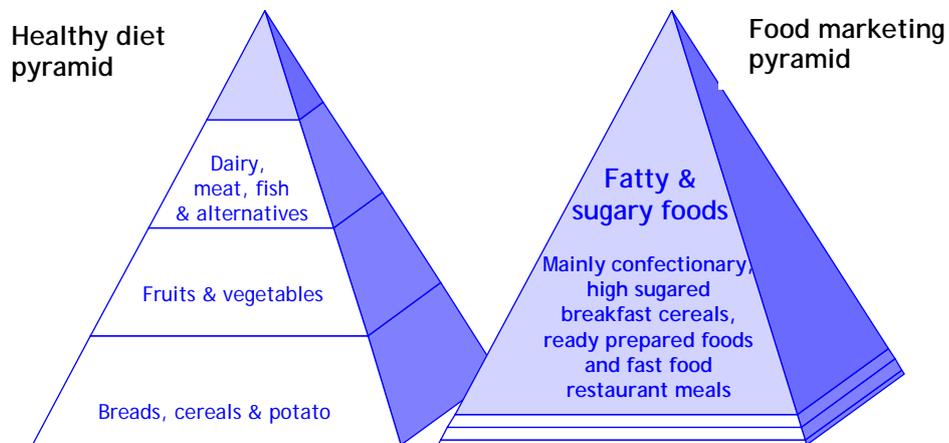


# Children's health or corporate wealth?

The case for banning television food advertising to children



A Briefing Paper by the  
Coalition on Food Advertising to Children (CFAC)

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Correspondence to:  
Kathy Chapman, Chairperson, CFAC  
The Cancer Council NSW  
Ph +61 2 9334 1720  
E-Mail [kathyc@nswcc.org.au](mailto:kathyc@nswcc.org.au)  
Web [www.chdf.org.au/foodadstokids](http://www.chdf.org.au/foodadstokids)



## Who is CFAC?

The Coalition on Food Advertising to Children (CFAC) is a national advocacy group. Members include the following organisations:

Australian Confederation of Paediatric Child Health Nurses  
Australian Dental Association  
Australian Dental and Oral Health Therapists Association  
Australian Medical Association  
Australasian Society for the Study of Obesity  
Children, Youth & Women's Health Service, South Australia  
Dr. Rosemary Stanton  
Home Economics Association of Australia  
Kaye Mehta, Department of Nutrition and Dietetics, Flinders University, South Australia  
Nutrition Australia  
Public Health Association of Australia  
Royal Australasian College of Physicians, Paediatric Branch  
Royal Australian College of General Practitioners  
The Cancer Council Australia  
Young Media Australia

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Writers 2003:

Johanna Mithen, Boyd Swinburn, Deakin University, Melbourne  
Bronwyn Ashton, Nutrition consultant, Nutrition Australia, Representative on CFAC  
Heather Morton, Lecturer, Department of Public Health, University of Adelaide, Representative on CFAC

Updated January 2007.

Leva Azadi, Boyd Swinburn, Deakin University, Melbourne  
With contributions from Kaye Mehta, Kathy Chapman and other members of CFAC

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# Children's health or corporate wealth?

The Coalition on Food Advertising to Children (CFAC) was formed in July 2002. It includes key organisations and prominent individuals that recognise that the commercial promotion of food and beverages high in fat, sugar and salt to children is a significant threat to their nutrition and future health.

## Purpose of this report

To educate and inform stakeholders (including policy makers, industry and the public) about the influence of food and beverage marketing (especially television advertising) on children's health and to build broad support for CFAC's goal.

## CFAC's Goal

To improve the diets and overall health of Australian children through a marked reduction in the commercial promotion of foods and beverages to children under 14 years old. The vital first step is to extend the statutory regulations to prohibit all television food and beverage advertising during programs where children make up a **significant proportion\*** of the viewing audience. This does not preclude the promotion of healthy eating messages to children through non-commercial social marketing.

## Rationale

- Children are a naïve and vulnerable audience, who do not fully comprehend the purpose of advertising and marketing.
- Society has a responsibility to protect children from undue commercial influences.
- Advertising increases children's requests for advertised products ('Pester Power') and undermines parents' attempts to provide a healthy diet for their children.
- Children's dietary choices have immediate and long-term effects on their health.
- The epidemic of overweight and obesity is rapidly increasing and places children at increased risk of many other chronic diseases.
- A 1996 study of 13 economically developed countries showed that Australia had the highest number of television food advertisements per hour (higher than USA and UK).
- The vast majority of television food advertisements are for foods of low nutritional value, which are high in fat, sugar, or salt.
- Current Australian regulations and codes of practice are ineffective at protecting children from large volumes of TV advertisements for such foods.
- The causes and solutions of childhood obesity are multi-factorial. The overwhelming weight of the evidence suggests strong causal links between food promotions and children's food preferences, household purchases, and children's food consumption patterns.
- Bans on television food advertising to children are likely to be a cost-effective strategy as part of a comprehensive approach to obesity prevention.

\* Significant proportion = when 10% or more children are in the viewing audience of a timeslot.  
This can be understood as: 
$$\frac{\text{Children in the audience}}{\text{Children in Australia}}$$

# Obesity in Australian children: high and rapidly increasing

## The childhood obesity epidemic

The prevalence of childhood obesity in Australia is now amongst the highest in the world and is rapidly increasing.<sup>1</sup> From 1985 to 1995, the prevalence of overweight and obesity in Australian children virtually doubled, from about 10% to about 20%.<sup>1</sup> Currently, the prevalence of childhood overweight and obesity is estimated to be 25-30%<sup>2-4</sup> (Figure 1).

This rate of increase amounts to approximately 40 000 more children each year becoming overweight or obese.

Figure 1. Prevalence of overweight and obesity in children aged 7-11 years

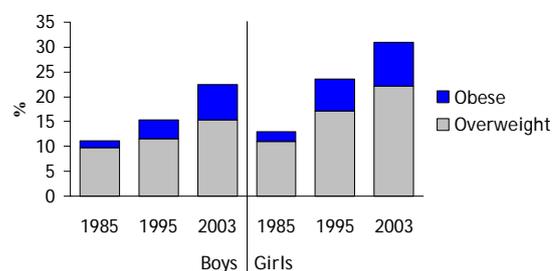
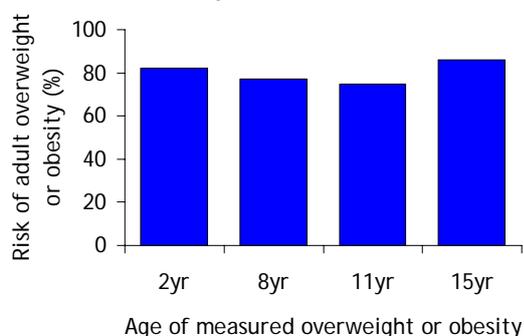


Figure 2. The risk of adult overweight or obesity for a child who is overweight or obese is ~80%



Overweight children become overweight adults.<sup>5-7</sup> 'Growing out of puppy fat' is a thing of the past. A child who is overweight or obese has about an 80% chance of being overweight or obese at age 20<sup>8</sup> (Figure 2).

