Marketing obesity? Junk food, advertising and kids

Dr Rhonda Jolly
Social Policy

Executive summary

• Childhood obesity has been labelled one of the most serious public health issues of the 21st century.

• Overweight and obese children typically grow into overweight and obese adults, who are susceptible to chronic complaints such as diabetes and cardiovascular disease. These diseases place considerable burdens on national health systems and economies.

• It can be argued therefore that policy which encourages healthy eating habits is desirable. However, the increasing availability of foods high in fat, sugar and salt (so called junk foods) across the world has made eating healthily a challenge.

• This challenge, according to some research, is compounded by advertising that adversely influences people’s food preferences and consumption patterns. As a consequence of this research, there has been considerable advocacy which has urged governments to place limitations on the advertising of junk foods, particularly to children.

• In opposition, other research has supported the argument that junk food can be part of a balanced diet and that it should be the responsibility of individuals, including children, to make decisions about what they consume.

• This paper considers both sides of this debate.

• The paper also looks briefly at the policy approaches to junk food in a number of countries and consequent actions taken to control or prohibit the influence of advertising. In particular, the paper notes recent Australian Government approaches to dealing with this issue.

• The paper concludes that to date, the Australian response to this issue has emphasised the value of a self regulatory regime. However, this approach may be modified in the future, as a result of a number of factors. These include growing public demand for intervention and a shift in health policy more towards preventive health than has been emphasised in the past.
Contents

Introduction ............................................................................................................................................ 1
Advertising and marketing: influencing choices ...................................................................................... 2
Critiques .............................................................................................................................................. 2
  Box 1: subtle effect of advertising .................................................................................................... 3
  Box 2: advertising strategies .............................................................................................................. 4
Marketing to children .......................................................................................................................... 4
  Pester power .................................................................................................................................. 5
  Pester power in action ....................................................................................................................... 6
  Box 3: children’s understanding of advertising intentions ............................................................. 7
Junk food advertising: findings ........................................................................................................... 8
No need to ban: arguments in favour of retaining junk food advertising ........................................... 13
  Responsible marketing and consumption .......................................................................................... 14
  Link between obesity and junk food tenuous .................................................................................... 17
  Self regulation sufficient to prevent abuse ....................................................................................... 19
A lucrative business ............................................................................................................................ 22
Australian children’s television viewing habits .................................................................................. 23
Australian children and the new media ............................................................................................. 23
Controls on junk food advertising ....................................................................................................... 24
  Commonwealth powers in relation to the media .......................................................................... 24
  Children’s television standards legislative framework ................................................................ 24
  Industry regulation .......................................................................................................................... 26
  Advertising regulation and voluntary codes .................................................................................... 27
Policy stances ....................................................................................................................................... 28
  Coalition ......................................................................................................................................... 28
  Labor ............................................................................................................................................... 30
  The Greens ...................................................................................................................................... 33
  Box 4: Coca Cola caught out .......................................................................................................... 34
What have other countries done about junk food advertising? ......................................................... 35
  Ireland ............................................................................................................................................. 36
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Thanks also to my colleagues, Dr Matthew Thomas and Paula Pyburne, for their valuable contributions.
Introduction

The World Health Organization (WHO) has labelled childhood obesity as one of the most serious public health challenges of the 21st century. In 2010, according to WHO, there are an estimated 42 million children under five years old who are overweight, and this figure is increasing at an alarming rate. In Australia, in 2007–08, around eight per cent of children were estimated to be obese and 17 per cent overweight.

Children who are overweight or obese are likely to grow into obese adults who risk developing a number of chronic non-communicable ailments, such as diabetes and cardiovascular disease. As these diseases add billions in health costs to national economies, it is clearly desirable both for individuals and for society overall, to devise and introduce policies which prohibit or limit their proliferation.

One policy intervention which can help to achieve populations with well adjusted weight levels involves introducing and maintaining strategies that encourage healthy eating habits. But the extensive array of convenience and pre-packaged foods high in fat, sugar and salt (so called junk foods) which are increasingly available across the world, often promoted in large or multiple serving sizes, has made eating healthily a challenge—for individuals personally, and for policymakers indirectly. Many have argued that the challenge has been compounded by a bombardment of marketing and advertising that surreptitiously and adversely influences people’s food preferences and consumption patterns. There has been considerable advocacy therefore, as a result of this thinking, which has exhorted governments to place limitations on the marketing of junk foods, particularly to children.

This paper considers some of the available evidence relating to the influence of the various forms of advertising in general, their influence on children and on consumption habits. It considers also arguments which maintain that junk food can be part of a balanced diet and that the food, non-

3. According to WHO statistics 2.6 million people die annually as a result of being overweight or obese, WHO, Global strategy on diet, physical activity and health information pages, viewed 26 November 2010, http://www.who.int/dietphysicalactivity/childhood/en/
4. Note: there are a number of terms used to refer to foods high in sugars, salts and fats; for example, in Britain these are referred to as HFFS foods.
5. This is not to imply that advertising is the sole influence; factors such as a fundamentally sedentary lifestyle (combined with lack of intentional participation in physical activities, such as playing sport), peer influences and income also are important contributing factors.
alcoholic drink and advertising industries can be entrusted to market these types of products responsibly without the intervention of government, or with minimal government intervention.

The paper looks briefly at the policy approaches to junk food in a number of countries and consequent actions taken to control or prohibit marketing which may influence children’s eating habits. In particular, the paper notes recent Australian Government approaches to dealing with this issue and the stance taken in favour of advertising regulation by the Australian Greens.

The paper concludes that overall, the Australian response has been cautious in relation to calls for more action to deal with obesity and its concomitant health problems. Arguments that the junk food industry voluntarily and responsibly limits the exposure of children to excessively manipulative promotion of its products appear to have been successful in maintaining a largely self-regulatory environment in Australia. This is despite the findings of national and international studies that indicate more action may need to be taken, and the imposition of various bans and taxes in other countries. Some change to Australia’s current approach may occur in the future, however, as a result of a number of factors, such as growing public demand for intervention and a shift in health policy emphasis towards prevention.

**Advertising and marketing: influencing choices**

**Critiques**

There is a significant body of academic work which discusses the ways in which advertising influences behaviour. Essentially, this work can be divided into two types of critique. The first group of studies examines advertising at the micro level by considering the ways in which it seeks to persuade or manipulate consumers. The second group of studies takes a societal view in examining ways in which advertising, and the mass media overall, may help to concentrate economic and cultural power in the hands of a few corporations and individuals.

In an analysis of studies which have looked at advertising from the persuasive/manipulative perspective, American academics John Harms and Douglas Kellner conclude that it creates meanings for consumers through visual imagery. These meanings in turn, shape consciousness and behaviour subtly by sanctioning some forms of thought and behaviour while de-legitimising others. Advertisements in fact place less emphasis on communicating specific product information and more on communicating the social and symbolic uses of products. Effectively, this means that in a consumer-oriented society, people define themselves as consumers and they are persuaded that they gain a fundamental gratification from consumption. So advertisers generate systems of meaning, prestige and identity by associating their products with certain life-styles, symbolic values and pleasures.7

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What this amounts to is a situation where advertising works to affect purchasing in a variety of subtle ways, as is illustrated in the box below.

**Box 1: subtle effect of advertising**

**Subtle effect of advertising**

The subtle influence of advertising works in a variety of ways, such as those shown below:

- Promotion of images that do not equate to the truth, but are presented in ways that appear to be ‘truthful’. So, people are convinced that buying product ‘A’ will make them happy or younger or more attractive—it must be so because the advertisements ‘prove’ it.

- Repetition of messages which stress minor differences between products, for example, Coca Cola and Pepsi Cola, can influence unconscious decisions on what becomes a preferred product.

- Even if consumers dislike some annoying advertisements, the constant repetition of messages can still influence their purchasing actions.

Another perspective on advertising is advanced by renowned media critic, Ben Bagdikian. Bagdikian argues that program content is changed and shaped based on the demographics of audiences so that it becomes less important than the type of person being targeted by advertising during programs. The television programs *Big Brother* and *Survivor* can be cited as examples. These programs ‘dumb down’ content and promote a ‘buying mood’. Bagdikian labels this as ‘carefully noncontroversial, light, and nonpolitical’ programming.

In briefly tracing the history of advertising in magazines Bagdikian suggests that this practice has been commonplace for some time:

The influence of advertising on magazines reached a point where editors began selecting articles not only on the basis of their expected interest for readers but for their influence on advertisements. Serious articles were not always the best support for ads. An article that put the reader in an analytical frame of mind did not encourage the reader to take seriously an ad that depended on fantasy or promoted a trivial product. An article on genuine social suffering might interrupt the ‘buying’ mood on which most ads for luxuries depend. The next step, seen often in mid-twentieth century magazines, was commissioning articles solely to attract readers who were good prospects to buy products advertised in the magazine. After that came the magazine phenomenon of the 1970s — creating magazines for an identifiable special audience and selling them to particular advertisers.⁸

There are a number of other means which advertisers use to persuade and influence purchasing choice. These include advertorials or infomercials, which are advertisements presented as legitimate news or articles. Some further examples are noted in Box 2 below.

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**Box 2: advertising strategies**

**Advertising strategies**

- Advertainment: advertainment is advertisements disguised as entertainment. Carmaker BMW pioneered this technique in a series of eight short films produced for the Internet from 2001. The films follow a mysterious stranger who transports passengers from one place to another (for the right price, and always in a BMW). The films were collectively called *The Hire* and starred a number of celebrities, including British actor Clive Owen and singer Madonna. 9

- Product placement: while this technique has been used in films for many years, it has become more popular since the 1980s. One example of this practice was the use of the Audi RSQ concept car in the futuristic action film, *I, Robot*. Product placement also occurs in television programs, video games, popular songs and cartoons. 10 The television program Mad Men for example has featured a number of product placements, the latest being for the Honda company. 11 In 2005, the British broadcasting regulator noted that product placement was generally well-received by audiences if it enhanced the reality of a program, was relevant and not too prominent. 12

**Marketing to children**

It was unusual for children to be targeted by advertisers until television became commonplace in homes during the twentieth century. In recent times, as more people have added subscription television to their entertainment fare, more opportunities have been created to market products to children on channels, such as Nickelodeon and the Cartoon Network, which deliver children-specific programming.

