

In focus

Advertising food and drink products to children

Keep on top of this fast-evolving regulatory landscape with insights on key markets



Increasing evidence of a link between the types of food and beverage products advertised to children and childhood obesity is gaining attention at a global level. Many countries are introducing or considering regulatory measures to control how and when products with high levels of fat, sugar and salt are advertised. However, the international picture is inconsistent and changing fast. In this white paper we highlight current legislation and ongoing regulatory discussions in the EU and UK as well as parts of Latin America and Canada.



Influencing children's dietary habits

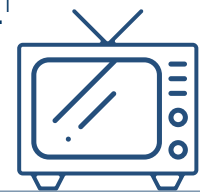
Childhood obesity is one of the most serious global public health challenges of the 21st century, affecting almost every country in the world. Several governments have introduced strategies to tackle this problem. These include national front of pack labelling schemes and sugar taxes for high fat, sugar and salt (HFSS) foods. However, such measures mainly address the choices made by adult populations.

Another factor attracting the scrutiny of governments worldwide is the advertising of HFSS foods to children. Such advertising influences children's food preferences, purchase requests and consumption patterns. In turn, this may increase their risk of being overweight, obese or developing certain non-communicable diseases.

Concerns about childhood obesity are prompting the discussion and/or development of new rules for marketing HFSS products to children. However, the style and level of implementation varies in different markets. For instance, there is not a globally consistent age-related definition of 'a child'. Further discrepancies exist between criteria for food categories, the level of restrictions and details of implementation.

With regulatory activity in this field growing, a lack of harmonisation introduces new complexities for food and beverage companies. In this white paper we consider current laws and ongoing debates on food advertising targeting children in the EU and UK, Latin America (Brazil, Chile, Mexico and Peru) and Canada.

Children's exposure to TV ads for HFSS food products is a significant risk factor for obesity.¹



The link between advertising and childhood obesity

In just 40 years the number of obese school-age children and adolescents has risen more than 10-fold to reach 124 million, according to the World Obesity Federation¹ (2016 estimates). The following factors have also been noted by the American Psychological Association²:

- Obesity in children increases with the amount of TV watched, and children aged 8-12 receive the highest rates of ad exposure. They are entering a critical stage of development where they establish food habits, make more of their own food choices and have their own money to spend on food they enjoy
- Food ads make up 50% of all the ad time surrounding children's shows. These ads are dominated by unhealthy food products (34% candy and snacks, 28% cereal, 10% fast food, 4% dairy products, 1% fruit juices and 0% fruits or vegetables). Children are rarely exposed to public service announcements or advertising for healthier foods
- In several countries, the food and beverage industry has resolved to self-regulate marketing to children. But in the US, this has not resulted in significant improvements in the marketing of healthier food (i.e. fruits, vegetables, whole grains, low-fat or non-fat milk or dairy products, lean meats, poultry, fish and beans) to children. Almost three out of every four foods advertised to children falls into the unhealthy categories that contribute to the obesity epidemic



At community level in the EU

Any national rules for advertising foods to children in the EU are based on the implementation of three directives:

- 2005/29/EC (on unfair commercial practices)
- 2006/114/EC (on misleading and comparative advertising)
- 2007/65/EC (on audio-visual media services)

At present, there are no EU rules related to the nutritional criteria of foods advertised to children. The only community level guidance is based on an 'EU pledge'³ which includes two central commitments:

- No advertising of products to children aged under 12 years, except for products which fulfil common nutritional criteria based on accepted scientific evidence and/or applicable national and international dietary guidelines. This relates to any situation where under-12s make up 35% or more of an audience
- No communication related to products in primary schools, except where specifically requested by, or agreed with, the school administration for educational purposes

The EU pledge also offers guidance on nutritional criteria⁴ to define 'better-for-you' options in the context of food and beverage advertising to under-12s. Nutritional criteria in the EU pledge are based on international guidance and underpinned by key principles which include: a firm scientific basis; comprehensiveness; ability to make a difference; appropriateness in an EU-wide context; suitability for validation; and a clear and communicable rationale.

