

MARKETING FOOD TO CHILDREN: Changes in the Global Regulatory Environment 2004-2006

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ABBREVIATIONS

AANA	Australian Association of National Advertisers
ACMA	Australian Communications and Media Authority
BCI	Broadcasting Commission of Ireland
CARU	Children's Advertising Review Unit (United States)
CIAA	Confederation of the Food and Drink Industries of the EU
CSPI	Center for Science in the Public Interest
DPAS	Global Strategy for Diet, Physical Activity and Health
EU	European Union
CC	Federal Communications Commission (United States)
FTC	Federal Trade Commission (United States)
FIAB	Food and Drinks Federation (Spain)
FMNV	Foods of minimum nutritional value
FSA	Food Standards Agency (United Kingdom)
ICC	International Chamber of Commerce
IOMNAS	Institute of Medicine of the National Academy of Science (United States)
NGO	Nongovernmental organization
Ofcom	Office of Communications (United Kingdom)
SAICC	State Administration of Industry and Commerce in China
SRO	Self-regulatory organization
TVWFD	Television Without Frontiers Directive
UNESDA-CISDA	Union of European Beverages Associations
WFA	World Federation of Advertisers
WHO	World Health Organization

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EXECUTIVE SUMMARY

In May 2004, the World Health Organization's Global Strategy on Diet, Physical Activity and Health (DPAS) called on governments, private industry, and consumer groups to take action against marketing messages that promote unhealthy dietary practices.

This report is the result of a systematic search to examine the changes in the regulatory environment around food marketing to children¹ since 2004.

The report shows that, from a global perspective, there has been more talk about regulation than action to implement regulations. Nevertheless, important changes have occurred in the global regulatory environment around food marketing to children. These changes are still ongoing, in some cases at a fast pace. It appears that this heightened level of discussion and action has been directly and indirectly stimulated by DPAS. As a result of this activity, there are now an increasing number of ideas and proposals on how food marketing to children can be regulated.

Six key trends are discernible:

- Development of self-regulatory codes by the advertising and food industries.
- Slower development of statutory regulation by some governments, despite strong advocacy by public health and consumer groups for legal restrictions on the volume of food marketing experienced by children.
- Concentration of this activity in high-income countries and relatively little in middle- and low-income countries, even though this is where advertising and promotional activities are growing faster and potentially have a greater impact.
- Focus of the regulatory activity on television advertising, although with more attention given to other marketing techniques compared to the situation before 2004.
- More attention paid to monitoring and enforcement of existing and new regulations, but remaining inadequate in terms of measuring the impact of regulation on the quantity and quality of food promotions experienced by children, and the associated impact on children's diets.
- Despite these regulatory developments, the continued growth of traditional advertising techniques in middle- and low-income countries, partly stimulated by the liberalization of advertising services markets, and, in all countries, an apparent increase in the use of non-traditional marketing techniques.

Key stakeholders identified by DPAS have taken different approaches:

- With a united front, **private industry** has been developing self-regulatory codes, mainly in Europe. At the same time, companies have continued to proactively market their products using a wide range of techniques and lobbied against any proposals to legally restrict food marketing to children.
- **Governments** have supported self-regulatory developments, and some have voiced support or developed forms of statutory regulation, particularly in schools. Some governments have also said that they will implement statutory restrictions if self-regulation fails to address the

¹ The term "food marketing to children" is used throughout this report to mean the commercial promotion of energy-dense, nutrient-poor food and non-alcoholic beverages to children and youth

issue.

- **Consumer groups** have stepped up their campaigns to support the development of statutory restrictions on all forms of marketing activities that encourage unhealthy dietary practices among children.

A major barrier to developing regulations to discourage marketing messages that promote unhealthy dietary practices has emerged: i.e. lack of clarity on the standard and level of evidence available to support the development of regulations. Different stakeholders use different standards of evidence to argue for and against different positions, thereby obfuscating the debate around regulatory options.

Developments in self-regulation

Over the past two years, **private industry** has, with a united front, proactively supported the development of self-regulation of food marketing to children. In 2004, the global business organization, the International Chamber of Commerce (ICC) published a Framework for Responsible Food and Beverage Communications with the backing of the international advertising, communications and food industries. Shortly preceding this move, the Confederation of the Food and Drink Industries of the EU (CIAA) had released a similar set of principles. Both sets of guidelines emphasize that food and drink marketing should not mislead children, nor undermine the importance of a healthy diet. Over the past two years, advertising self-regulatory organizations and food industry trade groups have adapted the guidelines into codes for national application, especially in Europe.

Governments in some Asian, Australasian, European and North American countries, along with the European Commission, have supported these efforts to develop self-regulation. But some of these regulatory authorities have also stated that, if the advertising and food industries fail to act within a specified time period, they will implement tighter statutory restrictions.

As a result, self-regulatory codes and clauses on food marketing to children have been developed or revised in ten countries. Eight of these countries are in Europe, one is in North America and one is in Australasia/Pacific. While not a particularly large number of countries, it nevertheless represents close to a 100% increase since April 2004. In addition, self-regulatory organizations and food industry trade groups in many more countries are in process of reviewing and developing codes in light of the development of the ICC's Framework and the CIAA's Principles. The codes relate most frequently to television advertising, but a greater number now extend to all marketing techniques, a trend that seems set to continue. The majority follow the general guidance provided by the Framework and the Principles, but a minority recommend restrictions, notably on the use of celebrities and on product placement in children's television programmes.

Action by consumer groups

Consumer groups continue to believe that self-regulatory developments are inadequate and that statutory restrictions are needed. Over the past two years, groups concerned with consumer issues, health and education in Asia, Australasia, Europe, North America and the Pacific have stepped up their campaigns calling for government regulation. They have produced a range of studies suggesting that marketing messages that encourage unhealthy dietary practices are not only continuing, but intensifying all over the world, despite developments in self-regulation. These groups are calling for statutory restrictions on television advertising, in-school marketing and non-traditional marketing techniques which encourage unhealthy dietary practices among children. To support their case, consumer groups are now drawing on a conclusion of a major report completed by the Institute of Medicine of the National Academy of Sciences (IOMNAS) in the United States of America in 2006: that food and drink marketing does, among many factors, influence the preferences and purchase requests of children and affect consumption, at least in the short term.

Developments in statutory regulation

Some government officials, regulators and politicians have also indicated they support prohibitions on food marketing to children. In a range of countries (e.g. Brazil, China, and throughout Europe) bills have been tabled and executive orders drafted which would in some way restrict the advertising and marketing of energy-dense, nutrient-poor foods and drinks to children. Consultations on statutory regulations have been initiated and new approaches for statutory regulation developed. But in all, over the past two years, few statutory regulations have been implemented. Between April 2004 and April 2006, two countries developed statutory regulations specific to food marketing to children (although these have not yet been implemented in one of these countries), and one country revised existing guidelines. (This does not include new or revised regulations in schools.) A further three countries passed laws that are not specific to food but will nevertheless affect the ability of advertisers to market food to children. Most of these countries are in Europe. None of the regulations actually prohibit or otherwise restrict the volume of food marketing to children.

Over the past two years, private industry has lobbied against any statutory proposals which would restrict marketing food to children. This lobbying appears to have been most intense in Australasia, Europe, and the United States, but has also been seen in major Asian and Latin American countries, where the transnational advertising and food industries are making significant efforts to grow their markets.

In many respects, the legal environment around advertising and marketing in general has become more liberal over the past two years, in line with policies designed to advance economic globalization. Although many of these changes include guidelines to protect children, they act to increase the amount of advertising and marketing viewed and experienced by children all over the world. This is particularly noteworthy in China and India, where the children's television market is growing fast, representing an increased ability to advertise to children.

Developments in regulation of marketing in schools and non-traditional marketing techniques

Schools have become an increasingly important venue for brand building by food companies. In the past two years, more attention has been focused on regulating these marketing activities. Drink industry groups in Europe and the United States have developed voluntary guidelines for soft drinks sales in schools. National industry groups – three thus far in Europe – are beginning to develop their own codes echoing these recommendations.

Government authorities appear more willing to consider restricting food marketing in schools relative to other platforms. One European country has implemented statutory restrictions on the sale of nutrient-poor food brands in schools, and more are considering similar moves. Fifteen American states and six Canadian provinces have also implemented tighter statutory or government guidelines. In Brazil, a new law restricting sales of energy-dense, nutrient-poor foods in the Federal District was implemented, adding to the restrictions already in force in the municipalities. Statutory guidelines have also been introduced in Fiji.

Marketing activities beyond traditional television advertising are now widely used by food companies. The regulatory environment around these techniques remains significantly less stringent relative to television advertising, but some efforts are being made to apply general principles on responsible food marketing to children to all marketing techniques. In at least ten countries, new codes, legislation or regulatory proposals extended beyond traditional techniques, particularly with regard to sales promotions, product placement and electronic marketing through the Internet and other communications tools.

Monitoring and enforcement

Over the past two years, more attention has been paid to monitoring and enforcing regulations relative to earlier years, but these efforts remain inadequate from a public health perspective. Anecdotal evidence from pre-clearance, monitoring and consumer complaints mechanisms suggest that violations of existing self-regulatory and statutory guidelines occur and that

consumers complain relatively often about food advertising, although not advertising targeted at children. There is not enough evidence available to draw conclusions about the proportion and severity of violations. Most importantly, the impact of regulations on the quantity, quality and effectiveness of promotional food marketing targeted at children, and on the diets of children, has not been adequately monitored and measured.

Legal action against food marketers has been rare over the past two years with the exception of some Market Court cases in Scandinavian countries. A much stronger form of legal action has, however, been emerging: litigation against the food and advertising industries. Since 2004 in the United States alone, one new lawsuit has been filed, another has been prepared, and an outstanding suit from 2002 is pending appeal. The food industry has responded by lobbying for laws outlawing such lawsuits and has had some success at the state level.

Gaps in regulatory developments

Gaps in the regulatory environment noted in 2004 still remain: very few regulations have been developed or are under development in middle- and low-income countries (particularly notable in Latin America); there are still far fewer specific regulations on non-traditional techniques; and monitoring and enforcement is given inadequate attention with regard to the effect of regulations on the quantity and quality of food marketing, and possible impacts on dietary habits of children.

Policy options

To counter marketing messages that encourage unhealthy dietary practices among children, the fundamental policy choice is between statutory regulation, self-regulation, or a mixture of the two – co-regulation. Given the inadequate monitoring of the effect of regulations already noted, the evidence base on which to judge the choice between these forms of regulation is relatively small. Still, it is possible to consider how each can be best applied based on the structural differences in the aims and intentions of statutory and self-regulation.

Self-regulation aims to reduce the amount of deceptive, misleading and exploitative advertising experienced by children; it is thus a form of regulation that can be used to guide the content of food marketing campaigns that target children, and control marketing techniques that children find difficult to understand. However for the most part, self-regulation does not aim to control the quantity of such marketing, nor perfectly legal but emotionally powerful marketing that influences children's food choices. This is why regulations that actively restrict marketing are traditionally dealt with by statutory regulation. Statutory regulation represents a more fitting approach to control the quantity and effectiveness of food marketing experienced by children. Self-regulation and statutory regulation can therefore complement each other in a co-regulatory approach.

Within statutory regulations, there are a series of options available for governments to consider, many of which, as shown in this report, have been discussed or considered by key stakeholders around the world over the past two years. These can be broadly characterized as follows:

- Regulations that aim to reduce the intensity of marketing for energy-dense, nutrient-poor foods *clearly targeted* at children. This category comprises regulations that limit food marketing to children in specific places, times and techniques (e.g. in child-specific settings, such as schools; specific to periods of time when children are particularly exposed to marketing, such as during children's television programmes; and/or specific to techniques widely used to target children, such as free gifts and collectables). This category also includes regulations that would reduce the incentives for the food and advertising industries to market food to children, such as a tax on advertising of energy-dense, nutrient-poor foods (which could also generate funds for nutrition education and health promotion).

- Regulations that aim to significantly reduce the quantity and effectiveness of marketing for energy-dense, nutrient-poor foods *experienced* by children in any place, at any time, and using any technique. This category comprises more comprehensive prohibitions i.e. prohibiting the marketing of energy-dense, nutrient-poor foods in general, or prohibiting the commercial marketing of any food and drink to children, or prohibiting all commercial promotion to children. The last two options are more comprehensive but are means of achieving the same goal.

One of the major barriers to developing statutory regulation or self-regulation that effectively discourages marketing messages promoting unhealthy dietary practices is a lack of clarity on the standard and level of evidence available to support the development of these regulations. Different stakeholders use different standards of evidence to argue for and against different options. For example, **private industry** uses “responsible advertising” as the standard of evidence to judge the efficacy of self-regulation (positively), and the lack of evidence on clear causality from advertising to obesity to judge the efficacy of statutory regulation (negatively). **Consumer groups**, on the other hand, use the high level of food marketing to children and the results of systematic reviews indicating that food marketing influences food choice as their standard of evidence to support statutory restrictions.

Practical considerations also present barriers to the development of regulations. A particular issue discussed over the past two years has been how to define the energy-dense, nutrient-poor foods subject to restrictions. Different approaches have been considered, including the use of nutrient profiling models. Another important practical consideration is the age group of the child defined by the regulation.

Recommendations to WHO

The World Health Organization (WHO), guided by public health principles, is recommended to develop some policy guidance defining:

- the standards of evidence needed to support the development of regulations;
- the criteria by which the impact of regulations should be monitored and evaluated;
- specific targets for change;
- the policy options available to countries to choose from to reduce the quantity and effectiveness of food marketing that reaches children;
- the actions needed to address the transnational nature of promotional marketing, including reducing incentives to market food to children at the global level, and global monitoring and enforcement mechanisms.

WHO is recommended to work with middle- and low-income countries to build the capacity to understand the issue of food marketing to children and develop regulatory approaches as appropriate.

Recommendations to national governments

That national governments draw on the wide array of policy options and regulatory proposals discussed, developed and implemented over the past two years (and earlier) to inform the development of new or stronger statutory regulations on food marketing to children, accompanied, if necessary, by legislation providing a framework for self-regulation. Overall, a co-regulatory approach, between statutory regulation (for controlling quantity and effectiveness) and self-regulation (for controlling quality and content and the use of specific techniques), is recommended.

That national governments monitor the effects of regulations (where these exist) and evaluate them based on their impact on the quantity and effectiveness of promotions that reach children, and on dietary habits among children.

Recommendations to private industry

That the advertising and food industries continue developing self-regulatory codes in order to guide the quality and content of marketing campaigns that reach children, but with greater activity in low- and middle-income countries, more pre-vetting of marketing campaigns, and stronger monitoring to evaluate the effects of self-regulation.

That industry should continue to participate in dialogues with governments and civil society to build an effective co-regulatory approach, and as part of that process, refrain from lobbying against the development of statutory regulation.

Recommendations to consumer groups

That consumer groups and other nongovernmental organizations (NGOs) from all over the world form a group to advocate for change and monitor compliance, using as the target criteria the impact of regulations on the quantity and effectiveness of food promotions to children, as well as, where possible, their impacts on children's dietary practices.

8) That to conduct this monitoring function, consumer groups should form a worldwide coalition; funding for this could come from regions/countries where concerns about food marketing to children are already high.

INTRODUCTION, METHODOLOGY, AND BACKGROUND INFORMATION

Introduction

At the Fifty-seventh World Health Assembly in May 2004, the Member States of WHO adopted resolution WHA57.17, endorsing the Global Strategy for Diet, Physical Activity and Health (DPAS) (1). The Strategy provides a series of options which Member States can follow to help prevent obesity and diet-related chronic diseases. Included in DPAS is the recommendation that (2):

Messages that encourage unhealthy dietary practices or physical activity should be discouraged and positive, health messages encouraged. Governments should work with consumer groups and the private sector (including advertising) to develop appropriate multisectoral approaches to deal with the marketing of food to children, and to deal with such issues as sponsorship, promotion and advertising (Paragraph 38[3])

Also in May 2004, Hawkes reported on regulations on food marketing to children around the world (henceforth referred to as the “2004 Report”)(3) and concluded that “many countries already have in place a range of regulations applicable to the marketing of food to children, but there are significant regulatory gaps”(3, page 57). In particular, it showed that regulations were concentrated in high-income countries and on television advertising. As shown in Figure 1, regulations specific to food were found to exist in 22 of the 73 countries reviewed, but were relatively rare and it was not clear how they were enforced; likewise for regulations on newer forms of marketing techniques. However, the 2004 Report also noted that “the regulatory environment surrounding food marketing to children is evolving rapidly” (3, page 57).

This report, also by Hawkes, updates the findings of the 2004 Report (3), examining the evolution of the global regulatory environment around marketing food to children between 2004 and 2006. It examines if and how governments, the private sector, and consumer groups (and other NGOs) have followed the DPAS recommendation that messages that encourage unhealthy dietary practices should be discouraged. It focuses on changes in statutory regulations and self-regulations, and advocacy for those changes. It also provides recommendations based on what can be learnt from the changes.

The report does not deal with the efforts of individual food companies to voluntarily regulate food marketing, or to promote healthy messages; these are dealt with extensively elsewhere (4–6). Rather, self-regulation is defined as a system whereby industry actively participates in, and is responsible for, its own regulation. Led, funded and administered by the industries concerned, self-regulation normally consists of two basic elements. The first, a code of practice – a set of ethically-based guidelines – governing the content of marketing campaigns; and the second, a process for the establishment, review and application of the code of practice. This process can be structured in many different ways, but typically involves a self-regulatory organization (SRO) set up by the advertising and media industries, and in many cases also involving the

companies that use advertising to promote their products or services. Self-regulation may be mandated by government framework legislation, but can also exist completely independently of government regulation. In contrast, statutory regulations are either texts enshrined in laws or statutes, or rules designed to fill in the details of the broad concepts mandated by legislation. The development, promulgation and enforcement of statutory regulations are the responsibility of government or a mandated body.

The organization of this update follows that of the 2004 Report (3). It first presents regulatory developments at a global, regional, country, and sometimes within-country level, for television advertising, schools, and the “non-traditional”, “below-the-line” or “indirect” marketing techniques. In a departure from the 2004 Report, this update then reviews some of the changes in the regulatory enforcement environment, and concludes with a series of recommendations. In order to promote continuity with the 2004 Report, the relevant page numbers of that report are noted.

Methodology

The methodology follows that of the 2004 Report (3, page 2). To identify new information about changes in the global regulatory environment around marketing food to children, a systematic search of the following sources was conducted:

Based on the 2004 Report

- Where laws had been identified on web sites in the 2004 Report, the web sites were revisited to identify if any changes had taken place.
- Where changes had been identified as still being under development in the 2004 Report, web site and database searches were conducted to identify whether there had been further changes.

Publicly-available online sources

- Online newsletter updates from key industry sources: the Advertising Education Forum (www.aeforum.org), the Advertising Information Group (www.aig.org), the European Association of Communications Agencies (www.eaca.be), and the World Federation of Advertisers Responsible Children’s Advertising initiative (www.responsible-advertising.org).
- Reports on marketing to children (grey literature) searched using Google.
- Compilations by organizations of advertising lawyers (notably the Global Advertisers Lawyers Alliance).
- Web sites of government departments.
- Web sites of self-regulatory organizations, advertising and marketing groups and food companies.
- Web sites of NGOs known to be concerned about advertising to children.

Database searches (using specified key words, limited to April 2004–April 2006):

- Published books (searched using OCLC WorldCatdatabase).
- Academic articles (searched using PubMed, ISI Web of Science and CAB Direct).
- Trade press, journal, magazine and newspaper articles and legal texts (searched using EBSCO Business, Lexis-Nexis and Proquest).

Personal communications

- Information requested from a wide range of stakeholders involved in the regulation of food marketing to children (see acknowledgements list).
- List-serves with postings about recent activities on marketing food to children.

UPDATE OF THE GLOBAL REGULATORY ENVIRONMENT AROUND FOOD MARKETING TO CHILDREN

Regulation of television advertising

Global

Globally, industry self-regulation of marketing practices is led by the International Chamber of Commerce (ICC). The ICC has developed a series of codes on different marketing techniques, each intended for national application by SROs. Each code includes a clause that children deserve special consideration from advertisers, and emphasizes the central principle that marketing should not exploit the inexperience or credulity of children and young people (3, *page 12*). At the time of writing the 2004 Report, the ICC had recently released a Compendium of ICC Rules on Children and Young People and Marketing (7), which compiled and reaffirmed the principle that children deserve special protection as contained in all the ICC's marketing codes. Shortly after the publication of the 2004 Report, in an environment of increased global concern about food marketing to children, the ICC released a Framework for Responsible Food and Beverage Communications (8). The framework, summarized in Box 1, is based on interpretations of existing guidelines, and stresses that individual marketing campaigns should not undermine the promotion of a healthy diet.