The Internet has provided even more opportunity through websites which feature content aimed at children. Marketing on the Internet employs a variety of techniques to appeal including advertorials, competitions, video links, product discounts and ‘advergames’. Advergames are advertiser-sponsored video games which embed brand messages in colourful, fun, fast-paced adventures which are created by companies for the explicit purpose of promoting their brands. 13

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Indeed, advertising has effectively broadened to include a comprehensive range of activities—television advertising, marketing on the Internet, product placement in television programs, films, and DVDs, computer and videogames, peer-to-peer or viral marketing, supermarket sales promotions, cross promotions between films and television programs, use of licensed characters and spokes-characters, celebrity endorsements, marketing in children’s magazines, outdoor advertising, print marketing, sponsorship of school and sporting activities, marketing on mobile phones and branding on toys and clothing.14

**Pester power**

More disposable income is now available to many families, and consequently, parents appear more willing to buy goods for their children than in the past. This may be the result of a combination of factors, including smaller family size, people postponing having children until later in life and the fact that there are more dual income families. Whatever the cause, the result is that children and young people are now an important demographic for advertisers. This is because they not only influence their parents’ buying decisions, but they are also the adult consumers of the future.15

In marketing to children, advertisers have encouraged the phenomenon of what has been labelled pester power. This has been defined as the constant demand for parents to purchase items, be they clothes, toys, gadgets or various other goods (as the illustration below shows). Pesterling can consist of ‘persistence nagging’, that is, pleas for parents to purchase an item which are repeated consistently. This type of pestering is not as effective with parents as ‘importance nagging’. Importance nagging represents a more sophisticated means by which children claim that something is necessary for their educational or sporting progress, or for their general well being.16 Importance nagging takes advantage of parents’ desire to provide the best for their children, and plays on any guilt they may feel about not spending enough quality time with their children.17

According to the American Centre for Science in the Public Interest, pestering strategies undermine parental authority. Parents are forced to choose between being ‘the bad guy’ by saying no to junk food or giving in to incessant demands.18 This conflict in negotiation between in parents and children

18. Center for Science in the Public Interest reports, op. cit.
is has been recognised as common, with ‘co-shopping’ described by parents as stressful because of the purchase demands made by children.\textsuperscript{19}

One marketing website promotes pester power as ‘a passport to growth’ for companies. It advises advertisers ‘to develop a strategy, which targets the kids and influences them totally, so that next time they are out with their parents, they get what they want’.\textsuperscript{20}

**Pester power in action**

![Image of children shopping]

*Source: Center for Science in the Public Interest\textsuperscript{21}*

Additionally, advertisers attempt to address children as consumers in their own right and so develop strategies to build brand awareness and purchasing habits. One advertiser claims this is not as difficult as it would seem:

\begin{quote}
... there is no need to reinvent the wheel: my experience has shown that traditional ‘adult’ marketing strategies such as sampling, couponing and loyalty clubs have proven highly effective among kids as young as 7.\textsuperscript{22}
\end{quote}

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\textsuperscript{21} Center for Science in the Public Interest reports, op. cit.

\textsuperscript{22}
This is in spite of the fact that, as the American Psychological Association points out, children do not display the two characteristics needed for mature assessment of advertising:

Children must acquire two key information-processing skills in order to achieve mature comprehension of advertising messages. First, they must be able to discriminate at a perceptual level commercial from non commercial content; and second, they must be able to attribute persuasive intent to advertising and to apply a degree of skepticism [sic] to their interpretation of advertising messages consistent with that knowledge. Each of these capabilities develops over time as a function of cognitive growth and intellectual development.23

Children’s capacity to understand advertising is succinctly summarised by academic Dale Kunkel and his colleagues in a paper for the American Psychological Association in the box below.

Box 3: children’s understanding of advertising intentions

<table>
<thead>
<tr>
<th>Children’s understanding of advertising</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Up to four years: advertisements seen as entertainment</td>
</tr>
<tr>
<td>- Ages six to seven years: believe advertisements provide information</td>
</tr>
<tr>
<td>- Ages seven to eight years: cannot distinguish between information and intent to persuade</td>
</tr>
<tr>
<td>- Ages ten to twelve years: can understand motives and aims of advertising, but most unable to explain sales techniques.24</td>
</tr>
</tbody>
</table>

There are various pieces of advice given to parents about ways in which they can counter advertising strategies. These include educating children to understand that the main goal of advertising is to make them buy things—often things they do not need and did not know they wanted until they have seen advertisements—and encouraging children to challenge advertisers' claims about their products.

A number of studies have concluded that advertising to children has produced disturbing results. One study revealed that by the age of two, children may have beliefs about specific brands. Two to six year olds can recognise familiar brand names, packaging, logos and characters and associate them with products, especially if the brands use salient features such as bright colours, pictures and cartoon characters. By middle childhood, most children can name multiple brands of child-oriented products.

Even among very young children, this awareness and recognition has been found to translate to nagging for specific product names and brands. 25

Junk food advertising: findings

An increasing number of overseas findings agree that television commercials for sweets, snacks and fast food are the mainstays of advertising which targets children. 26 According to a 2007 study by the American Kaiser Family Foundation, half of all advertising time on children’s television is devoted to food advertising. None of this time includes advertisements for fruit or vegetables. 27 The Kaiser Family study found that while food advertisements make extensive use of taste appeal to sell products, they also associate the products with fun, include the appeal of contests and, at times, stress the ‘newness’ of products. Many advertisements associate physical activity with the products and highlight the health benefits to be gained from their consumption. It is often stressed that the products contain ‘essential nutrients’. 28

A British Heart Foundation and Children’s Food Campaign concluded that food marketing to children is almost always for unhealthy products and this plays an important role in encouraging unhealthy eating habits which are likely to continue into adulthood. 29 Further, evidence suggests that advertisements affect food choices at both brand and category level. That is, a McDonald’s hamburger advertisement is likely not only to make it more probable that a person will buy a McDonald’s hamburger in preference to another brand, but also that the person will buy a hamburger per se. In other words:

There is evidence that advertising unhealthy foods to children influences not only which brands [children] choose, but the overall balance of their diet, encouraging them to eat energy-dense salty, sugary or fatty foods in place of those which are more nutritious and wholesome. 30

The British Heart Foundation has pointed out that it is not simply advertising on television that affects children’s choices of unhealthy foods; many things contribute—packaging of products, celebrity endorsements and the colour and shape of foods (and as the picture below suggests, other factors, such as peer pressure, may also contribute). 31 A study by the Rudd Center [sic] for Food Policy and

28. Ibid.
30. Ibid.
31. Ibid.
Obesity at Yale University released in 2010 illustrated this point by presenting children between the ages of four and six years old with identical food items in packages either with or without a popular cartoon character. Results indicated that children were significantly more likely to prefer the taste of low-nutrient, high-energy foods when a cartoon character appeared on the package. While this was the case with healthier foods it was not as conclusive.\(^\text{32}\)

\textbf{Obesity needs company?}

\begin{center}
\textit{“Can Johnny come out to eat?”}
\end{center}

Source: \textit{Prospect}\(^\text{33}\)

Considerable research has been conducted in Australia which complements that undertaken overseas. The Coalition on Food Advertising to Children concluded in 2007:

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.\(^\text{34}\)

The Coalition listed the ‘classic techniques’ used to engage and persuade children to eat unhealthy food under a number of headings:

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• emotions and feelings, which include fun, humour, happiness, success, winning and popularity

• production techniques—animation, magic, adventure, violence, catchy jingles and songs and fast pacing (that is, showing screening action at three times the usual rate)

• premium offers—give-aways, competitions and prizes

• product endorsement by celebrities and children’s characters.  

The Coalition’s report was highly critical of television advertising, but added that sports sponsorship, product placement in children’s films (for example, Coca Cola in the children’s film Madagascar), packaging and point of sales placement were additional marketing techniques of concern.

An Australian Centre for Health Promotion report to New South Wales Department of Health in 2006 particularly identified television:

... as a factor contributing to the problem of overweight and obesity. Television viewing promotes sedentary behaviour and has been demonstrated to influence general food consumption patterns and enhance consumption of snack foods.

An earlier Australian Divisions of General Practice (ADGP) audit of junk food advertising found that over 99 per cent of food advertisements broadcast during children’s television programming were for junk food. The ADGP found it disturbing that no contrasting healthy eating messages were promoted on television. The main categories of junk food advertised, according to the ADGP, are shown in the following illustration.


Marketing obesity? Junk food, advertising and kids

Source: Australian Divisions of General Practice

The Australian Cancer Council undertook a number of case study investigations of what it labelled the ‘tricks and strategies targeted at influencing the food beliefs, attitudes and preferences of children and teenagers’ used by a number of companies marketing in Australia. It reached the conclusion that this marketing:

... takes place in a largely unregulated environment [and this] should be of genuine societal concern. Further, many case studies revealed carefully worded policies and statements that aim to assure the Australian public that marketing activities engaged in by our food companies are thoughtful and responsible. This is despite all companies engaging in the use of marketing tricks and strategies targeted at influencing the food beliefs, attitudes and preferences of children and teenagers – suggesting that the policies represent more of an interest in being seen to do the right thing rather than a genuine commitment to improve their marketing practices.