The prevalence of overweight and obesity in adult Australians has also reached epidemic proportions. In 2000, 67.5% of adult men and 50.7% of adult women were classified as overweight or obese.<sup>9</sup>

## The health consequences of childhood overweight and obesity

Overweight and obesity are associated with numerous health risks, including:

*Psycho-social:* social isolation and discrimination, poor self-esteem and depression, learning difficulties, and longer term poorer social and economic outcomes.<sup>10-11</sup>

*Physical/medical risks in childhood:* orthopaedic problems (back pain, flat feet, slipped growth plates in hips, knock knees), fatty liver, type 2 diabetes, menstrual problems, asthma and obstructive sleep apnoea.<sup>10,12</sup>

*Long-term disease risks in adulthood:* type 2 diabetes, cardiovascular disease, stroke, hypertension, some types of cancer, musculoskeletal disorders and gall bladder disease.<sup>10,12</sup>

*Reduced life expectancy:* increased mortality in later life may make this the first generation to have a shorter life expectancy than their parents.<sup>13</sup>

## The health costs of overweight and obesity

The direct medical costs of obesity are at least 4-5% of total health care costs<sup>14</sup>, but these are dwarfed by the lifetime personal costs (including attempts to lose weight), the 'costs' of lost productivity and reduced quality of life.

The proportion of the burden of disease attributable to overweight in Australia is 8.6%, overtaking tobacco as the number one burden on disease.<sup>15</sup> This means that overweight causes the most premature death and illness in Australia.

# The nutritional health of Australian children: poor and getting worse

Overweight and obesity result from undesirable positive energy balance due to increased energy intake, decreased physical activity or both. However, increased energy intake has been shown to be the dominant driver of the increasing obesity levels seen in Australia.<sup>16,17</sup> This is explained in further detail below.

In NSW there have been increases in physical activity by 15-25% over the period 1985-2004, and associated increases in fitness.<sup>3</sup>

From 1985 to 1995, the mean energy intake of 10-15 year olds increased by 12% for girls and 15% for boys (Figure 3), however the total weight of food consumed remained stable.<sup>18</sup>

The increased total energy intake was due to substantial increases in the energy density of food consumed (about 15%).<sup>18</sup>

Figure 3. Percent change in weight of food, energy density of food and total energy intake 1985-95

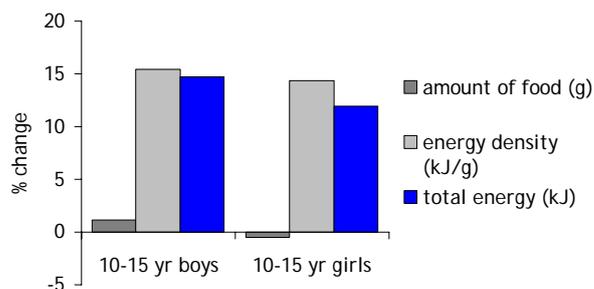
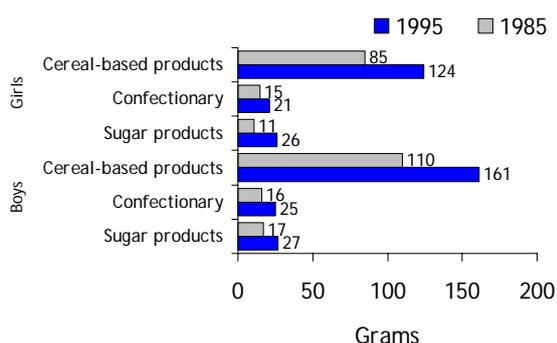


Figure 4. Changes in intake between 1985-1995 (14)



Increased total energy intake was due to increased consumption of energy dense foods, particularly 'cereal-based products' (Figure 4).<sup>18</sup>

'Cereal-based products' include processed foods like cakes, sweet biscuits, pies, pizza (not bread, rice etc).<sup>18</sup> 'Sugar products' include non-confectionery items such as sugar, jam, and honey.<sup>18</sup>

Soft drink consumption has also increased over the past 30 years, from 47 L per person per year to 113 L per person (children and adults).<sup>19</sup>

## The health impacts of poor nutrition other than overweight/obesity

**Dental health:** Dental disease is one of Australia's most prevalent health problems, costing \$3.4 billion per year.<sup>20</sup> Caries accounted for the fifth most common cause of hospitalisations in pre-school children in 1999-2000.<sup>21</sup> The frequency and quantity of sugar intake is directly proportional to the development of dental caries. In 1995, sugar contributed to 25.5% of energy intake of Australian children, up from 23.8% in 1985.<sup>18</sup> The recommended intake is less than 10%.<sup>22</sup> Consumption of acidic soft drinks is the biggest risk factor for dental erosion in children and adolescents.<sup>23</sup>

**Bone Health:** Soft drink consumption in place of milk may result in low bone density due to inadequate calcium intake.<sup>24</sup>

**Psycho-social and mental health:** Children with suboptimal nutrition are at greater risk of poor mental health, have lower academic achievements, and are more likely to suffer from behavioural problems.<sup>25</sup>

# Marketing food to children: big business

## Increasing advertising expenditure

Children and youth represent a primary focus of food and beverage marketing initiatives. Food companies spend hundreds of millions of dollars on marketing and advertising, in order to maintain and increase market share. In recent decades there has been a marked increase in spending on food marketing. For example, McDonalds expenditure on media advertising in Australia increased from \$6 million in 1983-84<sup>26</sup> to \$50-55 million in 2005.<sup>27</sup>

These high investments are considered worthwhile by food companies. Children 4 to 12 years old are conservatively estimated to directly influence \$94.9 billion on parental food and beverage purchases in the US, and spend the greatest proportion of their own income (\$3.19 billion) on food and beverages.<sup>28</sup> In Australia, 73% of 5 to 12 year olds influence the purchase of household grocery items.<sup>29</sup>

## Television advertising is powerful

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

- 1) Television is the easiest and most effective vehicle for reaching large numbers of children nationwide.
- 2) Television gives marketers access to children at much earlier ages than print media.
- 3) Much is known about how children understand and are influenced by television advertising.<sup>30,31</sup>

For example, in 2005 Kellogg (Australia) invested 74% of its media dollars in television advertising.<sup>32</sup> Nevertheless, television is not the only advertising medium and companies are increasingly investing in other areas (see page 10).

