

# A junk-free childhood: Responsible standards for marketing foods and beverages to children

A briefing paper from *The StanMark Project* of the  
**International Association for the Study of Obesity**

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*The marketing of foods and non-alcoholic beverages with a high content of fat, sugar or salt reaches children throughout the world. Efforts must be made to ensure that children everywhere are protected against the impact of such marketing and given the opportunity to grow and develop in an enabling food environment — one that fosters and encourages healthy dietary choices and promotes the maintenance of healthy weight.*

Dr Ala Alwan, Assistant Director General,  
World Health Organization



## StanMark Standards for marketing to children

The StanMark project brings together researchers and policy-makers to develop a set of standards for marketing foods and beverages consistent with the resolution of the World Health Assembly.

### Objectives

**Convene** a series of meetings in Europe and the USA to bring together key members of the scientific research community and policy-making community to consider how marketing food and beverages may affect children's health.

**Identify** current 'best practice' approaches to the control of marketing, including measures not specifically addressing food and beverage marketing, or not specifically directed to the protection of children.

**Explore** the use of standards and marketing codes to influence commercial activity, including standards from other industrial sectors.

**Propose** a set of standards to form the basis for a cross-border code of marketing of foods and beverages.

**Develop** web-based resources for policy development concerning food and beverage marketing to children and related materials to support policy development.

### Project partners

- International Association for the Study of Obesity, London, UK
- Rudd Centre for Food Policy and Obesity, Yale University, New Haven, Connecticut, USA
- Public Health Nutrition, Metropolitan University College, Copenhagen, Denmark

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## Summary

During the last decade consumer groups, parents and teachers' bodies, and public health advocacy organisations have called for greater control on the marketing of foods and beverages to children. A number of authoritative reports have highlighted the need to restrict such marketing to ensure that children are not unduly influenced to consume foods high in fats, sugar and salt. A 2009 review of regulations (the PolMark study<sup>1</sup>) suggested that successful regulation required government leadership with specified timelines and clear, measurable objectives. In 2010 the World Health Assembly passed a Resolution which urged member states to introduce controls on the marketing of foods and beverages to children, and issued a set of Recommendations identifying the approaches that could be taken<sup>2</sup>.

These increasing calls for action have led to a series of policy responses, including government-led voluntary agreements with industry and statutory regulation. Of particular importance is the response of leading food and beverage companies, who have proposed the proposed a series of company-led pledges to reduce their marketing activities directed at children. These pledges cover types of marketing practice which may lie outside the traditional industry-wide codes of conduct and national regulations on advertising.

However, comparison of different company pledges and statements shows a degree of inconsistency, as shown in this report, which makes evaluation of the impact of the pledges hard to assess. Furthermore there appear to be lapses in the adherence to these pledges within Europe, and evidence that they are not applied in other regions (giving rise to 'off-shore' marketing to European children via the internet) so calling into question the companies' strength of commitment.

In order to assist governments and guide industry, the StanMark project undertook a series of policy and research meetings involving experts and officials from countries in Europe and North America, funded under the Pilot Projects programme of the European Union's External Affairs Service<sup>3</sup>.

From these meetings a series of proposals were generated and are presented here for use by WHO member state governments. For cross-border marketing it is intended that the food and advertising industries will recognise the advantages of a common, universal set of standards applicable to all companies and which can protect children across the globe.

The standards proposed are based on the WHO recommendations, which identify both 'exposure' and 'power' as independent factors determining the effectiveness of marketing messages. The StanMark project proposes the following:

- A *risk-based* approach, allowing the promotion of fruit, vegetables etc to children, but prohibiting the marketing of foods and beverages high in saturated fat, trans fat, sugars and salt.

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<sup>1</sup> See <http://www.iaso.org/policy/euprojects/polmarkproject/>

<sup>2</sup> See <http://www.who.int/dietphysicalactivity/marketing-food-to-children/en/index.html>

<sup>3</sup> See [http://www.eeas.europa.eu/us/grants/pilot\\_projects/index\\_en.htm](http://www.eeas.europa.eu/us/grants/pilot_projects/index_en.htm)

- *Risk reduction*: by reducing the exposure and power of food marketing messages seen by children.
- *Children* are persons who have not yet reached an age when they are legally considered to be competent to protect their own welfare.
- *Foods to be promoted* are those products which conform to national and international dietary guidelines supporting WHO's Global Strategy to prevent obesity and chronic disease.
- *Marketing media* are those which carry marketing messages, including: packaging, product formulation and presentation, and sports events.
- *Marketing techniques* include all techniques with special appeal to children and adolescents.
- *Non-specific brand promotion* should be assumed to be prohibited unless the promotion is specifically and only for permitted products.
- *Marketing locations* include retail and catering places and settings where children may be unduly exposed – i.e. where children gather.
- *Accountable bodies* are those with a 'duty of care' in the marketing process, including media distributors, web hosts and internet service providers.

## 1 Background

For a child, excess bodyweight is a risk factor for later adult disease, including diabetes, heart disease, several major cancers and other chronic diseases. Childhood overweight is associated with impaired health during childhood itself, including psycho-social distress, increased risk of high blood pressure, insulin resistance and fatty liver disease which may continue untreated for many years. Once established, obesity in children (as in adults) is hard to reverse. Primary prevention is essential.

Marketing of potentially unhealthy food products is recognised as a possible factor in child obesity and was identified as a risk in an expert report for the World Health Organization in 2002<sup>4</sup>. Systematic reviews conducted in the UK in 2003,<sup>5</sup> in the USA in 2005<sup>6</sup> and for the European Parliament,<sup>7</sup> all concluded that, despite substantial gaps in the evidence, advertising had a sufficient effect on child obesity to merit action.

### Policy development

The issue of food marketing to children is now high on the policy agenda in Europe. This follows the call for the food industry to regulate itself, issued in 2005 by then Health Commissioner Markos Kyprianou, and the pan-European Ministerial Charter on Obesity agreed in Istanbul, September 2006,<sup>8</sup> which called for *“the regulations to substantially reduce the extent and impact of commercial promotion of energy-dense foods and beverages, particularly to children, with the development of international approaches, such as a code on marketing to children in this area”*.

