

Response to the Australian Government Department of Health and Aged Care

Feasibility study on options to limit unhealthy food marketing to children: Policy options for public consultation.

15 March 2024

The Western Australian Council of Social Service Inc. (WACOSS) welcomes the opportunity to respond to the Feasibility study on options to limit unhealthy food marketing to children: Policy options for public consultation.

WACOSS is the peak body for the community services sector in Western Australia and works to create an inclusive, just and equitable society. We advocate for social and economic change to improve the wellbeing of Western Australians, and to strengthen the community services sector that supports them. WACOSS is part of a network consisting of National, State and Territory Councils of Social Service, who advance the interests of people on low incomes and those made vulnerable by the systems that have been put in place.

Submission overview

In Australia, excess weight in children and adolescents is a significant public health challenge. One in four children aged 2-17 are overweight and one in twelve are obese. The impacts of excess weight can be significant and can result in poorer health and wellbeing, worse school performance, and increased risks of chronic disease in adulthood. Critically, for these children, excess weight is the result of obesogenic environments where the promotion and availability of unhealthy food drives poor diets and higher caloric intake. Considering this, WACOSS strongly supports efforts to change the environments in which we live, work and play to reduce children's exposure to the power of unhealthy food marketing.

Responses to the consultation questions are provided below.

What is the most appropriate policy objective?

We strongly believe the policy objective should focus on improving diets and reducing the amount of unhealthy marketing children are exposed to. We believe the end goal of any reform should be to improve children's dietary intake, and that achieving this goal relies on reducing the amount of unhealthy food marketing children are exposed to, and the persuasive content of marketing messages. Improvement in diet must be included as an objective to ensure policy and regulation is designed, and monitored, with this goal in focus.

We support improvement in diet being a medium-term objective of the policy but suggest it may be unlikely to see drastic change within a three to four year period. This outcome requires significant environmental and social change – beyond advertising restriction – as well as relevant support mechanisms to help families develop and maintain new dietary habits. Broader environmental change is particularly important for people living on low incomes, for whom healthy food behaviours are often inaccessible – either due to the high cost of nutritious food items, or limited access to the time, and in some instances the skills, required to purchase, store, and prepare healthy alternatives.

Some environmental changes that would improve dietary patterns in this cohort include raising the rate of income support to ensure people can afford to put nutritious food on the table and supporting emergency relief organisations to provide families with healthy food items.

Finally, further work is needed to develop a monitoring framework for both the marketing and dietary objectives of the policy. We recommend this be done in consultation with public health experts. Key monitoring considerations include:

- Better understanding of children's dietary intakes will be needed to effectively monitor the effect of any changes. Comprehensive data on children's dietary intake does not currently exist in Australia.
- Improvement in diet should be defined by reference to the Australian Dietary Guidelines and should focus on decreasing the consumption of discretionary foods and foods high in added sugars/sodium and/or saturated fat.
- Monitoring should consider Australian children both as a whole and in subgroups, such as children of different ages, Aboriginal and Torres Strait Islander children, children in low socio-economic groups, children with disabilities, children from cultural and linguistically diverse backgrounds and children in rural and remote areas.

Which policy approach has the greatest chance of achieving the policy objective(s)?

We strongly recommend, and support, a mandatory legislative approach. This approach is essential to ensure effective implementation of the reform.

We strongly oppose retaining the status quo and self-regulation. Allowing the processed food and advertising industries to set their own rules does not effectively protect children from exposure to unhealthy food marketing, as inevitably profits are prioritised over the health and wellbeing of our community. As set out in the consultation paper, the ineffective nature of self-regulation is supported by evidence from around the world and demonstrated by the weak rules that industry currently sets and monitors in Australia.

Which age definition is most appropriate?

We see it appropriate to define a child as under 18 years. We note that as food policy cuts across multiple portfolios a definition that aligns with other policy areas, such as health and education, is likely to achieve better and more integrated outcomes. A definition that includes children under 18 years aligns with broader Australian Government policies regulating and protecting children, including the Australian Government National Action Plan for the Health of Children and Young People. We also highlight the Australian Government's recent response to the Privacy Act Review Report, where it said it would apply protections to all children under 18 years of age.