## Overweight children are especially vulnerable

Overweight children and youth are more likely to have feelings of low self worth, making them vulnerable to advertisements that promote personal enhancement (by the use of attractive, energetic young people) through food consumption.<sup>33</sup>

## Preferences are easily developed

Product preference has been shown to occur with as little as a single commercial exposure and to strengthen with repeated exposures.<sup>30</sup>

<p>Marketing helps define what is normal<sup>34</sup></p> <p>Packaged snacks now 'normal'</p> <p>Frequent treats now 'normal'</p> <p>Take-away foods now 'normal'</p> <p>Sweetened drinks now 'normal'</p>
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## Television viewing promotes obesity: inactivity AND overeating

There is a significant relationship between high viewing hours and poor diet choices.<sup>35-38</sup> Studies show that television advertising and energy intake are more strongly associated with obesity than the effects of inactivity associated with watching television.<sup>39</sup> The high energy intake is probably due to both eating while watching TV and the greater advertising exposure being associated with increased snacking frequency and overall poor dietary habits.<sup>33,40</sup>

# Television advertising techniques engage children

## Children's understanding of advertising...<sup>30</sup>

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

## Classic techniques used to engage and persuade children

### Emotions and feelings

- Fun, humour and happiness<sup>30,41</sup>
- Success, winning, popularity<sup>43</sup>

### Production techniques

- Animation<sup>42,43</sup>
- Magic, adventure and violence (50% children's food advertisements)<sup>42</sup>
- Catchy jingles and songs<sup>43</sup>
- Fast pace (3 times the usual rate)<sup>42</sup>

### Premium offers

Advertisements often use give-aways, competitions and prizes to engage children. The strategy of a 'free' toy generates buying activity.

- In one study nearly three quarters of children said that they purchased food or drinks products advertised on television with offers of prizes or free gifts.<sup>44</sup>
- Nearly 65% of children continued to purchase the products even when the promotional offer ended.<sup>44</sup>
- 'Free' toys which tie in with popular children's movies include Ice Age 2 toys from Hungry Jack's, King Kong toys from KFC, and Chicken Little toys from McDonalds.<sup>45</sup>
- To increase the demand for these toys, outlets offer them in a set to collect and run them for a 'limited time only'.<sup>45</sup>

Advertisements regularly breach regulations on premium offers by devoting over 95% of the total advertising time to the premium offer.<sup>46</sup>

### Product endorsement

- Popular celebrities and sports stars: for example, an Australian Kellogg's Coco Pops advertisement featured a popular children's entertainer.
- Favourite characters: for example, Charlie and the Chocolate Factory and Nestle Wonka chocolate bars, and 'snap' 'crackle' and 'pop' characters from Kellogg's Rice Bubbles.

## Children are easily misled

Language and imagery used in advertisements can misrepresent products and mislead children.<sup>47</sup> For example: the "Reels Fruit Shrink" campaign by Uncle Toby's which showed an apple being flattened into a *Roll-Up* with minimal processing. The Australian Competition and Consumer Commission (ACCC) ruled that this advertisement was misleading to consumers.<sup>95</sup>

Young children do not comprehend the intended meaning of widely used disclaimers, such as "part of a balanced breakfast".<sup>30</sup> Disclaimers do not inform young viewers about the importance of a nutritious breakfast, and can obscure certain information about the advertised product.<sup>30</sup>

# Television food advertising: very high volumes in Australia

## Television food advertising - a major part of the obesogenic environment

Human environments have become increasingly 'obesogenic' in recent decades. Obesogenic refers to the surrounding environment where it is easier and 'normal' to make unhealthy choices. For example, technology provides labour-saving devices, mechanised transport and a food system which supplies a large range of highly processed, energy dense foods. Large volumes of food and beverage marketing are a significant contributor to the obesogenic environment Australian children live in today.

## The high volume of television food advertising in Australia

- The only international comparative data available are from a 1996 study of 13 OECD countries. This study showed Australia as having the highest number of television food advertisements in children's programming (Figure 5).<sup>48</sup> Other Australian surveys have confirmed the high volume of food advertising during children's viewing times.<sup>50-54,58</sup>
- When the volume of television advertisements for sweet or fatty foods is plotted against the prevalence of overweight in children (for those countries that have comparable data), a strong positive relationship is seen (Figure 6).<sup>49</sup>
- A recent NSW survey found that 37% of advertisements in the weekday afternoon timeslot were for food,<sup>50</sup> which is in line with previous Australian studies.<sup>51-54,58</sup> Children watching in this peak time are therefore targeted with about 14 food ads per hour.<sup>50</sup>
- Australian children aged 5-12 years watch, on average, 2-3 hours of television a day and 82% of their free-to-air television time is on commercial channels.<sup>55</sup> A subset of this age group, 10-13 year olds watch an average of almost 4 hours of television a day.<sup>56</sup>
- Food and beverage advertising is twice as common during children's viewing hours compared with adult viewing hours.<sup>53</sup>
- Food advertising is consistently a top revenue raiser for commercial TV stations.<sup>55</sup>
- A significant proportion of primary school age children (54% from one study in regional Victoria)<sup>57</sup> now have a TV set in their bedroom contributing to the 'privatisation' of media consumption out of the range of parent supervision.

Figure 5. Average number of food advertisements per hour in 13 OECD countries in 1996<sup>48</sup>

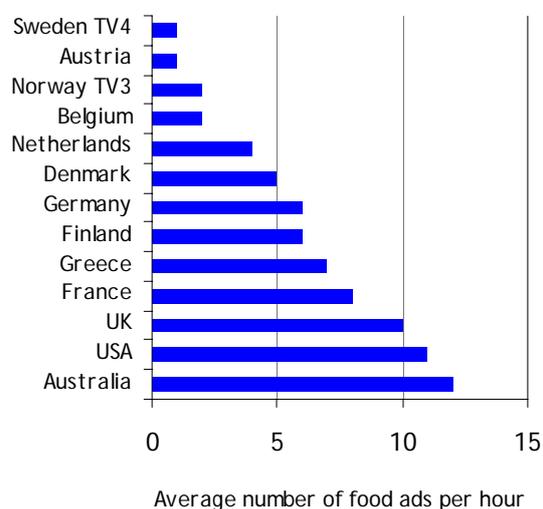
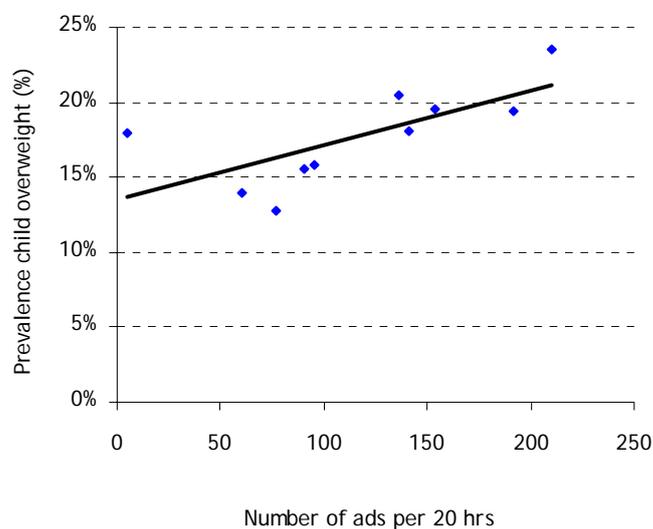


