence outlined above, and through targeted consultation, the following retail marketing restrictions are proposed.

- Option 5.6.1 Status quo, whereby food marketing within food retail outlets is determined by the retail industry.
- Option 5.6.2 Restrict placement-based promotions of unhealthy foods within food retail outlets (e.g. end-of-aisle, check-outs).

- Option 5.6.3 Restrict price-based promotions of unhealthy foods within food retail outlets (e.g. multi-buys, temporary price promotions).
- Option 5.6.4 Restrict placement-based and price-based promotion of unhealthy foods within food retail outlets.

Which option for restricting retail marketing has the greatest chance of achieving the policy objective(s)? (Select one option)

AANA supports the option 'Status quo - food marketing within food retail outlets is determined by the retail industry'.

The AANA Code covers in-store promotions and AANA has conducted training of the major grocery chains to ensure they are aware of the need not to target children with occasional food or drinks.

Given the availability of online shopping, it is no longer necessary for children to be taken into grocery stores. Combined with efforts by the grocery stores to promote fresh fruit and vegetables at the entrance of the stores, provide free fruit for children to snack on and give away magazines that include healthy and affordable recipes, AANA believes that the retail sector is actively working to support efforts to combat obesity.

As such, AANA believes no government intervention is required.

Proposed restrictions on marketing 'directed to children' for consultation

Based on the context outlined above and through targeted consultation the following restrictions on marketing 'directed to children' are proposed.

- Option 5.7 Restrict direct unhealthy food marketing to children and any unhealthy food marketing that uses promotional techniques with child appeal across all media and settings. This policy would be combined alongside time and media- or settings-based food marketing restrictions (e.g. Sections 5.1 to 5.6) to cover marketing not restriction under other provisions.

Do you support restricting unhealthy food marketing 'directed' to children, in addition to policy options 5.1-5.6?

AANA supports option 'No'.

All forms of marketing are covered by the AANA F&B Code, which prohibits advertising of occasional food or drinks to children. As such, we believe further regulation is not required.

Further Consultation

The AANA would welcome an opportunity to discuss in more detail with ACMA the issues raised in the Discussion Paper. Please contact Megan McEwin on (02) 9221 8088 or megan@aana.com.au regarding opportunities for further consultation.