Each market has its own code of practice based on the EU pledge, and this is adopted on a voluntary basis by the food and beverage industry. It's important to note that some EU states are stricter than others.

Within EU Member States

In many EU markets, such as Italy, Spain, Germany and the Nordics, food adverts aimed at children are currently legally covered by the 'generally misleading' principle. However, some states are instigating public discussion on the regulation on HFSS food advertisements. For instance, the Spanish Government is looking at prohibiting child-focused adverts for certain products based on their Nutri-Score.

In 2018, the French Directorate General of Health asked Public Health France to investigate the exposure of children and adolescents to HFSS advertising in various media. Findings were published in June 2020 and included the following⁵:

- HFSS advertisements induce a 56% increase in the consumption of these products in children exposed to these advertisements compared to unexposed children
- Of advertisements for Nutri-Score products classified as D and E (i.e. of very low nutritional quality) targeted at young people, 53.3% were seen by children, 52.5% by adolescents, 50.8% by adults
- 48% of advertising investment in all media concerns products classified D and E, with 36% of products classified A, B and C
- For the time being, television is the preferred medium to watch adverts

In addition to existing measures, Public Health France now recommends prohibiting adverts for Nutri-Score D and E classified products at peak times when children and adolescents watch TV. The authority also recommends a new system of health messages, displayed on a banner separate from the main advertising content, for these products.

These recommendations have not yet been included in any draft law but the pressure on the French Government is increasing.

The UK situation

In the UK, food adverts targeting children are regulated by law. HFSS food adverts in children's online media were banned by the Advertising Standards Association (ASA) in July 2017, mirroring strict standards already in place for TV. Furthermore, no medium can advertise HFSS products if more than 25% of its audience is under 16 years of age⁶.

On 27 July 2020, the UK Government launched its 'tackling obesity' strategy to empower adults and children to live healthier lives. It positioned obesity as one of the greatest long-term health challenges facing the UK and highlighted links between obesity and increased mortality from COVID-19.

What's happening in Latin America?

Brazil

In Brazil, food advertising has been incorporated into the regulatory agenda to protect the health of the population, especially children. Several legislative documents are being processed at federal, state, district and municipal levels. These cover the advertising of food for schools (including canteens), soft drink adverts and food combos with toys, as well as measures that deal more broadly with advertising aimed at children.

Brazil's Resolution RDC No. 24 of 2010 lays down requirements related to the offering, advertising and provision of information. It dictates that any form of advertising or promotion of HFSS foods and low-nutrition drinks aimed at children must include very specific messaging. These are general provisions which include specific references to children, defined as 'individuals up to 12 years old'.

In August 2009, the Brazilian Association of Food Industries (ABIA) obtained signatures from 23 of the largest Brazilian food companies on a public pledge to limit food advertising to under-12s. The pledge also stated that any advertising materials would emphasise the importance of a balanced diet and physical activities as means to a healthy life.

Chile

The promotion of food and beverages aimed at children under the age of 14 is regulated in Chile by Law 20606, as amended. This law aims to instil healthy lifestyle habits by regulating food and drink products which can be commercialised and advertised in schools and high schools. It also restricts the promotion of processed food products which, due to their nutritional profile, bear front of pack warning statements (e.g. high in sugars, high in salt). The hours in which adverts for these foods can be broadcast is limited, as is their content (e.g. commercial hooks such as gifts, quizzes and games are not allowed).

This is in addition to the non-binding Chilean Code of Advertising Ethics which includes provisions regarding advertisements targeting minors and under-14s.



Mexico

In Mexico, the advertising of food and beverages intended for children is regulated mainly by the Regulation of the General Health Law on advertising, as amended. Another Guideline⁸ establishes the nutritional and advertising criteria that manufacturers of food and non-alcoholic beverages must consider when promoting products on open and restricted TV, as well as in cinema exhibition halls.

The Regulation establishes that food and non-alcoholic beverage advertisements on TV and in cinemas must comply with certain nutrition and advertisement criteria. These are set out in guidelines published by the Secretariat and cover nutrition profiles within 12 different food categories. Consideration is given to the amount of energy, sodium, saturated fat and total sugars per portion or per 100g or 100ml. Depending on how a product fits with these established nutrient profiles, it may be allowed to advertise at any time or within specific time slots.