The illustration below from the Cancer Council research shows the contents of products generally marketed to children by one of the advertisers examined—Kellogg’s. Comments by a dietician with regards to the nutritional value of the Kellogg’s products surveyed are included as part of the Cancer Council research. The dietician considers that while Kellogg’s manufactures some healthy cereals, varieties specifically targeted to children are high in sugar and/or salt and have low fibre content. Snack bars from this manufacturer are too high in sugar and fat, particularly saturated fat. While the makers of these bars mostly claim they have a fat content of less than ten per cent, a large amount of

39. Ibid.
41. Ibid.
that fat is saturated and some trans fats may also be included. Sugar is the second ingredient in all of the snack bars and the fibre content is very low.\textsuperscript{42}

Industry sources criticised the Cancer Council report, arguing that it overstated and generalised; marketers did not engage in trickery, merely in ‘advertising and marketing communication appropriate to a democratic, free-enterprise society’.\textsuperscript{43}

\begin{table}
\centering
\begin{tabular}{|l|c|c|c|c|c|c|}
\hline
& Energy & Fat & Saturated Fat & Sugar & Sodium & Dietary Fibre \\
& (kJ/100g) & (g/100g) & (g/100g) & (g/100g) & (mg/100g) & (g/100g) \\
\hline
\textbf{BREAKFAST CEREALS} & & & & & & \\
Coco Pops & 1603.0 & 0.3 & 0.2 & 36.5 & 564.0 & 1.2 \\
Corn Flakes & 1582.0 & 0.2 & Less than 0.1g & 7.9 & 720.0 & 2.6 \\
Fruit Loops & 1640.0 & 15.0 & 0.5 & 41.5 & 470.0 & 2.4 \\
Frosties & 1612.0 & 0.1 & Less than 0.1g & 41.3 & 380.0 & 1.5 \\
Nutri-Grain & 1596.0 & 0.6 & 0.1 & 32.0 & 600.0 & 2.7 \\
Rice Bubbles & 1603.0 & 0.4 & 0.1 & 9.0 & 720.0 & 1.1 \\
\hline
\textbf{SNACK BARS} & & & & & & \\
Kellogg’s Muesli Bars* (choc honeycomb) & 1800.0 & 14.7 & 11.2 & 25.3 & 40.0 & 4.7 \\
LCM’s Coco Pops Kaleidos & 1740.0 & 9.7 & 4.3 & 37.4 & 285.0 & 1.3 \\
LCM Shakes* (choc shake flavour) & 1650.0 & 9.0 & 3.5 & 30.3 & 320.0 & 3.2 \\
Nutri-Grain bars & 1750.0 & 9.3 & 7.8 & 36.6 & 255.0 & 1.8 \\
\hline
\end{tabular}
\caption{What are the products – and what’s in them?}
\end{table}

\* Where a product comes in a range of flavours, we have provided details of the nutritional content of one (representative) flavour.

Source: Australian Cancer Council\textsuperscript{44}

\textsuperscript{42} Ibid.

No need to ban: arguments in favour of retaining junk food advertising

There are a number of arguments advanced against banning the advertising of certain products, such as alcohol and junk food. Broadly, some commentators see any attempts to prohibit advertising of these products ‘as the new coolest thing for paternalistic policymakers and their nanny state’. One argues:

Advertising is, at its core, just the simple delivery of information. Those who oppose it are essentially arguing that this information is too challenging for individuals to process safely; that, if told the wrong thing, they will be unable to resist self-harm.

In other words, according to this view, people of all ages are able to form opinions about the merits of products advertised and make decisions, which they calculate are in their best interests, in relation to what they consume. Advertising in fact:

... informs us that new products are available in the marketplace. We may, after having watched an ad, have a different idea of what our next purchase may be. But that isn’t because we have been manipulated by a ruthless marketing department.

With reference to children, this type of argument can be manipulated to portray children as responsible consumers. Hence,

... children as young as five display well-defined preferences about TV programming – they choose to watch some shows instead of others, according to their personality, age, cognitive development and gender. As in the case of adults, the relevant literature shows that children are not a passive advertisement audience, that they do not fall for everything that comes out of the TV screen, and are instead able to nurture opinions and preferences about the specific commercial they are watching. More specifically, a 1994 study shows that children as young as eleven display a large degree of scepticism about the contents of selected advertising campaigns.

Some of the industry arguments which support continuing junk food advertising and public health responses to those arguments can be seen in the table included in this section. A selection of these arguments is discussed in more depth in the section.

44. Ibid.
46. Ibid.
47. Ibid.
Responsibility marketing and consumption

One aspect of the responsible marketing and consumption argument is that, unlike tobacco, junk foods can be enjoyed in moderation without causing undue harm to children or adults. The Cadbury Company maintains, for example, that its products can be enjoyed as treats and as part of a balanced diet. Cadbury states:

We are proud of our brands. They provide fun and enjoyment as treats or refreshment, and are valued for their functional benefits. They can be enjoyed as part of a balanced diet and lifestyle. We provide choice by offering variety and through innovation. We encourage responsible consumption, as this is central to consumers continuing to enjoy our brands.49

At the same time, as the Cancer Council of New South Wales points out, Cadbury spent millions of dollars creating a new Internet cartoon series featuring Freddo the Frog. The marketing features puzzles, games and activities embedded within the cartoon where children can be involved in the cartoon’s development. Cadbury claims this represents responsible marketing, as no chocolate is featured. The Cancer Council counters: ‘unless you count the life size chocolate frog that is the hero of the series’.50

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

<table>
<thead>
<tr>
<th>Industry arguments</th>
<th>Public health response</th>
</tr>
</thead>
<tbody>
<tr>
<td>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</td>
<td>The World Health Organisation (WHO) has judged that it is a ‘probable’ cause.64 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.76</td>
</tr>
<tr>
<td>Children should be taught media awareness rather than reducing advertising, as they will be exposed to it in later life anyway</td>
<td>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.45,63-65,81</td>
</tr>
<tr>
<td>Television bans would be circumvented by other forms of advertising.</td>
<td>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.</td>
</tr>
<tr>
<td>Industry has a right to commercial free speech</td>
<td>In the Quebec laws,74 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.76</td>
</tr>
<tr>
<td>Loss of income from advertising would be detrimental to the quality of children’s television programs</td>
<td>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.74</td>
</tr>
</tbody>
</table>

Source: CFAC51

In addition, the responsible consumption argument posits that manufacturers of junk foods have adopted conscientious attitudes to the marketing of food and beverages to children. The Australian Food and Grocery Council (AFGC) claims it has developed a responsible marketing initiative. Under this initiative, seventeen major companies, including Coca Cola, Campbell, Arnott’s, Kraft Foods and Kellogg’s, have committed to marketing products to children under 12 years old only when it will further the goal of promoting healthy dietary choices and healthy lifestyles.52

In addition, seven companies are signatories to the Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children under 14 years which is modelled on the AFGC initiative. These companies—McDonald’s, KFC, Pizza Hut, Hungry Jack’s, Oporto, Red Rooster and Chicken Treat—have committed to adopt on-pack nutrition labelling and to display nutritional information clearly on their websites. Nutrition guidelines developed are that children’s

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51. CFAC, Children’s health or corporate wealth? op. cit.
52. More information on this initiative and the list of all companies involved, is available on the Australian Food and Grocery Council website, viewed 1 September 2010, [http://www.afgc.org.au/industry-codes/advertising-kids.html](http://www.afgc.org.au/industry-codes/advertising-kids.html)
meals should reflect general principles of healthy eating with particular reference to limiting saturated fats, sugars and sodium in meals. McDonald’s action plan developed as part of this initiative, states in part:

At McDonald’s we are striving to do what is right and being a socially responsible company is part of our heritage ... McDonald’s has a reputation for being a responsible advertiser built up over the past 35 years. We adhere to the global McDonald’s standards for communicating to young people, which require us to communicate to children balanced food choices, encourage physical activity, provide nutritional information for our foods and engage subject matter experts and informed third parties to help guide our efforts for children and families. 

Over the past 7 years we have responded to community concerns around advertising to children and;

• Have voluntarily reduced our advertising during children’s television programs by 60 per cent.

• Introduced Happy Meal Choices which provided a way for us to help families select food options that can be part of a balanced diet but still ensure children enjoy their McDonald’s experience.

• Shifted away from toy focused advertising so that Happy Meal advertisements now concentrate on the overall experience of the Happy Meal.

• We also use our licensed characters to help promote active lifestyles.

• We support a range of local sporting sponsorships that focus on encouraging activity, exercise and overall wellbeing for children.53

Both initiatives are monitored by the Advertising Standards Bureau.

The Cancer Council of New South Wales is critical of the fast food code maintaining it contains loopholes, not least of which is that it applies only to fast food served as a ‘meal’. This is defined in the code as a main meal and a beverage. The distinction therefore allows ‘the unfettered advertising of products which are unhealthy, but sold as individual items’.54

In 2010, Hungry Jack’s admitted to breaching the voluntary code in advertising a meal for children that previously had been considered to have an unacceptable fat content. Hungry Jack’s marketing manager justified the decision on the grounds that the company had business commitments to which it was required to adhere. The Obesity Coalition claimed the Hungry Jack’s decision illustrated the failure of the practice of self-regulation.55


According to one American advertising executive, not only does the advertising industry take its social responsibility to children seriously, but in America at least, advertising is essential in maintaining programming for children:

If there were no children’s advertising there’d be no children’s programming and kids, instead of watching Angelina Ballerina would be watching Jerry Springer. You think obesity’s a problem. Think of a generation growing up watching segments about guys sleeping with their girlfriend’s sisters. Or mothers. Or the guy who is sleeping with Siamese triplets! It’s a fact that 94% of net revenues coming from advertising directed at children is reinvested into children’s programming.\(^{56}\)

The same executive also makes the point, however that advertising’s first responsibility ‘is to sell stuff and to sell it efficiently’.\(^{57}\)

**Link between obesity and junk food tenuous**

Another argument against the banning of junk food advertising to children claims that assertions about causal influences of food advertising on children’s diets and weight are flawed because they do not take into consideration other risk factors. According to Patrick Basham and John Luik, authors of *Diet nation: exposing the obesity crusade*:

If food advertising caused children’s weight gain and obesity, wouldn’t you expect to find an increase in advertising that parallels the increase in obesity? This is not the case. UK food and drink ad spending has been falling in real terms since 1999 and is now roughly at 1982 levels, even while rates of overweight and obesity have been rising. Consider, too, that in 1982 food ads constituted 34 per cent of total television advertising, whereas in 2002 they made up only 18 per cent.\(^{58}\)

Grey Global Chairman, Paul Gardner, argues from this perspective that junk food advertising should not be ‘painted as the bogeyman’ in relation to obesity and children. His agency’s research:

... found 55 per cent of people thought advertising was to blame for obesity while only 44 per cent blamed poor parenting. ‘I don’t see many kids out there playing football and riding their bike, so is advertising to blame for that?’\(^{59}\)

In a similar vein, a 2005 United States Federal Trade Commission (FTC) report which concluded that children see fewer television advertisements promoting food products than they did 28 years ago, noted that the incidence of childhood obesity more than doubled in the same period. This prompted

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57. Ibid.
the Washington Post to report the President of the American Advertising Federation’s observation that advertising was not the culprit in this equation; rather it was lack of exercise and moderation in diets. A number of other studies concur with this view; obesity is a multi-faceted problem involving numerous factors, such as family environment, peer relationships, school, age, and developmental differences. Consequently, there cannot be a direct relationship between it and television advertising.