Figure 6. Sweet/fatty food advertisements and child overweight.<sup>49</sup>



# Television food advertising: high fat, high sugar, and high salt products

1 in 3 television advertisements during children's viewing times in Australia are for food.<sup>50,53,58</sup>

Australian studies over the last 10 years have consistently shown between 55%-81% of all foods advertised are for unhealthy foods high in fat and/or high in sugar (Figure 7).<sup>50,52,53,58</sup>

Figure 7. Unhealthy foods as proportion of foods advertised during children's television viewing hours 1997-2006

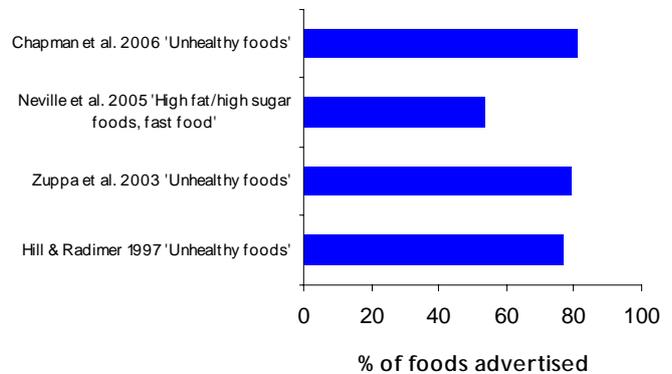
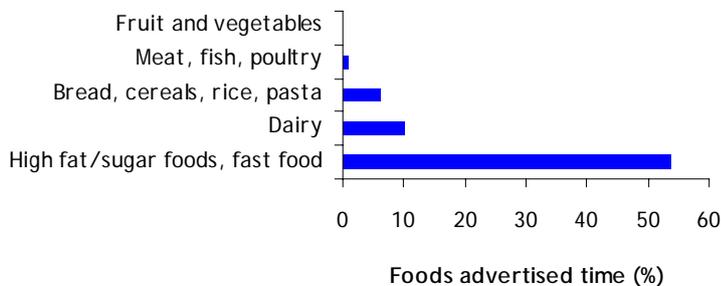


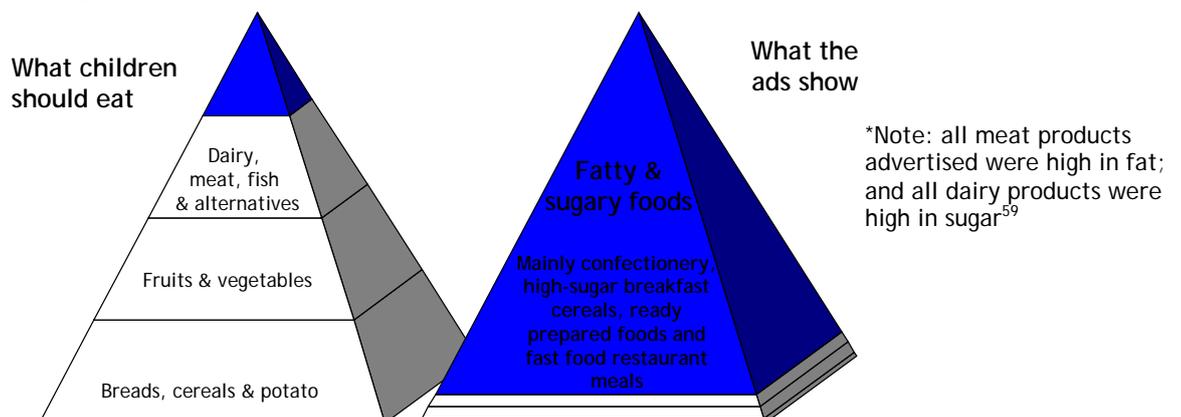
Figure 8. Foods advertised during children's television viewing hours (%)



During children's television hours confectionery and fast foods are the highest advertised food categories, while advertisements for healthy foods barely feature (Figure 8).<sup>50,58</sup> This occurs across all timeslots especially children's weekend viewing morning time-slot.<sup>50,53,58</sup>

Hastings et al<sup>43</sup> systematically reviewed 41 studies worldwide that conducted content analyses of children's food commercials. The vast majority of food advertisements were for pre-sugared breakfast cereals, soft-drinks, confectionery, savoury snacks or fast food outlets. Overall, products advertised to children were considered unhealthy and contradicted recommendations for healthy eating (Figure 9).<sup>43,59,60</sup>

Figure 9. The 'Food Pyramid' guide shows recommended proportions of food groups for a healthy diet. The dark shaded area shows the fatty and sugary foods that should be 'eaten sparingly' (infrequently and in small amounts)<sup>59</sup>



## Commercial promotion: extends beyond the television

Marketing includes all forms of promotion, of which television advertising is one. In recent years there has been a growth in other types of marketing directed at children. These other types of marketing include the Internet, sponsorship, competitions, loyalty schemes, product placement, packaging and point-of-sale promotion. The food industry now has a vast commercial scope that includes various kinds of *unregulated* media and environments relevant to children.

### Internet

In recent years the Internet has consolidated itself as a platform for world wide communication and marketing for all ages. In 2000–2001 the number of children’s websites with no advertising dropped from 10% to just 2%.<sup>81</sup> Furthermore, boundaries between commercial and non-commercial content on the Internet are blurred, if not completely absent.<sup>30</sup> In 2001 55% of all children’s web advertising was in the form of high-energy, graphic-rich games.<sup>81</sup>

#### Internet is widely accessed

In Australia 72% of households with children under 15 have Internet. In 2002-2003 61% of children accessed the Internet at home on a weekly basis, while 14% accessed the Internet from home everyday.<sup>61, 62</sup>

#### Web-based promotion: examples

McDonalds Australia website has ‘learn & play’ games, free screensavers and wallpapers and competitions.

Kellogg’s and Nestle websites have games related to products for children that are high in sugar.

### Sponsorship

Sports sponsorship with products classified as ‘unhealthy’ (e.g. food high in fat and/or sugar) are over twice as common as sponsorship with products classified as ‘healthy’.<sup>63</sup> Significantly more ‘unhealthy food’ sponsorships for junior teams and clubs exist compared to other sports.<sup>63</sup> For example, McDonalds sponsors Little Athletics in New South Wales, Queensland (also sponsored by Coca-Cola), Tasmania and Western Australia.