Confectionery, chocolates and similar products face the same advertising restrictions as foods and beverages that do not meet the nutrition profiles established by the Regulation's guidelines.

The aim of these measures is to prevent the child population from being exposed to the advertising of food and non-alcoholic beverages with high caloric content. There is no specific indication for the age range of this provision. However, Mexico's labelling standard defines children as being aged 36 months to 12 years.

Peru

The advertising of food products aimed at under-16s is subject to certain legal requirements in Peru. These are laid down under a Consumer Protection Code approved by Law No. 29571, Law for the Promotion of a Healthy Diet for Children and Adolescents (Law No. 30021) and its Regulation⁷.

In addition, the aforementioned Law and its Regulation restricts the content of food advertisements (e.g. use of cartoons). It also forbids encouraging children under the age of 16 to consume food products which must bear front of pack warning statements (e.g. high in sugar, saturated fats etc).

Canada's approach

Children's food and beverage commercials are subject to the requirements of The Broadcast Code for Advertising to Children in Canada. The age of children is not defined, however the guide's references to 'minors' and 'under-age' indicates that it relates to under-18s.

Adherence to this broadcast code (which includes pre-clearance of individual children's commercials by a committee comprising industry and parent representatives) is a condition of the Canadian Radio-television and Telecommunications Commission. Canada's self-regulatory approach also includes a rigorous system for responding to consumer complaints about advertisements under the provisions of the Canadian Code of Advertising Standards (Code), which covers all media.

What does this mean for the food and beverage industry?

As this white paper illustrates, there is a distinct lack of harmony on global policy for food and beverage advertising aimed at children. Yet increasing evidence of a link between exposure to HFSS adverts and childhood obesity is driving a general tightening of the rules.

Food and beverage businesses need to make careful consideration of current and emerging regulations for the countries in which they operate. The implications go beyond marketing strategies for HFSS foods, potentially necessitating product reformulations.

Many national strategies for restricting the advertising of foods to children are at an early stage. This is a time of great change and it will be important to monitor developments over the coming months and years. Devising a well-informed and adaptive approach is essential.

How can Leatherhead help?

Leatherhead can keep you updated on upcoming changes as well as advising on national rules or practices. We can also provide horizon scanning to look at up-and-coming regulations that may affect your business.



- ¹World Obesity Federation. (2021.) Childhood Obesity. [Online] Available at: [https://www.worldobesity.org/what-we-do/our-policy-priorities/childhood-obesity#:~:text=Childhood%20obesity%20is%20one%20of,124%20million%20\(2016%20estimates\)](https://www.worldobesity.org/what-we-do/our-policy-priorities/childhood-obesity#:~:text=Childhood%20obesity%20is%20one%20of,124%20million%20(2016%20estimates).). [Accessed 8 April 2021].
- ²American Psychological Association. (2010). The impact of food advertising on childhood obesity. [Online] Available at: <https://www.apa.org/topics/kids-media/food>. [Accessed 8 April 2021].
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- ⁵Santé Publique France. (2020). Comment limiter le marketing alimentaire, en particulier pour les produits gras, sucrés, salés en direction des enfants et des adolescents? [Online] Available at: <https://www.santepubliquefrance.fr/les-actualites/2020/comment-limiter-le-marketing-alimentaire-en-particulier-pour-les-produits-gras-sucres-sales-en-direction-des-enfants-et-des-adolescents>. [Accessed 8 April 2021].
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- ⁷Diputados.gob.mx. (2021). REGLAMENTO DE LA LEY GENERAL DE SALUD EN MATERIA DE PUBLICIDAD [PDF]. Available at: http://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LGS_MP.pdf [Accessed 8 April 2021].
- ⁸Gob.mx. (2014). [Online] Available at: https://www.gob.mx/cms/uploads/attachment/file/204330/LINEAMIENTOS_por_los_que_se_dan_a_conocer_los_criterios_nutrimientales_y_de_publicidad.pdf [Accessed 8 April 2021].

About Leatherhead Food Research ▾

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