In response to the FTC conclusions specifically, Susan Linn, a Harvard University psychologist, made the point that the volume of television advertisements could not be assessed in isolation. Newer forms of advertising, such as product placement and Internet advertising, had substituted for down turns in television promotion.

In a recent working paper for the Productivity Commission, Jacqueline Crowle and Erin Turner also agree that research suggests that the link between television viewing and childhood obesity is tenuous. In Crowle and Turner’s view therefore, it is unlikely that banning the advertising of energy-dense food would significantly address childhood obesity prevalence. They cite the cases of Sweden, Norway and Quebec as instances where there is inconclusive evidence that bans have been successful (see the section later in this paper on what actions other countries have taken in relation to junk food advertising for more explanation of the regime in place in these countries).

Health analyst Jennifer Doggett defends Crowle and Turner’s conclusions. Doggett argues that the evidence in support of junk food advertising bans is suspect; it is mainly based on a single randomised controlled trial undertaken over 30 years ago. The study in question involved Canadian schoolchildren who were divided into four groups during their stay at a two week summer camp. One group was exposed to junk food advertising and it was found at the conclusion of the monitoring period that this group made a lesser number of healthy food choices than the other groups involved in the study.

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61. See for example, Wei-Na Lee and E Tseng, Food advertising to children: a content analysis study of television commercials in top rated tweens’ programs, viewed 12 October 2010, [http://advertising.utexas.edu/sp/groups/public/@commadvfac/documents/general_information/prod75_017515.pdf](http://advertising.utexas.edu/sp/groups/public/@commadvfac/documents/general_information/prod75_017515.pdf)


64. Note: Sweden’s regulations ban advertisements designed to ‘attract the attention of children’ and Quebec’s bans apply to advertisements ‘directed at children’.

Doggett contends therefore:

It hardly needs to be pointed out that a single, short-term study, undertaken a generation ago, on a small group of children on the other side of the world, from a different social and cultural background, in a pre-Internet media environment, is hardly a robust evidence base for major public policy changes in Australia today.\(^6\)

**Self regulation sufficient to prevent abuse**

A number of defenders of junk food advertising maintain current regulations are sufficient to ensure that the food advertised in children’s television time and the way it is advertised does not contribute to obesity. The communications and media regulator, ACMA, appears sympathetic to these claims. In 2005, it concluded as part of the review of the CTS that it was difficult to define what benefit would be gained from banning junk food advertising in children’s television viewing times. In making this claim, ACMA cited the United Kingdom regulator Ofcom’s estimate that the association between advertising and junk food consumption is modest—accounting for about two per cent in the variation in eating habits caused by junk food advertising.\(^7\)

The CFAC countered that the CTS and other industry codes monitored by ACMA do not work.\(^8\) The CFAC cites a number of reasons to back its claim, including:

- precise definitions of terms are not given in the standards, so breaches become a matter of interpretation
- codes and standards are reactive. Public complaints take time to be heard and require a high burden of proof because of the lack of definitions and the possibility of different interpretations. The CFAC observes that while these processes are taking place, the subject of a complaint continues to have an impact on children.\(^9\)

ACMA’s final report on the CTS, which led to the introduction of new standards in 2010, paid some attention to this type of comment. But in the end, the report restated ACMA’s earlier conclusion that there was insufficient evidence to justify more comprehensive regulation of junk food advertising.\(^10\) Given that there was no agreed high fat/salt/sugar food identification standard in Australia, ACMA added, the cost of a general ban on food advertising would be significant for broadcasters. ACMA praised the initiatives taken by industry following the release of its initial report (as noted earlier in

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\(^{8}\) CFAC, *Children’s health or corporate wealth?* op. cit.

\(^{9}\) Ibid.

this paper), and committed to monitoring the outcomes from the initiatives to see if they could address community concerns without imposing additional government regulation.71

An associated regulatory issue is that of so called fat taxes. A number of studies have concluded that it is generally currently cheaper for people to purchase energy dense highly processed foods than healthier options. For those that accept this is the case, the idea of imposing fat taxes appears to have merit as an effective means to reduce the consumption of unhealthy foods without resorting to bans.72 Not everyone agrees with the supposition that taxation can be a solution to the consumption of unhealthy foods.

A 2006 study for Diabetes Australia by Access Economics considered the economic viability of imposing fat taxes on certain foods to reduce the incidence of obesity in general and reached the following conclusions:

- fat taxes are aimed not at limiting consumption of certain products by obese people specifically, but at limiting access to products consumed to some degree by all people
- fat taxes implicitly assume that higher taxation of junk foods will substantially shift consumption in favour of more healthy options
- if fat taxes have only minor influences on consumption, their main impact will be to increase the price of junk food
- fat taxes are regressive; they hurt the poor proportionately more than the rich
- fat taxes are complex to design and administer.73

In addition, Access Economics comments in relation to a variation on the fat tax theme, that there is no evidence introducing tax concessions for healthy foods may be any more desirable than taxing junk foods. The current Australian exemption for certain fresh foods from GST can be cited to illustrate this

71. Ibid.
point; there is no proof this concessional treatment of some foods has influenced consumer choice radically.  

Crowle and Turner refer to a number of studies that also argue responses to food taxes are limited. While these researchers note that some studies have found modest changes in food consumption from ‘carefully targeted’ taxes, they insist fat taxes often have unintended consequences. A tax on soft drinks in the United States, for example, lowered consumption of these drinks, but showed compensatory consumption of high energy-dense drinks, such as milk and fruit juice. So no statistically significant reduction in overall energy intake was achieved.  

Crowle and Turner make a similar point to the Access Economics study—fat taxes affect all people, not simply the obese:  

Food is a necessity good, and its consumption only results in obesity in some situations. In the case of healthy children with well balanced diets, most, if not all, foods might be ‘healthy’, but for obese children, food high in fat content may be unhealthy no matter what nutrients it contains. The efficiency losses of reducing food consumption by low-risk individuals could outweigh the efficiency gains of reducing food consumption of obese individuals. Also, obesity may arise from consuming large amounts of food, rather than consuming particular types of food deemed unhealthy and therefore taxable.  

Similarly, the unintended consequences outcome may apply in some instances. For example, taxing an underlying characteristic of foods, such as high fat, could mean nuts, which have nutritional benefits, are taxed as junk foods.  

Anne Marie Thow and her colleagues in an article for the World Health Organization make the point that because food is essential for life, taxing it is not as simple as taxing products like tobacco. Thow et al argue that while taxes have worked relatively well in lowering tobacco consumption, because food  

74. Ibid.  
75. For example, Kuchler, Tegene and Harris estimated that demand for snack foods was unresponsive to price change (inelastic), after taking into account quality variation, F Kuchler, A Tegene and J Harris, ‘Taxing snack foods: manipulating diet quality or financing information programs?’, Review of Agricultural Economics, vol. 27, no. 1, 2005, pp. 4–20. Other research has indicated that relative price changes (between ‘unhealthful’ and ‘healthy’ foods) could only explain about one per cent of the growth in BMI and the incidence of being overweight or obese, J Gelbach, J Klick and T Stratmann, ‘Cheap donuts and expensive broccoli: the effect of relative prices on obesity’, 2009. United States’ research on state-level soft drink taxes found no significant association between soft drink taxes and BMI, L Powell, J Chriqui, and F Chaloupka, ‘Associations between state-level soda taxes and adolescent body mass index’, Journal of Adolescent Health, vol. 45, no. 3, 2009, pp. S57–63, Crowle and Turner, Childhood obesity, op. cit.  
78. Crowle and Turner, Childhood obesity, op. cit.  
79. Ibid.
involves complicated choices, such as the one noted in the paragraph above, taxes may in fact not be effective options in controlling obesity. ⁸⁰

In opposition to these views, the recently published five-year ACE-Prevention study concluded that a ten per cent tax on junk foods would be a significant factor in optimal health prevention. The ACE study evaluated the cost-effectiveness of 150 preventive health interventions, to note that a large impact on population health could be achieved with a limited number of interventions such as the ten per cent tax and restricting the amount of salt in three basic food items (bread, cereals and margarine). ⁸¹

**A lucrative business**

As early as 1994 advertising to children was a multi-million dollar industry in the United States. At that time, American academic, James McNeal, estimated children four to twelve years old directly influenced more than $160 billion in family household spending purchases, and indirectly influenced between $350 and $400 billion in spending. Of that, $94.9 billion was spent on food and beverages. ⁸²

The industry considered that despite these figures, it was missing out on great opportunities to market further to children. ⁸³ By 2006, the American Institute of Medicine estimated that more than $10 billion per year was spent on food and beverage marketing to children and youth in America. ⁸⁴

In Australia, the Coalition on Food Advertising to Children, has claimed:

> ... 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. ⁸⁵

Indeed, $12.6 billion was spent on advertising in Australia in 2009. Food and non-alcoholic beverage advertising accounted for $402 million and $149 million respectively. ⁸⁶ There appear to be no figures available on exactly how much was spent specifically advertising to children. It is possible, however, to speculate from evidence presented in the studies noted in the previous section of this paper, as well as information on market spending by food companies, that the proportion was significant. ⁸⁷

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⁸² L Liebeck, ‘Billions at stake in growing kids market–marketing for kids’, *Discount Store News*, 7 February 1994, viewed 10 September 2010, [http://findarticles.com/p/articles/mi_m3092/is_n3_v33/ai_14823610/](http://findarticles.com/p/articles/mi_m3092/is_n3_v33/ai_14823610/)
⁸³ Ibid.
⁸⁴ McGinnis, Appleton, Gootman and Kraak, *Food marketing to children and youth*, op. cit.
⁸⁵ CFAC, Children’s health or corporate wealth? op. cit.
⁸⁶ Source for these figures: Commercial Economic Advisory Service of Australia (CEASA), *Advertising expenditure in main media*, 2009.
Australian children’s television viewing habits

A comprehensive comparative analysis of children’s television viewing habits in 2001, 2005 and 2006 undertaken by the rating company OzTAM was released by the Australian Communications and Media Authority (ACMA) in 2007.88 This study looked at the amount of time children spent watching free-to-air commercial and subscription television platforms, and their patterns of viewing.