### Product placement

Product placement involves paying to integrate a commercial product into a program, film, or event. It is known as an ‘embedded’ marketing strategy.<sup>64</sup>

From 1974 to 2004, all product placement in television (including food and beverage) skyrocketed from US\$71 million to US\$1.88 billion.<sup>64</sup>

This amount does not include product placement in films, games, the Internet, books, or music.

Recent examples of product placement include:

Coca-Cola in popular children’s movie ‘Madagascar’

Burger King, Kellogg’s Cornflakes, and Pepsi in the movie ‘Fantastic Four’

### Packaging and point-of-sales promotions

Packaging is used to attract children to a particular foodstuff using a variety of techniques. A recent study on product promotions directed at children in supermarkets found over 70 different food products carrying promotions for children.<sup>45</sup> A recent study on product promotions used in supermarkets found that 82% were used on unhealthy food compared with only 18% of promotions used on healthy food products.<sup>65</sup>

Point-of-sales promotions aim to “*put temptation directly within the shopper’s reach*” and encourage ‘impulse’ purchases. Some displays target young children using this technique by placing products such as confectionery and chocolates at child height.<sup>72</sup>

#### Five main types of promotion

- Favourite characters (e.g. Winnie the Pooh, Rugrats, and Bob the Builder)
- Movie tie-ins (e.g. Charlie and the Chocolate Factory promotions with Nestle)
- Competitions (e.g. ‘Win a trip to Disneyland’ with Nestle, SMS entry)
- Giveaways (e.g. stickers, magnets, DVDs), often in a ‘collectible set’
- Activities (e.g. join-the-dots, quizzes, mazes, colouring-in)

# Food and beverage marketing to children: using ‘pester power’ to influence family purchasing patterns

## ‘Marketing works.’

These are the first words in the comprehensive US Institute of Medicine report on food marketing to children and youth (2006). The report concludes that:

*“Children and youth represent a primary focus of food and beverage marketing initiatives. Between 1994 and 2004, the rate of increase in the introduction of new food and beverage products targeted to children and youth substantially outpaced the rate for those targeting the total market.”<sup>64</sup>*

In another comprehensive report commissioned by the UK Food Standards Authority, Hastings et al.<sup>43</sup> systematically reviewed 122 studies and concluded that:

*“Food promotion is influencing children’s diet in a number of ways... many studies have found clear effects and they have used sophisticated methodologies that make it possible to determine that: 1) these effects are not just due to chance, 2) they are independent of other factors that may influence diet, such as parents’ eating habits or attitudes, and 3) they occur at a brand and category level.”<sup>43</sup>*

*“Overall, the studies indicated that food promotion is noticed and enjoyed by children, and seems to influence their communication and shopping behaviour... studies found that exposure to food promotion increased children’s purchase influence behaviour observed in a natural setting (supermarket shopping with parents).”<sup>43</sup>*

**Children request and demand advertised products (Pester Power).  
At least half of all parents concede to these requests (Pester Yield).<sup>66,43</sup>**

In all, there have been five major reviews of the evidence on the impact of food and beverage marketing to children. The summary of their findings is shown in Table 2.

**Table 2.** Influences and effects of food marketing—summary of the evidence

	Institute of Medicine, 2006 <sup>64</sup>	Escalante de Cruz et al., 2004 <sup>67</sup>	Hastings et al., 2003 <sup>43</sup>	Dalmeny et al., 2003 <sup>59</sup>	McNeal, 1987 <sup>68</sup>
Children unaware of persuasive intent	✓	✓	✓	✓	✓
Influence food preferences	✓	✓	✓	✓	✓
Generate positive beliefs	✓	✓	✓	✓	✓
Influence purchase requests	✓	✓	✓	✓	✓
Influence consumption	✓	✓	✓	✓	✓

## Current regulations in Australia: complex in nature, narrow in scope

To counter marketing messages that encourage unhealthy dietary practices among children, the main policy choices are statutory regulation (government control), self-regulation (industry control), and a mixture of the two—co-regulation. Australia operates on a system of co-regulation.

### Statutory regulation in Australia

Statutory regulation is the responsibility of the Australian Communications and Media Authority (ACMA). ACMA oversees the implementation of the Children's Television Standards (CTS).<sup>69</sup> The CTS regulatory regime for children is outlined below. ACMA is currently undertaking a full policy review of the CTS to be completed in 2007. Current regulations are outlined below.

CTS regulations limiting the amount of advertising according to program classification	<ul style="list-style-type: none"> <li>• 'P' programs (pre-school children) – no advertising permitted</li> <li>• 'C' programs (children) – advertisements limited to 5 mins every 30 minutes<sup>69</sup></li> <li>• 'G' programs (general), PG (parental guidance) and other classifications – no limitations on food advertisements and not under CTS jurisdiction, however G time advertisements are limited to 15 minutes per hour in non-peak time.<sup>69</sup></li> </ul>
CTS regulations specifying time slots and hours per week that must be allocated to children's viewing	The CTS require commercial stations to broadcast two and a half hours of 'P' programs per week. They must also broadcast at least 5 hours of 'C' programs per week. <sup>69</sup>
CTS regulations regarding the content of advertisements	The CTS has several statements about the content of advertisements such as: " <i>no advertisements may mislead or deceive children</i> " and that " <i>a licensee may not broadcast any advertisements designed to put undue pressure on children to ask their parents or other people to purchase an advertised product</i> " <sup>69</sup>

### Co-regulation in Australia

The key bodies participating in the co-regulatory system are Free TV Australia and its members, ACMA and the Advertising Standards Bureau. Free TV Australia promulgates the Commercial Television Industry Code of Practice (CTICP).<sup>100</sup> The CTICP incorporates the Australian Association of National Advertisers Code for Advertising to Children.<sup>101</sup> The members of Free TV Australia (the commercial broadcasters) apply the CTICP to their practice in response to complaints by consumers. If complainants are unhappy with the response from the broadcaster, they can take the matter to ACMA. Hence this part of the regulatory system is properly thought of as 'co-regulatory'.

The Advertising Standards Bureau administers the AANA Code in relation to all media, including television. AANA has also developed a Food and Beverages Marketing Communications Code.<sup>102</sup> A dissatisfied complainant under an AANA Code has no further recourse than the ASB. Therefore the ASB is better thought of as a self-regulatory body. However, because the CTICP incorporates the AANA Code, a consumer can take a breach of that Code to the broadcaster and, if appropriate, further to ACMA. It remains to be seen whether Free TV Australia will incorporate the new Food and Beverage Code into the CTICP.

The co-regulatory system is complaints-based with no institutional system of monitoring compliance. Penalties and formal sanctions are available only for breaches of the CTICP, and only if the complainant takes the matter to ACMA following an unsuccessful approach to the broadcaster.