Additionally, as the consultation paper notes, children of all ages are negatively influenced by unhealthy food marketing. Children aged 14-18 years consume the highest amount of unhealthy food and increasingly use and engage more with screen-based media, with engagement increasing as children get older. High rates of screen-based media engagement increase children's exposure to marketing of unhealthy foods and embeds their poor dietary habits. Resultantly, it is critical to

include all children under the age of 18 in the policy. Any approach that does not do so, is not fit for purpose and is unlikely to achieve the policy objective.

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

We support a food classification approach that includes all marketing of food brands strongly associated with unhealthy food products.

As explored in the discussion paper, if brand marketing is not included, companies that mostly sell unhealthy food will simply replace their unhealthy food advertising with advertising that prominently features their brand either alone or placed with a healthier food in their product line.

Resultantly, a lesser approach does not provide sufficient protections and will see children exposed to harmful marketing. For example, an approach that only includes unhealthy food will allow major fast-food brands, sugary drink companies, and confectionery companies to advertise in children's social media feeds, on billboards and in prime-time television so long as the ads feature only the brand and not a product. Similarly, options that allow only healthy products will allow fast food chains to advertise their brand to children anywhere so long as a healthy product is in the advertisement – a product that the child may be very unlikely to purchase and doesn't reflect the brand's top selling items.

To support implementation, an appropriate definition of 'brands strongly associated with unhealthy food' will need to be developed. We recommend this definition is developed in consultation with public health experts and includes careful consideration of how it applies in practice to a range of brands. The brands of highest concern are well known brands that are frequent advertisers, are mostly known for unhealthy foods, and are likely to appeal to children.

Which food classification system do you prefer?

We support a definition of unhealthy food that:

- reflects the Australian Dietary Guidelines and best captures foods that are discretionary and/or should be limited in accordance with the guidelines;
- is category based, with clear categories of discretionary food that cannot be advertised at all, including sugary drinks, confectionery, desserts and ice-creams, sweet snacks, drinks sweetened with non-nutritive sweeteners, fast food meals such as burgers, chips, pizzas, fried foods, pies, cakes and others;
- applies appropriate nutrient thresholds to some food categories that can include healthy and unhealthy products, such as breakfast cereals and yoghurts; and
- applies effectively to fast food and meals as well as packaged food.

To achieve this, the COAG National interim guide to reduce children's exposure to unhealthy food and drink promotion (COAG guide) could be used as a starting point and expanded and refined in line with the above criteria. The Australian Government might also refer to other existing category and nutrient threshold-based models, such as the World Health Organization nutrient profile models, including one tailored to the Western Pacific Region.

Although the COAG guide is a good starting point, we do not support its use without further improvement. This is because it does not currently include several categories of unhealthy products, including those that are commonly marketed to children, for example high sugar breakfast cereals.

We strongly oppose the use of the Health Star Rating or the FSANZ Nutrient Profiling Scoring Criteria. These have not been designed for the proposed policy purpose and are unlikely to effectively align with the dietary guidelines, particularly as they permit some foods high in sugar/salt/saturated fat to achieve a high rating. Evidence shows these models are more likely than other models to permit foods to be marketed. For further information see: *Watson WL, Khor PY, Hughes C. Defining unhealthy food for regulating marketing to children—What are Australia's options? Nutrition & Dietetics. 2021;1–9, and Watson WL, Richmond K, Hughes C. Comparison of nutrition profiling models for food marketing regulation. Nutrition & Dietetics. 2023; 80(4): 372-376.*

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

We strongly support restricting all unhealthy food marketing on all broadcast media between 5.30am and 11pm. As outlined in the consultation paper, evidence shows the highest numbers of children watch TV during these hours, and the policy should actively protect children during peak times.

It is important to ensure that regulation is comprehensive, future proofed and extends to other platforms where there is evidence of exposure and impact. This includes platforms such as radio, cinema, streaming services, subscription and catch-up TV, movie services, podcasts, and music streaming services. Any regulation should be future proofed to ensure coverage of any developing, or emerging, digital technologies.

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

We support restricting all paid and non-paid unhealthy food marketing on online media. As the consultation paper outlines, children spend significant amounts of time online where they are exposed to, and negatively influenced by, large amounts of unhealthy food marketing.