ACMA found that in 2006 children aged zero to 14 years spent an average of 142 minutes per day watching free-to-air television. The majority of this time was spent watching commercial channels.89 Children from the same age group in homes with subscription television spent 177 minutes watching television. During the week the peak viewing hours for children were between eight and nine in the morning and seven and eight in the evening. On weekends, the child audience amounted to a higher proportion of the total viewing audience available for commercial television. The zero to 14 years audience accounted for 30 per cent or more of the total viewing audience in the 7 to 10 am timeslots and remained at 15 per cent or over until 1 pm. In the weekend evening timeslot of 7 to 8 pm, the zero to 14 years audience represented 14.4 per cent of the total commercial television viewing audience.90

Analysis of the most watched programs from 2001 to June 2006 revealed that the program genres which appealed most to children aged zero to 14 years were reality television, movies and comedy programs.91

Australian children and the new media

A 2007 ACMA study of children’s Internet activities found that while children were maintaining their relationship with traditional media, they were also embracing new platforms such as Internet, mobile phones and personal mobile devices. In 2007, for example, 74 per cent of children aged eight to 17 years spent an average one hour and 17 minutes daily on Internet activities. These activities included online communications, such as messaging, chatting, using social websites and e mailing. Other activities involved playing games against other players online. Almost half the young people in the ACMA study reported watching television shows, movies, cartoons or video clips on the Internet.92

Three years later, another ACMA paper noted that further developments such as media-enabled smart phones have provided young people with more opportunity to access media content.93 Some are

89. Ibid.
90. Ibid.
91. Ibid.
93. ACMA, Trends in media use by children and young people: insights form the Kaiser Family Foundation’s generation M2 2009 (USA), and results from the ACMA’s Media and communications in Australian families 2007, ACMA, 2010, viewed
concerned that more access to media content equates also with more access to advertising through sites that include games, offer the option of downloading screensavers or sending ecards and feature promotions linked to popular children’s films, such as the Shrek series of films.  

**Controls on junk food advertising**

**Commonwealth powers in relation to the media**

The Commonwealth has the power to make laws with respect to electronic communications under section 51 (v) of the Australian Constitution. While the *Broadcasting Services Act 1992* (BSA) allows the Commonwealth to impose prescriptive conditions on broadcasting licences, its control over print media is largely limited to more generic controls in relation to commercial activities under sections 51(i) and 51(xx) of the Constitution. These controls, which can also be applied to broadcasters, are contained in Acts such as the *Trade Practices Act 1974* and the *Foreign Acquisitions and Takeovers Act 1975*. The press is also subject to aspects of the common law (originally inherited from England, now declared by the Australian courts).

**Children’s television standards legislative framework**

Under section 122 of the BSA, ACMA is required to determine standards that are to be observed by commercial broadcasting licensees in relation to programs broadcast for children. It is a condition of commercial broadcasting licences that licensees comply with program standards.

In relation to advertising, ACMA’s Children’s Television Standards (CTS) do not allow the broadcast of advertising during pre-school (P) time bands and permit only the broadcast of advertisements

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26 November 2010,

94. Watts, Protecting children from unhealthy food marketing, op. cit.

95. Section 51 (v) of the Constitution: The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to: Postal, telegraphic, telephonic, and other like services.

   The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:- (i) Trade and commerce with other countries, and among the States; and (xx) Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth.

   The *Broadcasting Services Act 1992*, viewed 27 August 2010,


97. Note: despite the limitations in its power in relation to the print media, the federal government has been able to impose certain prohibitions on print advertising. Most notable is its prohibition of print advertising of tobacco products through a series of acts passed between 1988 and 2000.

98. Clause 7(1)(b) of Part 3 of Schedule 2 of the *Broadcasting Services Act 1992*. 
classified for general viewing in children’s (C) time bands.\textsuperscript{99} Other advertising and promotional requirements under the CTS are summarised below:

- The CTS prohibit the offering of prizes during P programs. During C programs, prizes can be presented, but presenters are not to recommend or endorse the prize or promote its sale, if it is not a cash prize the value of the prize is not to be announced, and only broad descriptions of the prize can be provided.

- Certain advertisements are considered unsuitable for children. These include: advertising alcoholic drinks and advertisements that demean groups of people, frighten or distress children and encourage children to undertake activities that may be dangerous to them.

- In prescribed children’s viewing periods, advertisements and sponsorship announcements must be clearly distinguishable.

- Advertisements must accurately represent the advertised product or service and must not contain misleading or incorrect information.

- Advertisements must not put undue pressure on children and should not imply that a child who owns a particular product is superior to his or her peers.

- Premium offers must not arouse unreasonable consumer expectations and conditions of the offers must be clearly set out.\textsuperscript{100}

- Competitions referred to in a C or P program or advertisement must contain a summary of relevant basic rules and a clear, fair and accurate statement about the chance of winning.

- Popular characters and personalities generally cannot be used to endorse a commercial product or service during the periods in which C and P programs are broadcast.

The principal reference to food and beverage advertising in the CTS requires that advertising of these products does not contain misleading or incorrect information about the nutritional value of products. However, clearly other aspects of the standards are relevant; for example, the prohibition on the use of popular characters to promote products. Prohibitions on the repetition of advertisements are also pertinent (the cartoon shown below attempts to illustrate how children can be influenced by repetition and depictions of what is normal behaviour).

Complaints relating to the CTS can be made directly to ACMA. As the BSA allows for ACMA to impose broadcasting licence conditions, continual breaches of the standards by licensees could potentially result in formal ‘disciplinary’ action being taken by the regulator.


\textsuperscript{100} A premium offer is anything offered with or without additional costs that is intended to induce the purchase of an advertised product or service. This may include, for example, a free action figure found within a packet of chips.
Influencing children’s thinking

Let’s give our kids a healthy future.

Source: Cancer Council\textsuperscript{101}

Industry regulation

The Australian Association of National Advertisers has in place a code of ethics which deals with advertising to children. The code states that advertisements for food and beverages should not encourage unhealthy eating or drinking habits or inactive lifestyles. Advertisements should also not contain misleading or incorrect information about the nutritional value of products.\textsuperscript{102}

Other broadcasting codes, such as the Commercial Television Industry Code of Practice, include provisions in relation to programming for, and advertising to children.\textsuperscript{103}

These codes in theory prevent misleading advertising, and in defending existing advertising patterns, manufacturers usually point to the existence and effectiveness of the codes.\textsuperscript{104} The diagram below from the free-to-air broadcasting lobby group FreeTV provides a summary of the current regime of legislation and voluntary codes in operation in Australia.

Advertising regulation and voluntary codes

Source: FreeTV

Policy stances

Coalition

In November 2002, Australian Health Ministers concluded that overweight and obesity were significant public health problems that required an Australia-wide response. The Ministers agreed to establish a National Obesity Taskforce which would be charged with developing a national obesity action plan. The Taskforce produced the Healthy Weight 2008 report in 2003.

The Howard Government reacted to this and other reports on obesity, by introducing a $116 million campaign in June 2004 ‘to tackle the growing problem of declining physical activity and poor eating habits of Australian children’. The majority of the $116 million provided under the Building a Healthy Active Australian campaign was distributed to schools under an Active After Schools (AASC) program. An interim evaluation of this program by the Australian Sports Commission in 2005 concluded:

... that by participating in the AASC program, children have become more physically active in their leisure time, [and] they have grown to love structured physical activity and want to continue their involvement.

Despite the Coalition Government’s substantial investment in improving children’s activity levels, it was adamant it would not consider introducing more radical policy options, such as banning junk food advertising during children’s television program times. Indeed, in response to the Labor Opposition’s support for such bans, Prime Minister Howard warned against adopting ‘nanny state’ tactics in dealing with childhood obesity. In the Prime Minister’s view, parents needed to take responsibility for their children; this was not a role for government.

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107. J Howard [Prime Minister], Building a healthy, active Australia, media release, 29 June 2010, viewed 4 November 2010, http://parlinfo/parlinfo/download/media/pressrel/11ZC6/upload_binary/11zC65.pdf;fileType=application/pdf#search=%22howard%20Building%20a%20Healthy,%20Active%20Australia%22
108. $90 million was initially provided over four years to establish an after school physical activity program known as Active After-school Communities. A 2007–08 budget measure extended the program, providing a further $124.4 million over four years.
While he was Minister for Health, the current Opposition Leader, Tony Abbott, stressed that in his opinion, junk food can be enjoyed occasionally without harmful effects for either children or adults. In 2005, Abbott was criticised for blaming parents, not the junk food industry for the increase in childhood obesity. He labelled parents who fed children junk foods ‘foolish’ people who needed to ‘lift their game’. He added that those who did not like the content of any advertising on television should simply switch it off.

Abbott iterated this view in an address to the Queensland Obesity Summit in 2006:

So, I say to all the people who are inclined to ban so-called junk-food advertising in children’s TV viewing time: do we also want to ban the ads for Arnott’s, Sizzlers and Norgen Vaas? And not to mention Four-X, an icon here up in Queensland, because if we’re going to tackle the root cause of obesity, it’s far more complex than simply modern junk food.

Now, I’ve got to say that, instinctively, I am reluctant to mandate new restrictions and new laws. I don’t think we can put people in cotton wool. I don’t think we can cover our population in cling-wrap. I think people need to retain substantial authority over how they live their lives. I think people need to be allowed to make mistakes.

Sometimes, we have a right to be wrong.

I think there’s a world of difference between banning ads for products which are illegal, at least for under-aged people, or are always harmful, and banning ads for things which, as treats occasionally, are not harmful and certainly are not illegal, even for minors.

So, I don’t support, the Howard Government doesn’t support, calls for the banning of so-called junk-food advertising in children’s viewing hours. But I do think it is important that everyone has a sense of responsibility for what he or she does and for the consequences of our actions.

At the time there was some disagreement with Abbott’s view within the Coalition. Liberal Mal Washer, for example, believed a ban for some types of junk food was a good idea. Abbott’s view was not swayed by such opposing voices, however. As there appears to have been no further public comment from Abbott on the subject, there is no indication that his views have altered since 2007

111. The Prime Minister’s view was that occasional junk food meals were not detrimental in an otherwise healthy diet was succinctly put in this 2004 comment: ‘There’s nothing wrong with having McDonalds—it’s how much McDonalds you have’. M Moscaitolo, ‘Politics and a modern Australian epidemic’, The Advertiser (Adelaide), 30 June 2004, p. 21, viewed 4 November 2010,
113. T Abbott (Minister for Health and Ageing), Address to the Queensland Obesity Summit, Brisbane, 3 May 2006.
114. A Stafford, ‘Abbott hits Labor on junk food advertising’, The Age, 1 August 2007, p. 3, viewed 10 September 2010,
when he concluded that there is no evidence a ban on junk food advertising would reduce obesity rates significantly.  