#### What co-regulation can achieve

Co-regulation can assist in the control of *clearly* deceptive and misleading food advertisements targeted at children. It can police the *content of individual advertisements* to ensure truthful and fair advertising, thereby facilitating proliferation—'enlightened self-interest'.<sup>70</sup> In other words, *co-regulation can control the most irresponsible advertisements*.<sup>70</sup>

#### What co-regulation cannot achieve

Co-regulation cannot prevent beguiling children with effective, exciting and emotional images that make children want to try a promoted food—and pester their parents to get them. The current regulations do not control the subject matter (i.e. healthy or unhealthy foods), volume or intensity of food advertising directed at children. In other words, *co-regulation does not prevent marketing that works*.<sup>70</sup>

#### Only statutory regulation can curb the effects of food marketing

Co-regulatory measures aim to prevent direct harm and promote trust in advertising—a fundamentally different aim to addressing a public policy concern such as childhood overweight and obesity. If the goal is to improve children's diets by reducing the commercial pressures on them to eat the foods that promote obesity, then only a strengthening of the statutory regulations will be successful.

## Impact of current regulations on protecting children: minimal

### Current regulations have little impact during children's peak viewing hours

There is no requirement that the only programs shown during designated 'P' and 'C' timeslots\* are 'P' and 'C' programs.<sup>69</sup> Other 'G' or 'PG' programs may be screened in a 'P' or 'C' time-slot, and the 'C' standards do not apply to them.<sup>69</sup>

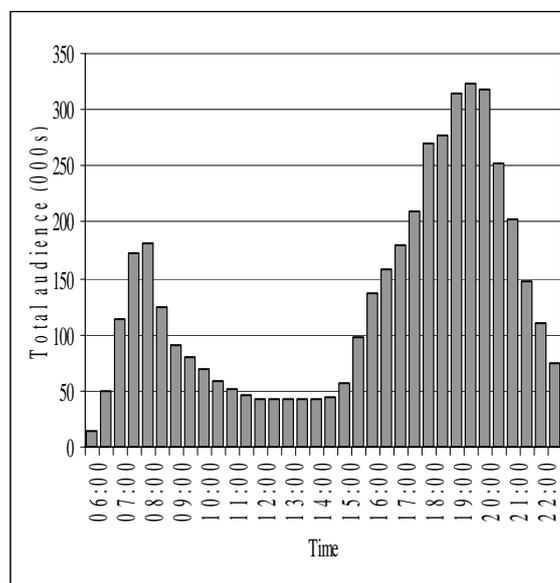
Most television stations choose to show 'C' programs from 4 - 4.30pm, whereas the peak viewing time for 5-12 year olds is actually 6-8.30 pm (Figure 10).<sup>99</sup>

Therefore to reduce exposure to food advertisements, restrictions would need to apply outside 'C' programming.

### Current regulations have little impact on volumes of food advertisements

Apart from the minor time limits on advertising in 'C' programs, there are no restrictions on the volume of television food advertising aimed at children.

**Figure 10** TV viewing by children 5-12 years between 6am and midnight<sup>99</sup>



### Current regulations have little impact on the content of foods advertisements

## Complaints and monitoring procedures do not work

- **Lack of definitions**

Precise definitions are not given on words such as 'mislead' and 'undue'. Therefore, decisions on breaches of the CTS or the Industry Codes become a matter of interpretation.

- **Reactive, not proactive**

The CTS and the Code are reactive (to public complaints) rather than proactive (in self-monitoring and enforcing the CTS and Code).

- **Slow**

In reality, complaints about breaches of the CTS and Code (such as promoting toys with fast food) take a long time to be heard and demand a high burden of proof because of the lack of definitions and variable interpretation of the code's wording.<sup>46</sup> Meanwhile, the advertisement has made its impact on children.

### Examples of the ineffectiveness of complaints and monitoring procedures

Most breaches are related to misuse of premium offers and misleading information.<sup>46,58</sup> Premium offers such as the toy in a McDonalds' Happy Meal have been found to be the dominant appeal in advertisements. This appears to directly contravene the CTS regulation requiring that *"any reference to a premium offer should be incidental to the main product being advertised"*. However, in response to a CFAC complaint, the Australian Broadcasting Association ruled that a 'Happy Meal' toy was not a premium offer, but instead a traditional and integral part of the meal.<sup>46,71</sup>

\* P time band: 7am–4.30pm Mon-Fri; C time band: 7-8am, 4pm-8.30pm Mon-Fri & 7-8.30pm Sat, Sun and school holidays.<sup>69</sup>

## Regulations in other countries

Several countries have begun to take steps toward the reduction of food promotion to children through television advertising (Table 3).

**Table 3.** Restrictions on television advertising to children in various countries <sup>79</sup>

Sweden	Bans on commercial advertising to children under the age of 12.
Norway	Bans on commercial advertising to children under the age of 12.
Belgium	Bans on advertisements to children in Flemish regions in Belgium
Denmark	Bans on advertisements five minutes before and after children's programs
Italy	Bans on advertisements during cartoons
Ireland	Bans on all advertisements during children's programs by broadcaster
Canada (Quebec)	Bans on commercial advertising directed at children under the age of 13 <sup>73</sup>

### Australia can learn from the experience of other countries

The regulatory systems in Sweden, Norway and Quebec are based strongly on societal values of the rights of children to be protected from commercial exploitation. <sup>73 97, 103,</sup> Bans on commercial advertising to children are enshrined in the legislative frameworks of each of these countries. <sup>73 104, 105,</sup> Monitoring of compliance, responding to complaints and acting on breaches of the regulations is undertaken by the office of the Consumer Ombudsman. <sup>97, 103, 106</sup>

### Compliance with the regulation

For 10 years the Quebec regulation was under legal challenge, until the Superior Court in 1989 ruled that it was a valid limitation of 'commercial freedom of speech'. <sup>96</sup> Since that time, the Consumer Ombudsman has acted to proactively review proposed advertisements prior to broadcast, and resolved potential breaches by negotiation. <sup>106</sup>

In Norway and Sweden, The Consumer Ombudsman has significant statutory powers to prevent breaches and ensure compliance. <sup>97, 103</sup> Due to the strong cultural values towards child protection, the bans on commercial advertising to children are well accepted by all stakeholders. <sup>97, 103, 106</sup>

The greatest threat to the Norwegian and Swedish bans is the European Television Without Frontiers Directive. <sup>107</sup> The TVWF directive supports cross-border transmission of television programmes and requires compliance with the regulations of the transmitting country rather than the receiving country. <sup>107</sup> Consequently, Norwegian and Swedish children are being exposed to commercial advertisements during programs transmitted from other countries. <sup>108</sup>

### Evaluations of the Quebec ban show <sup>74</sup>:

- A reduction in recognition of toys by children and fewer high sugar breakfast cereals in homes
- No reduction (in fact an increase) in the quantity of children's television programs
- No effect on quality (diversity) of children's programs
- Inconclusive effects on decrease in total advertising revenue (possibly around US\$10 million), but far lower than predicted by the advertising and television industries.
- Children in Quebec have the lowest prevalence of obesity across all Canadian provinces, and the second lowest prevalence of overweight (significantly lower than the Canadian average). <sup>75</sup>

# Television food and beverage advertising to children: industry responses and public health arguments

Calls for restrictions on television food advertising to children have traditionally evoked opposition from the food, beverage and advertising industries. The most common arguments are outlined in table 4.