Online or digital media is an important part of children's lives and plays a significant role in their education, access to information, communication, and leisure time. As such, we do not support permission of paid or unpaid advertising of unhealthy food online, and instead recommend a broad restriction on all digital marketing of unhealthy food.

Which option for restricting outdoor food advertising had the greatest change of achieving the policy objective(s)

We support restricting unhealthy food marketing on all outdoor media and recommend this be broadly defined to include all public spaces and events. This level of restriction ensures children can go about their daily lives, such as traveling to and from school or sport, without being exposed to unhealthy food marketing.

This policy should include all public outdoor advertising, including public transport vehicles, public infrastructure, education, healthcare, sporting and recreation facilities, cultural institutions, sporting, cultural and music events, and shopping centres. The policy should also extend to marketing on retail outlets and restaurants that can be seen from the street.

Do you support restricting marketing on food packaging?

We strongly support the restriction of child-directed marketing on unhealthy food packaging.

As outlined in the consultation paper, product packaging is a common and influential form of marketing to children, with cartoon characters and other common features having a strong appeal to children. The policy must ensure that unhealthy food products cannot use packaging that includes features likely to appeal to children, including images, activities, competitions, promotions, characters, or prizes.

Do you support restricting food sponsorship of sports, arts, and cultural events?

We strongly support restricting unhealthy food sponsorship of sports, arts and cultural events. Children should be able to play sport, watch their favourite sports stars, and go to cultural events without being exposed to the risks of unhealthy food marketing.

As outlined in the consultation paper, Australian children have significant engagement with sport as both players and as spectators. Unhealthy food sponsorship in sport is common at the community level and extensive at the professional level. To reduce the risk to children engaged in sport, this policy should stop sponsorship by brands strongly associated with unhealthy food at all levels.

We recognise the importance of children's and community sport to population health, and the challenges of securing funding to community sport organisations. While, as the consultation paper notes, sponsorship income is not a major proportion of revenue for community sport organisations, we encourage government to consider and implement alternative funding proposals. In doing so, government must be sure that any marketing opportunities are not replaced by other harmful content, such as gambling.

The policy must also extend beyond to arts and cultural events to ensure the policy is future proofed and stop expansion of unhealthy food sponsorship into new areas.

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

We support the restriction of both placement and price-based promotion of unhealthy food within in-store and online retail environments. We recommend the introduction of:

- restrictions to ensure that retailers cannot place unhealthy food in prominent locations in store, such as near the point of sale (checkouts) and at the ends of aisles, and online, such as at the top of search results or prominently featured on a webpage or mobile app; and
- restrictions on price promotions designed to encourage purchasing of unhealthy foods. This should include restrictions on temporary price discounts and multibuys (eg. Buy 2 for \$5) for unhealthy foods.

Any restrictions on retail marketing must apply equally to the in-store and online environments, including both apps and webpages.

Restrictions on price promotions are reflected in the National Obesity Strategy and restricted promotion of unhealthy food and drinks at the point of sale and end of aisle in prominent food retail environments is included in the National Preventive Health Strategy. Evidence shows that unhealthy food and drinks are more likely to be price promoted than healthier foods, with larger discounts applied, and that price promotions lead people to buy more unhealthy food than they usually would,

and do not save consumers money overall (See the [Obesity Evidence Hub page on unhealthy food price promotions](#) for more detail on the evidence).

This policy could also be expanded to ensure it is future-proofed and captures all forms of unhealthy food marketing within in-store and online retail environments, such as on-shelf promotions, interactive displays and promotions within branded apps.

Although this policy focuses on unhealthy food, it is critically important that the Australian Government also introduces policies to increase affordability and accessibility of healthy foods across Australia, with particular focus on priority populations, including Aboriginal and Torres Strait Islander people, people living in low socio-economic conditions, and people living in rural and remote areas. We recognise that many families, particularly those living on low incomes, rely on price promotions to put food on their table. To ensure all families can access healthy foods, any restriction of price promotions must be coupled with strategies to ensure healthy alternatives are affordable. Additionally, changes must be supported by health literacy education that ensures families have the skills, and are empowered to, purchase, store, prepare and cook healthy alternatives.

Do you support restricting unhealthy food marketing 'directed' to children, in addition to the aforementioned policy options?