The European Commission’s 2007 White Paper on obesity noted the need for action in this area and, while supporting voluntary initiatives, promised a review in 2010 to determine whether other approaches are required.<sup>9</sup> The Commission’s health and consumer directorate, DG Sanco, has hosted a series of meetings between civil society and industry representatives in the European Platform on Diet, Physical Activity and Health discussing industry self-regulation. In 2007 the World Health Assembly called for recommendations on marketing to children, including cross-border issues<sup>10</sup> which were presented to the World Health Assembly in 2010. In 2009, the WHO European Regional Network on the Protection of Children from Marketing Pressure proposed a set of standards for advertising food to children.<sup>11</sup>

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<sup>4</sup> WHO (2002) *Diet, Nutrition and the Prevention of Chronic Diseases*. Technical Report Series 916. See [http://whqlibdoc.who.int/trs/WHO\\_TRS\\_916.pdf](http://whqlibdoc.who.int/trs/WHO_TRS_916.pdf)

<sup>5</sup> *Does Food Promotion Influence Children? A Systematic Review of the Evidence* Food Standards Agency, London 2003. See <http://www.food.gov.uk/news/newsarchive/2003/sep/promote>

<sup>6</sup> *Food Marketing to Children and Youth: Threat or Opportunity?* Institute of Medicine, Washington DC 2005.

<sup>7</sup> *Advertising and marketing practices on child obesity* DG Internal Policies, European Parliament, Brussels, 2008. IP/A/ENVI/NT/2007-20 & 21. (PE 400.989)

<sup>8</sup> *European Charter on counteracting obesity*, paragraph 2.4.6, EUR/06/5062700/8, 61995. World Health Organisation, Regional Office for Europe, 2006. See <http://www.euro.who.int/Document/E89567.pdf>.

<sup>9</sup> *A Strategy for Europe on Nutrition, Overweight and Obesity related health issues*. COM(2007) 279 Page 6. Brussels.

<sup>10</sup> *Resolution WHA60.23*. World Health Assembly Geneva, 2007. See [http://apps.who.int/gb/ebwha/pdf\\_files/WHA60/A60\\_R23-en.pdf](http://apps.who.int/gb/ebwha/pdf_files/WHA60/A60_R23-en.pdf)

<sup>11</sup> *Code on Marketing of Food and Non-Alcoholic Beverages to Children*, European Network on reducing marketing pressure on children, 2009. See <http://www.helsedirektoratet.no/marketing>

A European Parliamentary report into the issue recommended that, while the evidence remained contestable, action should be taken to protect children on a precautionary basis,<sup>12</sup> and the European Parliament in 2008 resolved that stronger measures should be considered if a 2010-11 review of the self-regulatory approach showed inadequate progress<sup>13</sup>.

In the USA there is rising interest over the role of industry in promoting poor diets to children, with a review of the issue by the Institute of Medicine in 2004-5<sup>14</sup>. This followed action at local level to reduce the promotion of poor diets in schools, and a report by the US General Accounting Office on the large number of methods used by food and beverage marketers to access children at school.<sup>15</sup>

Further moves to restrict marketing followed a meeting of researchers and policy advisors held in late July 2009 in the White House by Michelle Obama, focussing on child obesity and opportunities for interventions. The US Federal Trade Commission published a widely-cited report on marketing food to children in 2008<sup>16</sup>, and has held a series of consultations on proposed criteria for restricting marketing, developed by the federal government's Interagency Working Group (the FTC, the USDA, the CDC and the FDA).<sup>17</sup> In May 2010 the Grocery Manufacturers of America pledged to cut 1.5 trillion calories from the US diet by 2015.<sup>18</sup> Of specific concern in the USA, as it is in Europe, is the question of self-regulation by the industry versus statutory regulation, with industry promises being watched by the White House and monitored by independent agencies<sup>19</sup>.

## Next steps

Recent research has strengthened the evidence base for action, but crucial work on the impact on particular population subgroups, such as children in lower income families, children in specific cultural and ethnic groups, or new immigrant families, needs to be extended. At the same time the technology for advertising has changed, with new forms of media (i.e. internet, cell phones) becoming available to larger numbers of children and offering low-cost, effective means of reaching children directly for marketing purposes. Furthermore, cross-border marketing – e.g. using internet, satellite, and product placement in imported programmes – is not amenable to control by a single jurisdiction.

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<sup>12</sup> *The Effect of Advertising and Marketing Practices on Child Obesity*. Economic and Scientific Policy, DG Internal Policies, European Parliament, Brussels, 2008. IP/A/ENVI/ST/2007-16. (PE 393.525)

<sup>13</sup> Item 40, *European Parliament resolution of 25 September 2008 on the White Paper on nutrition, overweight and obesity- related health issues*. P6\_TA(2008)0461.

<sup>14</sup> *Food Marketing to Children and Youth: Threat or Opportunity?* Institute of Medicine, Washington DC 2005.

<sup>15</sup> *Commercial Activities in Schools*. US General Accounting Office GAO/HEHS-00-156, 2001 (also GAO-04-810, 2004).

<sup>16</sup> *Marketing Food To Children and Adolescents: A Review of Industry Expenditures, Activities, and Self-Regulation: A Federal Trade Commission Report To Congress*. Federal Trade Commission, Washington DC, July 2008. See <http://www.ftc.gov/opa/2008/07/foodmktng.shtm>

<sup>17</sup> Federal Trades Commission (2011) Interagency Working Group Seeks Input on Proposed Voluntary Principles for Marketing Food to Children. See <http://www.ftc.gov/opa/2011/04/foodmarket.shtm>

<sup>18</sup> See <http://www.gmaonline.org/news-events/newsroom/gma-statement-regarding-hwcf-pledge-to-reduce-15-trillion-calories-by-2015/>

<sup>19</sup> Black J, (18/05/2010) Michelle Obama applauds food industry group's pledge to trim calories. *Washington Post*. See <http://www.washingtonpost.com/wp-dyn/content/article/2010/05/17/AR2010051703895.html>

border marketing, using internet, satellite, and product placement in imported programmes, is not amenable to control by a single jurisdiction.

In response to public concern, civil society organisations have proposed standards which would apply to commercial operators in all countries and thereby protect children whether or not the local regulatory environment was able to do so. Such standards would have considerable moral authority and would act as a 'soft' regulatory process akin to the forms of governance known in Europe as the Open Method of Coordination, i.e. they rely on identification of good and bad practices and publicity to encourage high standards.