Table 4. Industry arguments for food advertising to children and public health responses

Industry arguments	Public health response
There is no evidence that commercial marketing of foods and beverages causes childhood obesity and therefore restricting advertising will have no effect on childhood obesity	The World Health Organisation (WHO) has judged that it is a 'probable' cause. <sup>22</sup> No-one claims that it is the only cause. It is clearly an adverse influence on children's diets, and restructuring food marketing to children is one very cost-effective strategy to help reduce childhood obesity. <sup>76</sup>
Children should be taught media awareness rather than reducing advertising, as they will be exposed to it in later life anyway	Media literacy is valuable, but it does not justify bombarding children with advertisements for unhealthy foods. Exposure to advertising, or industry supported 'media literacy' campaigns are unlikely to teach children to become critical consumers. <sup>45,63-65,81</sup>
Television bans would be circumvented by other forms of advertising.	Television advertising is the most potent medium for reaching young children but companies are now increasing their use of sponsorships, websites, competitions, product placement and so on. Reducing TV ads is the initial step in reducing all promotions to children.
Industry has a right to commercial free speech	In the Quebec laws, <sup>74</sup> the Supreme Court of Canada agreed that this 'right' was being restricted, but that children's rights to be free from commercial exploitation was a higher priority. <sup>96</sup>
Loss of income from advertising would be detrimental to the quality of children's television programs	Most quality children's programs are on non-commercial channels. Major advertising restrictions in Quebec had little impact on the quantity or quality of children's programs. <sup>74</sup>

## Industry action in Australia: more 'window dressing' than real action

- Some companies have taken steps to reduce their marketing to children.  
*Arnott's has a 'marketing to children policy' which reduces some promotions, competitions and advertisements.<sup>77</sup>*
- Companies have started to make changes to existing products and now offer 'healthier' alternatives. However, companies fail to reveal that many of these 'healthier' alternatives continue to be high in calories and salt.<sup>78</sup> Some companies have developed proprietary logos or icons that draw attention to their more nutritious products. While these changes are a positive step, without a valid industry-wide system and approach, efforts may fall short of their potential as guides to better food and beverage choices for consumers.<sup>64</sup>  
*For example, a Hungry Jack's Country Chicken Baguette contains more fat, more salt and more calories than a McDonald's Big Mac.<sup>78</sup> Food company logos and icons for marketing include PepsiCo SmartSpot<sup>TM</sup> logo, and Kraft Foods Sensible Solution<sup>TM</sup> logo.*
- Self-regulation codes are being updated. Unfortunately these changes barely limit marketing tactics and only impose timing or content restrictions in isolated cases.<sup>79</sup>  
*Recognising the limitations of self-regulation, the food industry continues to lobby hard against further government regulation on marketing aimed at children.*
- Funding of campaigns to promote 'healthy messages', e.g. Joe Lively campaign:
  - Developed and conducted in isolation by food industry
  - No engagement of health promotion organisations or government
  - No evaluation

## Television food and beverage advertising: the public wants less

Public awareness surrounding the volume and persuasive effects of food and beverage advertising on television for children has grown notably in the past few years. The overwhelming majority of people believe that more needs to be done by the government to control these advertisements. Parents want to see a reduction in the volume of food advertisements directed at children, and an increase in advertisements promoting healthy foods.<sup>80</sup>

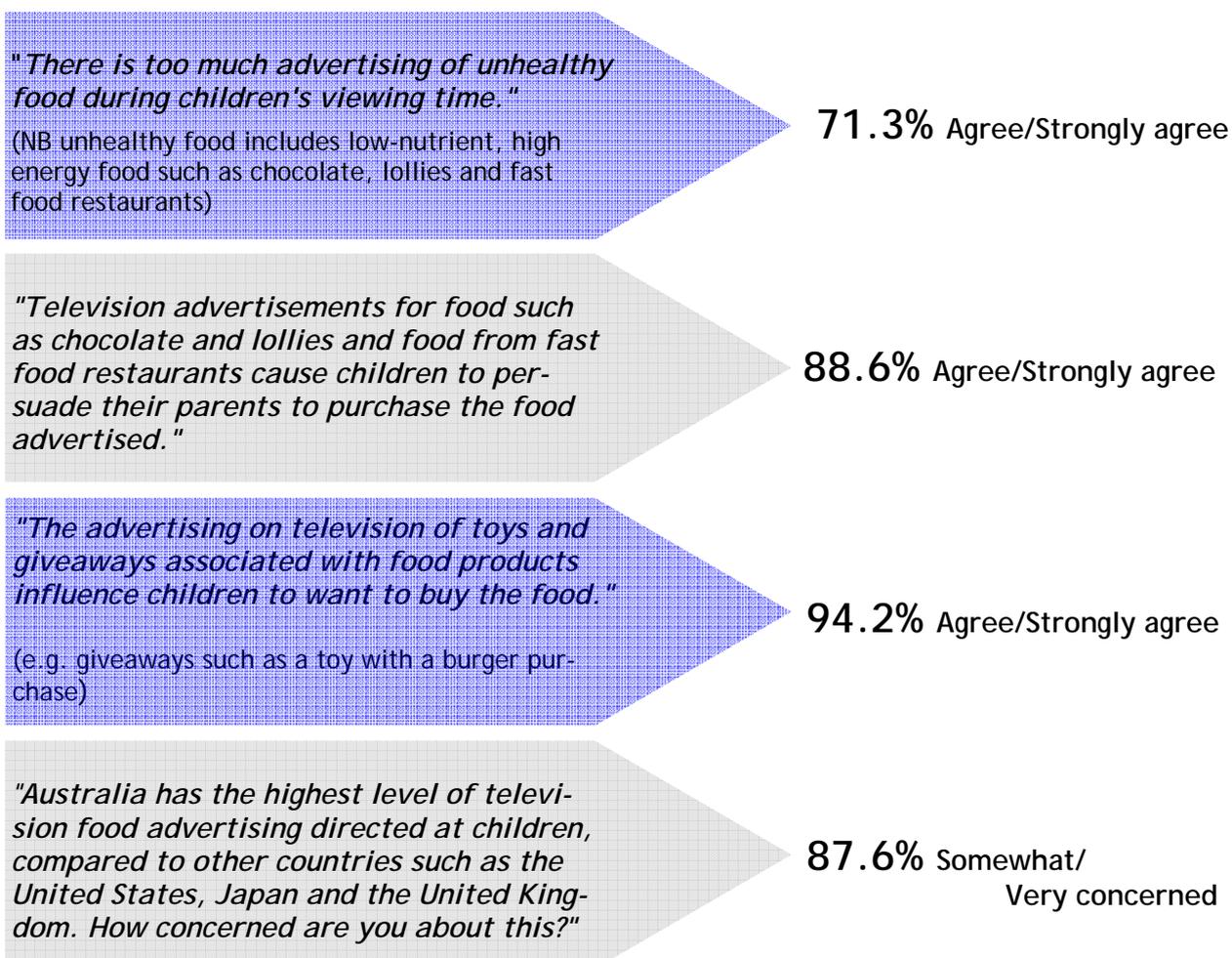
Australian Consumers Association, CHOICE, recently commissioned Newspoll to survey 1200 people aged 18 years and above.<sup>45</sup>