We believe it is important to include a specific restriction on marketing directed to children, in addition to other setting and media-based restrictions, to ensure there are no unintended or accidental gaps in the policy. This must include:

- marketing that uses any feature or technique that is likely to appeal to children including images, activities, characters and prizes, including on product packaging.
- marketing in any physical place or form of media that is primarily for children.
- marketing sent or displayed directly to a child by email, text message or in any other way.

We support this only as a restriction in addition to other policy options. We do not support this option as a stand-alone policy.

Which media settings do you see as a top priority action? Please rank in order from 1 (highest priority) to 7 (lowest priority).

1. Online
2. Broadcast media (TV, radio, cinema, podcasts, streaming services)
3. Sponsorship
4. Retail
5. Outdoor
6. Marketing 'directed' to children
7. Food packaging

We strongly support a comprehensive policy that combines all elements recommended in our response together to effectively protect children from exposure to unhealthy food marketing. It is important to consider the likely shift in marketing practices that will occur if restrictions are introduced in one or two areas and not in others.

While priority should be given to the forms of marketing that children are most exposed to, and impacted by, we strongly recommend a comprehensive package of restrictions that are evidence-based and future-proofed. Our prioritisation is on the assumption that the policy options we have supported will be adopted in each media/setting.

Is there any other information you would like to share to inform the consultation process?

As the consultation paper outlines, there is clear evidence demonstrating that Australian children are exposed to high amounts of unhealthy food marketing as they go about their daily lives. This marketing negatively influences children's dietary habits, impacting the food preferences, choices, and consumption. Comprehensive regulation to protect children from unhealthy food marketing is an important policy in creating a healthier food environment, supporting Australian children to grow up in a world that promotes their health and puts it above the processed food industry's profits.

Regulation to protect children from unhealthy food marketing should form part of a comprehensive set of actions to improve diets and reduce overweight and obesity in Australia, guided by the National Preventive Health Strategy and the National Obesity Strategy.

Cost effectiveness

As the consultation paper outlines, there is clear evidence that policies to protect children from unhealthy food marketing are cost-effective. This outcome can be expected because of the significant costs linked to overweight and obesity, and diet-related non-communicable disease incurred by both governments and individuals.

Effect on health equity

Policies to protect children from unhealthy food marketing are also highly likely to have a positive impact on health equity. As the consultation paper outlines, international evidence suggests that children of ethnic minority and lower socio-economic position are at higher risk of exposure to unhealthy food marketing, and the impact of the marketing is likely to be higher for these children. This suggests policies to protect children from unhealthy food marketing are likely to have a positive impact on health equity. This is supported by Australian research finding that restrictions on food marketing to children on television were likely to have greater health benefits and greater health care cost savings for children of lower socio-economic position than for those of higher socio-economic position (Ref: Brown V, Ananthapavan J, Veerman L, Sacks G, Lal A, Peeters A, Backholer K, Moodie M. The Potential Cost-Effectiveness and Equity Impacts of Restricting Television Advertising of Unhealthy Food and Beverages to Australian Children. *Nutrients*. 2018 May 15;10(5):622. See also discussion about this in WHO Guideline: Policies to protect children from the harmful impact of food marketing: WHO guideline. Geneva: World Health Organization; 2023. Licence: CC BY-NC-SA 3.0 IGO.)

We understand that further analysis on the cost-effectiveness and health equity impacts of policy options will be conducted as part of this feasibility study and we strongly support this inclusion, and the inclusion of leaders, experts and children from priority cohorts.

Monitoring, evaluation and enforcement

We support the development of a comprehensive monitoring and evaluation framework as part of the policy design, and this should be subject to further consultation with public health and consumer

organisations. The framework must be government led and the food and advertising industries should have no role in monitoring and evaluation, but should be required to provide data to inform it if required. Monitoring and evaluation must aim to assess implementation, understand impact, and consider improvements.

We also recommend the development of a strong enforcement framework.

Policy development and conflict of interest

Further policy development will be needed to translate these policy options into comprehensive regulation. This should be subject to further consultation with public health and consumer organisations. We recommend the development of a stakeholder engagement and conflict of interest policy to ensure that the detail of policy and legislation is developed without inappropriate influence from the processed food, advertising and related industries.

*

Contact Details

For further enquiries on this submission please contact:

Emily Hull
Senior Policy and Projects Officer
emily@wacoss.org.au
(08) 6381 5300