In May 2010 the 63<sup>rd</sup> World Health Assembly of 193 governments endorsed a set of recommendations on marketing of foods and non-alcoholic beverages to children and called for international action to reduce the impact on children of the marketing of foods or beverages high in saturated or *trans* fats, free sugars or salt (HSTFSS).<sup>20</sup> The recommendations formed part of the World Health Organization's global strategy for the prevention and control of non-communicable diseases. The Assembly urged member nations to take action to reduce both the exposure of children to, and the power of, marketing for such foods.

However, national governments may not be able to control all the marketing practices that influence a child's diet. Marketing opportunities arise when TV channels are received from sources outside national boundaries, when Internet access is largely unmediated, when sponsored sporting events are transmitted globally, and when films and videogames are traded across national borders. It follows that a set of universal standards can help to ensure that the marketing of HSTFSS products can fully comply with the World Health Assembly's recommendations.

Universal marketing standards have further benefits. Restricted marketing can serve to equalise the competitive environment for companies of different sizes. From an enforcement viewpoint, a set of universal standards can support national authorities, the private sector and civil society to ensure compliance and to respond to infringements. Further, where national authorities do not have the capacity to ensure children and adolescents are protected from local or cross-border marketing of foods and beverages, a set of internationally-agreed standards can ensure a common, minimum level of protection for young people in all nations.

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<sup>20</sup> WHO, 2010. 63<sup>rd</sup> World Health Assembly. [http://apps.who.int/gb/ebwha/pdf\\_files/WHA63/A63\\_R14-en.pdf](http://apps.who.int/gb/ebwha/pdf_files/WHA63/A63_R14-en.pdf). See also <http://www.who.int/dietphysicalactivity/publications/recsmarketing/en/index.html>

## 2. Company-led self-regulation

In this section we focus on company-led voluntary initiatives which seek to extend beyond the industry-wide marketing codes and advertising co-regulatory mechanisms. We consider some of the more prominent problems that have been encountered with industry-led self-regulatory approaches. The examples are drawn primarily from company activities in Europe, although it should be noted that the same companies' websites in other regions are easily accessed by European children. In this way companies can 'off-shore' some of their marketing activities directed to children in Europe.

Several concerns around self-regulation arise. Self-imposed rules may be:

- poorly or inconsistently defined
- erratically or insufficiently monitored
- weakly or inconsistently enforced

This report will not explore the issues of monitoring and enforcement, although these are serious concerns that need to be addressed by policy-makers. At present, monitoring and complaint-handling bodies do not enforce company-led initiatives. A lack of an independent complaint mechanism can leave consumers frustrated, and a lack of enforcement allows company-led initiatives to be rolled back at any time. If a monitoring and complaint-handling body were established it would need to gain consumer confidence, for which it would need (a) to be transparent in operation with routine regular publications of their activities; (b) to be independent and free from industry influence, and seen to be so; and (c) to ensure that their services are easily and inexpensively accessed by consumers. Penalties must be commensurate with the size of the marketing budgets involved and with the estimated exposure of children to the offending commercial messages.

A further concern is the need to ensure that, whatever the differences in definitions or approaches, all companies should make some commitment to offer self-restraint. In the European region only 11 companies have joined the scheme, along with the European Snacks Association. Several major companies, including McDonald's, KFC and Haribo, and many smaller ones are not included.

### **Problems of definitions**

Companies choose the rules to impose upon themselves. As a result there are likely to be discrepancies and inconsistencies. Here we shall look at such problems encountered within the pledges and promises and activities undertaken by companies in the European Union.

#### *What age is a child?*

The table below provides examples of definitions of the age-range for 'child' by companies participating in the EU pledge scheme. Please note that the interpretation of a company policy can be complex, and readers are advised to check the company statements for themselves (hyperlinks are provided).

**Table 1 Age definitions in company EU pledges (click hyperlink for details)**

Organization	Age for no marketing	Age for marketing of specified products
<a href="#">Coca-Cola</a>	<12*	
<a href="#">Ferrero</a>	<12*	
<a href="#">Mars</a>	<12****	
<a href="#">General Mills/CPW</a>	0-6	6-12
<a href="#">Nestlé</a>	0-6~	6-12~~
<a href="#">Unilever</a>	0-6	6-12**
<a href="#">Kellogg</a>	0-6*	6-12 <sup>+</sup>
<a href="#">Kraft</a>	0-6**	6-11/12 <sup>++</sup> **
<a href="#">Danone</a>	0-3	3-12*
<a href="#">Burger King</a>		0-12***
<a href="#">PepsiCo</a>		0-12*

\* ≥50 % of audience must be children; \*\* ≥35% of audience must be children; \*\*\* ≥30% of audience must be children. \*\*\*\* ≥25% of audience must be children. ~ unless an adult is present. ~~ unless adults predominate. <sup>+</sup> ≥35% for some shows and ≥50% for others. <sup>++</sup> 11 for print media, otherwise 12.

Which products can be promoted?

In the USA a large number of company-promoted models have been proposed for defining the nutritional criteria for foods to be marketed to children<sup>21</sup> and a similar problem has arisen in Europe. The next table gives examples of nutrient methods for defining foods as suitable for marketing to children, as proposed by some of the companies in the EU pledge:

**Table 2 Company-set criteria for foods they can market to children**

Company	Energy (kcal)	Total fat	Saturated fat	Trans fat	Added sodium	Added sugar	Notes
Burger King per child's meal	≤560	<30% energy	<10% energy	0 g	≤660mg	≤10% energy	No artificial colourings, flavourings
Kellogg per serving	≤200	-	≤2g	0 g	≤230mg	≤12g	Exceptions for waffles.
General Mills per serving without milk	<175	-	≤1.7g	-	≤200mg	≤12g	Whole grain ≥8g; vitamins & minerals ≥15% RDA per 100g
PepsiCo per specified amount	≤150 (snacks)	≤35% energy	≤10% energy	<0.5g	≤150mg	≤10% energy	Cholesterol ≤30mg; exceptions for some products
Unilever	-	-	≤13% energy and ≤33% of total fat	≤2% energy	≤1,6 mg/kcal	≤7g/100g	Total sugars ≤25% energy; exceptions for some products
Kraft	Specific criteria for different food groups.						
Nestlé	Specific criteria for different food groups.						