CHOICE asked:

*"Would you be in favour of or against government regulating the way food and drink is advertised and marketed to children?"*

	Parents/Guardians (%)	Overall (%)
<u>For</u> government regulation	86	82
<u>Against</u> government regulation	11	13

A government health survey conducted in February 2004<sup>82</sup> randomly sampled 2000 households in South Australia and asked their opinion about television food advertising to children. The findings were:<sup>82</sup>



# Food and beverage marketing to children: the public health case for regulations

The case for regulations can be argued from a public health law perspective.

Public health law are the legal powers and duties of government to ensure conditions for people to be healthy, including identifying, preventing and ameliorating health and safety risks. Public health law encompasses the power of the State to constrain autonomy, privacy and other legally protected interests in order to safeguard the health of citizens.<sup>83</sup>

Individual and industry opposition to government regulation on the basis of autonomy and freedom, the degree of risk, or economic benefits are not sufficient arguments against public health law. Public health law is necessary because people (and corporations) are inclined towards acts that are not in the interests of their neighbours' good. Thus, a balance must be struck between law and individual rights.<sup>83</sup>

## Infringing on individual rights for public health gains: justifications

### 1. Risk to others: the harm principle

Personal (and corporate) freedoms only extend to activities that do not intrude on the health, safety or legitimate interests of the population.<sup>84</sup>

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

### 2. Protection of vulnerable persons: best interests

Children may be considered vulnerable persons on the grounds that they are not developmentally mature and therefore are entitled to be "protected against their own actions as well as against external injury".<sup>85</sup>

Young children do not understand the persuasive intent of advertising<sup>30</sup> and cannot make mature judgements in their own interests. Pervasive television food advertising also undermines the ability of parents and carers to protect children from poor dietary choices that have major health consequences.<sup>43</sup>

### 3. Risk to self: self-regarding behaviour

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

Environmental and societal factors are often more influential than individual voluntary choice in health-related behaviours,<sup>86,87</sup> especially for children. Current volumes of television food advertising directed at children are pervasive and excessive and contribute to an 'obesogenic' environment, in which the regular consumption of high fat/sugar/salt foods and beverages is portrayed as normal and even desirable. The cumulative effect of food marketing helps create a culture in which, to the detriment of healthier foods, products high in sugar, fat and salt are associated with fun, modernity and social acceptability.<sup>88,34</sup>

# Food and beverage marketing to children: criteria to strengthen the public health regulations

The decision to override corporate autonomy in relation to marketing to children has already been made (existing CTS regulations). The main debate now is around how much the regulations should be strengthened as part of a broad prevention approach to reduce the childhood obesity epidemic.

The following criteria help to determine the extent to which public health law should be used to achieve a health gain.<sup>84</sup>

**Demonstrating evidence of a significant risk to health and the 'Precautionary Principle'**<sup>90</sup>

The scientific evidence linking poor dietary habits of children to the commercial promotion of food and beverages is moderately strong.<sup>30,43,89,49</sup> The absence of unequivocal evidence does not preclude action as waiting for unequivocal scientific proof before taking action could mean that action is taken too late or not at all.

**Demonstrating the effectiveness of regulation**

Strengthening existing legislation is feasible. Judging by the Quebec experience, strong regulations appear to be effective.<sup>75</sup> Mathematical modeling of the impact of a ban based on the best available evidence shows that this is likely to be a very effective and cost-effective intervention to reduce childhood obesity.<sup>76</sup> Currently, the profits from 'obesogenic' products go to corporations and their shareholders, not to the public good.

**Demonstrating that economic costs are borne by children and society as a whole**

Unfortunately the enormous economic costs of obesity are currently borne by children and by society. The economic costs to advertisers and food producers from reducing marketing to children are unknown. Similar costs are borne by the alcohol and tobacco industries in relation to advertising restrictions on their harmful products.

*It has been estimated that reducing the prevalence of obesity in Australia by 20% would yield an annual saving of AUD\$59 million and a saving of 2300 years of life.<sup>91</sup>*

**Demonstrating that personal burdens are reasonable when compared with benefits**

The personal burden of children being exposed to less food and beverage marketing would be zero.

**Demonstrating that public health interventions are equitable**

A greater burden of obesity is found in low income areas.<sup>92,93</sup> There is some evidence that these areas are also more likely to watch commercial television and be influenced by marketing promotions.<sup>64,67</sup> Therefore reducing the exposure of children to food marketing will assist in reducing health inequalities.

# A Call to Action from the Coalition on Food Advertising to Children

## Key messages

- Food and beverage advertising to children has a significant effect on their food preference, purchase requests and food consumption patterns.
- It is well-documented that children have little ability to recognise and defend against commercial persuasion. It is a longstanding principle in communication law that for advertising to be considered fair, it must be readily identifiable to its intended audience.
- Public concern has been growing in the past few years about the high levels of food marketing. However, little change has been seen in Australia.
- While statutory regulation and self-regulation measures exist they do little in controlling effective marketing techniques and volume of advertising to children. Self-regulation measures ultimately continue to serve the purpose of effective marketing and increasing demand for a product. Therefore statutory regulation must be strengthened in Australia.
- The public health case for strengthening regulation on food and beverage marketing to children is based on the Rights of the Child. It is unfair and deceptive for commercials to bypass the cognitive defences not yet developed in children against marketing persuasion. This perspective is supported by the World Health Organisation and the United Nations Convention on the Rights of the Child, which was ratified by Australia in 1990.<sup>94</sup>
- The key question is: “Can substantial restrictions on commercial marketing of food and beverages to children be justified as a cost-effective measure as part of a broad approach to reducing childhood obesity?” The answer is clearly “Yes”.

The case for strengthening public health legislation to protect children’s health is compelling. This should include prohibiting the commercial marketing of all foods and beverages to children.

As a first step, CFAC is calling for a ban on all television commercial advertising for foods and beverages during programs where children (aged under 14 years) make up a **significant proportion** of the viewing audience.

This does not preclude the social marketing by governments and non-commercial organisations which promote healthy eating messages to children.

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