Labor

While in Opposition, Labor launched a blueprint for its health policy which promised that a Rudd Government would ‘treat preventative health as a first order economic issue’. Preventative health was also one of the four strategic directions announced as part of a plan for reform of the health system which Labor took to the 2007 election.

In April 2008, the new Rudd Government established a National Preventative Health Taskforce (NPHT). The Taskforce set about developing strategies to tackle health challenges caused by tobacco, alcohol and obesity and to develop a National Preventative Health Strategy.

At the same time as the NPHT began its work, the House of Representatives Standing Committee on Health and Ageing initiated an inquiry into obesity in the Australian population. The inquiry focussed on the possible future implications for Australia’s health system. Two recommendations of the House inquiry were particularly relevant to the issue of junk food advertising. These were:

**Recommendation 11**

The Committee recommends that the Minister for Health and Ageing commission research into the effect of the advertising of food products with limited nutritional value on the eating behaviour of children and other vulnerable groups.

**Recommendation 15**

The Committee recommends that the Minister for Health and Ageing adopt a phased approach regarding regulations on the reformulation of food products. Industry should be encouraged to make changes through self-regulation but if industry fails to make concrete changes within a reasonable timeframe the Federal Government should consider regulations.

On 1 September 2009, the NPHT released its strategy for a healthier Australia by 2020. The strategy made a number of recommendations, one of which specifically dealt with the marketing of junk food

115. Ibid.
117. K Rudd (Leader of the Opposition) and N Roxon (Shadow Minister for Health), *New directions for Australian health: taking responsibility: Labor’s plan for ending the blame game on health and hospital care*, Australian Labor Party, August 2007, viewed 10 September 2010, [http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22library%2Fpartypol%2FGT1O6%22](http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22library%2Fpartypol%2FGT1O6%22)
119. Ibid.
120. National Preventative Health Taskforce (NPHT), *Australia: the healthiest country by 2020*, Australian Government, September 2009, viewed 4 November 2010,
Marketing obesity? Junk food, advertising and kids

in general. This recommendation made particular mention of the use of ‘voluntary self regulation’ in reducing the marketing of junk food to children as had been mentioned in recommendations made by the House of Representatives committee. To date, it appears that voluntary self regulation has been the principle means employed by the Government in dealing with junk food advertising to children. See the relevant excerpt from the strategy below:

**National Preventative Health Taskforce (NPHT) strategy**

5. **Reduce exposure of children and others to marketing, advertising, promotion and sponsorship of energy-dense nutrient-poor foods and beverages**

Phase out the marketing of energy-dense nutrient-poor (EDNP) food and beverage products before 9 p.m. on free-to-air and Pay TV, and phase out premium offers, toys, competitions and the use of promotional characters, including celebrities and cartoon characters, used to market EDNP food and beverages to children within four years by:

- Developing and adopting an appropriate set of definitions and criteria for determining EDNP food and beverages
- Monitoring and evaluating the impact of voluntary self-regulation in reducing children’s exposure to unhealthy food advertising
- Identifying any shortfalls with the current voluntary approach, and addressing this through the introduction of a co-regulatory agreement; monitor, evaluate and report on effectiveness of co-regulation
- Introduce legislation within four years if these measures are not demonstrated to be effective

Source: NPHT\(^{121}\)

At the time of the release of the NHPT report, some commentators implied that the marketing industry had been told by the Government it had only a few months to prove that self regulation worked if it was to avoid tighter government regulations.\(^{122}\) At the same time, other reports noted that the Government had not actually indicated what its response to the report would be.\(^{123}\)

A week after the release of the NHPT report, the Government agency, ACMA, argued against the Taskforce recommendations. ACMA Chairman Chris Chapman claimed a ban on junk food advertising

\(^{121}\) ibid.


was not justified. Chapman maintained this was because there was only a modest link between it and obesity and limited research was available on the benefits of banning junk food advertising.\textsuperscript{124}

Consequently, ACMA announced revised children’s television standards which did not ban junk food advertising during children’s television viewing hours, in spite of the substantial earlier criticism of draft standards which had also rejected a ban.\textsuperscript{125} ACMA was immediately accused of pandering to commercial interests.\textsuperscript{126}

Revised CTS, which came into force 1 January 2010, imposed additional requirements regarding advertising. These banned the use of popular children’s television characters to advertise products or services.\textsuperscript{127}

Following the House committee’s inquiry and the NHPT report, the Government introduced legislation to set up a national agency to lead campaigns against obesity, alcohol abuse and smoking.\textsuperscript{128} The legislation was blocked in the Senate in October 2009, however. The Opposition objected to the Bill for one reason because they saw it as putting ‘the cart before the horse’— that is, creating a bigger bureaucracy rather than making policy decisions and taking policy actions.\textsuperscript{129} According to one Opposition Senator:

What we need are actions, funds and policies on the ground and in communities around Australia that provide real, tangible health benefits, not more health bureaucrats sitting in Canberra trying to tell people how to live their lives.\textsuperscript{130}

The Australian National Preventive Health Agency Bill 2010 was re-introduced following the 2010 election and passed by the House of Representatives on 27 October with the support of three Independents and Greens member, Adam Brandt.\textsuperscript{131}

\textsuperscript{124} Ibid.
\textsuperscript{125} The Coalition on Food Advertising to Children 2007 submission to ACMA on the Children’s Television Standards provides a number of examples of research that contradicts the ACMA stance, viewed 4 November 2010, http://www.acma.gov.au/webwr/_assets/main/lib310132/17_coalition_on_food_advertising_to_children.pdf
\textsuperscript{126} Coalition on Food Advertising, quoted in Shoebridge, ’Standards supporters thin on the ground’, op. cit.
\textsuperscript{130} Ibid.
In April 2010, it was reported that the Government had ‘lost its appetite to regulate’ the advertising and marketing industry with regards to obesity and alcohol abuse.\textsuperscript{132} Reintroduction of the Preventive Health Bill suggests, however, that the Government is at least serious about setting up institutions which will be able to advise on appropriate preventative health reforms. It remains to be seen to what extent the agency will be committed to regulating the junk food industry. More importantly, it also remains to be seen to what extent the Government will embrace any reforms the agency may suggest.

The Greens

During the course of the 42nd Parliament the Greens attempted a number of times to amend various pieces of legislation to introduce a ban on junk food television advertising during children’s viewing hours.

In September 2008, Senator Bob Brown introduced a Private Senator’s Bill to impose restrictions on food and beverage advertising on television during children’s viewing times.\textsuperscript{133} The Parliament’s Selection of Bills Committee referred the Bill to an inquiry which subsequently concluded:

\begin{quote}
... it [was] premature to bring forward legislative changes to food and beverage advertising while the [Labor Government’s] National Obesity Strategy is developed by the National Preventative Health Taskforce and before the industry’s initiatives in relation to responsible advertising can be properly assessed.\textsuperscript{134}
\end{quote}

The Committee recommendation not to pass the Bill was criticised by Senator Brown and his Greens’ colleague, Senator Rachel Siewert, who both insisted evidence of the harm done by junk food and the need to regulate stringently was compelling.\textsuperscript{135} In addition, they argued that the public wanted something more done to curb junk food advertising, but the Government had caved in to the junk food lobbyists.\textsuperscript{136} In response, food lobbyists saw the report as a victory for common sense.\textsuperscript{137} While

\begin{footnotes}
\item[132] Lee, ‘Alcohol and junk food crackdown remains in play’, op. cit.
\item[133] This was to occur through changes to the \textit{Broadcasting Services Act 1992}. The \textit{Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Act} 2004 was also to be amended to provide that financial assistance to schools was conditional upon schools not displaying advertisements or sponsorship announcements by companies whose principal activity is the manufacture, distribution or sale of junk food. The Bill’s homepage, viewed 1 November 2010, http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;adv=yes;orderBy=priority,title;query=Dataset%3AbillsP
\item[134] rev Parl%20Dataset_Phrase%3A%22billhome%22%20Decade%3A%222000s%22%20Year%3A%222008%22%20Month%3A%2209%22;rec=24;resCount=Default
\item[137] J Massola, ‘Major parties reject ban on junk food ads for children’, \textit{The Canberra Times}, 3 December 2008, p. 4, viewed 4 November 2010,
\end{footnotes}
Senator Brown’s Bill failed to gain sufficient support in the Senate at a vote in June 2009, he vowed to reintroduce the legislation.\(^1\)

The Greens 2010 election policy on junk food was to:

- introduce a requirement to include health information on alcohol and junk food advertising (the standards and nature of the health information to be determined by the National Preventive Health Agency)
- provide advertisers with an option to pay a 1.5 per cent levy on alcohol and junk food advertising if they did not choose to include the health information themselves
- create a Health Promotion Advertising Fund to allocate the funds for health information and to replace alcohol or junk food sponsorship in community sports clubs.\(^2\)

On 30 September 2010 Senator Brown reintroduced the Greens’ Bill to restrict junk food advertising.

**Box 4: Coca Cola caught out**

Coca Cola: ‘myth busting’ busted

In October 2008, actress Kerry Armstrong featured in an advertisement which Coca Cola claimed shattered myths about the harm the soft drink could do to consumers and balanced debate about the product. Some of the myths ‘busted’ by the advertisement were: the caffeine in soft drinks such as Coke was about a third of that found in an equivalent amount of coffee and half that found in a cup of tea. Coca Cola also had the same amount of acidity as many other foods and drinks and with good dental hygiene would not cause harm to teeth.