<sup>21</sup> Better Business Bureau Council (2008) *The Children's Food & Beverage Advertising Initiative In Action*. See [http://www.bbb.org/us/storage/16/documents/CFBAI/ChildrenF&Blnit\\_Sept21.pdf](http://www.bbb.org/us/storage/16/documents/CFBAI/ChildrenF&Blnit_Sept21.pdf)

The following table gives some examples of foods which companies state they can market to children according to their own nutritional criteria, and the rating of those foods under three government-led categorisation systems: the UK Ofcom Regulations for TV marketing to children,<sup>22</sup> the Nordic Keyhole scheme for defining healthier food products<sup>23</sup> and the proposed US Interagency Working Group scheme for voluntary restrictions on marketing to children<sup>24</sup>.

**Table 3 Product comparisons of criteria allowing marketing**

Company and Product	Company own criteria	Ofcom criteria	Keyhole criteria	Interagency criteria
Kellogg				
Coco Pops	Yes	No	No	No
Chocolate KRAVE	Yes	No	No	No
Ricicles	Yes	No	No	No
Rice Krispies	Yes	No	No	No
Honey Loops	Yes	No	No	No
General Mills / Cereal Partners				
Chocolate Lucky Charms	Yes	No	No	No
Nestlé				
Nesquik cereals	Yes	No	No	No
Chocapic	Yes	No	No	No
Cookie crisp	Yes	No	No	No

### Which media?

Companies differ in the extent of their coverage for self-regulating their marketing messages to children, with some including product placement, use of licensed characters and their own branded sites in the definition of marketing. The definition of what constitutes child-targeted media varies: for example Nestlé<sup>25</sup> defines marketing to children as being ‘a marketing activity where adult supervision is not present’ and communication in media ‘where adult audience is not predominant’.

The table below shows some examples of the coverage of company pledges across media included under self-regulation. Note that for some media the companies impose certain

<sup>22</sup> UK Office of Communications (Ofcom) 2007. See [http://stakeholders.ofcom.org.uk/consultations/foodads\\_new/statement/](http://stakeholders.ofcom.org.uk/consultations/foodads_new/statement/) and see <http://collections.europarchive.org/tna/20100927130941/http://food.gov.uk/healthiereating/advertisingtochildren/nutlab/nutprofmod>

<sup>23</sup> Developed by the Swedish National Food Administration to define healthier food products, and now used in Sweden, Norway and Denmark. See <http://www.slv.se/en-gb/Group1/Food-and-Nutrition/Keyhole-symbol/> and see <http://www.norden.org/en/news-and-events/news/first-anniversary-nordic-consumers-want-more-keyhole-food>

<sup>24</sup> Federal Trades Commission (2011) Interagency Working Group Seeks Input on Proposed Voluntary Principles for Marketing Food to Children. See <http://www.ftc.gov/opa/2011/04/foodmarket.shtm>

<sup>25</sup> See <http://www.conar.org.br/html/livro/REF49NESTLE%20-%20EU%20Pledge%20Nestle%20Commitment.pdf>

criteria on the percentage of the audience that must be comprised of children in order for self-regulation to be applicable – further details are shown in Table 1 above.

**Table 4 Company statements of media included in self-regulation**

Company	TV, radio	Printed media	Paid for ads on internet	Product placement	Interactive games	Licensed characters
Coca-Cola	Yes	Yes	Yes	Yes	Yes	Yes
Danone	Yes	Yes	Yes	No	No	Yes
Ferrero	Yes	Yes	Yes	No	No	No
PepsiCo	Yes	Yes	Yes	Yes	No	No
Nestlé	Yes	Yes	Yes	No	No	No
Kellogg	Yes	Yes	Yes	Yes	Yes	Yes
Kraft	Yes	Yes	Yes	No	No	Yes
Unilever	Yes	Yes	Yes	Yes	Yes	Yes in 2012
Burger King	Yes	Yes	Yes	No	No	No
Mars	Yes	Yes	Yes	Yes	Yes	Yes