The 2004 Report (3) also noted that the ICC was in the process of revising their Code of Advertising Practice. In April 2006, this revision was reported to be near completion and due for release in June 2006. The revised code will reportedly streamline and consolidate existing codes and address the challenges of dealing with newer forms of advertising and marketing communications (9).

However, also on a global scale, consumer, health and education NGOs have continued to argue that self-regulation is not enough to discourage marketing that promotes unhealthy dietary practices among children. As exemplified in Table 1, NGOs all over the world have stepped up their activity in the past two years in calling for statutory restrictions on food advertising (and other forms of marketing), most notably for a complete ban on all forms of marketing targeted at children for "unhealthy" foods. These groups have produced an increasing number of studies indicating that the amount of food marketing to children continues to grow, and that the types of techniques used are diversifying more and more beyond traditional television advertising. NGOs have also developed initiatives and organized meetings to advance their concerns and advocate for statutory regulation.

Calls for statutory restrictions by NGOs have been countered on a global scale by the food and advertising industries supportive of the ICC. Most

recently, the Responsible Advertising and Children Programme of the World Federation of Advertisers (WFA) released an “industry position” on food advertising and obesity in March 2006 (10). In the document, the WFA registers strong support for the ICC Framework for Responsible Food and Beverage Communications, and says the Federation is committed to “taking and promoting a responsible approach to food and beverage advertising to children”. However, they also argue that advertising is a minor influence on children’s food choices, and that:

there is no scientific evidence to demonstrate that advertising restrictions could impact the incidence of obesity. The evidence clearly demonstrates that advertising bans could not fulfil public health policy objectives and would therefore be ... both disproportionate and ineffective.

The position paper does not provide evidence on the impact of self-regulation on obesity.

Pan-European

Marketing food to children has been the subject of widespread discussion in pan-European agencies and consumer and health NGOs over the past two years (11). NGOs have increased their focus on this area. In 2005, a pan-European childhood obesity project coordinated by the European Heart Network released a report, Marketing of Unhealthy Food to Children in Europe (12). The report found that promotion **to children** of unhealthy foods, using many different types of techniques, is still extensive across Europe and yet regulations remain “characterized by inconsistency both within and between countries” (12, page 10). The report concludes that television advertising of “unhealthy” food to children should be prohibited through an amendment of the European Commission’s Television Without Frontiers Directive (TVWFD; Table 2). It also recommends that additional regulatory measures are needed to protect children from all forms of “unhealthy” food marketing. The report was widely disseminated throughout Europe by European Heart Network member organizations (M. Kestens, personal communication, 2006).

Regulatory initiatives on food marketing to children by the European Commission have proceeded on two fronts: first, the Directorate General for Health of the European Commission has developed initiatives aimed at encouraging self-regulation. Associated with these are pan-European self-regulatory activities by the food and advertising industries; second is the revision of the cornerstone of the EU’s audiovisual policy: TVWFD.

The Directorate General for Health is actively working to encourage industry self-regulation of food marketing to children as part of its efforts to address childhood obesity in the region. In March 2005, they launched the “EU Platform on Diet, Physical Activity and Health” (13). The Platform aims “to catalyse voluntary action across the EU by business, civil society and the public sector” by bringing together relevant players at the European level who “are willing to enter into binding and verifiable commitments aimed at halting and reversing current overweight and obesity trends” (14, page 5). The Platform includes key EU-level representatives of the food, retail, catering, and advertising industries, consumer organizations and health NGOs. By committing to the Platform, food industry members must report on their activities to address obesity.

Both pre-dating and as part of the Platform, the European food industries have made two notable commitments relevant to marketing to children. In 2004, the Confederation of the Food and Drink Industries of the EU (CIAA) released its Principles of Food and Beverage Product Advertising (15). These principles aim to provide a common self-regulatory framework for standards set by countries and companies. In October 2005, the principles, listed in full in Box 2, were expanded to include more forms of marketing communications (16). As part of its commitment to the EU Platform, the CIAA says it is now encouraging its members to work in countries with SROs to develop national codes based on the principles. According to the CIAA, implementation of the principles will be completed in 23 out of 25 Member States by the end of 2006 (16).

In December 2005, the Union of European Beverages Associations (UNESDA-CISDA), the trade group for the European soft drinks industry, announced a series of commitments to actions to the Platform, including measures to curb marketing to children, listed in Box 3 (17). The guidelines include a prohibition on any marketing communication for soft drinks being placed in the printed media, web sites or during broadcast programmes specifically aimed at children.

According to the European Commission, the Platform is “the most promising means of non-legislative action, as it is uniquely placed to build trust between key stakeholders” (14, pages 5–6). In December 2005, the Directorate General for Health also published a consultative document on the Promotion of Healthy Diets and Physical Activity (14) which invites suggestions on policy options to reduce obesity levels, including on marketing food to children. “Industry self-regulation could be the means of choice in this field,” it states, “as it has a number of advantages over regulation in terms of speed and flexibility. However, other options would need to be considered should self-regulation fail to deliver satisfactory results” (14, page 8). The consultation specifically requested comments on the following:

- *Are voluntary codes (“self-regulation”) an adequate tool for limiting the advertising and marketing of energy-dense and micronutrient-poor foods? What would be the alternatives to be considered if self-regulation fails?*
- *How can effectiveness in self-regulation be defined, implemented and monitored?*

In the European Commission, the only activity over the past two years affecting statutory regulation of marketing to children has been the revision of the TVWFD (89/552/EEC [1989, rev. 1997]). TVWFD is an important document because it lays down the minimum level of regulation that Member States must follow when advertising to children (3, page 18). It follows the “country-of-origin” principle that the laws of the country of origin of a product or service should apply to those products and services when sold or offered in another country. TVWFD currently just covers broadcasts on television (“linear services”), not broadcasts made “on-demand” from newer technologies such as digital cable and satellite and the Internet (“non-linear services”) (18). These are regulated by the Electronic Commerce Directive; a Directive which allows Member States to deviate from the country-of-origin principle according to national laws. The regulatory playing field is therefore “unequal” in two respects: (i) regulations on traditional television relative to emerging non-linear services; (ii) regulations on non-linear services between the 25 Member States (19).

To create regulatory harmonization and address fast moving technological and market developments, the European Commission released a formal proposal to amend TVWFD in December 2005 (20). As described in Table 3, the amendment contains three changes which would affect marketing to children. Notably, the draft directive extends the existing protections it affords to children across to non-linear services, but legalizes product placement, except in television programmes made specifically for children.

Although the European Commission aimed to maintain the balance between encouraging the freedom of commercial communication and the protection of public interest objectives, such as the protection of minors, the proposed TVWFD amendments received a mixed response. Traditional broadcasters welcomed the legalization of product placement as a new source of revenue, a means of overcoming the ability of consumers to skip advertisements, and a levelling of the playing field with the widespread use of product placement in programmes viewed in Europe but made in the United States (21, 22). Broadcasters did not welcome, however, the exemption for children’s programmes and the fact that many time restrictions remained. New media companies, meanwhile, expressed fear that the rules will stifle market development.

Public health groups believe the proposed directive to be inadequate in its protection of children. The European Public Health Alliance and the

European Heart Network, who have made the TVWFD revision a “lobbying priority” for 2006, are calling on the European Commission to use the opportunity to prohibit the advertising of unhealthy food and drinks to children across Europe. They also advocate expanding the definition used for children’s programmes (i.e. to programmes which are watched by a lot of children even though not made especially for children), and a ban on product placement within this revised definition of children’s programmes (23). The current revisions would not prevent product placements in programmes viewed by children.

Twelve Member States, led by Sweden, also expressed concern that the proposed directive inadequately addresses another important component of market development: the “environment where broadcasters have the freedom to locate in any Member State” (personal communication). Their concern is that the country-of-origin principle on which TVWFD is based applies to broadcasters rather than broadcasting services. Thus a broadcaster serving primarily one Member State could relocate, or be bought, by a broadcaster in another Member State and thus be bound by the rules of the country in which it is based but not which it serves. Sweden’s particular concern is that this could undermine national regulations in countries which are more stringent than the TVWFD directive, such as their own ban on advertising to children.

European countries

There has been an array of statutory and self-regulatory developments to address advertisements that encourage unhealthy dietary practices in European countries.

Belgium

In **Belgium**, there has been no statutory activity, but in late 2005 the Flemish Media Minister called for changes to the “five minute rule” which limits advertising around children’s programmes (3, page 19 Table 4). The Minister reportedly said that the rule is being “systematically circumvented” (24). In terms of self-regulation, the Food Industry Federation of Belgium published a Food Advertising Code (January 2005) (25), which follows the CIAA Principles very closely (Box 2). Developed in collaboration with the advertising SRO, the Jury d’Ethique Publicitaire, an evaluation of the Code is planned for mid-2006.

Denmark

In **Denmark**, statutory regulations on advertising to children were slightly tightened in 2005/2006 through an amendment of Danish Marketing Act. In addition to the articles concerning children contained in existing broadcasting laws, the act now includes the clause that marketing directed at children and young people must take special account of their natural credulity and lack of experience, though makes no reference to food. The Minister for Family and Consumer Affairs also said that he would like to review the regulations on advertising to children (P Hendriksen, personal communication, 2006). The comments followed research published in 2005 by the National Consumer Agency which showed that the total number of food advertisements on television quadrupled between 1998 and 2004 during viewing times popular with children, one third of which were for “unhealthy” foods (26). The Agency also called for restrictions on food advertising to children. Earlier, in December 2004, an opposition party tabled a motion in the Danish parliament which called on the Government to enact legislation which would restrict advertising of “unhealthy” foods to children, especially, but not only, on television (27).

In terms of self-regulation, steps are reportedly being made to expand Denmark’s relatively limited system of advertising self-regulation (28). In addition, the Danish Brewer’s Association, which represents soft drinks manufacturers, issued a set of guidelines on the marketing of soft drinks in 2005 (29). The guidelines state that Danish Brewers’ Association members will not promote soft drinks directly towards children under 13 years of age. As described in Table 2, this effectively prohibits television advertisements for soft drinks before or after programmes with children as the main target group.

Finland

In **Finland**, the Finnish Consumer Agency and Ombudsman and the National Public Health Institute released new recommendations on Children and Foodstuffs Marketing in October 2005. The recommendations aim to guide advertisers when they design campaigns that market food to children (30). Although not legally binding, the guidelines will be used by the statutory authorities to guide their interpretation of the relevant statutes (the Consumer Protection Act), and therefore have a level of statutory power. Summarized in Table 3, the guidelines are based on interpretations of decisions made by the Market Court, and extend beyond television advertising, to all forms of marketing.

These guidelines follow the release by the Finnish Consumer Ombudsman in 2004 of Guidelines on Minors, Marketing and Purchasing (31), comprising ten “theses”, listed in Table 3, accompanied by detailed explanations and guidance according to Market Court rulings. Like the Foodstuffs Guidelines, they are intended to provide guidance to marketers when planning advertising and other forms of marketing, such as sponsorship, product placement, Internet, sales promotions and “advergaming”. Again, they are not legally binding but nevertheless have statutory authority because they guide interpretation of the law. The Guidelines also expand the usual definition of marketing targeted at minors to:

- advertising of products targeted at children but usually purchased by parents
 - advertising of products targeted at children and usually purchased by children
 - advertising of products targeted at adults but viewed by children
 - advertising of products associated with adults but which sometimes may be of interest to children.
-

France

In **France**, at the time of writing the 2004 Report, an amendment to the Public Health Law had been presented to parliament which would have banned advertisements for high-fat and high-sugar foods during children’s television programmes (3, page 9). The proposals would have also banned vending machines from schools. In subsequent months, the amendments were subject to much wrangling in the French Senate and Assembly, as well as fierce lobbying against the proposals by the advertising and food industries (32). By the time the Public Health Law was officially signed into law on 9 August 2004, the amendment on advertising had become distinctly less stringent (33):

- All television advertising (targeted at children and adults) for processed foods and foods or drinks containing added fats, sweeteners and salt must be accompanied by a message on the principles of dietary education as approved by National Institute of Health Education (INPES); alternatively the advertiser must contribute a tax (1.5% of the annual expenditure on that advertisement) to the funding of nutritional information and education campaigns (article 29 Chapitre III. Art. L2133-1).

The law also required vending machines selling foods and drinks to be banned from all schools, effective 1 September 2005 (article 30).

In December 2005, article 29 was replaced by a provision in the Social Security Financing Law for 2006 (34). The new article broadens the scope of the law, requiring that the message (or tax) be applied to advertisements in all media, not just television advertising (article 57). As of April 2006, the law had not yet been implemented, as it was still awaiting the publication of the seemingly delayed decree required for its implementation.

Some French politicians have, however, supported more stringent restrictions. In 2005, a private bill for a law to act against the obesity epidemic was tabled which would prohibit the advertising of unhealthy foods on television, and impose fines of up to 5% of the cost of violating advertisements (35).

In terms of self-regulation, at the time of writing the 2004 Report (3), the French SRO, the Bureau de Vérification de la Publicité, had recently

released a new code on food advertising to children. They have since released a code on Internet advertising which covers children (see section 2.3.1), and in January 2005, changed their procedures to include a consumer consulting process for the drafting and modifying of the codes, via the “Commission de Concertation” (28).

Israel

In *Israel*, in January 2006, the acting Prime Minister proposed to amend the existing rules on broadcast and print advertising contained in the Consumer Protection Act in order to prohibit all forms of marketing communication that misleads children (36). The parliament subsequently amended the regulations. The changes follow a five-year campaign by the National Council for the Child, an NGO, which says that companies bypass the current regulations by offering children discounts or free gifts.

Italy

The past two years have proved a controversial time for statutory regulations on advertising to children in *Italy*, or, more specifically, advertising which features children. The controversy concerned an article (10.3) in the new Radio and TV Law (112/2004) (“Legge Gasparri”), which was passed on 29 April 2004 (37). In passing the law, Italy became the first European country to legally prohibit the use of children (under the age of 14 years) in television advertisements. Given the widespread use of children in Italian commercials, the advertising industry declared the ban would “cause huge economic damage to advertisers” and that “advertisers now don’t know how to go about making commercials.” (38). Despite the passage of the law, and claims by politicians and NGOs that it was frequently breached, the Italian Advertisers Association lobbied hard against it, and in June and July 2004, three bills were tabled to repeal the restriction. The bills were discussed and consolidated by committees of the Chamber of Deputies during the next few months and a new law overturning the ban was approved by the Italian Senate on January 2006, enacted into law in February (the Senate did not approve any of the amendments tabled by the opposition introducing alternative measures to control the use of children in advertising). According to the WFA, lobbying by the Italian Advertisers Association was of “seminal importance” in having the ban repealed (WFA had previously convened a task force to provide support to the Association) (39). Although the law was overturned, several Italian politicians are still voicing concern about the role of advertising in the rise of childhood obesity in the country (40).

In terms of self-regulation, the Istituto dell’Autodisciplina Pubblicitaire (Institute of Self-regulation) released revisions to their Code of Italian Advertising Self-Regulation in July 2004 and January 2006. In the 2004 revision, a new clause on food advertising to children was introduced, which stated that advertising should not induce children and adolescents to adopt poor eating habits (Table 2) (41).

Ireland

At the time of writing the 2004 Report, *Ireland* was in process of developing a Children’s Advertising Code, which was subsequently released, and implemented on 1 January 2005. Developed by the Broadcasting Commission Ireland (BCI), a statutory but independent organization, the process involved a three-phase consultation over an 18-month period, and took into account submissions received from members of the public, children, broadcasters, advertisers, health bodies and government bodies (42). The Code adopts many standard principles, and reflects the self-regulatory Code of Advertising Standards of the Advertising Standards Authority of Ireland. However, it also contains considerably more detail and goes further in certain respects, including on food advertising. Article 7, “Diet and Nutrition”, contains six clauses (see Table 3) (42). The first two reflect the Advertising Standard Authority’s Code of Advertising, and the third is also a relatively familiar provision (3, page 25, Table 5) (see Table 3). More contentious was the clause prohibiting children’s advertising from portraying or referring to celebrities or sports stars to promote food or drink products. According to BCI, industry and advertising organizations “ferverently disagreed with the inclusion of this clause” (43), but it was included “in light of concerns expressed with regard to the influence of advertising on children’s choices in relation to food and drink products” (44)

and “the potential for celebrity advertising to have a disproportionate influence on children as opposed to adults” (44). A clause requiring an acoustic or a visual message accompanying advertising for fast food and confectionary products was also unpopular with industry. Yet to many health and children’s groups, BCIs decision not to ban food advertising because “the issue of obesity and the influence advertising plays in this is very complex” (44), did “not go far enough” (43).

With regard to self-regulation, in 2005, Advertising Standards Authority Ireland began a review of their Codes of Advertising Standards and Sales Promotion Practice to determine whether any additions, modifications or deletions to the existing Codes are necessary (45).

The Netherlands

Advertising in the **Netherlands** is largely overseen by self-regulation (3, pages 14, 15). In 2004, the Dutch government asked the food industry to develop a self-regulatory code for food and beverage advertising. The Dutch Food Industry Federation subsequently developed a Food Advertising Code, which was accepted by the Dutch Advertising Code Foundation (Reclame Code Commissie) on 2 June 2005 (46). The code is based on the CIAA Principles and the ICC Framework, but includes certain prohibitions, such as of celebrities advertising food products (Table 2). It also contains a section on schools. Reclame Code Commissie is also in process of updating its Advertising Code to increase its reference to children. The new clauses follow standard ethical principles, with the notable difference that they are expanded to new media (see section 2.3.2).

The Dutch consumer group Consumentenbond has, however claimed that industry codes will not be effective in encouraging healthier eating habits. A survey by Consumentenbond revealed that almost half of food advertisements broadcast during children’s TV programming were for ‘unhealthy’ foods. The report also says that the commercials are encouraging children to ‘over-consume’ by highlighting free gifts packaged with food (47). In fact, as part of a package of comprehensive reforms of public broadcasting, the Dutch State Secretary for Education, Culture and Science presented a proposal in July 2005 to ban advertising from children’s programmes on public television (48). The loss of revenue – estimated at €15 million per year – would, the Secretary said, be made up for by the increase in the amount of advertising during programmes not aimed at children.

Norway

In **Norway**, advertising through broadcasting (television and radio), directed towards children, or during children’s programmes, is prohibited (Broadcasting Act, section 3-1), but there is no general rule prohibiting marketing to children. In fact, the Consumer Ombudsman in Norway remains concerned about the issue because the application of the law is in fact rather limited: the rule only applies to Norwegian broadcasting (excluding major channels which broadcast from other countries), and does not cover other marketing techniques. The National Council of Nutrition, an independent statutory organization, also believes it is “important to tighten the regulations that prevent the marketing of unhealthy food and drink to children and adolescents” (49). The Norwegian Consumer Ombudsman stated in 2005 that he would look more closely at how to reduce commercial pressure on children through marketing, and the issue of food marketing to children was made a priority action area for 2006 (AC Neumayer, personal communication, 2006).

Portugal

In **Portugal**, the Portuguese Advertisers Association released a self-regulatory Code of Good Practice in Commercial Communication to Minors in September 2005 (50). The Code has a general clause on food advertising as well as provisions for other media (Table 2). According to reports, over 40 companies and organizations have now subscribed to the Code. However, unconfirmed reports also indicate that the Government made a statement in October 2005 that “self-regulation is not accomplishing its tasks” and that the Portuguese Consumer Institute is working on proposals to regulate advertising, with specific provisions regarding the protection of minors (47).

Spain

In **Spain**, the Spanish Deputy Prime Minister and the heads of four major TV channels agreed to establish a self-regulatory code on the protection of children in November 2004. The code lays down general ethical principles for the content of advertising during a protected time band, 06:00–22:00 (51). According to the Government, the purpose of the code is “to make advertising recognisable and distinguishable from programmes, even for children who cannot read” (52).

In addition, in 2005, the Spanish Ministry of Health called on the food industry to develop a self-regulatory code on food and beverage advertising to children as part of their national “Nutrition, Physical Activity, Health and Obesity Prevention Strategy”. The Spanish Food and Drinks Federation (FIAB) subsequently developed the Spanish Self-Regulatory Code on Food Advertising to Children. Signed by the Ministry of Health, FIAB, and the Spanish advertising SRO, Autocontrol, in June 2005, it entered into force on 15 September 2005 (53). The Code, which covers food and drink advertising to children under the age of 12 years, contains measures similar to the CIAA Principles and the ICC Framework (Boxes 1 and 2). The provisions are, however, considerably more detailed, and include two prohibitions not found in the CIAA Principles: on the use in food advertising of characters or personalities popular with children, and product placements for foods and drinks during programmes directed at children under the age of 12 years. As of April 2006, about 35 industry groups, international confectionary and beverage market leaders had signed the Code. Although voluntary, companies signed up are subject to fines of €6000–180 000 in case of violation; it is intended that the proceeds from any fines will be used for educational campaigns to promote healthy lifestyles. Enforcement is the responsibility of Autocontrol, although overall implementation is the responsibility of a committee comprising representatives from the Spanish Food Safety Agency, FIAB, the Spanish Advertisers Association, and a consumer’s organization, the Council of Consumers and Users, chaired by Autocontrol. According to FIAB, the Code is functioning reasonably well, but with a key problem: not all food companies have signed the Code.