\(^1\) [http://parlinfo/parlInfo/download/media/pressclp/ZE9S6/upload_binary/ze9s60.pdf;fileType=application%2Fpdf#search=%22major%20parties%20reject%20ban%20on%20junk%20food%20ads%20for%20children%22](http://parlinfo/parlInfo/download/media/pressclp/ZE9S6/upload_binary/ze9s60.pdf;fileType=application%2Fpdf#search=%22major%20parties%20reject%20ban%20on%20junk%20food%20ads%20for%20children%22)

\(^2\) The Bill also caused controversy with regards to ‘strangers’ on the floor of the Senate Chamber. During the Senate vote on the Bill, Greens’ Senator Hansen-Young was asked to remove her two year old daughter from the Chamber by the President of the Senate. The Senate debate on the matter viewed 1 November 2010, [http://parlinfo/parlInfo/download/chamber/hansards/2009-06-18/toc_pdf/6891-3.pdf;fileType=application%2Fpdf#search=%22protecting%20children%20from%20junk%20food%20advertising%22](http://parlinfo/parlInfo/download/chamber/hansards/2009-06-18/toc_pdf/6891-3.pdf;fileType=application%2Fpdf#search=%22protecting%20children%20from%20junk%20food%20advertising%22)

Interestingly, after Senator Brown introduced a motion of dissent to the removal of the child from the Chamber, the matter was referred to the Senate Procedures Committee which decided: it would be undesirable to extend an existing exemption from standing orders for a Senator breastfeeding an infant. Therefore, it did not recommend adopting the proposed amendment. ‘In the view of the majority of the committee, it would create an undesirable inroad on the principle that the floor of the Senate is reserved for senators and officers in immediate attendance on the Senate’. The decision can be found in Senate, Procedure Committee, *Committee proceedings and public interest immunity claims: order of the Senate of 13 May 2009: Senators caring for an infant: standing order 175*, Third report of 2009, The Senate, Canberra, August 2009, viewed 1 November 2010, [http://www.aph.gov.au/Senate/committee/proc_ctte/reports/2009/report3/report.pdf](http://www.aph.gov.au/Senate/committee/proc_ctte/reports/2009/report3/report.pdf)

\(^3\) B Brown (Australian Greens Leader), *Greens announce junk food and alcohol advertising levy*, media release, 21 July 2010, viewed 1 November 2010, [http://parlinfo/parlInfo/download/media/pressrel/Z1EX6/upload_binary/z1ex60.pdf;fileType=application%2Fpdf#search=%22Greens%20junk%20food%2022](http://parlinfo/parlInfo/download/media/pressrel/Z1EX6/upload_binary/z1ex60.pdf;fileType=application%2Fpdf#search=%22Greens%20junk%20food%2022)*
After the Obesity Policy Coalition, Parents Jury and the Australian Dental Association lodged complaints against the advertisement with the Australian Competition and Consumer Council (ACCC), the ACCC found that the messages delivered in the advertisement ‘were totally unacceptable and misleading. The ACCC then forced Coca Cola to retract its claims.\textsuperscript{140} In April 2009, the soft drink company published full-page newspaper advertisements ‘setting the record straight’\textsuperscript{141} The rejections said, for example:

- We said it was a ‘myth’ that Coca-Cola 'Makes you fat'. The fact is: All kilojoules count.

- We said it was a ‘myth’ that Coca-Cola 'rots your teeth'. The fact is: All products containing sugar and food acid have the potential to contribute to the risk of tooth decay and erosion.

Despite claims that the industry was capable of responsibly self regulating to ensure claims such as those made by Coca Cola were not promoted, the Advertising Standards Council had previously dismissed complaints about the myth busting advertisement. The Council cited among a number of reasons for its decision that the advertisement did not promote ‘excessive consumption’ of soft drinks and included extra detail about dental hygiene.\textsuperscript{142}

Consumer groups considered the incident illustrated that the advertising industry was out of touch with community standards and unable to self-regulate effectively.\textsuperscript{143}

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**What have other countries done about junk food advertising?**

As a study for WHO points out, the fundamental policy choices in dealing with issues such as junk food advertising are statutory regulation, self-regulation or a mixture of the two—co-regulation.\textsuperscript{144}

Self-regulation aims to reduce the amount of deceptive, misleading and exploitative advertising to children, but it does not legally regulate or prohibit that marketing.

Statutory regulation can include a number of options:

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\textsuperscript{140} The Obesity Coalition had previously complained to the ACCC about a Kellogg’s advertisement for the Coco Pops breakfast cereal which failed to include information about the high sugar and low fibre content of the product. The ACCC dismissed the complaint on the grounds that the advertisement did not contain inaccuracies and the public would be aware that the product was not healthy.

\textsuperscript{141} K Burke, ‘Coke busted for misleading ad campaign’, *The Sydney Morning Herald*, 3 April 2009, p. 3, viewed 29 October 2010, http://parlinfo/parlInfo/download/media/pressclp/U37T6/upload_binary/u37t60.pdf;fileType=application%2Fpdf#search=%22coke%20busted%20for%20misleading%20ad%20campaign%22

\textsuperscript{142} Advertising Standards Bureau, Case report 443/08 reference to print advertisement by Coca Cola, 12 November 2008, viewed 11 November 2010, http://122.99.94.111/cases/443-08.pdf


• regulations that limit the marketing of certain types of food and drink to children in relation to places, times and techniques.\footnote{145}

• regulations that prohibit the marketing of certain types of food and drink in general or prohibit all commercial marketing of food and drink (or possibly all products) to children in any place, at any time and using any technique

• regulations that reduce incentives for the food and advertising industries to market food to children, such as taxes on advertising (which in turn could be used to generate funds for nutrition education and health promotion).\footnote{146}

The following examples illustrate how these options have been employed in a number of countries:

Ireland

Broadcasting legislation passed in 2001 in Ireland required the Broadcasting Commission of Ireland to introduce a code that deals specifically with advertising either directly or indirectly targeted at children. The code defines children as persons aged under 18 years.

The Irish code bans the use of cartoon characters and celebrities to promote foods to children and certain categories of food, such as fast foods, must carry messages stating that the foods should be eaten in moderation; as part of a balanced diet. Confectionary products must have an auditory or visual message stating that sugar-sweetened products can damage teeth. Broadcasters are required to provide visual or auditory cues to denote when a commercial break is beginning and ending.\footnote{147}

The Code has been operational since 1 January 2005.

Scandinavia

In Sweden, all television and radio advertising aimed at children aged 12 years and younger during children’s programming was banned in 1991. The ban was challenged in 1993 and the European Court of Justice ruled in 1997 that it was a restraint of trade which discriminated against foreign broadcasters. Hence, it has been argued that much of the impact of the ban has been negated, as satellite channels continue to expose Swedish children to advertising.\footnote{148}

Advertisers have ignored the fact that the advertising ban in Sweden has been effectively evaded. They often point to the Swedish experience to argue that prohibiting advertising to children is an

\footnote{145} This would apply in child-specific settings, such as schools; specific periods of time, such as during children’s television programmes and specific techniques used to target children, such as free gifts and collectables.

\footnote{146} Hawkes, Marketing food to children: changes in the global regulatory environment, op. cit.


ineffective means of discouraging unhealthy diets, as obesity in Sweden has risen rapidly since the introduction of the ban.149

Norway banned television advertisements to children aged 12 years and younger in 1992.150 Between 1975 and 1995 Norway also reversed a general population shift towards high fat, energy-dense diets in the general population. This was accomplished through strategies such as food subsidies, price manipulation, retail regulations, clear nutrition labelling and education. Consumption of saturated fat fell by 18 per cent and blood cholesterol by 10 per cent during this period.151

In Finland, marketing to children is regulated by the Consumer Protection Act, the Act on Television and Radio Operations, and the Consumer Ombudsman Guidelines on Marketing to Children. Advertisements that attempt to persuade children to buy products through direct offers are prohibited, as are advertisements which use cartoon characters or children to market goods.152

The Danish Marketing Act includes a clause that marketing directed at children and young people must take special account of their natural credulity and lack of experience. The Act makes no specific mention of food advertising, however. Following the publication of research in Denmark which has pointed to a rise in the number of advertisements for unhealthy foods during children’s television viewing times, there is support for a review of existing regulations153

United Kingdom

In 2004, the British Labour Government released a White Paper which argued there was ‘a strong case for action to restrict the advertising and promotion to children of those foods and drinks that are high in fat, salt and sugar’.154

In November 2006, following an extended period of analysis and consultation, the British broadcasting regulator, Ofcom, announced a progressive ban on the advertising of foods high in fat, salt and sugar (known as HFSS foods) in children’s program periods, on children’s television channels and in all programs that have particular appeal to children aged under 16 years.155 In addition, content rules were introduced which prohibited the use of licensed characters, celebrities, promotional offers and

150. Hawkes, Marketing food to children, op. cit.
152. Hawkes, Marketing food to children, op. cit.
health claims in advertisements for products high in fat, salt or sugar and which were targeted at pre-school or primary school children were prohibited.

The scheduling restrictions and content rules applied to all channels transmitted by United Kingdom broadcasters, whether aimed at United Kingdom or external audiences.\textsuperscript{156}

Ofcom reviewed the restriction in 2008 and found that during 2007–08, children saw around 34 per cent less HFSS advertising than in 2005. A final review of the restrictions took place in 2010. This review found that the restrictions had:

\ldots served to reduce significantly the amount of HFSS advertising seen by children, and to reduce the influence of techniques in HFSS advertising that are considered likely to be particularly attractive to children.\textsuperscript{157}

Ofcom therefore considered it appropriate to maintain the current restrictions, but not to extend them.\textsuperscript{158}

\textbf{Canada}

The Canadian Broadcasting Corporation, the national public broadcaster, does not accept advertising in programs directed at children younger than 12 years.\textsuperscript{159}

Self regulatory conditions also apply in Canada. Advertising Standards Canada (ASC), a self-regulating industry body, is responsible for ensuring adherence to a Canadian Broadcast Code for Advertising to Children. This code states that advertising directed to children must not exploit their credulity or lack of experience and must not present information that may harm their physical, emotional, or moral well-being. The code specifically restricts the use of puppets and subliminal messages which may encourage children to purchase products. A children’s advertising initiative was launched in 2007 by the food and beverage industry “to shift the landscape of advertising primarily directed to children under 12 years of age to the promotion of better-for-you products”.\textsuperscript{160}

In the province of Quebec, a consumer protection Act, which prohibits advertising aimed directly at children aged 13 years and younger on commercial television, has been in force since 1980.\textsuperscript{161} This legislation does not apply to signals originating from outside Quebec. A 2004 study for WHO noted

\begin{footnotesize}
\begin{enumerate}
\item[156.] Ibid.
\item[157.] Ofcom, HFSS advertising restrictions: final review, 2010, viewed 2 November 2010, \url{http://stakeholders.ofcom.org.uk/binaries/research/tv-research/hfss-review-final.pdf}
\item[158.] Ibid.
\item[159.] Canadian Broadcasting Corporation, Advertising standards, 2010, viewed 2 November 2010, \url{http://cbc.radio-canada.ca/docs/policies/ads/index.shtml}
\item[161.] There are various exceptions in the Act which allow, for example, the advertising of a children’s program, the (Quebec) Consumer Protection Act, viewed 2 November 2010, \url{http://www.canlii.org/en/qc/laws/stat/rsq-c-p-40.1/latest/rsq-c-p-40.1.html}
\end{enumerate}
\end{footnotesize}
that one consequence of the ban has been that advertisers target parents ‘with the intention they buy advertised products for their children’. 162

France

Concern about rising levels of childhood obesity, coupled with unease about the influence of United States’ fast food and soft drink companies on consumption of food and beverages in France, led the French Government to take action on junk food advertising in 2004. It passed public health legislation under which advertisements on television or radio ‘for beverages containing added sugar, salt or artificial sweeteners and for food products processed and sold in France must contain health information’. 163

In February 2007, a decree defined the nature of the health information required under the legislation and the conditions for its use. The information consists of four short messages. These are:

- ‘For your health, eat at least five fruits and vegetables a day’
- ‘For your health, exercise regularly’
- ‘For your health, avoid eating too many foods that are high in fat, sugar or salt’
- ‘For your health, avoid snacking between meals’. 164

On television and in cinemas these health messages are shown on a thin horizontal band (corresponding to only 7 per cent of the height of the screen), or as a screened notice displayed just after the advertisement. On radio, the message is broadcast immediately after the advertisement. Printed materials include a horizontal message strip also corresponding to 7 per cent of the total height of the advertisement. The speed at which these messages are flashed on screen is not defined in legislation, nor is their colour, typeface or font size. 165

Companies that do not add public health warnings to all television advertisements will be required to pay a government levy of 1.5 per cent of their advertising budget. Money from the levy goes directly to the French national institute for health prevention and education, the body that promotes healthy living. French food companies’ advertising expenditure on ‘junk’ food such as biscuits, sweets, snacks, chocolate and soft drinks is estimated at more than €200 million a year. 166

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164. Ibid.
165. Ibid.
166. Ibid.
United States

In 2009, a plan was introduced in the United States’ Congress to amend the tax code ‘to protect children’s health by denying any deduction for advertising and marketing directed at children to promote the consumption of food at fast food restaurants or of food of poor nutritional quality’. 167

Under the United States’ tax code, advertising is considered a business expense and is used by corporations to reduce their federal tax liability. 168 According to the authors of a November 2008 study by the American National Bureau of Economic Research:

... since the corporate income tax rate is 35 per cent, the elimination of the tax deductibility of food advertising costs would be equivalent to increasing the price of advertising by 54 per cent.

Under this proposal, all expenses—travel, goods or services, gifts or other promotional expenses—would be specifically banned from tax deductibility if they were incurred in providing ‘any advertisement primarily directed at children for purposes of promoting the consumption by children of food from any fast food restaurant or of any food of poor nutritional quality’. 169

Conclusion

It would be fair to say that the vast majority of participants in the obesity/junk food/advertising and marketing debate agree that obesity is a major health problem for modern societies. Where the participants diverge is with regards to the subtleties of what causes obesity and how to deal with what has been labelled an epidemic of modern life. This is particularly so when the issues of overweight and obesity are raised in relation to children.

A diverse group, comprising parents, health economists, politicians and other policy analysts argue that there is incontrovertible evidence that much of the blame for obesity epidemic lies with the producers of foods that are high in fats, sugar and salt—the junk food industry. According to this group, further blame lies with the advertising industry, which uses what are seen as unscrupulous marketing tactics to manipulate children’s food preferences and consumption and to encourage children to pester their parents to purchase these unhealthy products.

This group considers that radical steps need to be taken to deal with the marketing of junk foods. Australian advocates argue that in the case of children at least the current self regulatory regime does not work; children are continually, and in a variety of ways, exposed to junk food advertising. One commentator maintains with reference to television, that the narrow restriction of what constitutes

167. Representative Dennis Kucinich, H.R.4310–To amend the Internal Revenue Code of 1986 to protect children’s health by denying any deduction for advertising and marketing directed at children to promote the consumption of food at fast food restaurants or of food of poor nutritional quality: referred to United States House of Representatives committee in December 2009.
168. The relevant section of the code, viewed 2 November 2010, http://www.law.cornell.edu/uscode/26/usc_sec_26_00000162----000-.html
children’s television makes it relatively easy for industry to claim that self regulation is effective. However, what is not taken into consideration is that ‘prime-time shows such as The Simpsons and Home and Away... are popular with children’. 170 There is, in fact, a fine line of distinction between children’s programs and programs watched by children, and the junk food industry counts on regulators to overlook that line.

In opposition to this group, there are other analysts and representatives of the food and advertising industries, as well as organisations that benefit from junk food sponsorship, who argue that a healthy diet can contain some foods high in fat, sugar or salt. That is, hamburgers, chocolate, soft drinks and crisps can be enjoyed as treats without people becoming obese. The rationale behind this perspective is that when it comes to food, it is not what, but how much is eaten. Junk food producers argue that they responsibly market their products, promote healthy menu alternatives and support nutrition labelling to assist people in making decisions about their personal energy in/energy out equations.

Advertisers argue that they do not make fraudulent claims about products. They provide information on products of all types. People, including children, can then make informed decisions about whether to purchase those products. It is after all, the aim of their industry to promote and sell products. In relation to products such as junk foods, it is up to parents to educate their children to become discerning consumers.

Despite claims to the contrary from the junk food industry and advertisers, public concern about the incidence of childhood overweight and obesity has increased. This concern has led a number of governments to introduce various measures to restrict the marketing of junk foods. These range from legislative bans to so called fat taxes. There has been much debate about the effectiveness of such measures, but little hard evidence to date about which of them, if any, works effectively for the long term. 171

In this context of uncertainty, Australian governments have acted cautiously. The Howard Government’s approach placed considerable emphasis on encouraging children to be active, relied on the effectiveness of existing voluntary self regulatory advertising standards and stressed that individuals needed to take a certain amount of responsibility for their own health outcomes.

Preventive health is broadly on Labor’s agenda, but the current Government’s policy intentions with regards to dealing with specific issues, such as junk food advertising, remain vague. In 2009, academic Paul Williams commented that effective policy or legislation to deal with junk food advertising should have been put in place by Labor early in its first term. Instead, the Government had ‘buckled to corporate pressure from advertisers and the fast-food lobby’. 172 Similarly, a media analyst was convinced that Labor did not have the conviction to do anything about junk food advertising in the

lead up to the 2010 poll because it would not risk alienating powerful broadcasting and sporting interests. The question was whether it would have the ‘appetite for the fight’ if it won a second term.\textsuperscript{173} Labor’s commitment to a national preventive health agency could be seen as the initial second-term punch in the fight. But there are likely to be some who want immediate action and who consider the setting up of another agency amounts to abrogating responsibility on the obesity issue in general, and junk food marketing specifically, to bureaucratic equivocation.

It remains that WHO’s warning about the worldwide obesity crisis will be difficult to ignore. More adults are becoming overweight and obese; more children are becoming overweight and obese and likely to grow into obese adults, who will place increasing burdens on the health system. Despite claims by the junk food and advertising industries that self regulation works and further intervention is not necessary, it appears that something needs to be done to prevent public health and economic disaster. Similarly, while industry arguments which posit that the link between junk food, advertising and obesity is inconclusive have been influential in the past, it appears that evidence to the contrary is now becoming more accepted. Further, the trend towards preventive health, which has emerged in recent times, and the current government’s rhetoric of a reform agenda, which prioritises prevention, appears to indicate that a more regulatory regime for junk food advertising may eventually emerge.

On the other hand, there is a fundamental tension underlying the junk food advertising/marketing debate that is unlikely to be resolved. This is reflected in the question of whether the negative results of individual choices—for example in smoking, consuming alcohol or eating junk foods—should consequently be regarded as an individual or collective problem. As noted throughout this paper, those who see the issue as a matter for the individual consider that government action, such as the limiting or restricting of the advertising of junk food, is paternalistic. The individual is a rational being, able to make informed choices about the health risks of his or her food consumption. While it is not the intention of this paper to engage overly in ideological debate, it is worth noting comments on this subject by academic, Dr Linda Botterill:

A classical liberal interpretation of obesity would surely be that over-eating and low levels of physical activity are private behaviours which, at worst, result in harm to the obese person themselves. [The philosopher John Stuart] Mill argued that ‘Over himself, over his own body and mind the individual is sovereign.’\textsuperscript{174} Others can attempt to educate, persuade or otherwise cajole individuals to change their behaviour but, in the absence of that threshold test of harm to others, there is no role for compulsion.\textsuperscript{175}

\textsuperscript{173} Lee, ‘Alcohol and junk food crackdown’, op. cit.
\textsuperscript{174} J S Mill, Three Essays: On liberty, representative government, the subjection of women, [1859], Oxford University Press, London, 1975, p. 15.
\textsuperscript{175} L Botterill, Constructing an epidemic?: Obesity and the regulation of private behaviour, refereed paper presented to the Australasian Political Studies Association Conference, University of Newcastle, 25–27 September 2006, viewed 26 November 2010.
In contrast, the argument for intervention is based on a potent ‘image of the powerless consumer in the face of the irresistible multinational, food industry’, and its co-conspirators, advertisers. In Botterill’s words:

This is the interpretation which calls for limits on advertising, particularly to children, and taps into concerns about the protection of the helpless and the innocent.

This argument rejects the implication that intervention to discourage the consumption of junk food represents the actions of a ‘nanny state’. Professor Boyd Swinburn, who has written extensively on this subject, points out that governments have often required certain behaviours of their citizens to decrease public health threats. These include the wearing of seatbelts and imposing smoke free public environments. Swinburn cites tobacco control as the classic case where taxation, advertising bans and legislation served as the drivers for change with social marketing and education providing added value.

Therefore, despite there being a current climate which supports the imposition of a more regulatory advertising regime for junk foods, it is likely that crucial decisions ultimately will be about how effectively any government can, and is committed to balancing a number of complex issues—protecting children from manipulation and exploitation, the rights of commercial interests to promote their goods and to trade legitimately, and divergent ideological stances.

176. Ibid.
177. Ibid.