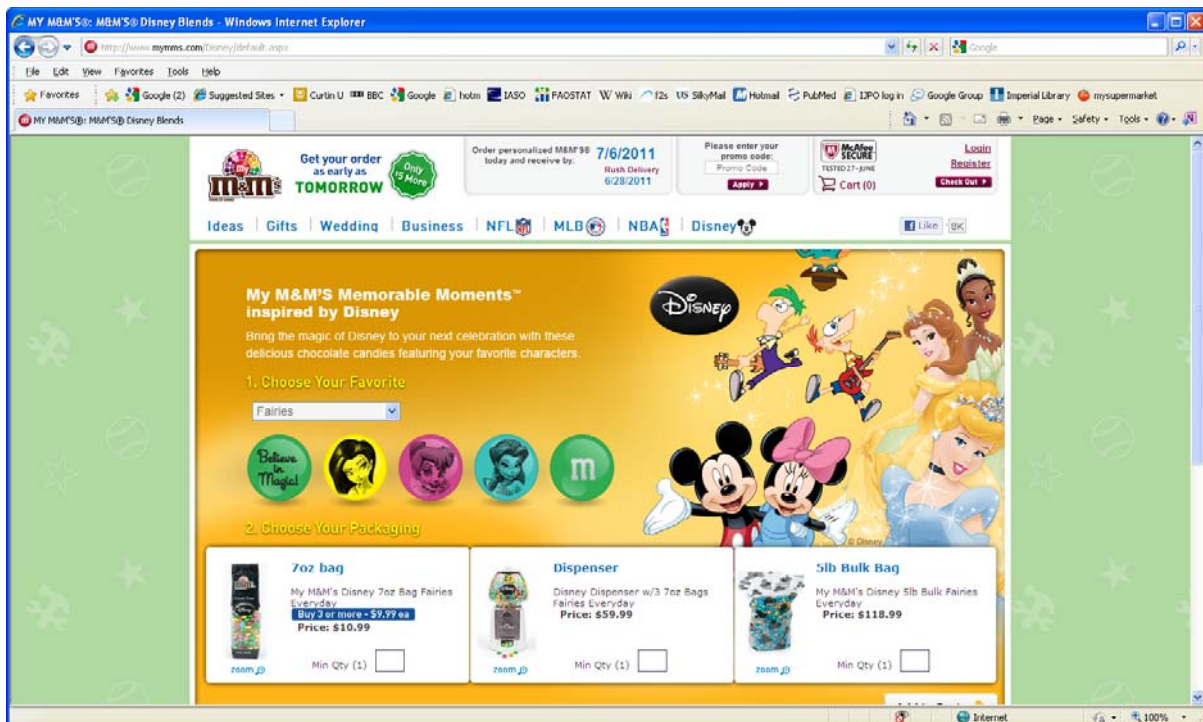
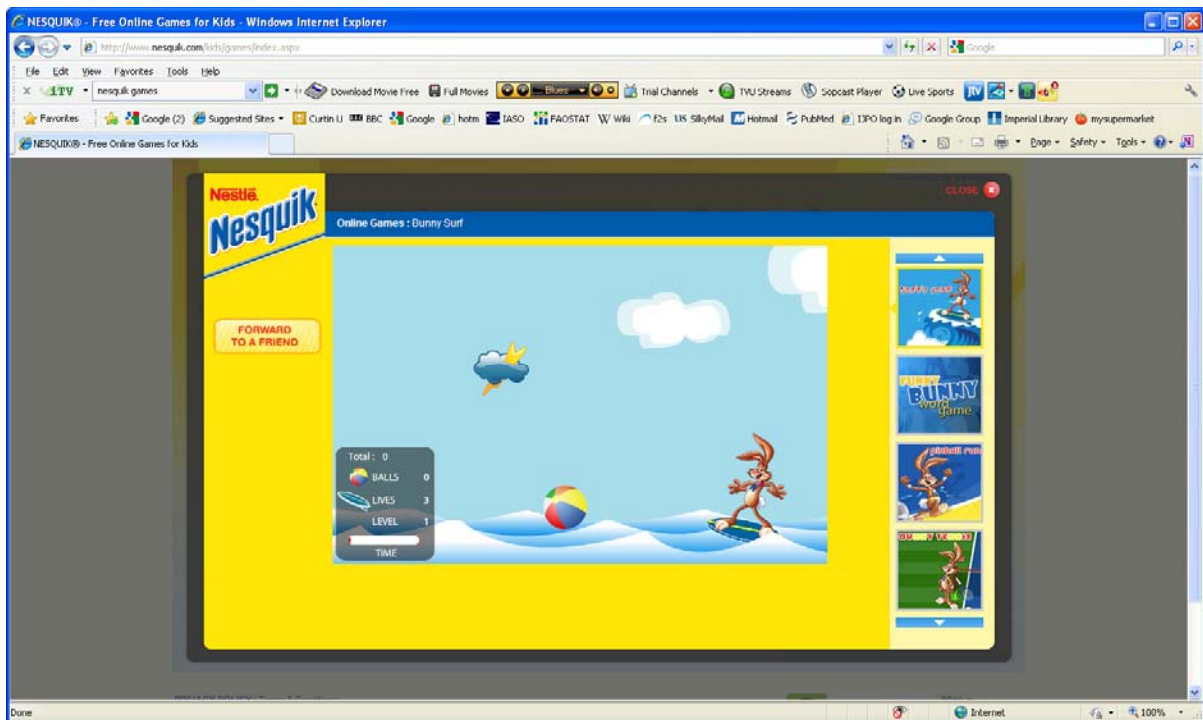
### Further gaps in company-led self-regulation

This section provides some examples of additional concerns raised during this investigation. The examples pictured are taken from websites active and available during the period January-June 2011.

#### Company-owned web sites

While most companies acknowledge the need to control advertising to children using paid-for advertising on third-party sites, companies do not usually include their own web-sites, which they see as editorial rather than advertising. Although some government-approved codes (e.g. the UK CAP Code) include company-owned sites, most industry-wide advertising regulations in European countries do not, and industry-led pledges generally do not or are ambiguous about what they consider ‘advertising’ on their own websites. Many companies use their own sites to attract children with games, puzzles, clubs and downloadable gifts, or offer branded products which children may pester their parents to buy.

Examples below show Nesquik children’s games on a company-owned site and an example of M&Ms promotions (some areas of the site ask if the viewer’s age is above 12 years).



### Social networking sites

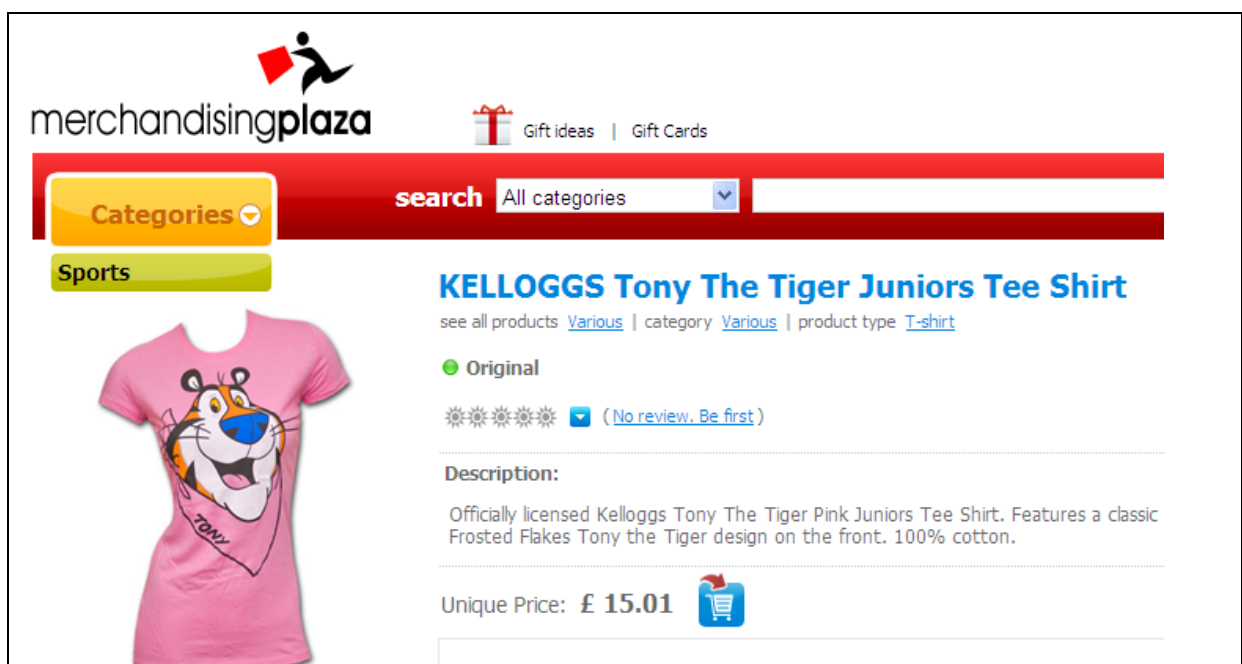
There is also a 'grey' area concerning the use by companies of third-party social networking sites such as Facebook to promote child-attractive activities with food-related branding. An example of the use of Facebook is shown below:



### Generalised branding

Companies do not usually include in their self-regulation any controls on the branding of non-food products with food-related brand identities. Although carrying no specific marketing message, the associative effect can be a powerful marketing tool.

The example below shows a product likely to appeal to children branded with an image strongly associated with sweetened breakfast cereal (Kellogg's Frosties) and licensed by owner for use on the product.



## Schools and other children's settings

Companies may allow themselves to market in schools and other places where children gather. This can take the form of branded goods and equipment or the active promotion of samples and branded gifts in school settings. Indirect use of schools settings may be found when TV advertisements use schools as locations for filming their advertising.

The example below shows a play area for children sponsored by a chocolate company owned by Nestlé in Geneva airport (which the company has since acknowledged is counter to Nestlé policies) and the use of classroom settings for TV advertising locations (not in Europe).



### Character licensing and brand equity characters

Although some companies have agreed to reduce the use of licensed characters (e.g. film tie-ins such as Shrek and Toy Story) others continue to use such marketing devices. Examples below show licensed characters from films (Rio, Thor, Kung Fu Panda) used to promote products high in sugars or fats. Note that Kung Fu Panda is being used by McDonald's, a company that has not joined the EU pledge scheme.



## Kung Fu Panda 2 Happy Meal



Po and the Furious Five have returned to McDonald's and your kids can show off their awesome skills by taking on the Furious Five Challenge.

In addition, most companies still permit themselves to use characters which they own and have developed with their brands (known as brand-equity characters), such as Quiky the bunny (Nesquik) and Tony the Tiger (Frosties). Others include Unilever Walls 'Max the lion' (see picture below).



### Product design and packaging

Self-regulation generally does not include packaging or product design and these can be powerful marketing tools to attract purchases. The example below shows a product shaped, flavoured and textured to appeal to children in a box with a tie-in game launched by Kellogg's on Facebook and featuring the Krave Krusader (who must overcome challenges and obstacles to reach chocolate).<sup>26</sup>



### Shop displays

Retail displays are rarely included in company-led self-regulation. Aisle-end displays and check-out displays are premium sites and can be a major influence on spontaneous purchases and, especially in the case of check-out displays, the purchase of an item forced upon a parent by children taking the product in their hands while waiting in line.

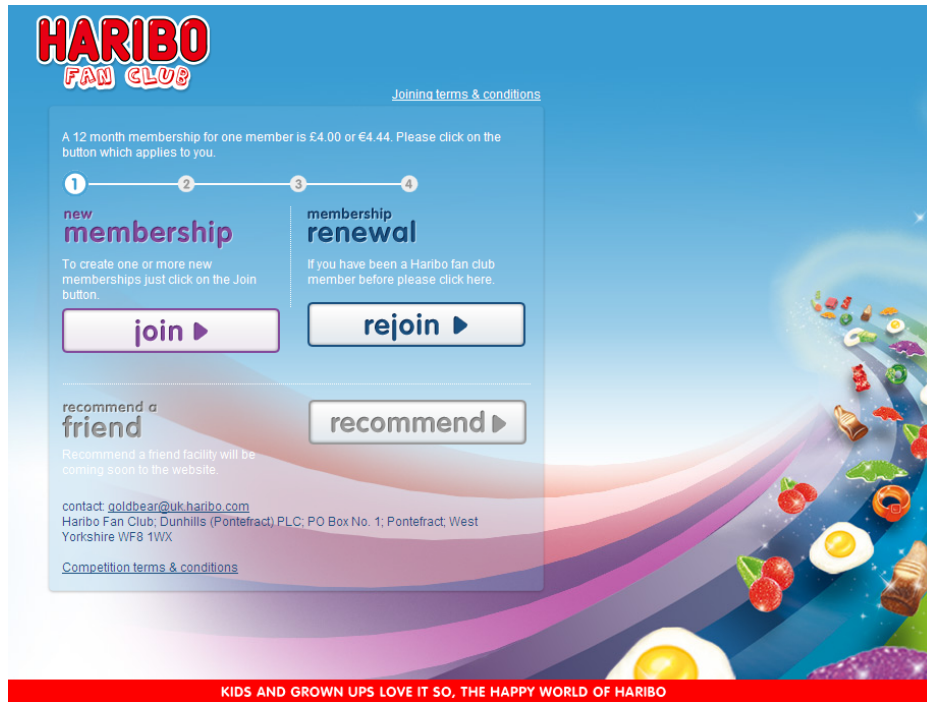
### Child-to-child marketing

Peer recommendation is a strong motivator among children and adolescents. Marketers are using a number of methods for encouraging child-to-child marketing, including payments to young people to make recommendations and encouragement of children to make their own

<sup>26</sup> See <http://www.marketingweek.co.uk/sectors/food-and-drink/kellogg%E2%80%99s-moves-into-gaming/3026796.article>

promotional materials for distribution, e.g. on social media networks. Self-regulation generally does not cover child-to-child marketing.

Examples below show brand-owned, child-attractive websites asking children to send email messages to their friends about the website. Note that Haribo has not joined the EU pledge scheme.