Despite the self-regulatory efforts, there is still a movement to restrict advertising to children in Spain. Consumer groups are advocating greater restrictions (Table 1), and in September 2005, the Spanish Senate approved a motion by the opposition party calling on the Government to cut advertising to children on public television from 12 to 5 minutes an hour (54).

Sweden

Sweden, which prohibits advertising on terrestrial channels to children under the age of 12 years (3, pages 19, 20), has not implemented any regulatory changes since 2004. A report released in February 2005 by the National Food Administration and National Institute of Public Health made five further recommendations on marketing to children (55). Alongside increased monitoring of advertising and a food sponsorship policy, is a recommendation that the Government should work at the EU level to ensure that food advertising on television targeted at children is banned throughout the EU (56). As already described in this review, the Swedish Government is also lobbying the EU to address its concerns that the revised TVWFD will do nothing to alleviate threats to Sweden’s ban.

Switzerland

In **Switzerland**, a report presented to the Health Minister in December 2005 called for a ban on advertising of fatty and sugary foods on the basis of their detrimental effect on children. The report, commissioned as the basis for Swiss nutrition policy in the next seven years, revealed that nearly two thirds of all commercials shown around children’s TV programmes are for food and 80–100% of these are commercials for food with high sugar or fat content. In terms of self-regulation, there are reports that the Federation of Swiss Food Industries is developing a system of self-regulation, relating to portion sizes, nutritional information, and advertising (52).

United Kingdom

Over the past two years there has been much debate and some regulatory activity concerning advertising to children in the **United Kingdom**. Three developments are of particular note: action by Government agencies, related self-regulatory activity by the advertising and food industries, and the progress of the Children's Food Bill through parliament. Significantly, the British Government released a Public Health White Paper in November 2004 which voiced concern about food and drink promotion. It called on Ofcom (Office of Communications – Regulator of the United Kingdom communications industries) to consult on proposals to tighten the rules on advertising and sponsorship “to ensure that children are properly protected from encouragement to eat too many high fat, salt and sugar foods – both during children's programmes and at other times when large numbers of children are watching” (57, pages 35–36). The Government also called on the food and advertising industries to self-regulate their promotional activities. The Government said in the White Paper that if industry fails to “produce change in the nature and balance of food promotion, we will take action through existing powers or new legislation to implement a clearly defined framework for regulating the promotion of food to children” (57, page 36).

The regulation of advertising to children in United Kingdom is the responsibility of both Ofcom and the SRO, the Advertising Standards Authority of the United Kingdom, and the latter's associated Committee's of Advertising Practice. Ofcom handed over the responsibility of oversight of the broadcast code to the Advertising Standards Authority of the United Kingdom (previously just responsible for the print media) in 2004. These agencies are gradually following up on the Government's call for change:

- In 2004, Ofcom published a report on food advertising to children, concluding that advertising does play a “relatively small” role in food choice, so while action is needed there is no case for a ban on advertising all food to children (58)
- In 2005, Ofcom announced their intention to review, with the Broadcasting Committee of Advertising Practice, the TV Advertising Standards Code in the context of concerns about food advertising to children (59) (the existing version contains a relatively minimal reference to food) (3, page 27).
- In March 2006, in response to a request by Ofcom, the Broadcasting Committee of Advertising Practice released a series of proposed revisions to the TV Advertising Standards Code, which set down new guidelines for the content of food and drink advertisements targeted at children. The proposals follow standard self-regulatory codes, but also, if implemented, would prohibit the use of celebrities in advertising targeted to children up to 9 years of age (60).
- In a related move also in March 2006, Ofcom launched a consultation on proposals to restrict the volume of food and drink advertising to children. On the basis that “some form of volume restriction is justified and proportionate”, Ofcom asked for comment on three core options: timing restrictions on specific food and drink products; timing restrictions on all food and drink products; volume-based restrictions on all food and drinks products (61). The consultation was ongoing as of April 2006.

As part of this process, Ofcom is being supported by an initiative of the Government's Food Standards Agency (FSA): the development of a Nutrient Profiling Model. This profiling methodology was commissioned by the FSA to help define which foods are – and are not – appropriate to be marketed to children (62). After several revisions, the FSA released the final model in December 2005. The model is based on a simple scoring system, where points are allocated on the basis of the amount of energy, saturated fat, total sugar, sodium, protein, fibre, fruit and vegetables foods contain. Foods with a score of four or more, such as sugar-coated puffed oats, take-away chicken nuggets, crisps and colas, would be the category considered for stricter advertising rules (62). In their consultation, Ofcom has asked for comments on whether nutrient profiling is a practical method for identifying the specific foods that would be subject to advertising restrictions.

The main food industry trade group, the Food and Drink Federation has pledged to work with Ofcom on their efforts to tighten self- and co-regulatory codes. This is part of a new initiative, the Food and Health Manifesto, which lays down seven commitments to “help find solutions to the complex, multi-factorial issues surrounding obesity” (Table 2; 64).

In the meantime, the Children’s Food Bill, a private member’s bill (i.e. proposed by a member of parliament, not by the cabinet) has been presented to the British parliament (65). The bill, developed by the NGO Sustain: the Alliance for Better Food and Farming contains a host of provisions to promote healthy diets among children, including a ban on the advertising and marketing to children of food “detrimental to health” (66). It would also prohibit the sale or provision of these foods in schools. Originally presented to parliament in May 2004, the bill was re-presented in June 2005. It was debated during its second reading in 2005–2006 but at the time of writing had not been passed into law. (C Powell, personal communication, 2006).

Eastern Europe

Advertising to children in **eastern Europe** is usually subject to some form of general statutory regulation. Self-regulation tends to be less well-developed. Since 2004, this has been changing – the European Advertising Standards Alliance has been active in supporting the development of self-regulation in eastern European countries (28). **Poland** has made some specific developments in self-regulation. A self-regulatory Charter of Principles for Accepting Broadcasting of Advertisements Directed to Children was introduced in June 2004, and in November 2005, a new self-regulatory system was launched (now known as Union of Associations Rada Reklamy – ZSRR) (67). These developments are taking place in the midst of the growth of child-directed advertising: a popular Polish newspaper is reported to have launched a campaign against the practice, saying that the number of advertisements directed at children grew by 36% between 2003 and 2004 (27). Politicians in the country have also been reported to be calling for a restriction on advertising.

The only SRO in eastern Europe identified as developing a code referring to food advertising for children is in the **Czech Republic**. The General Assembly of the Czech Advertising Standards Council (Rada Pro Reklamu) approved a new Code of Advertising Practice in December 2005, which includes articles on food advertising and schools along with clauses specific to children, following the ICC Codes (Table 2) (68).

In **Romania**, the self-regulatory advertising code, which refers to children, was fully revised in 2005, and the Romanian advertising industry is seeking to strengthen self-regulation in preparation for the country’s entry into the EU (69).

The self-regulatory system in **Bulgaria** has also been strengthened. In **Slovakia**, in April 2005, the Public Health Minister made a statement in which he blamed obesity in children on advertising for sweets (70).

Russian Federation

In the **Russian Federation**, over the past two years a controversial draft new law “On Advertising” has been passing through the Russian parliament. After numerous postponements, the bill was signed into law in March 2006. The law will reduce television advertising to 15% of airtime per hour as of December 2007 (71). Advertising to children was apparently one of the most sensitive and controversial issues during the development of the law (24). Consumer groups lobbied to eliminate advertising from all children’s programmes, but the communications industry disagreed (M Chernova, personal communication, 2006). In the final version, commercial breaks are allowed only twice in children’s and educational programmes on television and on radio, before and after a programme, for one minute each in 15–25-minute programmes, for 1.5 minutes each in 25–40-minute programmes and for 3 minutes each in programmes with a duration of 1 hour and more. The bill is also reported to outlaw advertisements in textbooks, school diaries and copybooks. Politicians supportive of the law say it aims to “ensure common economic space in the country and implement consumers’ right to authentic advertising” while helping to

“make TV commercials less aggressive” (72). The national advertising industry is not supportive, saying the bill will damage privately-owned television networks and outdoor advertising companies that depend on advertising (73).

North America

As in Europe, the issue of marketing food to children has been much discussed in North America over the past two years. **Canada** has a well-established system of self-regulation (3, page 21). The SRO, Advertising Standards Canada, monitors and accepts complaints about advertising to children based on the Canadian Code of Advertising Standards and the Broadcast Code for Advertising to Children (‘Children’s Code’). The system is unusual in that it also requires pre-clearance for children’s broadcast advertisements (74). In April 2004, Advertising Standards Canada added an Interpretation Guideline to each of the two codes on food product advertising (Table 2). The Guideline is intended to help evaluate the appropriateness of food advertisements in the processes of pre-clearance and responding to complaints. In 2006, Advertising Standards Canada also produced a Reference Guide to explain the system of regulating advertising to children in Canada (75).

In the **United States**, various developments have taken place over the past two years:

- new statutory rules for the application of the Children’s Television Act
- introduction of federal bills which refer to marketing to children
- release of reports by IOMNAS
- discussions and developments in the self-regulatory system.

The Children’s Television Act (1990) restricts the amount of advertising during programmes targeted at children under 12 years of age on analogue (over-the-air and cable) television (to 10.5 minutes per hour on weekends, and 12 minutes per hour during the week) (3, page 21). It also prohibits broadcasters from airing advertisements that offer products related to the children’s programme in which they are inserted. In September 2004, the Federal Communications Commission (FCC), a government agency, issued proposed rules to strengthen the application of the Children’s Television Act, including two articles restricting advertising to children (Box 4; 76). The proposed rules, approved unanimously by all five FCC commissioners, were developed to account for developments in digital television and Internet communications.

The proposed rules, summarized in Box 4, received a mixed reaction. While children’s advocates declared them “one of the most critical victories for children’s media in recent years” (77), major broadcast networks called the rules “overly restrictive and confusing”, and argued that they would reduce advertising and revenue, threaten the financial underpinnings of children’s programmes, and force expensive redesigns of web sites aimed at children (78). Although the FCC in November 2005 intended that the rules be implemented on 1 January 2006, two major children’s broadcasters filed a court appeal to delay the rules taking effect, stating that “the new rules strangle new technologies [which] will thwart not only creativity and innovation [but] eliminate a potential revenue stream that can support the shows” (79). The filing was supported by the Association of National Advertisers, but a counter suit was also filed by children’s advocates. In December 2005, the broadcasters and children’s advocates reached a compromise settlement, jointly proposed amendments to the FCC, and placed the court challenges on hold (A Campbell, personal communication, 2006). In March 2006, the FCC adopted the deal and issued the revised set of rules for public comment. In the interim period, the industry parties are voluntarily complying with the proposed settlement rules.

In an earlier, separate move in October 2004, the FCC charged the same two broadcasting companies (that had filed the court appeal; see above) with violating advertising limits in children’s programming. The networks had broken the minutes-per-hour limits and the restriction on the use of characters in advertising. The companies agreed to pay a total of US\$ 1.5 million to settle the charges.

Over the past two years three federal bills which refer to advertising to children have been tabled in the United States Congress:

- The HeLP (Healthy Lifestyles and Prevention) America Act (Senate Bill 1074), introduced in May 2005, includes one article on food advertising and two on food marketing in schools (section 2.2.2) (80). If signed into law, the Bill would restore the authority of the Federal Trade Commission (FTC) to issue regulations to restrict the marketing or advertising of foods and beverages to children under the age of 18 years (Sec.302). As of April 2006, the Bill was being considered by the Senate Committee on Finance (81).
- The Prevention of Childhood Obesity Act (Senate Bill 799), introduced in April 2005, requests the IOMNAS to evaluate and make recommendations on national guidelines for advertising and marketing practices that “reduce the exposure of children and youth to advertising and marketing of foods of poor or minimal nutritional value” (Sec.399W-1(e)(2)). If signed into law the Act would authorize the FTC to promulgate regulations to implement these guidelines (Sec.102(a)) (82). It would also “prohibit advertisements and marketing in schools and on school grounds for foods of poor or minimal nutritional value such as fast foods, soft drinks, and candy” (Sec.399BB-1(C)(2)) and implement policies that limit access to these foods in schools, including in vending machines (Sec.399BB-1(C)(2)). As of April 2006, the Bill was being considered by the Committee on Health (83).
- The Children and Media Research Advancement Act was introduced into the Senate in May 2004 and reintroduced in autumn 2005, accompanied by a House bill. If signed into law, it would authorize a federal grant programme to support research into the effects of the electronic media on children’s physical and psychological development and authorize pilot projects on the role of media exposure on “the development of childhood obesity, particularly as a function of media advertising and sedentary lifestyles that may co-occur with heavy media diets” (sec.452H) (84). As of April 2006, the bill had just been voted and approved at the Senate Committee on Health, Education, Labour and Pensions without any amendments.

Despite these bills, the relevant government agency, the FTC, and other government officials, have indicated that statutory regulation of food marketing to children is not currently being considered as an option. The FTC chairperson stated in July 2005 that “based on years of experience with advertising, a government ban on children’s food advertising is neither wise nor viable” (p.5–6) (85). In February 2006, the FTC was requested to submit a report to the United States Congress by July 2006, on “marketing activities and expenditures of the food industry targeted toward children and adolescents” for which they are currently seeking information (86).

In 2005, IOMNAS released a congressionally-mandated report on policy options to prevent childhood obesity. The report’s authors recommended:

an approach to address advertising and marketing directed especially at young children under 8 years of age, but also for older children and youth, that would first charge industry with voluntary implementation of guidelines developed through diverse stakeholder input, followed by more stringent regulation if industry is unable to mount an effective self regulating strategy (87, page 175).

This was followed in 2006 by the release of a second congressionally-mandated report “*Food Marketing to Children and Youth: Threat or Opportunity?*” on the role played by food marketing on the nutritional status of children and youth (88). The study, conducted by an expert committee of IOMNAS through a review of multiple sources of evidence, concluded that:

among many factors, food and beverage marketing influences the preferences and purchase requests of children, influences consumption at least in the short term, is a likely contributor to less healthful diets and may contribute to negative diet-related health outcomes and risks among children and youth (p.ES-6).

IOMNAS recommended that:

the food, beverage, restaurant and marketing industries should work with government, scientific, public health, and consumer groups to establish and enforce the highest standards for the marketing of foods, beverages and meals to children and youth (p.ES-10).

Specifically, IOMNAS recommended that characters well-known to children are used only to promote healthful foods. IOMNAS also recommended that there should be a cooperative effort to work through the Children's Advertising Review Unit (CARU), a SRO, "to revise, expand, apply, enforce and evaluate explicit industry self-regulatory guidelines beyond traditional advertising". IOMNAS had noted in their report that CARU's guidelines "do not address the impact of the volume of advertising, the appeal of its association with other elements of popular culture for children and youth, or of the influences of rapidly increasing marketing approaches" and that a "more formal evaluation of the effectiveness of its impact and enforcement capacity" is needed (88). IOMNAS also recommended that the effort fosters cooperation between CARU and the statutory authority, the FTC (p. ES-10).

IOMNAS had earlier requested that the FTC convene a meeting to explore the potential of self-regulation to address poor diets among childhood. Responding to this request, the FTC hosted a workshop on Marketing, Self-Regulation, and Childhood Obesity in July 2005 (89). In the report from the workshop (90), the FTC recommended that industry should consider additional self-regulatory measures, including:

- how to modify the CARU Guides to address forms of marketing foods to children other than traditional advertising;
- whether it would be beneficial and practicable to modify the CARU Guides to include minimum nutritional standards for foods that are marketed to children;
- to what extent paid product placement of foods in contexts other than television programming (e.g. movies, video games, web sites) is appropriate.

CARU, the SRO responsible for children's television advertising in the United States since the 1970s, has thus been under increasing pressure over the past two years to strengthen their system of oversight of food advertising to children. At the time of writing the 2004 Report (3), the Grocery Manufacturers Association, had recently requested that CARU "embark on a campaign to raise the visibility of its role and to expand its monitoring of food and beverage advertising" (91). CARU responded by increasing the transparency of some of its procedures (92), adding a bilingual staff member (93) and publishing a White Paper clarifying its activities. The White Paper defends CARU's effectiveness, stating that its guidelines "adequately address advertising of food to children" (94, page 13). In 2005, the Grocery Manufacturers Association made six recommendations for strengthening CARU, including building its enforcement capacity, improving the ability of consumers to complain about advertising, broadening the involvement of nutrition specialists, and ensuring that CARU's guidelines address advertising in video games and interactive web sites, and prohibit paid product placement in children's programming (95).

Following the recommendations from the Grocery Manufacturers Association and IOMNAS, CARU announced in February 2006 that it would begin a review of the entire Self-Regulatory Guidelines for Children's Advertising "to be sure they reflect the changing environment and full range of marketing issues that have become important in recent years" (96). The review, chaired by the former Director of the Bureau of Consumer Protection at the FTC, will "welcome comment from regulators, consumer groups and other interested parties".

Latin America

In contrast to Europe and North America, food advertising to children is subject to minimal public debate in Latin America (with the exception of Brazil). Self-regulation dominates the regulatory environment around marketing food to children (3, page 22), but there has been neither real change in self-regulations, nor in statutory regulations specific to children and/or food, over the past two years.

Chile

The **Chilean** self-regulatory organization, CONAR, revised its code on advertising, altering its provisions for alcohol advertising targeted at children, but not food (97). It is, however, reported that self-regulatory measures are being developed in Chile on food advertising to children (TP Quevedo, personal communication, 2006).

Venezuela

Venezuela adopted a new statutory Radio and TV Social Liability Act in 2004. The law limits advertising to 15 minutes every hour, and prohibits product placement, but does not refer specifically to children or food.

Brazil

In **Brazil**, the Ministry of Health first voiced concerns about the role of food marketing in the development of poor diets among children in a statement about obesity in 2004 (98). Since then, several bills have been tabled in the Brazilian congress to restrict advertising to children. Most recently, Bill No. 6080/2005 would prohibit advertising, including merchandising, of food and drinks that may cause obesity, on radio and television between 06:00 and 21:00. The Bill would allow the National Health Surveillance Agency of the Ministry of Health to define the foods and drinks which cause obesity, and set penalties for non-compliance.

In March 2005, following the guidance of Brazil's attorney general, and the mandate of the WHO's Global Strategy on Diet, Physical Activity and Health, the National Health Surveillance Agency of the Ministry of Health formed a working group to draft a proposal to control food advertising and promotion to children (as set down in Resolution RDC No.73). The working group includes representatives from the Ministry of Health, Ministry of Agriculture, the Institute of Consumer Protection, the Brazilian Food Industry Association, Conselho Nacional de Auto-Regulamentação Publicitária (the SRO), and the Brazilian Society of Paediatrics. The group drafted a detailed proposal, and as of April 2006 much debate was ongoing, in particular with regard to defining the foods that would be covered by the proposal.

The draft states that food marketing should not discourage consumption of fruits, vegetables and legumes or unfairly encourage consumption of foods high in fats, sugars and salt, and drinks of low nutrient value. More specifically, it includes several major recommendations to restrict advertising of these high fat, sugar and salt and low nutrient value foods and drinks:

- no television advertisements targeted at children between 06:00 and 21:00;
- inclusion of warnings on remaining advertising, such as "This food is high in saturated fat. Eating excessive saturated fat increases the risk of diabetes and heart disease"
- no marketing in the electronic media, films games, the Internet, or in educational materials, and no sales promotions;
- no sponsorship of schools or sports featuring these foods;
- no marketing of any type of these foods in schools or anywhere where children receive care.

The proposed law was due to be released for public consultation in November 2006. If approved, the law would have statutory power since Brazilian law provides authority to the National Health Surveillance Agency of the Brazilian Ministry of Health to regulate issues concerning health and food, including advertising (according to Law 9.782 of 26 January 1999). The proposal is, however, apparently considered unconstitutional by some members of the SRO, on the grounds that the National Health Surveillance Agency is not the competent entity to set rules on this matter (V Rocha & M Vicentini, personal communication, 2006). Nevertheless, in December 2004, the SRO did rule against an advertisement for fruit-salad-flavoured bubble gum based on the grounds that it induced children to chew a fruit-salad bubble gum rather than eat a real fruit salad. The SRO recommended that the commercial be suspended, especially considering the bills in congress intending to establish restrictions on food advertising (V Rocha & M Vicentini, personal communication, 2006).

In a separate action, the State of São Paulo passed a law (Lei Nº 12.283, de 22 de Fevereiro de 2006) instituting a policy to combat overweight and obesity. The law, which requires an executive act before it can be implemented, would require the Government to adopt measures regulating food marketing to children, in partnership with the advertising sector, media companies, civil society and industry.

Australia

Statutory regulation in **Australia** is the responsibility of the Australian Communications and Media Authority (ACMA) (formerly known as the Australian Broadcasting Authority). ACMA oversees the implementation of the Children's Television Standards, which prohibit advertising during programmes aimed at preschool-age children, restrict the amount of advertising during programming for primary-school-age children, and limit the repetition of advertisements and those featuring children's television personalities and offers of premiums to those which are incidental to the main product (3, page 22). In December 2005, ACMA launched a full policy review of the Children's Television Standards to be carried out over a two-year period. One of the issues under consideration is the regulation of advertising, including food advertising, in children's programmes (A Malone, personal communication, 2006). It has also been reported that in April 2006, a political party, the Australian Democrats, called for a complete ban on food and drink advertising during children's television programmes. The self-regulatory system in Australia is managed by the Advertising Standards Bureau. The Bureau administers the Code of Ethics of the Australian Association of National Advertisers (AANA) (3, page 23). AANA is currently developing a Food and Beverage Marketing Communications Code; the first time the organization has developed a code covering all forms of marketing communication, not just advertising (C Segelov, personal communication, 2006). The stated motivation is for the advertising industry to play a fair and reasonable role in addressing obesity. The Code has been developed in consultation with the food industry, and follows but also expands upon the ICC Framework. Following broad stakeholder consultation, it will be released for operation through the Advertising Standards Bureau in mid-2006.

A second form of self-regulation in Australia is the Code of Practice of Commercial Television Australia (CTVA), now known as Free TV Australia. At the time of writing the 2004 Report, Free TV was conducting a review of their Code of Practice, and planned to incorporate a segment on food (3, pages 9, 23). The earlier Code echoed the rules set out in the Children's Television Standards that "An advertisement for a food product may not contain any misleading or incorrect information about the nutritional value of that product." Free TV released their revised Commercial Television Code of Practice in July 2004 (99). The Code, which was approved by ACMA, adds to the articles on food already contained in the Code for Advertising to Children of AANA (3, page 27). In an explanatory note accompanying the Code, Free TV Australia said that the Code review process had taken into account qualitative research into community attitudes towards television content, which had found that most parents agree it is difficult to regulate what advertising children are exposed to, and that an advertising ban during children's television hours would not have a

significant impact on reducing childhood obesity rates (100). Free TV Australia concluded that this information showed that “parents agree a ban on advertising in children’s TV programmes won’t solve the problem” (p.5).

New Zealand and the Pacific Islands

In **New Zealand**, there have been numerous calls for government action on food marketing to children in the past two years (101). A study in 2006 (102) found that 70% of food advertisements on two free-to-air channels (TV2 and TV3) in 2005 were for foods “counter to improved nutrition”, and that the number of food advertisements per hour was higher in 2005 than 1997 (12.8 versus 8.0 per hour for afternoon shows). The authors concluded that the increase in food advertising they detected implied a need for further regulatory or other controls (102). The communications and food industries disputed the figures (103) on the basis of their own research showing that food advertising to children on television has actually declined. (The two studies used different definitions of foods “counter to improved nutrition”.) In February 2006, the New Zealand Health Minister ruled out restricting food advertising on television, saying that voluntary moves by advertisers were promising (104). However, in a subsequent move, the New Zealand Parliament has agreed to undertake an enquiry into obesity and type 2 diabetes; the terms of reference are wide-ranging and include an analysis of environmental factors thought to contribute to obesity (105).

In New Zealand, there have been two distinct voluntary industry initiatives over the past two years of relevance to marketing to children. First, in March 2005, New Zealand’s Advertising Standards Authority launched a review of its Code for Advertising to Children and Code for Advertising of Food. The review was prompted by increased government concern over food advertising and its effects on children and the announcement by Food Standards Australia New Zealand (the government food agency) that health claims for food will be legalized, which will have “significant impact on the advertising of food, particularly to children” (106). The review will examine the operation and content of the existing Codes, receive and review submissions, and recommend any amendments to the Advertising Standards Authority. A date for the release of the results of the review has not been set.

A second and more comprehensive initiative is the Food Industry Accord. Launched in September 2004, the Food Industry Accord is a voluntary agreement of the coalition of food, advertising and media organizations known as the Food Industry Group. Signatories to the Food Industry Accord have committed to “make a significant contribution to reduce obesity, improve nutrition and increase physical activity”. In its first annual report, the Food Industry Group listed their key achievements, a few of which concerned marketing to children: the review by the Advertising Standards Authority of its self-regulatory codes; the commitment by a major soft drinks company to cease selling full-sugar carbonated soft drinks to primary schools; and the development of social marketing campaigns on healthy eating. Proponents of increased statutory regulation on food advertising are sceptical of the Food Industry Accord, saying that few of its actions recognize the role played by advertising and promotion in the reinforcement of poor dietary habits, and that the food industry continues to use aggressive marketing techniques, notably through sales promotions (107).

Asia

The advertising market has grown rapidly in **China** over the past few years. According to statistics from the State Administration of Industry and Commerce, advertising revenues almost doubled between 2000 and 2004, from US\$ 8.1 billion to US\$ 15.2 billion (108). Expenditure on advertising grew to US\$ 37 billion in 2005. Of all product categories, food accounted for the third largest amount of spending (108, 109). More than half of all advertising is on television and in newspapers, although advertising companies are said to be moving more into new media. The market for advertising services is also opening up: as of November 2004, in line with World Trade Organization agreements, foreign agencies are now permitted

to own up to 49% of joint media ventures in China (110). Foreign companies are forming strategic partnerships, including for children's programming (109). Significantly, too, in 2004 the Chinese Government's State Administration of Radio, Film & Television ordered all provincial level television stations to launch more children's channels by the end of 2006, which experts say is "potentially the biggest explosion of children's channels in any single market the world has ever seen" (111). The move is intended to support the development of the local animation and children's programming in the face of foreign dominance of the children's television sector currently seen in China. As of April 2006, around 20 channels had been launched and 10 more are on target to launch by the end of 2006 (K Kender, personal communication, 2006).

At the same time, the Chinese authorities have been voicing increasing concern about advertising. Advertising regulation in China is dominated by the government agency, the State Administration of Industry and Commerce in China (SAICC), which administers the Advertising Law (1994) (112). The law briefly refers to children (3, page 24). SAICC has imposed several fines over the past year on misleading advertisements, although none targeting children (K Kender, personal communication, 2006). SAICC is also working on new regulations on the content of TV advertising in order to prevent tasteless advertisements disrespectful of "cultural diversity" (113). SAICC recently increased its oversight of advertising of health foods and personal care products (114), and there have been many discussions within the national press concerning the negative effect of advertising on children. Although over the past two years there has been no movement in terms of specifically regulating food advertisements targeted at children (K Kender, personal communication, 2006), in March 2006, a delegate to the National People's Congress tabled a bill in the Chinese parliament which would ban children under 12 years of age from appearing in advertising and would restrict advertising directed at children under 12 years of age. The sponsor of the bill said that the use of children in advertising is an illegal form of child labour. The WFA says that it "will collaborate closely with its newly formed Chinese member, the China Association of National Advertisers, in order to effectively oppose these proposed restrictions" (115).

China, Hong Kong Special Administrative Region (SAR)

In the *China, Hong Kong Special Administrative Region (SAR)* advertising is regulated by a statutory authority, the Hong Kong Broadcasting Authority, using a Code of Practice. The Code includes a reasonably substantial section on children and a smaller section on food (3, pages 15, 23, 25). The Code was revised in September 2005, and an extra clause on the sponsorship of children's programmes was added (see section 2.3) (116). No further changes were made regarding food or children.

India

Like China, *India* has been undergoing a period of change in its communications sector in the last two years. Particularly notable are the growing importance of (often foreign) cable and satellite broadcasting, and the rise of children's television programmes. The number of television channels specifically for children grew from one in 2002/03 to more than six in 2005 and is still growing as broadcasters target the huge untapped market (117). At the same time advertising has grown as advertisers recognize the sway of "pester power" (118). According to newspaper reports, advertising spend in children's media was US\$ 12 million in 2003/4 and jumped to US\$ 19 million by March 2005 (119). The market is expected to grow an estimated 15–30% during 2005–2006 (120). A survey carried out by the NGO, Consumers International, in India in 2001, showed that 40–50% of advertising during children's programming were for food, and that more than 50% of parents cited pester power as influencing their purchasing decisions (121). Advertising in India is subject to statutory and self-regulatory authority (3, pages 15, 23). Regulatory authority of all broadcast media (cable channels and ground stations operating within and directed at India) is the responsibility of the Information & Broadcasting Ministry of the Government of India. Special protection for children is included briefly in the India Cable Television Networks (Regulation) Act (1994) and in the self-regulatory code of the Advertising Standards Council

of India (122). Still, there is serious concern that the basic tenet of advertising regulation – that it should not mislead – is not being observed. One legal expert stated that: “children in India seem to be particularly vulnerable to the infringement of these regulations which is unfortunately a common occurrence” (123). Two efforts are being made to address this situation, one statutory and one self-regulatory.

In 2004, the Information & Broadcasting Ministry began to monitor actively and decide on violations of its television advertising codes for TV as per the Cable Television Act’s Rules (124; GI Pereira, personal communication, 2006). They set up an interministerial committee which has since been reviewing complaints, issuing notices to television channels, and deciding whether advertisements violate the rules. In 2006, the Information & Broadcasting Ministry set up another 30-person committee “representing diverse interests” to rewrite the programme and advertising codes for the Cable Television Act and its Rules, and to develop a mechanism to enforce the codes, a process that was ongoing as of April 2006. It is reported that the codes being developed by the committee are primarily adapted from the United Kingdom’s Ofcom codes, with specific sub-sections on children and food advertising (GI Pereira, personal communication, 2006). The Ministry of Consumer Affairs also recently set up a committee to make recommendations to confront misleading advertising.

In terms of self-regulation, the Indian Advertising Standards Council has been conducting an awareness-raising initiative owing to their concern that the “quantity of false, misleading and offensive advertising has resulted in consumers having an increasing disbelief in advertising, and a growing resentment of such advertising” (125). Food advertising is currently dealt with through the general principle of misleading and dishonest advertising. With regard to children, the Advertising Standards Council secretary-general believes that the principle in the Advertising Standards Council Code, that advertisement should not harm minors, physically, mentally or morally, or exploit their vulnerability, addresses children (GI Pereira, personal communication, 2006). Advertisements showing a disregard for conventional foods by promoting processed packaged foods, snacks, junk foods, and supplements as substitutes for home-cooked meals and natural foods, have been the subject of complaints which have been upheld by the Consumer Complaints Council (GI Pereira, personal communication, 2006). However, as this report was being written, the Advertising Standards Council initiated a process to develop a more comprehensive code on food advertising to children.

According to the Consumers International report 50–75% of advertising during children’s programming in **Pakistan** is for food products, and children are strongly influenced by advertising (121).

South-East Asia

In **South-East Asian** countries there have been no reports of any specific changes in regulations on food advertising to children over the past two years, but there have been some activities.

Malaysia

In **Malaysia**, a new Malaysian Communications and Multimedia Content Code was released in October 2004 (126). The Code is a set of self-regulatory industry guidelines but legally mandated by the Communications and Multimedia Act of 1998 (the Act advocated self-regulation as a means of achieving its objectives) (127, 128). The Code incorporates all the Malaysian statutes affecting, or relevant to, content in all media, and thus represents an extension of existing guidelines to cover on-air television (although not “on-demand”), radio, online services and audiotext hosting services. According to Consumers International, food advertising makes up 70% of all advertising targeted at children in Malaysia but the new Code provides no particular regulations for food marketing to children (121).

Singapore

In **Singapore**, the self-regulatory Code of Advertising Practice was updated in October 2004 to include extra clauses on health, medical and beauty products (129). No amendments were made concerning food advertising or children and, as of April 2006, there were no plans to introduce further amendments related to children (S Ang, personal communication, 2006).

Thailand

The advertising and promotions industry in **Thailand** is among the most developed, dynamic and creative in the region (130). From 1987 to 1996, advertising expenditures grew nearly 800%, and advertising revenues have grown at double digit figures in recent years, standing at around 85 billion baht (US\$ 2 billion) in 2004. Promotional activities are known for their zany and humorous style. These marketing activities are now being blamed for contributing to poor dietary habits among children, particularly for the high consumption of sweet and savoury snacks. It was reported in 2004 that children spend 170 000 million baht on snacks annually; the National Institute for Nutrition estimate that Thai children obtain 23% of their calories from snacks. Television is an important channel for advertising. A survey conducted as part of the youth project "Smart Kids", reported that an average of 67 different snack products and soft drinks were advertised to children during weekend morning television (07:00–10:30) (V Kulsomboon, personal communication, 2006). The Thai Health Promotion Foundation (ThaiHealth), a major health funding group, stated in their 2005 Annual Report that "advertising of all food, but particularly television advertising, encourages children to eat unhealthy foods" and called on the Government to "introduce regulations preventing advertisers from encouraging excessive consumption" (Table 1 and 131). The Health Consumer Protection Project based at Chulalongkorn University has also formed an alliance calling for a ban on snack advertising during children's television programmes (V Kulsomboon, personal communication, 2006). In April 2004, the groups from this project and from ThaiHealth met with advertising representatives and government officials to discuss a prohibition of food advertisements on television that targets children aged 5–16 years through "prize draws, freebies and discounts", and a restriction on the time allocated to children's advertisements (132). These groups are continuing to press the Government for more restrictions on advertising to children.

Japan

Japan is Asia's largest advertising market. It has limited regulatory controls on advertising to children, although no advertisements are allowed in public schools (3, page 23). Over the past two years, no government action to further regulate advertising to children has occurred, and the subject is as yet of little public debate (N Kumasawa, personal communication, 2006).

Republic of Korea

The **Republic of Korea** has more extensive regulation of advertising to children through the Regulations Concerning Deliberation on Advertising Broadcast, but not specifically to food. This may change, however, according to recent reports from the Ministry of Health and Welfare. In November 2005, the Ministry was reported to be developing a comprehensive plan to address rising obesity in the country, including restricting fast-food commercials as a "mid- or long-term plan to tackle obesity" (133). Fast food has come under attack in recent years as a cause of obesity in the Republic of Korea, especially since a Korean version of the film "Super-Size Me" was released in 2005.

South Africa

In **South Africa**, there have been no legal or self-regulatory changes on food advertising to children in the past two years. Advertising is primarily regulated through the self-regulatory authority, the Advertising Standards Authority of South Africa, which has a code including children but not food (3, page 24). In 2005, the Authority won the annual European Advertising Standards Alliance award for “best practice in advertising self-regulation”. The Advertising Standards Authority is currently undertaking an annual review of its Code of Advertising Practice, and the Code Review Committee will consider the ICC Framework during the review (134; G Schimmel, personal communication, 2006). In a separate move, the Ministry of Labour launched new regulations defining the rules for the employment of children under 18 years of age in the sectors of advertising and performing arts (135).

Nigeria

In **Nigeria**, the process of self-regulation continues to be advanced through the Advertising Practitioners Council of Nigeria (3, page 24) but there have been no reports of any attention being paid to advertising to children (136).

Kenya

In **Kenya** it was reported in July 2005 that an Advertising Control Bill was being developed which would “ensure advertisements are truthful, ethical and recognize the cultural value of Kenyans” (137). It was not reported whether it would include special provisions for children.

Middle East

In the Middle East, no reports have been found of any changes in the regulatory environment around food marketing to children.

Regulation of in-school marketing

Techniques used to market in schools include direct advertising (e.g. signs, advertising in television programmes shown in schools), indirect advertising (e.g. sponsorship of school materials) and product sales (e.g. soft drinks in vending machines) (3, page 32). Over the past two years, many consumer, health and teachers' groups around the world have called for greater restrictions on marketing in schools, especially of high-calorie, nutrient-poor foods (Table 1). Some new statutory regulations and self-regulations have been developed, the vast majority concerning product sales.

Europe

Marketing in schools in Europe has been subject to a mix of new statutory and self-regulations over the past two years. However there have been fewer such regulations than there have been for television advertising during the same time period (Figure 1).

Europe-wide, the new guidelines on marketing soft drinks developed by UNESDA-CISDA include a section on schools. As described in Box 3, UNESDA-CISDA members are encouraged not to engage in any direct commercial activity in primary schools, and in secondary schools to "ensure that a full range of beverages is made available." (138)

Several of the new codes developed by the advertising and food industry also refer to schools. In **Denmark**, the Code of Principles for Marketing And Labelling developed by the Danish Brewers Association (see section 2.1.2) declared that industry members would not "actively promote soft drinks in schools (pupils aged 6–16)" and there would be no vending machines in primary schools (Table 2). In the **Netherlands**, the Food Advertising Code developed by the Food Industry Federation included several clauses on schools (5). In **Portugal**, the self-regulatory Code of Good Practice in Commercial Communication to Minors also includes a brief clause on marketing in schools, as does the new Code of Advertising Practice in the **Czech Republic**. In the **United Kingdom**, the Food and Drink Federation Manifesto has committed to withdrawing vending machines if requested to do so by the school authorities (64).

There have also been efforts to legislate against the sale of foods and drinks of low nutritional value in schools. In **Belgium**, a ban on vending machines for sweets and soft drinks was high on the agenda for the French-speaking community in 2004. The Ministers of Education and Health announced the ban in French language public schools effective September 2005, but no movements have been made since then (139; H Thibaut, personal communication, 2006). The city of Brussels also recommended that sweets and soft drinks should be banned from primary schools. Clearer action came in **France**, where vending machines were banned in schools as of September 2005 as part of the Public Health Law (see section 2.1.2). Legislation not reported in the 2004 Report (3) was passed in 2003 in **Cyprus** which prohibits the sale of energy-dense, nutrient-poor foods in schools; the foods permitted to be sold in schools are listed and high-fat snacks, soft drinks, and confectionary are excluded from the list. It is also prohibited to sell these foods in close proximity to the schools. The law is enforced through regular checks of school canteens and a small fine is imposed for violations.

In **Finland**, the National Board of Education and the Finnish Consumer Agency prepared a memorandum for schools which elaborates the rules on marketing in schools contained in the Consumer Ombudsman's Guidelines on Children and Marketing (3, page 33). While recognizing that cooperation with the private sector can bring benefits, the rules encourage a cautionary approach, stressing that teachers must take into account children's special position as marketing targets and that marketing materials may not be distributed in schools without parents' consent (140).

In **Sweden**, there has been no statutory action on marketing food in schools, but the government-commissioned report from the National Food Administration and National Institute of Public Health recommended that

municipalities and schools should adopt a food sponsorship policy (see section 2.1.2) (56).

In the **United Kingdom**, the Ministry of Education announced in May 2006 that vending machines would be banned from stocking sweets, crisps and high-sugar drinks as of September 2006. Following this announcement, the Education and Inspections Bill published in March 2006 stated that “all food and drink provided on the premises” of state (public) schools must comply with healthy eating regulations (141, page 56). In June 2006 the Government’s advisory body, the School Food Trust issued guidance on the new school food standards entitled Eat Better Do Better, which would limit the sale of confectionary, savoury snacks and sweetened soft drinks in schools (142). These recommendations will be implemented through the Education (Nutritional Standards for School Lunches) (England) Regulations 2006 legislation, due to be implemented in September 2006.

There are separate plans in Scotland to “effectively restrict the food on sale in schools to healthy options” through the introduction of statutory nutritional standards in the Health Promotion Nutrition and Schools Bill, due to be passed by the Scottish parliament in 2007 (143). According to reports, the bill may also include a clause banning vendors from selling fat foods, confectionary and carbonated soft drinks outside schools (144).

These moves follow the release of a guide in 2004 by the United Kingdom Government’s FSA to help schools establish a “profitable and effective healthy drinks vending scheme” (145, page 3). The guidelines are based on the results of a pilot study of the effect of “healthy drinks machines” in secondary schools, which showed that these were popular with students and were also profitable for schools.

In **Eastern European** countries, no evidence could be found for any statutory or regulatory activity on school food marketing. One exception is **Slovenia**, where a Resolution (not a law) in the national Food and Nutrition Policy 2005–2010 (No.39/2005) includes a clause that head teachers should be recommended not to install vending machines selling soft drinks in school buildings (Mojca Gabrijelčič Blenkuš, personal communication).

North America

As in Europe, there has been much discussion in North America about marketing food to children in schools. In **Canada**, the province of Quebec has for years had a law restricting commercial activity in schools. Since 2004, a further six of Canada’s ten provinces have implemented or are planning to implement restrictions on the foods sold in schools, albeit in the form of guidelines, not laws. In October 2004, the Ontario Ministry of Education implemented new standards for food and beverages sold through vending machines in elementary schools, restricting them to “healthy and nutritious” foods and excluding soft drinks and high-fat snacks (146). The guidelines do not restrict marketing opportunities for these products, such as branded vending machines, nor sales of these foods from other outlets in the schools. In October 2005, the New Brunswick Ministry of Education implemented a more restrictive policy: no sales or promotions for foods of “minimum nutritional” value in elementary schools (including from vending machines), and a phasing-out of the sale of these foods from middle and secondary schools by September 2007 (147). British Columbia produced guidelines in November 2005 which apply to foods and beverages sold to students in all school locations, including vending machines, school stores and cafeterias, and at fundraisers and other special events (148). From 2009, schools will be prohibited from selling a list of “not recommended” foods and drinks, including most soft drinks, high fat/sugary/salty baked goods and snacks, condiments containing *trans* fats and meat products deep fried in hydrogenated oils. As of April 2006, Nova Scotia was undergoing a consultation on a policy which would restrict sales from vending machines to milk, water, and 100% juice (149). Manitoba has also announced restrictions, and a policy is being developed in Newfoundland (R Allen, personal communication, 2006). It is not clear, however, if and how these guidelines will be enforced since they are not legally binding.

In the **United States**, groups such as the Center for Science in the Public Interest (CSPI) have been very vocal in advocating improvements in school foods. In 2004, the CSPI released the results of research showing that “school vending undermines efforts to feed children” (150) and called on the relevant authorities to ensure that foods sold at schools are healthful and make a positive contribution to children’s diet (Table 1). The group has also produced Model School Foods Reform Legislation, which advocates policies to restrict food marketing in schools (151).

Currently, federal law in the United States limits the sales of “foods of minimum nutritional value” (FMNV) in schools. At the time of writing the 2004 Report, there was considerable legislative activity at the state level to extend these regulations to “competitive foods” more broadly (3, pages 39, 40). Competitive foods are foods offered at schools other than those offered by school meal programmes, including FMNV and all foods offered for individual sale, such as from vending machines, school stores, and snack bars (152). However, a report published in 2005 at the request of the United States Congress found that nearly 90% of all schools sold competitive foods in 2003–04, and the availability of these foods had increased over the previous five years (153). This comes amidst evidence that food marketing in schools is positively associated with obesity in middle-school students (154).

At the time of writing the 2004 Report (3), several federal bills were under discussion concerning the marketing of food to children in schools. Since then, one federal bill has passed which has implications for the practice. The Child Nutrition and WIC Reauthorization Act (PL 108-265) of June 2004, mandates that every local education agency establish a wellness policy, including nutrition guidelines for foods available in schools during the school day “with the objective of promoting student health and reducing childhood obesity” (sec.204) (155). Another bill, the HeLP America Act (described in section 2.1.2), would, if passed into law, extend the definition of FMNV to cover all foods outside school meal programmes available on the school campus at any time of day (Sec.10) and prohibit food advertising in schools (Sec.304) (156). This provision was the subject of a related bill introduced in April 2006, the Child Nutrition Promotion and School Lunch Protection Act (Senate Bill S 2592 IS) (157). The bill redefines FMNV in a way that would effectively restrict the sale of energy-dense, nutrient-poor foods in schools. The Prevention of Childhood Obesity Act (described in section 2.1.3), would also “prohibit advertisements and marketing in schools and on school grounds for foods of poor or minimal nutritional value such as fast foods, soft drinks, and candy” and implement policies that limit access to these foods in schools, including in vending machines. CSPI is also currently lobbying for federal bills to set nutrition standards for school foods.

At the state level, legislative activity considerably increased in 2004 and 2005 relative to previous years (158). In 2004, 37 states introduced hundreds of bills; in 2005, 42 states introduced approximately 200 bills (159). As shown in Table 4, 26 states now have restrictions on the sale of competitive foods, an increase from 18 at the time of the 2004 Report (3, page 40). A total of 15 regulations were approved or revised between 2004 and February 2006. Following the lead of other countries (3, pages 39, 40), many of these regulations restrict the sale of sweetened soft drinks and other competitive foods from elementary schools, and to a lesser extent from secondary schools. Passage of the bills has not been without controversy, and many have failed to pass. In the state of Connecticut, for example, a bill to ban sales of sweetened soft drinks in all public schools was vetoed by the state Governor at the last minute amidst intense lobbying activity in June 2005. Another bill was introduced in February 2006 with the governor’s support, but was still subject to intense industry lobbying (160).

Amidst this activity, the American Beverage Association (the trade group formerly known as the National Soft Drinks Association), released a voluntary policy in June 2005 on the availability of beverages sold through vending machines placed in schools (161). Saying that parents, community leaders and school officials “would prefer that certain full-calorie beverages not be available to younger children at school, but that older children can

have more beverage choices”, the policy encourages school districts and bottlers to provide only bottled water and 100% juice to primary (elementary) schools, but recommended fewer restrictions for older school children (Box 3). The recommendations echo the state-wide regulations already in place.

Later, in 2006, a further set of guidelines was released “to limit portion sizes and reduce the number of calories available to children during the school day.” The guidelines, released as part of a deal brokered between the Clinton Foundation, the American Beverage Association, and several major soft drinks companies, will be implemented on a voluntary basis, but will go much further than previous guidelines by permitting only “lower calorie and nutritious beverages” to be sold in any public schools (162). This represents a restriction on the sale of full-calorie soft drinks, but still allows sports drinks.

The American Beverage Association also released a study in 2005 showing that student purchases of full-calorie sweetened soft drinks in schools declined by 24% between 2002 and 2004, while sales of waters increased by 23%, diet soft drinks by 21%, 100% juices by 15% and sports drinks by 70% (163).

Latin America

In Latin America, the only country identified which has developed new regulations on in-school marketing is **Brazil**. As described in the 2004 Report (3, pages 38, 39), laws to restrict the sales of energy-dense foods of low nutritional value in schools in major urban areas were passed in 2004. In 2005, a similar law was passed in another region, Distrito Federal (Brasília). LP No 1770/2005 regulates the sale and distribution of several food products, including soft drinks, confectionary, products containing *trans* fats, and deep fried foods (164). Although signed by the House of Deputies of Distrito Federal in August 2005, the Governor did not sign the bill into law until October, reportedly as a result of lobbying by the food industry (J Giuberti Coutinho, personal communication, 2005). School canteen operators were also opposed because of concerns that the law would reduce the income from canteens (J Giuberti Coutinho, personal communication, 2005). The law was implemented in April 2006 and its impacts are currently being evaluated (see section 3).

Australia, New Zealand and Pacific Islands

As in Europe and North America, there has been considerable discussion about restricting the sale of “unhealthy” foods in schools in Australia and New Zealand. In **Australia**, no statutory legislation has yet been enacted, but the Government of the State of South Australia says that, as of 2007, it will prohibit the sale of “not recommended” food from canteens and vending machines in all schools and preschools (apart from twice per school term) (165). “Not recommended” foods include deep-fried French fries, sweetened soft drinks, and high-fat snacks. With this prohibition, South Australia will become the “first State to mandate healthy food standards for all government schools and preschools” (165, page 3).

In **New Zealand**, the majority of schools have no specific guidelines to commercial activities, and there appear to be no federal or regional laws. A study of primary and secondary schools throughout New Zealand published in 2005 showed that over 80% were involved in some form of corporate sponsorship programme, including of education materials, or had exclusive agreements and vending machines (166). Activities included the promotion and provision of foods high in fat and sugar. Twenty three percent of secondary schools and 4% of primary schools had policies to guide these corporate relationships.

Elsewhere in the Pacific region, **Fiji** recently restricted the sale of foods of poor nutritional value in schools. In line with the School Nutrition Policy developed in 2006, the National Food and Nutrition Centre, Ministries of Health and Education, in collaboration with the Secretariat of the Pacific Communities and UNICEF developed and distributed a set of School Canteen Guidelines to all schools in Fiji (N Khan, personal communication,

2006). The Guidelines require that food sold in school canteens and vending machines should follow nutritional standards set by the National Food and Nutrition Centre, effectively prohibiting many high-fat, sweetened foods from schools, including sweetened soft drinks in vending machines (167). The Ministry of Health says it will monitor the implementation of the Guidelines through the regular school visits by the Ministry's school health teams and conduct spot checks to ensure schools follow the guidelines (168).

Asia

Very little information could be obtained about regulations on school food in Asia. In **India**, there is known to be concern about the widespread presence of food marketing in schools. In June 2005, the Indian NGO Consumer Education and Research Centre called on two state governments to restrict promotional activities in schools (169). According to newspaper reports, the government's Education Directorate has in fact banned the sale of "junk foods" in schools, but the guideline is not being enforced and such foods continue to be widely available in schools (170). The problem apparently is in defining what constitutes these foods. In March 2006, it was reported that the State of Maharashtra is considering a ban on the sale of soft drinks in schools (171). The Indian Soft Drinks Manufacturing Association is seeking dialogue with the State Government to discuss the proposal (172). A related issue in India has been the much-disputed concern about the presence of pesticides in soft drinks.

In the 2004 Report (3), it was noted that there was concern about food marketing in schools in **Malaysia** and that guidelines had been put in place. In November 2005, it was reported that these guidelines, which discourage the sale of fatty foods and sweetened soft drinks from school canteens, would not be supplemented by a ban on vending machines, despite calls by consumer groups (173).

No regulatory activity could be identified for any other South and South-East Asian countries or in China, or in any countries in Africa and the Middle East.

Regulations on “non-traditional”, “indirect” and “below-the-line” marketing techniques

Extension of existing regulations to non-traditional techniques

Over the past two years, a range of reports and books have documented the increasingly important role of non-traditional, “below-the-line” and “indirect” (3, page 3) forms of marketing food to children in many parts of the world (12, 174). The most commonly used non-traditional techniques are product placement, the Internet and other forms of electronic marketing, sales promotions and sponsorship, but a whole host of other techniques are also being used. In the United States, interactive marketing via Internet sites and in educational materials is now widespread (175). Techniques like “viral marketing” are now used to spread messages through children’s social networks. In the United Kingdom, a report released by the Consumers Association in 2006 documents what it terms as the increasing use of “underhand” methods to market food to children, such as text messaging and advertising within computer games (176).

To address this phenomenon, consumer and public health groups are calling for regulations to be extended to the full range of marketing techniques, and, as reported in the previous section, in some cases this has been taking place over the past two years. In terms of statutory regulation, in **Europe**, the TVWFD revision was explicitly motivated by the need to account for emerging forms of audiovisual communication. The draft directive extends the existing protections it affords to children – as well as other provisions – to non-linear services, thereby including marketing techniques such as video clips sent via mobile phone and broadcasts channelled through the Internet. Likewise, in the **United States**, the new rules issued by the FCC to strengthen the application of the Children’s Television Act were developed to account for advances in digital television and Internet communications. As described in Box 4, the rules would require digital channels to follow the same time restrictions as analogue television, and would allow the advertising of web sites on television only if sites meet certain standards. Because companies have incentives to advertise their web sites, the regulation may have the effect of indirectly regulating web site content.

A range of other countries have, or are in the process of extending, codes to account for developments in communications technologies and marketing techniques. As described in the previous section, two new sets of Consumer Ombudsman guidelines released in the past two years in **Finland** cover a range of marketing techniques. In **France**, the law requiring nutritional messages to accompany television advertisements was later amended to expand it to other forms of advertising. In **Ireland**, the Broadcasting Commission called for comments in 2006 on a new draft General Advertising Code, which will address sponsorship, teleshopping and virtual advertising (177). In **Malaysia**, the new Content Code represents an extension of the television code to online services. In **Israel**, the Consumer Protection Law has just been amended to extend the protections it affords to children from misleading television advertising to all forms of marketing communication. In the **United Kingdom**, the Committee of Advertising Practice of the Advertising Standards Authority published revisions to its code to cover e-mail and SMS text messaging, including an article stating that “Verifiable and explicit consent should be obtained from a parent/guardian before communicating via mobile with children”(178).

SROs and industry groups are also taking action. In **Europe**, in October 2005, the CIAA revised their “Principles of food and beverage product advertising” (Box 2) in the “Principles of Food and Beverage Product Marketing Communications”, extending the original Principles to “any paid marketing communication using the following vehicles: telephone, radio, press, cinema, internet, DVD/CD-ROM, direct marketing, outdoor marketing, sales promotions, sponsorship, as well as any commercial activities undertaken in schools” (16).

Some national SROs are making similar moves. In the **Netherlands**, for example, the Reclame Code Commissie is in the process of revising its

code to extend its provisions on children to Internet marketing, direct mail and sales promotions. The new code under development by AANA in **Australia** will cover all forms of marketing communication. In the **United States**, one of the key reasons for the review of the self-regulatory CARU code is the increased use of alternative marketing techniques. The food industry has recommended that the code be revised to pay greater consideration to paid product placement on television and interactive advertising in new media. IOMNAS also recommended that the guidelines be revised to extend beyond traditional advertising (see section 2.1.3). **Globally**, the ICC has also developed more codes to cope with the proliferation of different marketing techniques.

The next sections identify new regulations specific to different marketing techniques.

Internet and electronic marketing

Marketing food to children using the electronic media is becoming more and more widespread. While millions of children around the world do not have access to electronic technologies, the use of electronic media indicates future trends. Electronic marketing strategies aimed at children include online interactive games and activities, clubs, competitions, the collection of personal data from children online, direct marketing via e-mail, and text messaging through mobile phones (3, page 47). Regulating such techniques is complicated by their interactive nature and, according to critics, makes the regulatory environment around electronic marketing significantly weaker than that around traditional techniques. In the United Kingdom, a recent report from the Food Commission, an NGO, presented evidence in which it claimed that web sites aimed at children are “rife with the kinds of marketing techniques that would be banned in print and broadcast advertising” (179). The collection of data from children over the Internet is another contentious issue.

The regulation of the Internet is also controversial due to the need to avoid censorship and still prevent harm, but laws and guidelines are being demanded, and some are being developed. **Globally**, the ICC released new Guidelines on Marketing and Advertising using Electronic Media in 2005, which contained an article specific to marketing to children on the Internet (Box 5) (180). Along with the extension of existing regulations to marketing on the Internet already described, some national SROs and other industry organizations are developing specific guidelines. For example, in **Australia**, the Internet Industry Association released new Internet Industry Codes of Practice in 2005, which include special protections for children (181). In **France**, the Bureau de Vérification de la Publicité published new rules on Internet advertising in 2005 (182). The codes echo the ICC guidelines, stressing that children should ask permission from the parents before providing personal information.

The most notable national development specific to children over the past two years was the publication of a comprehensive set of guidelines on electronic marketing to minors in **Finland** in 2005 (31). The Consumer Ombudsman’s Guidelines on Minors, Marketing and Purchases are based on the principles that Internet marketing must respect the “human dignity of minors” and that “advertising must be immediately recognizable as advertising”. The guidelines also provide specific recommendations on advertising through mobile phones.

Product placement

Product placement is becoming more prevalent as an advertising technique worldwide. In the Republic of Korea, for example, a report released in February 2006 by the Citizens’ Coalition for Democratic Media notes that currently about 60 % of television dramas are funded by integrated product placement (183). Over the past two years, issues around the regulation of product placement have increasingly come into focus in Europe and the United States.

As explained in section 2.1.2, up until now most countries in **Europe** have prohibited product placement on the basis that it is a form of surreptitious advertising. However, as noted in the 2004 Report (3, page 46), this has long been a grey area of regulation, as products appear on television

shows even though technically no money has changed hands. In 2005, the issue even became a mini-scandal in Germany, when it was revealed that a major television network had accepted paid placements. As outlined in Section 2.1.2, the revised TVWFD would legalize product placement, and European countries that currently prohibit the practice are now considering more liberal rules. In the **United Kingdom**, for example, a consultation launched by Ofcom would legalize product placement on the basis of “increasing pressures on traditional broadcasting advertising revenues” and the fact that product placement is “seen frequently in a range of other media”. However, Ofcom recommends that “it considers that product placement should not be used in children’s programming” (184). In **Italy**, the blanket ban on product placement in Italian films was abolished in 2004; product placement is now allowed provided it does not interrupt the flow of the film (185).

In the **United States**, product placement on television is regulated via statutory guidelines (3, page 45). At the time of writing the 2004 Report (3, pages 46–47), the NGO Commercial Alert was awaiting the response to a petition to the FCC calling for stricter restrictions on product placement, and another petition to the FTC calling for pop-up “advertisement” signs to accompany product placements as a means of preventing consumer deception. In 2005, the FTC rebuffed the challenge on the basis that the “existing statutory and regulatory framework provide sufficient tools for challenging any such deceptive acts and practices” (186). The FCC has not yet responded (independently, the FCC commissioner is reported to have called for a strengthening of rules on product placement). In terms of self-regulation, as noted above, CARU has been requested by the Grocery Manufacturers Association to prohibit paid product placement in children’s programming, a process which they have already begun to consider in the revision of their guidelines (95).

In the meantime, writers and actors in Hollywood have been waging a campaign against the extensive use of product integration in films and television programmes (i.e. the use of products as a story line, not just as a placement). The concern, according to a White Paper published by the Writers Guild of America in November 2005, is that the writer “is being asked to weave in [to the storyline] potato chips, or soft drinks” and therefore “to write something akin to advertising copy and to disguise it as story lines. The result is that tens of millions of viewers are sometimes being sold products without their knowledge, sold in opaque, subliminal ways, and sold in violation of governmental regulations” (187, page 1). To address the problem, the Guild is calling for the establishment of a code of conduct to govern the use of product integration, which would require full and clear disclosure of product integration deals at the beginning of each programme, and strictly limit the usage of product integration in children’s programming. Failing this, the Guild will seek additional FCC regulation.

Sponsorship

Sponsorship is an important marketing technique used to target children. Not only do food companies sponsor local child- and youth-targeted events (e.g. music shows), and places (e.g. school facilities), but they also provide financial support to global events (e.g. sports) which provide visibility to a huge audience, including children, when broadcast worldwide. As pointed out in the 2004 Report (3, page 43), it is common for countries to have some type of regulations on sponsorship, but now, as then, few have regulations specific to food sponsorship to children. Over the past two years more SROs and industry groups have developed guidelines that cover sponsorship – the CIAA Principles being one example. However, such guidelines tend not to include any provisions specific to the nature and functioning of food sponsorship to children.

Statutory developments have also been minimal, although there appears to be some recognition that children need special protection from this marketing technique in a more permissive marketing environment. For example, the advertising Code of Practice in the **China, Hong Kong SAR** (3, page 44) was revised in 2005. The new regulation liberalizes the use of sponsorship but includes a new clause (article 12) that “sponsorship of children’s programmes requires special caution” so as “to avoid the programmes becoming too commercialized” (188). Title sponsorship is permitted but may not include any advertising slogan or attribute of the

sponsor (only the name and trademark). In another case, in the **United Kingdom** Ofcom released a consultation document in 2006 which proposes to permit sponsorship of entire radio and television channels (rather than just programmes), but also restrict the type of sponsor on channels that carry certain categories of programmes, such as those made for children (189).

Sales Promotions

As the time of writing the 2004 Report, the number of countries identified with regulations on sales promotions to children was very small (3, page 52). Since that time, the awareness of the role played by sales promotions in targeting children has grown significantly. In **Thailand**, for example, the food advertisements of most concern to health advocates are those advertising sales promotions. Beyond the general extension of existing regulations described in section 2.3.1, only one new regulation explicitly deals with sales promotions: the new Consumer Ombudsman guidelines in **Finland**, as described in Table 3, clearly state that a giveaway must not be the main item in marketing, and that collector promotions should not be used when marketing food to children.

At the time of writing the 2004 Report, a European Commission regulation on sales promotions was still under discussion, albeit much delayed (3, page 52). The proposed legislation was eventually scrapped in September 2005 as part of European-wide efforts to remove stalled legislation. Prior to this, a new draft text, introduced by the Dutch presidency in September 2004, would have imposed stricter rules on the targeting of children with sales promotions across Europe (190). The decision to throw out the regulation was met with disappointment by the marketing industry, which favoured it because it would have liberalized the market for sales promotions throughout Europe (191).

ENFORCEMENT: MONITORING AND LEGAL ACTION

Sales Promotions

The development and implementation of regulations is only one aspect of the global regulatory environment around food marketing to children. How these rules are enforced is also important. Although it is beyond the scope of this report to comprehensively assess enforcement of existing regulations, it is possible to examine briefly the changing enforcement environment over the past two years. Two enforcement questions are critical in the context of food marketing to children:

- Is there an effective process to monitor marketing campaigns, to confirm that they comply with codes and laws, and to penalize violators?
- What impact does this process have on the quality and quantity of promotional activity targeted at children?

There is still practically no information on the impact of regulations on the quality and quantity of food marketing directed at children. Information from monitoring, and on actions to encourage compliance, remains inadequate although more is becoming available. There are also signs that enforcement is now being taken more seriously, through both self-regulation and legal action.

As described in the 2004 Report (3), regulatory agencies and organizations monitor and enforce marketing regulations using one or more of three mechanisms:

- “Pre-clearing” marketing campaigns through copy advice to ensure they comply with statutory or self-regulation.
- Monitoring advertising and other forms of marketing to ensure compliance with statutory or self-regulation. In case of violation, the advertiser is requested to change or withdraw the campaign (self-regulation), or is subject to a penalty (self and statutory regulation) or legal action (statutory regulation, though can be the result of referral by an SRO).
- Accepting complaints from the public and industry on marketing campaigns (3, page 17), and if a violation is proved, taking the steps outlined above.

A further means of encouraging compliance i.e. litigation against the food and advertising industries, is outside the mandate of the regulatory agencies.

Monitoring

Pre-clearance and copy advice

It is rare for either statutory or self-regulatory agencies to require pre-clearance of advertising targeted at children, although there are exceptions (3, page 17). It is more common for SROs to offer a voluntary “copy advice” service. In both instances, it is very rare for the agency to release details of the pre-clearance or copy advice process.

One exception over the past two years has been the enforcement process implemented for the Spanish Self-Regulatory Code on Food Advertising to Children (see section 2.1.2). Autocontrol, the SRO responsible for enforcement, actually requires advertisements targeted at children between 17:00 and 21:00 to be pre-vetted to check they adhere to the code. In February 2006, Autocontrol released the results of its copy advice system for the first six months after the Code came into force. Of the 232 advertisements sent for pre-copy advice, Autocontrol recommended that 12.5% (31) were withdrawn and a further 19.8% (48) modified, while 67.6% (159) adhered to the self-regulatory code (192). The main reasons for recommending withdrawal or modification were that the advertisements used celebrities, portrayed the advertised food as secondary to another product or service, or gave the impression that consuming the food would increase acceptance by peers. Further to this, one advertisement already being broadcast was found to violate the self-regulatory code guidelines.

Code monitoring and violations

At the time of writing the 2004 Report (3), advertising self-regulation was under attack from NGOs for being weakly enforced. In the past two years, these arguments have become even more intense. “Voluntary approaches in the context of a highly competitive marketplace simply do not work” says a campaign document for the Children’s Food Bill in the United Kingdom (193, page 21). “Voluntary approaches lack targets”, says Sustain, “have no meaningful sanctions for non-compliance, and are rarely independently monitored”. Such arguments are also made about CARU in the United States. Despite the “97% compliance rate” cited by CARU (194), critics have documented cases over the past two years which they say illustrate that CARU allows advertisements clearly violating the guidelines (195, 196).

There are also reports that broadcasters are breaking statutory restrictions. In Austria, the Federal Communications Board accused a public broadcasting channel and several commercial channels of breaking the rules on the separation of content and advertising (47). A survey commissioned by Altroconsumo – an Italian NGO specialized in consumer protection – suggested that most of the major television channels in Italy are breaching the Media Law with regard to the maximum time allowed for advertising during children’s TV programmes (40). In Belgium, the Flemish Media Minister has stated that the “five minute rule” which limits advertising around children’s programmes is being “systematically circumvented” (24).

Such findings may be disputed by advertisers. For example, in 2005, the results of a monitoring exercise of the mandatory Australian Children’s Television Standards were published (197). Of food advertisements broadcast during children’s programmes (for children under 13 years of age), 31% were found to breach the Children’s Television Standards on the basis that they contained a premium offer more significant than the main product being advertised (article 20.1a of the Children’s Television Standards) (198). Yet the findings were disputed, and ACMA ruled against them following complaints by the food and advertising industries (K Mehta, personal communication, 2006).

These allegations of lack of compliance and the need for measurable outcomes have resulted in increased attention being paid to the issue of monitoring, although few results have actually been released. In Ireland, the BCI Code was subject to a comprehensive review after its first year of implementation. The amount of food and drink advertising to children was monitored, as were the level of compliance by broadcasters, the level of public complaints received and the level and nature of queries received from broadcasters/advertisers (199). It was found that in the year since the

Code's introduction, there was one breach of the diet and nutrition provisions in the 270 hours of programming monitored.

In terms of self-regulation, several SROs have promised to actively monitor the implementation of their food advertising code – in Belgium, for example, and as already described in Spain. As part of the EU Platform on Diet, Physical Activity and Health, the European Advertising Standards Alliance has monitored television advertisements for food and soft drinks in order to assess compliance levels with the ICC Framework (28). Television advertisements were monitored for a 3-month period (January–March 2006) in 14 countries (200).

There are also plans to evaluate the effect of restrictions of in-school marketing of foods of poor nutritional value. Researchers are undertaking such evaluations in the United States, and in Brazil an evaluation has begun of the effect of the new law restricting the sale of foods of low nutrient value in schools in the Federal District. The process will monitor the effects on the school authorities, the canteen operators, food sales, and dietary habits among students (J Giuberti Coutinho, personal communication, 2005).

Complaints

Although statistics on complaints about children's and/or food advertising are often unavailable from SROs and government authorities, more details have been published in the past two years. As described in Table 5, a sample of one region and five countries suggests that food advertising can be the cause of a relatively large number of complaints (most of which are not, however, upheld), whereas child-targeted advertising is not. Anecdotal evidence from complaints all over the world suggests that food advertisements are subject to complaints mainly because they mislead consumers about the nature of the product (201).

The low level of complaints about advertising to children is often cited by SROs as a sign that their systems are working. On the other hand, higher numbers of complaints can actually mean more awareness of the codes and the ability to complain (202). Whichever of these two views is correct, it has been stated that the complaints mechanism is "framed around the acute effects of deceptive and offensive advertisements, not the chronic effects of larger numbers of a panoply of types of promotions for less than healthy foods" (74). A review of complaints reported by SROs, statutory authorities and in legal briefings from all over the world showed that it is very rare for complaints to be made about food advertisements on the basis on nutrition and/or that they encourage unhealthy diets among children. A handful of such complaints are described in Table 6.

Legal Action

Legal action against food advertisers is rare – and just as rarely an accepted part of the compliance process. The Consumer Ombudsman systems in Finland and Sweden are exceptions. The recently published guidelines on Children and Foodstuffs Marketing in Finland analyse many of the cases brought to the Consumer Ombudsmen and the Market Court over past years (203). In one example from 2005, the Consumer Ombudsman ruled against an advertisement for fruit-flavoured curds which “consisted almost entirely of a presentation of the collector’s series that was offered as a free gift with the product”, because advertisements predominantly emphasizing a collector’s series that interest children are against the guidelines.

In Sweden, where advertising to children under the age of 12 years is banned (3, page 18), the Swedish Consumer Agency Ombudsman filed a complaint with the Market Court against an advertisement for a sweetened fruit-spread in 2005. The Ombudsman stated that the advertisement targeted children and encouraged pester power, and the product, despite not being nutritious, was portrayed as though it could be eaten every day. The advertiser contested the complaint, but the Market Ethical Court ruled in favour of the Ombudsman.

A second and much stronger form of legal action has also been emerging over the past two years: litigation against the food and advertising industries (in countries where class action lawsuits are legal). According to lawyers involved, the “ineffectiveness” of legislation makes litigation a “compelling public health strategy”, especially in the face of heavy industry lobbying. The lawyers say that “the goal of litigation can be to change public perception of an industry and ultimately to induce a change in industry practices” (204, page 85). Lawyers consider that consumer protection laws provide the best legal basis for lawsuits since they “permit cases to focus on deceptive advertisements while avoiding complicated causation issues” (204, page 82). In other words, they do not require proof that a particular action by the food industry caused obesity but instead unfairly caused the consumer to behave in a way that is detrimental to health.

Food companies have been sued for causing diet-related ill health in Brazil, Germany, and the Republic of Korea (205). In Brazil, at the time of writing the 2004 Report, a lawsuit against a major soft drinks company based on the Consumer Defense Code (1990) led to the judge ordering the company to place warnings on its drinks and advertisements that excessive consumption could damage health (3, page 8). The case has been under appeal ever since.

Most of the activity around litigation has taken place in the United States. At the time of writing the 2004 Report, a suit brought by two New York teenagers against a fast food company had recently been dismissed (3, page 8). But since then, the appeals court reversed the dismissal, stating that the plaintiff could continue with the case by providing more details about the allegedly deceptive advertising scheme and harm caused by the nutritional content of the company’s foods (206). The food company immediately requested a more detailed statement from the plaintiffs, and the case continues.

Several other lawsuits have also been developing in the United States over the past two years. As of April 2006, two had been filed in the state of Massachusetts (the state has one of the most plaintiff-friendly consumer-protection laws in the United States since plaintiffs do not have to demonstrate actual damage, only that a violation has occurred). In January 2006, two NGOs and two Massachusetts parents gave notice of intention to serve a lawsuit against a major broadcaster and a leading food company. The basis of the suit is that the accused companies “engage in acts and practices... that are both unfair and deceptive with respect to the marketing and sale of foods of poor nutritional quality to children under 8 years old” (207).

The case is being brought on behalf of all Massachusetts children under the age of 8 years who have seen an advertisement for a nutritionally-poor

food on the broadcast network, or a nutritionally-poor product advertised by the food company. It also seeks damages of US\$ 25 each time a child viewed an offending advertisement and every time a parent purchased the product advertised over a period of four years, which plaintiffs calculate reaches US\$ 2 billion.

Another lawsuit under preparation over the past two years against leading soft drinks companies was not filed (208). Lawyers who prepared the suit say their aim was to compel soft drinks companies to remove soft drinks vending machines from schools, the legal basis being that it is unfair to children to expose them to something that is attractive to them, but nevertheless dangerous. In 2006, the lawyers entered into negotiations with the companies (R Daynard, personal communication, 2006); a few months later, the companies announced a voluntary agreement to restrict the sale of full-calorie soft drinks in all public schools (see section 2.2.2) (209). The threat of the lawsuit has now been withdrawn.

The food industry has made significant efforts to prevent these lawsuits in the United States. In response to successful lobbying at the state level, as of April 2006, 23 states had passed laws to ban obesity lawsuits against food companies, and seven states had bills pending (210). Efforts at the federal level to outlaw lawsuits against food companies have thus far failed, although one bill is still pending.

ANALYSIS, POLICY OPTIONS AND RECOMMENDATIONS

Analysis

Regulatory action has taken place in marketing food to children in several key areas since the adoption of Resolution WHA57.17 on DPAS at the World Health Assembly in May 2004, and can be briefly summarized as follows (a full summary is provided in the Executive Summary). The changes are also summarised in Figure 1.

- **Development of self-regulatory codes by the advertising and food industries.** As shown in Figure 1, self-regulatory codes and clauses on food marketing to children have been developed or revised in ten countries. Eight of these countries are in Europe, one is in North America and one is in Australasia/Pacific. While not a particularly large number of countries, it nevertheless represents close to a 100% increase since April 2004.
 - **Slower development of statutory regulation by some governments, despite strong advocacy by public health and consumer groups for legal restrictions on the volume of food marketing experienced by children.** In a range of countries, bills have been tabled and executive orders drafted which would prohibit the advertising and marketing of energy-dense, nutrient-poor foods and drinks to children. Consultations on statutory regulations have been initiated and new approaches to statutory regulation developed, but between April 2004 and April 2006 only two countries developed statutory regulations specific to food marketing to children (and these have not yet been implemented in one of these countries), and one country revised existing guidelines (Figure 1).
 - **The focus of the regulatory activity has been on television advertising, but with more attention given to other marketing techniques compared to pre-2004, especially schools.** Drink industry groups in Europe and the United States have developed voluntary guidelines for soft drinks sales in schools. National industry groups – three thus far in Europe – are beginning to develop their own codes echoing these recommendations. As shown on Figure 1, government authorities also appear more willing to consider restricting food marketing in schools relative to other platforms.
 - **Overall, regulatory activity was concentrated in high-income countries, with relatively little in middle- and low-income countries, even though this is where advertising and promotional activities are growing faster and potentially have a greater impact.**
 - **More attention was paid to monitoring and enforcement of existing and new regulations, but it remains inadequate in terms of measuring the impact of regulations on the quantity and quality of food promotions experienced by children, and their impact on children's diets.**
-

Policy options

To counter marketing messages that encourage unhealthy dietary practices among children, the most fundamental policy choice is between statutory regulation, self-regulation, and a mixture of the two – co-regulation. Owing to a lack of monitoring, the evidence base on which to judge the choice between these forms of regulation is relatively small. Neither existing statutory restrictions or self-regulations, nor new regulatory developments over the past two years, have been evaluated in terms of their effects on dietary choices by children. The picture is even more confused by the different standards of evidence used by different groups to judge the efficacy of different forms of regulation. The standards of evidence used in the debates around the benefits and problems of different forms of regulations are as follows:

- **That advertising to children should and can be “responsible”**
Used by private industry to judge (positively) the option of self-regulation.
- **That neither advertising to children, nor statutory restriction of that advertising, has been proved to influence childhood obesity.**
Used by private industry to judge (negatively) the option of statutory restrictions (although they do not apply the same standard of evidence to self-regulation).
- **That food marketing influences food choice.** Used by consumer groups to judge (positively) the option of statutory restriction, on the basis that the increasing amount of marketing of foods high in fat, sugar and salt means that children's dietary practices are being negatively affected, and that legislation could reduce the amount of marketing experienced by children. This is supported by the results of the systematic reviews of the impact of food advertising on children.

The level of evidence demanded by private industry for statutory restrictions – that it needs to be shown that restricting advertising can affect obesity, rather than just food choice – is an unrealistically high level of evidence (the same would be the case if consumer groups demanded evidence that new self-regulatory codes affected obesity). To quote from Livingstone (211):

a vision of the ‘ideal experiment’ persistently leads research conducted in the field to be judged as flawed and inadequate, at times according to unrealistic standards of evidence, with the result that the two sides to the debate seem locked into an unproductive methodological argument (p.276)

However, governments do need a certain level of evidence on which to act; that level of evidence needs to be set.

To judge the type of evidence needed to support different forms of regulation, it is instructive to examine the aims and functioning of the different forms. Self-regulation exists to protect advertisers from external regulation, and promote trust by consumers in advertising, thereby facilitating the proliferation of advertising – a classic case of enlightened self-interest. Statutory regulation, on the other hand, is traditionally used, in this context, to force companies to change their behaviour outside their underlying self-interest. These different aims suggest the two forms of regulation play different roles (74):

- **Self-regulation:** Self-regulation has traditionally been used to control clearly deceptive and misleading food advertisements targeted at children i.e. to police the content of individual advertisements that children are likely to misunderstand, or those depicting (in words or graphics) potentially dangerous or harmful actions likely to be copied by children. For codes specific to food, self-regulatory guidelines are now being used to ensure food and food consumption is portrayed on marketing materials in a way that does not directly encourage excessive eating of the particular product. Thus, where self-regulation functions well, it can be used to control the most irresponsible advertisements. Self-regulation can achieve this relatively rapidly,

cheaply and more flexibly than statutory regulation, in part because it is amenable to industry compliance, given that it is developed, implemented and 'owned' by industry. To deliver this function, self-regulatory systems need a strong set of guidelines specific to food marketing which extend to all forms of marketing, a transparent system of monitoring and enforcement, and a strong system of copy advice that is accepted and used by marketers.

- **Statutory regulation:** While self-regulation can effectively assist responsible advertising to children, it does not address the amount and effectiveness of food marketing experienced by children. No self-regulatory system has in its mandate the control of the quantity, location, or emotional power of food promotion, nor the full spectrum of promotional techniques. It is not just individually misleading, deceptive or offensive marketing campaigns that are the cause for concern, but the cumulative effects of perfectly legal, truthful marketing campaigns, appearing in many forms, times and places. Thus self-regulation cannot prevent marketing that works. This is why regulations that actively restrict advertising are traditionally dealt with by statutory regulation. Statutory regulation has a different aim and function to self-regulation, and is more likely to have the effect of reducing the amount and effectiveness of food marketing experienced by children.

Within statutory regulation, there are a series of options available for governments to consider, many of which, as shown in this report, have been discussed or considered by key stakeholders over the past two years. These can be broadly characterized as follows:

- Regulations that aim to reduce the intensity of marketing of energy-dense, nutrient-poor foods clearly targeted at children. This category comprises regulations that limit food marketing to children in specific places (e.g. schools), at specific times (e.g. during children's television programmes) and by specific techniques (e.g. techniques widely used to target children, such as free gifts and collectables). This category of regulations also includes those that would reduce the incentives for the food and advertising industries to market food to children, such as a tax on advertising of energy-dense, nutrient-poor foods.
 - Regulations that aim to significantly reduce the quantity and effectiveness of marketing of energy-dense, nutrient-poor foods experienced by children in any place, at any time, and using any technique. This category comprises more comprehensive prohibitions i.e. prohibiting the marketing of energy-dense, nutrient-poor foods in general, or prohibiting the commercial marketing of any food and drink to children, or prohibiting all commercial promotion to children. The last two options are more comprehensive but are means of achieving the same goal.
-

Recommendations

Based on the findings of this report, it is recommended that the World Health Organization, national governments, private industry and consumer groups take the following actions:

World Health Organization

One of the major barriers to developing regulations that are effective in discouraging marketing messages that promote unhealthy dietary practices is a lack of clarity on the standard and level of evidence available to support the development of these regulations. National governments, particularly those in middle- and low-income countries, also lack guidance on possible actions, especially in the face of the global nature of food promotion. Recommendation **one** is therefore that the WHO issues “policy guidance” defining: the standards of evidence needed to support the development of regulations; the target criteria by which the impact of regulations should be evaluated; the policy options available to countries to choose from to reduce the quantity and effectiveness of food marketing that reaches children; the actions needed to address the transnational nature of promotional marketing, including reducing incentives to market food to children at the global level; and global monitoring and enforcement mechanisms.

Given the low level of activity in middle- and low-income countries, recommendation **two** is that the WHO works countries to build their capacity to understand the issue of food marketing to children and to develop regulatory approaches to address it.

National governments

Over the past two years, an increasing number of different options have been proposed, developed and implemented to address promotional activities that encourage unhealthy dietary practices among children (e.g. restricting product placement, nutritional messages on television screens, banning vending machines in schools, development of models which define unhealthy foods, taxing advertising, prohibiting data collection from children, redefining children’s programmes, prohibiting all marketing of energy-dense, nutrient-poor foods). As already noted, these regulations fall into one of two categories: those that would reduce the intensity of marketing clearly targeted at children; and those that would significantly reduce the quantity and effectiveness of marketing experienced by children. National governments thus have an increasing array of options to choose from to fit into different national political, economic, social and cultural environments. Recommendation **three** is that national governments reflect on these options and use them to inform the development of new or stronger statutory regulations on food marketing to children, accompanied, if necessary, by legislation providing a framework for self-regulation. Overall, a co-regulatory approach between statutory regulation (for controlling quantity and effectiveness) and self-regulation (for controlling quality and content and the use of specific techniques) is recommended.

For governments that have imposed some form of regulation, recommendation **four** is that they monitor the effects of these regulations and evaluate them using as the standard of evidence their impact on the dietary habits among children. Noting, again, the low level of capacity of low- and many middle-income countries, governments in high-income countries should note that their own regulatory choices are at times looked to for guidance by other countries; the decisions they make may well provide a gold standard for other countries to follow.

Private industry

Recommendation **five** is that the advertising and food industries continue developing self-regulatory codes to guide the quality and content of marketing campaigns that reach children, but with three differences: more activity in low- and middle-income countries; stronger monitoring to evaluate self-regulation in terms of its effects on dietary habits among children; and with copy-advice systems – preferably mandatory – that are actually used by industry when developing marketing campaigns targeted

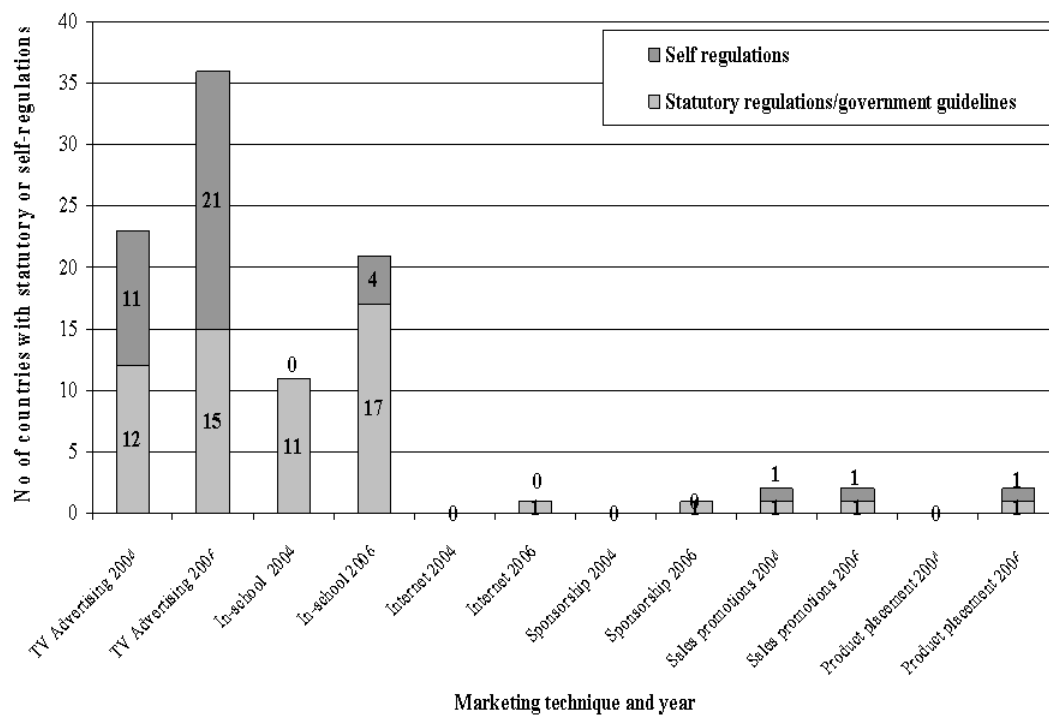
at children. Copy advice is a potentially powerful yet underused process which SROs could employ to ensure compliance and increase trust in the self-regulatory process (as suggested by the new self-regulatory code process developed in Spain). Recommendation **six** is that industry should continue to participate in dialogues with governments and civil society to build an effective co-regulatory approach; as part of that process, they should refrain from lobbying against the development of statutory regulation.

Consumer groups

Effective monitoring mechanisms are clearly needed to discourage violation of existing guidelines and to provide evidence on the impact of regulations on dietary habits. Recommendation **seven** is that consumer groups and other NGOs from all over the world form an advocacy and monitoring group. The level of consumer activity in parts of the world shows this is possible, and yet relatively little advancement has been made on this front over the past two years. This type of monitoring function is already recommended by the United Nations Guidelines on Consumer Protection. Recommendation **eight** is that to conduct this function, consumer groups should form a worldwide coalition; funding for this effort could come from regions/countries where concerns about food marketing to children are already high.

FIGURES, TEXT BOXES AND TABLES

Figure 1: Number of countries with statutory and self-regulations specific to food marketing to children – changes between April 2004 and April 2006



Box 1

Summary of the International Chamber of Commerce Framework for Responsible Food and Beverage Communications (taken from 8)

- Claims about nutrition and health benefits made in advertisements should be supportable with appropriate scientific evidence.
- Food and beverage advertisements should not encourage or condone excess consumption and portion sizes should be appropriate to the setting displayed.
- Advertising should not undermine the importance of healthy lifestyles, the promotion of healthy balanced diets, nor the importance of a healthy, active lifestyle.
- Advertisements should not mislead consumers as to the rate, size, nutrition content or health benefits of foods and beverages.
- In advertising directed at children, broadcast or print media personalities (live or animated) should not be used to sell products, premiums or services in a way that obscures the distinction between programme or editorial content and commercial promotion.
- Food and beverage advertisements directed towards children should not create a sense of urgency, or inappropriate price minimization.
- While using fantasy in advertisements, including animation, is appropriate in communication with younger as well as older children, care should be taken not to exploit a child's imagination in a way that could mislead him/her about the nutritional benefits of the product involved.
- Food and beverage advertisements should not mislead children or young people in terms of the benefits of consuming the product to status, popularity with peers, success in schools or sports, or intelligence.
- Food advertisements should not undermine the role of parents or other adults responsible for a child's welfare in guiding diet and lifestyle choices.
- Advertisements should not include any direct appeal to children to persuade their parents or other adults to buy advertised products for them.
- Sales promotion offers addressed to children should provide the conditions of the premium offer, sweepstake or contest being advertised.

Table 1

Examples of calls by consumer, health and education NGOs* for statutory restrictions on food marketing to children 2004–2006

Country/geographic region	Calls for statutory restrictions on food marketing to children
Asia-wide	In 2004, the Asia–Pacific Office of Consumers International released a report describing the extent of food advertising in five Asian countries; the report recommended that advertising to children under 12 years of age should be restricted, that the number of “junk food” advertisements should be reduced during children’s programming, and that health messages should be made mandatory for advertisements promoting junk food (121)
Australia	<p>In 2005, the Coalition on Food Advertising to Children reiterated its request that the Government restrict aggressive food marketing to children (212);</p> <p>In a position statement released in November 2005, the Australian Medical Association called for an immediate ban on all forms of food advertising to children, including sports sponsorship and the use of promotional toys; and a restriction on vending machines in schools to those only stocking bottled water (213)</p>
Canada	<p>In February 2006, the Chronic Disease Prevention Alliance of Canada (CDPAC) released a report “<i>Marketing and Advertising of Food and Beverages to Children</i>” in which they recommended some form of more stringent regulation of marketing to children (214);</p> <p>In January 2006, the Public Health Association of Quebec released a report on combating obesity in the Canadian province of Quebec, including a call to revise the regulation on advertising targeted at children (advertising to children under 13 years of age is currently banned); specifically, the group is calling for “implementing rules” to increase the effectiveness of the ban, such as tighter definitions of products and programmes intended for the children (215)</p>
Denmark	In 2005, the National Consumer Agency released research showing that the total number of food advertisements on television quadrupled between 1998 and 2004 during viewing times popular with children. One third of advertisements were for “unhealthy” foods. The Agency called for restrictions on food advertising to children
European Union	<p>In December 2005, BEUC, the European Consumers Organization made a speech “Parents Under Pressure”, in which it renewed its call for mandatory restrictions on promotion for foods high in fat, sugar or salt (11);</p> <p>A 2005 report from a European-wide project coordinated by the European Heart Network recommended that television advertising of “unhealthy” food to children should be prohibited through an amendment of the European Commission’s Television Without Frontiers Directive, and that additional regulatory measures are needed to protect children from all forms of “unhealthy” food marketing (12)</p>

Country/geographic region	Calls for statutory restrictions on food marketing to children
Fiji	In October 2005, the Fijian Teachers Association called on the Education Ministry to ban “junk food” in schools (216)
France	In July 2004, the largest French consumers' organization, Union Fédérale des Consommateurs (UFC-Que Choisir), issued a statement in which it called for a total ban on all TV advertising aimed at children; the organization is calling on the European Parliament to pass Europe-wide legislation restricting the advertising to children of foods of poor nutritional value (217)
Germany	In June 2005, DPhV, one of the largest teachers' organizations called on state governments to restrict advertising and sponsorship in schools, especially in light of the “unhealthy products” on offer (218)
India	In March 2005, the Consumer Education and Research Centre (CERC) recommended that the Ministry of Food Processing Industries should create an effective regulatory body on food safety and nutrition, and include provisions against false and misleading advertising in the proposed Food Safety and Standards Bill 2005 (219); in June 2005, CERC called on two state governments to restrict promotional activities in schools
Ireland	In November 2005, the Irish National Heart Alliance released a position paper on the “ <i>Marketing of Unhealthy Foods to Children</i> ” in which it called on the Broadcasting Commission Ireland to “prohibit television advertising of unhealthy foods to children” and to extend a “comprehensive set of protective measures... across all media...including through schools and the Internet” (220, page 4)
Italy	<p>In May 2005, the Italian Paediatricians Association called for restrictions on TV food advertising (221);</p> <p>In 2005, the Movimento per la Difesa del Cittadino (Coalition for the Defence of the Citizen), one of the most important consumers' associations in Italy, announced the imminent launch of a campaign called 'Stop allo Spot' to call for a ban on advertising – especially food advertising – during children's programmes (40);</p> <p>In 2005, the Observatory on the Image of Minors released a report concluding that too many television commercials in Italy advertise “junk food” and distort children's eating habits (222)</p>
Malaysia	In September 2005, the Consumers Association of Penang reiterated its call for a ban on vending machines selling sweetened soft drinks and high-fat snacks in schools (223)
Netherlands	In September 2004, the largest Dutch consumer association, Consumentenbond, launched a new campaign against “unhealthy” foods including restrictions on advertising to children (224)

Country/geographic region	Calls for statutory restrictions on food marketing to children
New Zealand	In April 2005, the NGO Fight the Obesity Epidemic (FOE) reiterated its call that the Advertising Standards Authority of New Zealand should prohibit marketing of all food products or beverages to children under 12 years of age, and the advertising of those products that fail to meet healthy food criteria to young persons aged 12–15 years (225)
Republic of Korea	The civic group Citizens' Movement for Environmental Justice, launched a campaign in 2005 against a major fast-food chain, saying, among other things, that they should restrict their marketing practices (70)
Russian Federation	In 2005, a major consumer group, the Confederation of Consumer Societies (KonfOP) called for greater responsibility among food manufacturers when they market to children, stating that “it is a lack of social responsibility on the part of manufacturers that allows them to advertise chocolate and sweets as ‘healthy’ products”(226)
Spain	<p>In February 2005, the Spanish Consumers and Users Association submitted to the Government a survey concluding that children watch at least 95 TV adverts every day and 45 of these adverts are for food products “largely responsible for children's unbalanced diets”. While 25% of adverts aired during a day are for food products, 48% of adverts during children's television programmes are for food, mainly high-fat, high-salt and high-sugar products. The Association is calling for a ban on television advertisements before, during and after programmes aimed at children less than 12 years of age (222);</p> <p>In March 2005, the largest Spanish consumer organization, CEACCU (Confederación Española de Organizaciones de Amas de Casa, Consumidores y Usuarios), called on the Government to ban commercials for fast food and high-calorie foods during children's television programmes (40)</p>
Sweden	In June 2004, the Swedish umbrella organization of consumer associations - Sveriges Konsumentråd - lobbied the Swedish candidates for the forthcoming European Parliament elections to promote the request for a EU-wide ban on TV advertising to children, based on the model of the existing Swedish ban (56)
Thailand	The Thai Health Promotion Foundation, ThaiHealth, a Government-funded but independent institution reporting directly to the cabinet and parliament, urged the Government to impose stricter rules on food marketing to children. In their 2005 Annual Report, ThaiHealth stated that “advertising of all food, but particularly television advertising, encourages children to eat unhealthy foods” and called on the Government to “introduce regulations preventing advertisers from encouraging excessive consumption” (131)

Country/geographic region	Calls for statutory restrictions on food marketing to children
United Kingdom	<p>In September 2004, the National Union of Teachers, the largest teachers' union, called for a ban on “junk food” advertising to children, stating “The Government needs to understand the overwhelming influence of rampant commercialisation. Obesity and poor nutrition affects learning”(227);</p> <p>In 2005, the British Medical Association released a policy statement calling for a ban on the advertising of unhealthy foodstuffs, including inappropriate sponsorship programmes, targeted at schoolchildren and that celebrities and children’s television characters should only endorse healthy products that meet nutritional criteria laid down by the FSA (228);</p> <p>In 2005, a coalition of British organizations, organized by the NGO Sustain: The Alliance for Better Food and Farming, called for legal restrictions on “unhealthy” food marketing to children on the basis that “voluntary approaches in the context of a highly competitive marketplace simply do not work” (193, page 21)</p>
United States	<p>Between 2004 and 2006, numerous consumer groups, such as Campaign For A Commercial-Free Childhood, the Center for Science in the Public Interest (CSPI) and Commercial Alert, reiterated their call for a ban on advertising “junk food” to children, as well as holding conferences and releasing publications;</p> <p>In 2004, CSPI released the results of a research study showing that “school vending undermines efforts to feed children”, and called on the relevant authorities to ensure that foods sold at schools are healthful and make a positive contribution to children’s diets (229)</p>

* In addition, to consumer groups, teachers organizations and health groups, Green Parties all over the world have adopted a consistent policy of calling for restrictions on food advertising to children. In April 2004, the New Zealand Green Party called for restrictions on advertising to children. The Portuguese Green Party announced that one of its top priorities for the new parliamentary year was the presentation of a bill to ban “unhealthy” food advertising to children on television. A French Green member of the European Parliament called on Member States to implement regulations on marketing food to children. In 2004 and 2005, the German Minister for Consumer Protection, Nutrition and Agriculture, a Green Party member, called for restrictions on advertising snacks and sweets on TV shows catering to young audiences. At a conference held in 2005 hosted by the Irish Green Party, the European Greens launched a new campaign themed “Join the Food Revolution” which includes a demand for an EU-wide ban on “junk food” advertising to children.

These examples have been compiled from a variety of sources used in this text as well as various Green Party internet sites. For more information on the policy initiatives, please go to the website at: <http://www.greens.org.nz/searchdocs/policy5341.html> (Green Party New Zealand) or http://www.greenparty.ie/en/policies/children_s_policy (Green Party Ireland).

Box 2

Confederation of the Food and Drink Industries of the EU (CIAA) – Principles of food and beverage product advertising*(15)

General principles in the context of food and beverage advertising

1. Copy, sound, and visual presentation of food products should accurately represent all material characteristics advertised – including size, and content, as well as nutrition and health benefits – and should not mislead consumers concerning any of those characteristics.
2. Nutrition and health benefit claims should have a sound scientific basis.
3. Food and beverage advertisements should not encourage or condone excess consumption and portion sizes should be appropriate to the setting portrayed.
4. Where a food or drink product is presented in the context of a meal, a reasonable variety of foods should be shown, to reflect generally-accepted good dietary practice.
5. Food and beverage advertisements should not undermine the promotion of healthy, balanced diets.
6. Food and beverage advertisements should not undermine the promotion of a healthy, active lifestyle.
7. Food products not intended to be substitutes for meals should not be represented as such.

Additional principles for food and beverage advertising to children

The same principles which are applicable to general advertising also apply to advertising directed to children. Advertising is a valuable source of information to them as well, but advertisers must take into account the abilities and judgment that children at various stages of development can be expected to bring to the understanding of communications.

1. Advertisements should not mislead about potential benefits from the consumption of a product.
2. Food product advertisements should not undermine the role of parents and other appropriate adult role models in providing valuable dietary guidance.
3. Advertisements should not include any direct appeal to children to persuade their parents or other adults to buy advertised products for them.
4. Advertisements directed toward children should not create a sense of urgency.
5. While fantasy, including animation, is appropriate in communication with younger as well as older children, care should be taken not to exploit a child's imagination in a way that can encourage poor dietary habits.
6. Products derived from or associated with TV program content primarily directed to children should not be advertised during or adjacent to that program.
7. Broadcast or print media personalities (live or animated) should not be used to sell products, premiums or services in a way that obscures the distinction between program or editorial content and commercial promotion. For example, commercials or advertisements featuring characters from programs or publications primarily directed to children's [sic] should not be adjacent to programs or articles in which the same personality or character appears.

* These principles were used as the basis for a new set of Principles of Food and Beverage Product Marketing Communications in October 2005, to cover forms of marketing other than advertising (see section 2.3.1). However, the two sets of principles are essentially the same.

Table 2
New and revised self-regulatory codes on advertising to children (including in schools), 2004–2006

Region/ Country	SRO/food industry organization	Date implemented	New and/or revised articles
Australia	Free TV Australia (formerly CTVA)	July 2004	Addition of article 6.23 to Commercial Television Code of Practice: Advertisements directed to children for food and/or beverages: should not encourage or promote an inactive lifestyle (6.23.1); encourage or promote unhealthy eating or drinking habits (6.23.2); [in addition to already existing article] must not contain any misleading or incorrect information about the nutritional value of the product (6.23.3)
	AANA	Not yet released	New Food and Beverage Marketing Communications Code will follow but also expand upon the ICC Framework
Belgium	Food Industry Federation of Belgium	May 2005	New Food Advertising Code– follows CIAA Principles
Canada	Advertising Standards Canada	April 2004	Interpretation Clause added to Code of Advertising Standards Food product advertising addressed to children which is inconsistent with the pertinent provisions of the Food and Drugs Act and Regulations, or the Canadian Food Inspection Agency's Guide to Food Labelling and Advertising, shall be deemed to violate Clause 12 (Advertising to Children). This Guideline is intended, among other purposes, to ensure that advertisements representing mealtimes clearly and adequately depict the role of the product within the framework of a balanced diet, and snack foods are clearly presented as such, not as substitutes for meals
Czech Republic	Rada Pro Reklamu	December 2005	New Code of Advertising Practice: - advertisement of food and non-alcoholic beverages should not undermine healthy and balanced diets; - public relations activities in schools should only take place after the approval by the school director; - articles on children following ICC Codes

Region/ Country	SRO/food industry organization	Date implemented	New and/or revised articles
Denmark	Danish Brewer's Association	May 2005	<p>New Code of Principles for Marketing and Labelling:</p> <ul style="list-style-type: none"> - when marketing soft drinks adverts will be presented in such a manner that they do not conflict with a healthy well-balanced diet and a healthy and active lifestyle; - when marketing soft drinks, the members of the Danish Brewers' Association will not encourage excessive consumption; - the members of the Danish Brewers' Association will not actively promote soft drinks in basic schools (pupils aged 6–16 years); - soft drinks vending machines will not be placed in primary schools; - members will not promote soft drinks in primary schools; - members support the principles of no advertising in classrooms and will therefore not sponsor school books etc; - members will not promote soft drinks directly towards children under 13 years of age; for instance adverts in the media or commercials on television will not be aired before or after programmes with children as the main target group
Pan - European	CIAA Union of European Beverages Associations	2004/2005 2005	<p>See Box 2 See Box 3</p>
Italy	Institute of Self- regulation	July 2004	<p>Revised Code of Italian Advertising Self-Regulation. New clause on food advertising to children was introduced (Article 11). Advertising must not induce children and adolescents to:</p> <ul style="list-style-type: none"> - diminish the role of parents and other educators in supplying healthy nutritional advice; - adopt poor eating habits or neglect the need for a healthy lifestyle

Region/ Country	SRO/food industry organization	Date implemented	New and/or revised articles
Netherlands	Dutch Food Industry Federation	June 2005	<p>New Food Advertising Code based on the CIAA Principles and ICC Framework, but also includes:</p> <ul style="list-style-type: none"> - A celebrity well-known to children is not allowed to actively commend a food product and/or related 'premiums' (free gifts) or services in radio and/or television advertisements specifically aimed at children. - An advertisement for a food product, which is associated with a certain television programme specifically intended for children, shall not be broadcast in the advertising blocks during and immediately after that programme. - Food advertising is not allowed in primary schools, except advertising supported by the Government. - At schools for secondary education no promotional activities shall be held which are intended only to motivate the students to excessively consume the commended foods. - At schools for secondary education only small packages of a food product shall be commended. - With respect to sponsorship the most recent version of "the schools for primary and secondary education and sponsorship covenant" applies
Portugal	Portuguese Advertisers Association	September 2005	<p>New Code of Good Practice in Commercial Communication to Minors. Includes one general article on food advertising (plus one on health claims):</p> <ul style="list-style-type: none"> - Food and beverage advertising should not encourage the excessive or compulsive consumption (article 20). - In schools, the distribution of samples is not allowed without supervision by teachers and approval of the school directors. <p>Also general articles in advertising to children in the cinema, via telephones and the Internet and in videogames</p>
Spain	Spanish Food and Drinks Federation	September 2005	<p>New Self-Regulatory Code on Food Advertising to Children with 25 detailed provisions based on the CIAA Principles and the ICC Framework, but also includes:</p> <ul style="list-style-type: none"> - ban on the use in food advertising of characters or personalities popular with children (articles 13.1 and 13.2), except for public health and educational campaigns (article 13.3);

Region/ Country	SRO/food industry organization	Date implemented	New and/or revised articles
			-ban on telepromotions (i.e. product placements in the form of specific promotions/endorsement of a product integrated into the fabric of a television show) for foods and drinks during programmes directed at children under 12 years of age (article 14)
United Kingdom	Food and Drink Federation	September 2004	<p>New Food and Health Manifesto of commitments include:</p> <ul style="list-style-type: none"> - Working with Ofcom and Government on further tightening of self- and co-regulatory codes and discussing with Ofcom and Government the whole range of concerns relating to advertising and promotion to children (as part of this they have recommended that self-regulatory codes include a more comprehensive section on food, including some restrictions in the use of celebrities). - Removing branding from vending machines in schools where this is requested by the school or local education authority

AANA, Australian Association of National Advertisers; ICC, International Chamber of Commerce; CIAA, Confederation of the Food and Drink Industries of the EU; SRO, self-regulatory organization.

Box 3

New guidelines on marketing to children from the soft drink industry trade groups in Europe and the United States, 2005 (17)

Union of European Beverages Associations (UNESDA-CISDA) commitments to the EU Platform for Action on Diet, Physical Activity and Health

In addition to the CIAA Guidelines, UNESDA-CISDA commits to:

Marketing and Promotions

- Not place any marketing communication in printed media, web sites or during broadcast programmes specifically aimed at children.
- Avoid any direct appeal to children to persuade parents or other adults to buy products for them or to do anything else that goes expressly against the wishes or authority of a parent, guardian or educator.
- Ensure that promotional activities (e.g. redemptions, under-the-cap offerings, text message/SMS contests, etc) offering prizes or rewards will avoid requiring consumers to drink excessive quantities of products in order to participate.

Primary Schools

- Not engage in any direct commercial activity in primary schools, unless otherwise requested by school authorities.

Secondary Schools

- - Ensure that in secondary schools, with the agreement and active participation of educators and parents, a full range of beverages (including water, juices and other beverages in both regular and low-calorie/calorie-free versions), is made available in appropriate container sizes that allow for portion control.
- - Respect the commercial-free character of schools by providing, where directly responsible for final distribution of products, unbranded vending machines, preferably including educational images and messages promoting balanced diets and healthy and active lifestyles.
- - Make third-party distributors aware of these commitments in such cases where we are not directly responsible for the final distribution of their products to schools.

American Beverage Association Beverage Industry School Vending Policy (158)

School districts and bottlers are encouraged to:

- Provide only bottled water and 100 percent juice to elementary school students.
- Provide nutritious and/or lower calorie beverages to middle-school students, such as bottled water, 100 percent juice, sports drinks, no-calorie soft drinks and low-calorie juice drinks. No full-calorie soft drinks or full-calorie juice drinks with five percent or less juice provided until after school hours.
- Provide a variety of beverage choices to high school students, such as bottled water, 100 percent juice, sports drinks and juice drinks. No more than 50 percent of the vending selections will be soft drinks.

CIAA, Confederation of the Food and Drink Industries of the EU

Table 3

New and revised statutory codes on advertising to children, 2004–2006

Region/ country	Statutory body	Date implemented	New and/or revised articles
Denmark	Danish Ministry of Culture	1 July 2006	Amendment of Danish Marketing Act - Marketing directed at children and young people must take special account of their natural credulity and lack of experience (previously, these rules were contained only in the Consumer Ombudsman's Guidelines)
European Union	European Commission	Draft Directive not yet implemented	Revision of Television Without Frontiers Directive (TVWFD) <i>On the basis that minors must be protected:</i> - Expansion of basic protection of minors as contained in the TVWFD to non-linear services (new Article 3c [replacement of old article 16]). - Interruption of children's programmes with advertising will be allowed for each 35 minutes of programming (revised Article 11). <i>On the basis of facilitating commercial communications in Europe, including the creation of a more level playing field between the ability to advertise on television and the Internet, and the need to create new revenue streams</i> - Legalization of product placement (i.e. advertising and teleshopping "inserted during programmes") (revised Article 10), but with the exception of audiovisual media services for children (revised Article 3h)
Finland	Consumer Agency and Ombudsman	October 2005	Guidelines on Children and Foodstuffs Marketing Among others, the document sets out the following guidelines: - food advertisements should not invoke parental responsibility, nor create the impression that buying a food will increase quality of life and social relations; - food advertisements should not contain violence to frighten children; - food marketing should always be recognizable for what it is: it should never be disguised within a programme; nor should cartoon characters be used to market food; this is particularly important to take account of when marketing on the Internet; - marketers should be cautious when packaging free gifts with food products: a free gift should not be the main thing that interests a child in an advertisement or a package; collector series promotions should not be used for foods targeted at children; - sweepstakes or similar competitions should not be used on food products targeted at children, nor on those that appeal to children

Region/ country	Statutory body	Date implemented	New and/or revised articles
Finland	Consumer Agency and Ombudsman	2004	<p>New Guidelines on Minors, Marketing and Purchases</p> <ul style="list-style-type: none"> - marketing aimed at minors is judged on a stricter basis than other marketing - an advertiser has social responsibility; the human dignity of minors must be respected - advertising that generally reaches minors can be judged on the same basis as advertising targeted at minors - the decision-making authority always lies with the parent for purchases that cost more than pocket money - advertising must be immediately recognizable as advertising - correct, truthful and adequate concrete information about products - no lotteries or competitions where participation is through purchasing a product - a giveaway may not be the main item in marketing - guardian's consent for children under 15 years old working as agents - the responsibility for marketing lies with everybody whose account it is implemented
France	Ministry of Health	Awaiting implementation	<p>Revised Public Health Law and new Social Security Financing Law</p> <p>All television advertising and other forms of marketing for processed foods and foods or drinks containing added fats, sweeteners and salt must be accompanied by a message on the principles of dietary education as approved by National Institute of Health Education; alternatively the advertiser must contribute a tax (1.5% of the annual expenditure on that advertisement) to the funding of nutritional information and education campaigns</p>
Ireland	Broadcasting Commission Ireland	1 January 2005	<p>New Children's Advertising Code section on Diet and Nutrition:</p> <p>7.1 Children's advertising shall be responsible in the manner in which food and drink are portrayed. It should not encourage an unhealthy lifestyle or unhealthy eating or drinking habits such as immoderate consumption, excessive or compulsive eating.</p> <p>7.2 Children's advertising representing mealtime should clearly and adequately depict the role of the product within the framework of a balanced diet.</p> <p>7.3 Children's advertising must not contain any misleading or incorrect information about the nutritional value of the product.</p> <p>7.4 All children's advertising for fast food products, outlets and/or brands must display an acoustic or visual message stating 'should be eaten in moderation and as part of a balanced diet'.</p> <p>7.5 Children's advertising shall not portray or refer to celebrities or sports stars to promote food</p>

Region/ country	Statutory body	Date implemented	New and/or revised articles
			or drink products, unless the advert is part of a public health or education campaign. 7.6 Children's advertising for confectionary products must display an acoustic or visual message stating 'snacking on sugary foods and drinks can damage teeth.'
Israel		2006	Amendment to Consumer Protection Act <i>[Waiting for translation]</i>
Italy		Implemented 2004 but repealed 2006	Radio and TV Law Prohibition of the use of children (under the age of 14 years) in television advertisements
Russian Federation		Signed March 2006	New law "On Advertising" In the final version, commercial breaks are allowed only twice in children's and educational programmes on television and on radio, before and after a programme, for one min each in 15–25 min programmes, for 1.5 min each in 25–40 min programmes and for 3 min each in programmes with a duration of 1 h and more. The bill is also reported to outlaw advertisements in textbooks, school diaries and copybooks.
United States	Federal Communications Commission	Seeking comments on proposal as of April 2006	See Box 4

Box 4

Proposed rules in the United States concerning television advertising to children, and proposed amendments, as of September 2004 (76, 229)

Digital channels must follow the same time restrictions as analogue television

The airing of web site addresses during shows or advertisements targeted at children on both traditional analogue or digital television is permissible only if:

- (i) the web site offers a substantial amount of bona fide programme-related or other non-commercial content;
- (ii) the web site is not primarily intended for commercial purposes, including either e-commerce or advertising;
- (iii) the web site's home page and other menu pages are clearly labelled to distinguish the non-commercial from the commercial sections;
- (iv) the page of the web site to which viewers are directed by the web site address is not used for e-commerce, advertising, or other commercial purposes (e.g. contains no links labelled "store" and no links to another page with commercial material).

This rule would include web sites that use characters from the programme to sell products or services (e.g. cartoon characters), and therefore effectively prevent programmes and networks from promoting their web sites, since they tend to contain commercialized content

Table 4State laws and regulations limiting the sale of competitive foods^a and drinks in the United States, as of February 2006 (230)

State	Law/ regulation ^b	Date
Alabama	Regulation approved by Board of Education prohibits sale of sweetened soft drinks in elementary schools, and limits sale of sweetened soft drinks to 30% and 50% in middle- and high-schools respectively	Passed July 2005; effective 2006–7 school year
Arizona	Sale of sweetened soft drinks and caffeine/energy drinks prohibited in elementary and middle schools; sales of sports drinks prohibited in elementary schools and limited to portion sizes less than 12 oz in middle schools	Passed January 2006; effective July 2006
Arkansas	Sales of competitive drinks prohibited in elementary schools; in middle and high schools, access to FMNV prohibited until 30 min after the last lunch period and 50% of all drinks on sale must be 100% juice, milk or water	For vending school contracts signed after August 2005
California	Sales of sweetened soft drinks prohibited at all times in elementary schools, and in middle- and high schools, from 30 min before to 30 min after the school day	Elementary/middle schools effective July 2004; high schools July 2007–July 2009
Colorado	Sales of competitive foods prohibited from 30 min before to 30 min after the school day, except for drinks from vending machines in senior high schools	NK
Connecticut	Availability of competitive foods prohibited from 30 min before to 30 min after the school day	NK
Florida	Sales of competitive foods are prohibited in elementary schools, and in secondary schools until one h after the last lunch period although sweetened soft drinks can be sold as long as 100% juices are also on sale	NK
Georgia	Sales of FMNV are prohibited in elementary schools, until the end of the last lunch period	NK
Hawaii	Sales of competitive foods prohibited in elementary and secondary schools, except drinks in vending machines, as long as water is also sold	NK
Illinois	Sales of competitive foods prohibited in elementary schools, during breakfast and lunch periods	NK
Kentucky	Sales of competitive foods prohibited in secondary schools until 30 min after the end of the last lunch period and in elementary schools until the end of the school day; competitive sweetened soft drinks must be sold in limited portion sizes depending on the school grade	New drink standards approved January 2006, effective February 2006
Louisiana	Sales of sweetened soft drinks is prohibited for grades K–8; for grades 9–12 all drinks can be sold beginning 10 min before the end of the last lunch period, but only 50% offered can be sweetened soft drinks	New contracts effective 2005–2006 onwards
Maine	Sales of FMNV (including sweetened soft drinks) prohibited in all schools at all times	Effective July 2005
Maryland	Sales of FMNV prohibited until the end of the last lunch period; all vending machines must have a mechanical timer device	Vending machine regulation effective August 2006

State	Law/ regulation ^b	Date
Mississippi	Sales of competitive foods prohibited for one h before breakfast or lunch until the end of the serving period	NK
Nebraska	Sales of competitive foods prohibited anywhere on the school grounds from 30 min before to 30 min after the breakfast/lunch periods	NK
Nevada	Availability of sweetened soft drinks prohibited in elementary and secondary schools	Approved July 2005; effective July 2006
New Jersey	Sales of FMNV prohibited until the end of the last lunch period; sales of sweetened soft drinks prohibited from elementary schools during the school day; in secondary schools, sweetened soft drinks limited to 40% of all offerings; portion sizes of sweetened soft drinks must be 12 oz or less	New drinks regulations approved June 2005, effective September 2007
New York	Sales of sweetened soft drinks and confectionary prohibited from the beginning of the school day until the end of the last scheduled meal period	NK
North Carolina	Sales of sweetened soft drinks prohibited in elementary schools; of regular sugared sweetened soft drinks in middle schools; in high schools, sweetened soft drinks limited to 50% of all offerings	Effective August 2005
Oklahoma	Sales of sweetened soft drinks prohibited in elementary schools at all times, and of regular sugared sweetened soft drinks in middle and junior high schools	Approved 2005, effective January 2006
South Carolina	Sales of sweetened soft drinks prohibited from elementary schools	Effective June 2005
Tennessee	Sales of sweetened soft drinks prohibited in pre-K through grade 8	Approved 2005, effective June 2007
Texas	Sales of FMNV prohibited in elementary schools during the school day and in middle school until after the end of the last lunch period, and in high schools during meal times in areas where food is consumed	NK
Virginia	Sales of FMNV prohibited between 06:00 h until the end of the breakfast period, and during the lunch period	NK
West Virginia	Sales of sweetened soft drinks prohibited in elementary, middle and junior high schools; in high schools, sweetened soft drinks limited to 50% of all offerings	Effective July 2005

^aCompetitive foods and drinks are foods and drinks offered at schools other than those offered by school meal programmes, including FMNV and all foods offered for individual sale, such as from vending machines, school stores, and snack bars (148).

^bAll state laws and regulations are in addition to federal laws; states not included in the table follow only federal laws
FMNV, foods of minimum nutritional value; NK, information not available at the time of writing

Box 5

International Chamber of Commerce (ICC) guidelines on marketing and advertising using electronic media (2004)(180)

Article 11: Advertising to children

Advertisers/marketers offering goods or services to children via electronic media should respect provisions on marketing and advertising to children in the ICC International Code of Advertising. Practice and other codes mentioned above [in previous articles in these guidelines] and in particular observe the following:

- not exploit the inexperience or credulity of children or strain their sense of loyalty towards their parents and guardians;
- refrain from using content which might result in harm to children;
- collect only the information reasonably required to allow the child to engage in the activity;
- encourage parents and/or guardians to participate in and/or supervise their children's interactive activities;
- encourage children to obtain their parent's and/or guardian's permission before they provide information via electronic media, and make reasonable efforts to ensure that parental consent is given;
- refrain from using the data collected from children to advertise and promote products or services other than those designed for/appropriate for children;
- not collect from children data related to the financial situation or to the privacy of other members of the family;
- only disclose identifiable personal information of children to third parties after obtaining parental consent or where authorized by law. Third parties do not include agents or others who provide support for operational purposes of the web site and who do not use or disclose a child's personal information for any other purpose.

Advertisers/marketers are encouraged to make available information to parents and/or guardians about ways to protect their children's privacy when using electronic media.

Table 5
Examples of complaints statistics

Country/region	Self-regulatory/government agency	Data on complaints
Australia	Advertising Standards Bureau	Complaints are dealt with by the Advertising Standards Bureau, which oversees the self-regulatory Australian Association of National Advertisers Code. Between 2001 and 2004, food was the category of advertisements consistently found to have the largest or second largest number of consumer complaints, although the proportion declined from 22.3% in 2001 to 15.4% in 2004 (231). Health/safety was the subject of a relatively small proportion of all complaints in 2004 (5.8%), reflecting a marked decline from 20.2% in 2001.
Canada	Advertising Standards Canada	Food advertisements are typically one of the largest categories of complaint. In 2004, out of a total of 1540 complaints, 186 were about food advertising, of which 6 were upheld (232). In 2005, out of a total of 1271 complaints, 135 were about food advertising (232). Advertising Standards Canada notes that the number of complaints about children's advertising is very low: according to their complaints monitoring statistics, between 2002 and 2006, no complaints about broadcast advertising to children were received, and only one complaint about a child-directed non-broadcast advertisement (75) was recorded.
Europe-wide	European Advertising Standards Alliance	The European Standards Alliance regularly compiles complaints statistics on advertising in Europe. The number of complaints concerning advertising and children increased significantly between 1998 and 2003, but remains relatively low at a total of 2% of all complaints submitted to European Standards Alliance members in 18 European countries (742 complaints). The specific issue of targeting children accounted for only 46 complaints (0.001% of total complaints) (28). The number of complaints about food advertising in these countries dropped between 2002 and 2003, from 3.9% to 2.5%, mainly due to reductions in Germany and the United Kingdom, where complaints almost halved.
India	Advertising Standards Council of India	During 2004–2005, the Consumer Complaints Council upheld 66% of the 157 complaints received, and over 72% of Advertising Standards Council's rulings were complied with (GI Pereira, pers comm., 2006).
South Africa	Advertising Standards Authority	The most recent complaints report is for 2003 when the total number of complaints was 1660. Food advertisements were the highest category of complaint (11% of all complaints), and children and young people the third largest cause for complaint (after misleading and offensive advertising) (202).
United Kingdom	Advertising Standards Authority (ASA)	The number of complaints about food advertising has varied over the years. Food is often one of the largest categories of complaint, but recent trends have been downward: 292 in 2004 compared with 489 in 2003 (233). Complaints are almost exclusively about false claims. The ASA points out that it receives relatively few complaints about food advertising to children in new media.

Table 6

Consumer complaints about advertising encouraging unhealthy dietary practices from around the world, 2004–2006

Country	Type of regulation (name of agency)	Advertisement	Complaint	Basis	Determination (date)
Australia	Self-regulation (Advertising Standards Bureau)	Shows children aged 9–13 drinking a cordial brand with a tagline that it makes drinking water (as positive for health) “fun” (234)	Misleading that cordial is a healthy way to provide children with water	AANA code states that advertisements should not encourage unhealthy habits	Dismissed (13 December 2005)
Brazil	Self-regulation (Brazilian Self-Regulation Advertising Council)	A new flavour of a famous bubble gum is advertised as having a fruit salad flavour (235)	Children could be induced to chewing a fruit salad bubble gum instead of eating a real fruit salad	Brazilian Advertising Self-Regulation Code	Complaint upheld (December 2004); advertisement suspended due to the bills in progress intending to establish food publicity restrictions
Hungary	Statutory regulation (Competition Council of the Competition Authority)	Case 1 describes a chocolate bar as having favourable properties compared with candy, asking “which one would you choose?” (236) Case 2 concerns the packaging of a chocolate carrying the statement “most suitable product for children”(237)	Case 1: portraying chocolate as a healthy product is misleading Case 2: misleading statement	Act on Business Advertising Activity	Case 1: complaint upheld; advertiser was fined (January 2004) Case 2: complaint upheld; advertiser was fined (June 2004)
New Zealand	Self-regulation (Advertising Standards Authority)	Case 1 shows a 500 g chocolate “snow bunny” and a toddler (238)	Case 1: medically and nutritionally unsafe to encourage excessive consumption of chocolate by toddlers	Code of Advertising of Food	Case 1: complaint upheld (April 2004) on the basis that the advertisement was in breach of the requirement of social responsibility and that it encouraged excessive consumption

Country	Type of regulation (name of agency)	Advertisement	Complaint	Basis	Determination (date)
New Zealand		Case 2: fruit-flavoured lollipops said to provide glucose - "one of the best sources of energy for the brain" (239)	Case 2: misleading that there are nutritional properties in lollipop		Case 2: complaint upheld (June 2004) on the basis that the lollipop was promoted as a food rather than a treat, which is socially irresponsible
South Africa	Self-regulation (Advertising Standards Association)	Major cereal brand claimed that the advertised cereal was a "healthy part of a balanced breakfast" (240)	Misleading to say it is healthy given high sugar and low fibre content, and that advert omitted to say it was high in sugar (from competitor)	Contravenes Foodstuffs, Cosmetics and Disinfectants Acts (law)	Partially upheld (5 January 2004) on the basis that the word "healthy" is not allowed by law; omission of statement of sugar rejected on basis that customer could read the nutrition label
United Kingdom	Self-regulation (Advertising Standards Authority)	Boys dribbling a football are coached by a cartoon character carrying a packet of breakfast cereal, and a voiceover states: "Train hard, eat right..." (241)	The claim "eat right" in an advertisement showing children playing football misleadingly implies that the cereal is healthy	The British Code of Advertising, Sales Promotion and Direct Marketing	Complaint upheld (October 2004); advertisement had to be withdrawn. The Authority concluded it was misleading to imply that a high-sugar cereal was healthy
United States	Self-regulation (Children's Advertising Review Unit, CARU)	Case 1 shows packaging of fruit snacks with pictures of fruits and statements such as "Fruit Snacks", "Made with Real Fruit Juice" and "100% DV VITAMIN C" (242) Case 2 shows children playing soccer, with the claim that a sports drink "hydrates better than water" (243)	Case 1: the packaging may mislead children to think that these products mainly contain fruit and are nutritionally equivalent to fruit Case 2: claims directed to children must be substantiated	CARU's Self-Regulatory Guidelines for Children's Advertising	Case 1: case closed (May 2005). The company changed practice while the complaint was being filed and assured CARU it would improve its practice Case 2: case closed (September 2005). Claim found to be substantiated, based on a study from the University of Georgia and hydration recommendations from professional organizations

Country	Type of regulation (name of agency)	Advertisement	Complaint	Basis	Determination (date)
United States		<p>Case 3 shows boys eating big portions of cereal outside a meal setting, pointing out the chocolate-like taste (244)</p> <p>Case 4 shows children having lunch, eating only a chicken-based product (245)</p>	<p>Case 3: depiction of an overly large serving size is misleading and may encourage excessive consumption; cereal portrayed as a snack; cereal's logo mixed with a chocolate's logo</p> <p>Case 4: misleading that a chicken product alone constitutes a balanced meal</p>		<p>Case 3: case closed (November 2005). Company took the commercial off the air and assured CARU of improved practice in future advertising of snacks and breakfast foods to children</p> <p>Case 4: case closed (November 2005). Advertiser in part disagreed with CARU's complaint but nevertheless would take CARU's concerns into account in future advertising to children</p>

AANA, Australian Association of National Advertisers; CARU, Children's Advertising Review Unit.

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