### New technology

Methods for marketing to children are rapidly evolving, and many are designed to by-pass parents or enhance child-to-child marketing. In 2007 KFC's advertising agency engineered a TV commercial containing high-pitched noises which only young people are likely to hear –

and followed this up with a website offering free meal vouchers to those who can identify the point in the advertisement when the noise occurred.<sup>27</sup>

More recently, Microsoft announced technology to allow X-Box players to use voice controls during gaming which would forward advertising messages to their friend's phones whenever marketing promotions were present in the game.<sup>28</sup>

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<sup>27</sup> E Blass <http://www.engadget.com/2007/04/11/kfc-ad-agency-strikes-again-with-mosquito-tone-commercial/>

<sup>28</sup> T Vega, *New York Times* 20 June 2011. See [http://www.nytimes.com/2011/06/21/business/media/21xbox.html?\\_r=2&ref=media](http://www.nytimes.com/2011/06/21/business/media/21xbox.html?_r=2&ref=media)

## Proposed standards

As noted earlier, the objective of universal standards is to institute rules which achieve maximum protection while remaining practical and economical in application. Although it could be proposed that children should not be exposed to *any* marketing, the present document takes a 'risk-based' approach to reducing exposure to the marketing of food and beverage products whose regular consumption is liable to increase the risk of non-communicable diseases.

Furthermore, it is important to identify examples of high standards for cross-border marketing which have been proposed as a result of consensus-building by reputable agencies, thus indicating that such standards are feasible, practical and economical.

In this section we propose standards based on a responsible approach to marketing on the understanding that children should not be subjected to inducements to consume products which, if consumed routinely, are likely to be detrimental to their health. Where available we show examples of the use of similar standards in other sectors.

### **Standard 1: Specifying the foods and beverages**

**Issue:** The promotion of some foods and beverages can undermine children's dietary health.

**Proposal:** Risk reduction means promoting only those food and beverage products which conform to national dietary guidelines and international standards supporting the WHO *Global Strategy on Diet, Physical Activity and Health*<sup>29</sup>.

**A high standard:** Food and beverages should be categorised according to a validated nutrient profiling system. Examples may include the UK Ofcom model used to regulate advertising on television,<sup>30</sup> the Nordic Keyhole food categorisation model,<sup>31</sup> or the proposals from the US Interagency Working Group<sup>32</sup>.

### **Standard 2: Age groups**

**Issue:** Some marketing works below conscious control. Even when children and adolescents are aware of marketing, they may be trusting and uncritical of the messages. Media literacy does not reduce marketing message impact.

**Proposal:** Risk reduction means promoting only to those persons who have reached an age when they are legally considered to be competent enough to protect their own welfare.

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<sup>29</sup> World Health Organization, 2004 See

[http://www.who.int/entity/dietphysicalactivity/strategy/eb11344/strategy\\_english\\_web.pdf](http://www.who.int/entity/dietphysicalactivity/strategy/eb11344/strategy_english_web.pdf)

<sup>30</sup> UK Office of Communications (Ofcom) 2007. See

[http://stakeholders.ofcom.org.uk/consultations/foodads\\_new/statement/](http://stakeholders.ofcom.org.uk/consultations/foodads_new/statement/) and see

<http://collections.europarchive.org/tna/20100927130941/http://food.gov.uk/healthiereating/advertisingtochildren/nutlab/nutprofmod>

<sup>31</sup> See <http://www.slv.se/en-gb/Group1/Food-and-Nutrition/Keyhole-symbol/>

<sup>32</sup> Federal Trades Commission (2011) Interagency Working Group Seeks Input on Proposed Voluntary Principles for Marketing Food to Children. See <http://www.ftc.gov/opa/2011/04/foodmarket.shtm>

Permitted target age groups should be significantly older than this in order to avoid appealing to younger ages.

**A high standard:** The age or legal majority is determined by local legislation. Permitted target age groups should be significantly above the minimum legal age: an example is the ban on targeting alcoholic beverages to people under age 25 required by Facebook in India and Sweden.<sup>33</sup> For food and beverages, the UK Ofcom regulations apply during television programmes which appeal to children under age 16.

### **Standard 3: Media used for marketing messages**

**Issue:** Children have access to a wide range of media. In addition, cross-border media services are not easily controlled by the jurisdiction in the territory where the message is received.

**Proposal:** Risk reduction means including all media which carry marketing messages as well as those which cross national borders (e.g. Internet, satellite and cable TV, and exported TV programmes, films, games, toys and other products). Food packaging, formulation and presentation are included, as are sponsored sports events and product placements.

**A high standard:** A comprehensive approach assumes all media unless specifically exempted. Media broadcast across several time zones should be assumed to reach children and adolescents. Examples from other sectors include Facebook, which prohibits tobacco and gambling marketing and restricts alcohol marketing.<sup>34</sup> For tobacco, the Framework Convention on Tobacco Control provides a comprehensive definition: *'all forms of commercial communication, recommendation or action and any form of contribution to an event, activity or individual'*.<sup>35</sup>

### **Standard 4: Marketing methods**

**Issue:** Most marketing works below conscious awareness, and children in particular may be vulnerable to marketing messages of special appeal to them. Many marketing methods fall outside current advertising regulations.

**Proposal:** Risk reduction means excluding techniques with special appeal to children and adolescents. This includes the use of cartoon characters, animation, celebrities, sports personalities, and the colouring, shaping and design of products and packaging likely to have a particular appeal to children and adolescents.

**A high standard:** A comprehensive approach acknowledges that children and adolescents are exposed to many marketing messages, including those designed to attract them and those designed to target non-child audiences. For tobacco, the Framework Convention<sup>36</sup> covers actions which have the *'aim, effect, or likely effect of promoting a tobacco product or*

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<sup>33</sup> <http://www.insidefacebook.com/2010/10/08/alcohol-advertisement-guidelines/>

<sup>34</sup> [http://www.facebook.com/ad\\_guidelines.php](http://www.facebook.com/ad_guidelines.php)

<sup>35</sup> [http://www.who.int/fctc/guidelines/article\\_13.pdf](http://www.who.int/fctc/guidelines/article_13.pdf)

<sup>36</sup> [http://www.who.int/fctc/guidelines/article\\_13.pdf](http://www.who.int/fctc/guidelines/article_13.pdf)

*tobacco use either directly or indirectly*'. It specifies all '*advertising, promotion and sponsorship*'. For breast-milk substitutes, the International Code<sup>37</sup> specifies that controls apply to '*product promotion, distribution, selling, advertising, product public relations, and information services*'. These phrases can be adapted with the addition of 'able to influence a child'.

### **Standard 5: Use of brands**

**Issue:** Products and media may carry a brand identity for a company linked to food or beverage products without specifying a food or beverage or giving an explicit marketing message.

**Proposal:** Risk reduction means brands with recognisable links to food and beverage products need to be treated as if they were promoting the food or beverage to which they are associated.

**A high standard:** A comprehensive approach restricts the use of brand promotion likely to influence children when that brand has a recognisable association with food and drink products subject to marketing restrictions. Where brands link to multiple products, the assumption should be that the brand is promoting the most familiar or highest selling of its products. Proposals from the Australian Obesity Policy Coalition suggest that brands should be restricted unless they are being used in a promotion for a healthy food product or range.<sup>38</sup> 'Brand' means the name of a food or beverage product or range of products, or the manufacturer or distributor thereof, or any other words, designs or images that are closely associated with such products.

### **Standard 6: Settings and locations**

**Issue:** Authorities responsible for standards where children are gathered, such as schools and childcare facilities, have a duty to ensure that nothing prejudices a child's wellbeing.

**Proposal:** Risk reduction means that all settings where children gather should be free from the promotion of specified food and beverages, including brands, logos, vouchers and gifts associated with such products.

**A high standard:** A comprehensive approach avoids the need to specify every possible setting. The WHO Recommendations state "settings include, but are not limited to, nurseries, schools, school grounds and pre-school centres, playgrounds, family and child clinics and paediatric services, and during any sporting and cultural activities that are held on these premises".<sup>39</sup> For alcohol, the City of San Diego, California, adopted an ordinance in October 2000 which prohibits advertising alcohol on any billboard within 1,000 feet of any

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<sup>37</sup> [http://www.who.int/nutrition/publications/code\\_english.pdf](http://www.who.int/nutrition/publications/code_english.pdf)

<sup>38</sup> [http://www.opc.org.au/downloads/positionpapers/Protecting-children-email1\\_FINAL\\_13.04.11.pdf](http://www.opc.org.au/downloads/positionpapers/Protecting-children-email1_FINAL_13.04.11.pdf)

<sup>39</sup> <http://www.who.int/dietphysicalactivity/marketing-food-to-children/en/index.html>

school, playground, recreation centre or facility, child care centre, arcade, or library.<sup>40</sup> There are also many examples of location-based tobacco controls.<sup>41</sup>

### **Standard 7: Accountability**

**Issue:** Marketing messages are produced and distributed by diverse stakeholders including food producers, manufacturers, importers or sellers, advertising agencies, media companies, media distributors and retailers, web content hosts, web access providers and web search engines.

**Proposal:** Risk reduction requires that a duty of care and attention to the protection of children and adolescents should be exercised by all parties in the dissemination of marketing messages.

**A high standard:** A comprehensive approach would hold all parties involved in conveying a marketing message to be accountable. For sponsorship media this includes sports event hosts. For promotional techniques embodied in a food product this includes importers, retailers and caterers. Cross-border marketing standards need to be enforceable through international agreements with sanctions. Examples of possible standard-setting mechanisms include WHO health regulations, ISO standards and Codex Alimentarius standards.

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<sup>40</sup> <http://business.highbeam.com/410209/article-1G1-204543912/alcohol-advertising-billboards-transit-shelters-and>

<sup>41</sup> <http://tobaccodocuments.org/women/2080811374-1392.html>.

# Appendix

## World Health Organization

### Set of Recommendations on the Marketing of Foods and Non-alcoholic Beverages to Children<sup>42</sup>

#### **Rationale**

1. The policy aim should be to reduce the impact on children of marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt.
2. Given that the effectiveness of marketing is a function of exposure and power, the overall policy objective should be to reduce both the exposure of children to, and power of, marketing of foods high in saturated fats, *trans* -fatty acids, free sugars, or salt.

#### **Policy development**

3. To achieve the policy aim and objective, Member States should consider different approaches, i.e. stepwise or comprehensive, to reduce marketing of foods high in saturated fats, *trans* -fatty acids, free sugars, or salt, to children.
4. Governments should set clear definitions for the key components of the policy, thereby allowing for a standard implementation process. The setting of clear definitions would facilitate uniform implementation, irrespective of the implementing body. When setting the key definitions Member States need to identify and address any specific national challenges so as to derive the maximal impact of the policy.
5. Settings where children gather should be free from all forms of marketing of foods high in saturated fats, *trans* -fatty acids, free sugars, or salt. Such settings include, but are not limited to, nurseries, schools, school grounds and pre-school centres, playgrounds, family and child clinics and paediatric services and during any sporting and cultural activities that are held on these premises.
6. Governments should be the key stakeholders in the development of policy and provide leadership, through a multi-stakeholder platform, for implementation, monitoring and evaluation. In setting the national policy framework, governments may choose to allocate defined roles to other stakeholders, while protecting the public interest and avoiding conflict of interest.

<sup>42</sup> Full document available at [http://whqlibdoc.who.int/publications/2010/9789241500210\\_eng.pdf](http://whqlibdoc.who.int/publications/2010/9789241500210_eng.pdf)

### **Policy implementation**

7. Considering resources, benefits and burdens of all stakeholders involved, Member States should consider the most effective approach to reduce marketing to children of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt. Any approach selected should be set within a framework developed to achieve the policy objective.

8. Member States should cooperate to put in place the means necessary to reduce the impact of cross-border marketing (in-flowing and out-flowing) of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt to children in order to achieve the highest possible impact of any national policy.

9. The policy framework should specify enforcement mechanisms and establish systems for their implementation. In this respect, the framework should include clear definitions of sanctions and could include a system for reporting complaints.

### **Policy monitoring and evaluation**

10. All policy frameworks should include a monitoring system to ensure compliance with the objectives set out in the national policy, using clearly defined indicators.

11. The policy frameworks should also include a system to evaluate the impact and effectiveness of the policy on the overall aim, using clearly defined indicators.

### **Research**

12. Member States are encouraged to identify existing information on the extent, nature and effects of food marketing to children in their country. They are also encouraged to support further research in this area, especially research focused on implementation and evaluation of policies to reduce the impact on children of marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt.