

Overview of implementation of statutory and self-regulatory codes in the area of marketing foods and beverages to children in European Union Member States



Abstract

The World Health Organization Regional Office for Europe and the Directorate-General for Health and Consumers of the European Commission have established a joint three-year project to monitor progress in improving nutrition and physical activity and preventing obesity in the European Union (EU). The aim of this overview is to summarize recent developments in implementing statutory and self-regulatory codes in the area of marketing foods and beverages to children in the 27 EU Member States. Further, it is to support the exchange of experiences on policy development and action in this increasingly important area of public health.

Keywords:

MARKETING – legislation and jurisprudence

FOOD

BEVERAGES

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List of abbreviations

The following abbreviations are used in this report.

AVMS	Audiovisual Media Services
DG SANCO	Directorate-General for Health and Consumers (EC)
EC	European Commission
EU	European Union
HFSS	high in fat, sugar or salt
JEP	<i>Le Jury d’Ethique Publicitaire</i> (Jury for Ethical Concerns regarding Advertising)
NCD	noncommunicable diseases
PolMark	Policy options for marketing food and beverages to children
TWF	Television without Frontiers
WHA	World Health Assembly
WHO	World Health Organization

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Introduction

Marketing of foods and non-alcoholic beverages to children is a major issue in the WHO European Region. Some countries have introduced statutory regulations that ban advertising and other countries have implemented non-statutory guidelines and self-regulation that impose some limitations. Policy tools range from legislation to public–private partnerships, with particular importance attached to regulatory measures. According to WHO (1), specific regulatory measures could comprise the adoption of regulations to substantially reduce



the extent and impact of commercial promotion of energy-dense foods and beverages, particularly to children, together with the development of international approaches such as a code on marketing to children in this area. A package of essential preventive actions should be promoted as key measures; countries may further prioritize interventions from this package, depending on their national circumstances and the level of policy development.

The aim of this overview is to provide an update concerning policy development and the implementation of statutory and self-regulatory codes in the area of marketing foods and non-alcoholic beverages to children in the 27 EU Member States. It is intended to support the exchange of experiences on policy development and action in this increasingly important area of public health.

WHO policy background

Several WHO documents have highlighted the need for action in the area of marketing of food to children, including the 2004 Global Strategy on Diet, Physical Activity and Health (2); the European Charter on Counteracting Obesity (November 2006) that lists guiding principles for action in the WHO European Region (3); World Health Assembly resolution WHA60.23 on the prevention and control of noncommunicable diseases (NCD): implementation of the Global Strategy (May 2007) (4); and the WHO European Action Plan for Food and Nutrition Policy 2007-2012 (September 2007) (5) that translated the principles and framework provided by the European Charter (3) into specific action packages and monitoring mechanisms. In particular, action area 3 of the Action Plan focuses on marketing to children by asking for comprehensive information and education to consumers, with action points to ensure adequate control of the marketing of foods and beverages to children and the establishment of independent monitoring and enforcement mechanisms.

As part of the implementation of the Global Strategy on Diet, Physical Activity and Health (2) and in preparation for the WHO European Region Ministerial Conference on Counteracting Obesity (6), WHO organized a forum and technical meeting on the marketing of food and non-alcoholic beverages to children in May 2006 in Norway (7). The objectives of the forum were: to review the current state of knowledge regarding the influence of marketing, including advertising, of foods and non-alcoholic beverages on children's dietary choices; to discuss the implications of this influence on children's nutritional status; and to review national experiences and actions taken by various stakeholders to address the issue.

Resolution WHA60.23 (4), requests WHO:

to promote initiatives aimed at implementing the global strategy with the purpose of increasing availability of healthy food, and promoting healthy diets and healthy eating habits, and to promote responsible marketing including the development of a set of recommendations on marketing of foods and non-alcoholic beverages to children, in order to reduce the impact of foods high in saturated fats, *trans*-fatty



acids, free sugars, or salt, in dialogue with all relevant stakeholders, including private-sector parties, while ensuring avoidance of potential conflict of interest.

Set of recommendations on the marketing of foods and non-alcoholic beverages to children

In August 2009, WHO began the process of developing a set of recommendations on the marketing of foods and non-alcoholic beverages to children, in accordance with resolution WHA60.23 (4). An Ad-Hoc Expert Group on Marketing of Foods and Non-alcoholic Beverages to Children was appointed by the Director-General to support WHO in drafting the recommendations. The Expert Group was requested to provide technical advice to WHO in three core areas:

- policy objectives: what Member States should aim for in their policies on the marketing of foods and non-alcoholic beverages to children;
- policy options: what evidence-based or currently applied policy options are available on the marketing of foods and non-alcoholic beverages to children; and
- monitoring and evaluation: the possibilities and the mechanisms required to monitor and evaluate recommended policy options.

Two dialogues were held in response to resolution WHA60.23 (4): one with civil society (8) and one with private stakeholders (9). These enabled participants to inform the WHO secretariat of relevant work being undertaken by their organizations in the area of marketing of foods and non-alcoholic beverages to children. Reports of these dialogues were presented by the secretariat to the Expert Group meeting. This Group also reviewed the results of an update of the systematic review (10) of the literature commissioned by WHO in 2006 as well as other background documents (11) provided by the secretariat.

WHO developed a working paper for regional consultations with Member States, which included a synthesis of the evidence (12) and specific questions for discussion. The aim was to obtain input on the policy objectives, policy options and monitoring and evaluation mechanisms presented in the working paper.

The regional consultations resulted in the adoption of a set of recommendations on the marketing of foods and non-alcoholic beverages to children through resolution WHA63.14 in May 2010 at the Sixty-third World Health Assembly (13). The main purpose of the recommendations is to guide efforts by Member States in designing new and/or strengthening existing policies on food marketing communications to children in order to reduce the impact on children of marketing of foods high in fat, sugar or salt (HFSS).

Action Plan for implementation of the European Strategy for the Prevention and Control of Noncommunicable Diseases

In 2010, the WHO Regional Office for Europe started the preparation and consultation



process for the development of an NCD Action Plan, which is planned to be discussed by the WHO Regional Committee for Europe in September 2011. A regional high-level consultation hosted by the Norwegian Government and co-sponsored by the United Nations Department of Economic and Social Affairs and WHO brought together government officials from across the European Region in Oslo on 25–26 November 2010. The consultation enabled all Member States in the Region to discuss and provide input to the preparations for the 2011 high-level meeting at the United Nations General Assembly in September 2011, serving as preparation for the session of the Regional Committee planned to be held in Baku in September 2011. The NCD Action Plan will serve as the mechanism for implementing the WHO European Strategy for the Prevention and Control of NCD (14). The priority interventions identified in the draft of the NCD Action Plan have a multisectoral element, including priority interventions on fiscal policies, marketing controls, salt reduction and the replacement of *trans*-fatty acids in processed food with polyunsaturated fats.

EU policy background

EU Audiovisual Media Services Directive

The “Television without Frontiers” (TWF) Directive 97/36/EC (first adopted in 1989 and revised in 1997) established the legal framework for television broadcasting activities in the EU (15). Through the TWF Directive, the EU aimed to create the conditions necessary for unrestricted broadcasting across its Member States. From a public health perspective, the revision of the advertising framework has an impact on the regulation of advertising of unhealthy foods, cigarettes and tobacco products, alcohol, and medicinal products and treatments.

On 13 December 2005, the EC adopted the legislative proposal for the revision of the TWF Directive (15). The revision aimed to take account of technological developments and changes in the structure of the audiovisual market, and resulted in a new Directive on Audiovisual Media Services (AVMS) (16). The AVMS Directive entered into force on 19 December 2007 and had to be transposed in national law by the end of 2009 (2007/65/EC). In article 3e (2), the Directive requires Member States and the Commission to “encourage media service providers to develop codes of conduct regarding inappropriate audiovisual commercial communications, accompanying or included in children’s programmes, of foods and beverages containing nutrients and substances with a nutritional or physiological effect, in particular those such as fat, *trans*-fatty acids, salt/sodium and sugars, excessive intakes of which in the overall diet are not recommended” (16).

EU Regulation on Nutrition and Health Claims

Within the framework of Regulation 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods (17), the EC decided to adopt nutrient profiles. Nutrient profiles are established considering, inter alia, the quantities of nutrients and other substances such as fats, saturated fatty acids, *trans*-fatty acids, sugars and salt/sodium that a food product contains as well as the role of the latter



and its contribution to the diet of the general population or certain at-risk groups, including children. They provide the conditions under which health and nutrition claims may be made. The aim is to avert situations whereby nutrition or health claims mask the nutritional status of a food product, and to avoid misleading claims that are not scientifically founded. Moreover, the Regulation stipulates that health claims referring to children's development and health may only be used if they have been authorized in accordance with a procedure detailed in the Regulation (17).

EU White Paper: A Strategy for Europe on Nutrition, Overweight and Obesity related health issues

The White Paper on a Strategy for Europe on nutrition-, overweight- and obesity-related health issues (18) recommends the implementation of specific action areas to tackle overweight and obesity, and also mentions how the different stakeholders such as the food industry and civil society organizations can contribute to this. In the White Paper, the Commission recommends keeping "the existing voluntary approach at EU level due to the fact that it can potentially act quickly and effectively to tackle rising overweight and obesity rates". The Commission will also "assess this approach and the various measures taken by industry, in 2010 and determine whether other approaches are also required". The monitoring and progress report (19) was released in December 2010 in order to identify the efforts made in the area addressed by the White Paper.

This progress report concluded that, since the adoption of the Strategy, there has been a great deal of activity at EU level among Member States and by stakeholders. The High Level Group on Nutrition and Physical Activity and the EU Platform for Action on Diet, Physical Activity and Health have become the central structures for the implementation of the Strategy and are generating action and dialogue on and broader involvement in nutrition issues. The level of implementation assessed shows substantial variation both between policy areas and Member States. The encouragement of codes of conduct in the area of advertising of HFSS foods to children is work in progress.

EU Platform for Action on Diet, Physical Activity and Health

Under the name of "EU Pledge" (20), which is a commitment to the EU Platform for Action on Diet, Physical Activity and Health, a number of companies have taken a voluntary initiative to change their advertising of products to children below the age of 12 years. The EU pledge entails no advertising of products to children younger than 12 years, except for products that fulfil specific nutrition criteria based on accepted scientific evidence and/or applicable national and international dietary guidelines.

Example of an EU project in the area of marketing: PolMark

The PolMark (POLicy options for MARKeting food and beverages to children) project was funded by the European Commission's Public Health Programme and aimed to improve



understanding of the influences on children's dietary choices and to contribute to improving the nutritional status of children in Europe, thus counteracting the challenge of obesity and NCD. The project consisted of three work packages contributing to the objectives. The first was to update the "state of the art" review of current controls and regulations on marketing to children in all EU Member States last undertaken by WHO in 2005-2006 (21). The second work package identified over 100 key stakeholders concerned with children's health and with food and beverage production and promotion (at least 10 stakeholders in each of the 11 Member States participating in the project) and undertook interviews to assess these stakeholders' views and the likely opportunities and barriers to developing policies in this area (22). The third work package utilized the interview material to undertake further assessment of the health impact of food promotion according to the stakeholders' judgements, and to map the quantified health impact data in relation to the stakeholders' positions (23).

European Member States Action Network on reducing marketing pressure on children

The establishment of an Action Network of the WHO European Member States on reducing marketing pressure on children reflects the interest of several countries in following up the recommendations for action set out in WHO policy frameworks and supports the implementation of the WHO European Action Plan for Food and Nutrition Policy 2007-2012 (5). This Action Network consists of countries in the WHO European Region that would like to work together to find ways to reduce the marketing pressure on children of energy-dense, micronutrient-poor foods and beverages. Taking part in the network does not imply any particular policy preference with regard to any particular kind of regulatory approach.

The Network was established in January 2008 when the first meeting of the network was organized in Oslo (24) and the Network secretariat is led by Norway. Until November 2010, the Network consisted of 15 EU countries (Belgium, Bulgaria, Cyprus, Denmark, Finland, France, Greece, Ireland, Latvia, the Netherlands, Poland, Portugal, Slovenia, Sweden and the United Kingdom) and 4 non-EU countries (Israel, Montenegro, Norway and Serbia).

Two working groups were established at the first Network meeting. Working group 1 looks at ways in which marketing regulation may be carried out in practice: the content of regulations and the aims of and various approaches to regulation. Working group 2 is taking a closer look at monitoring systems. This has entailed assessing various ways of monitoring marketing, in terms both of policies and regulations and of exposure and content.

Representatives of WHO, the EC, the United Nations Standing Committee on Nutrition, the Food and Agriculture Organization of the United Nations, the International Obesity Task Force and Consumers International can attend the network meetings as observers.

The objectives of the Network for 2010-2012 are to:

- constitute a coalition of committed countries that can identify and demonstrate specific actions to protect children against pressures from marketing;
- share and discuss experiences in work relating to the regulation of food and beverage marketing to children;
- discuss approaches to controlling the marketing of food and non-alcoholic beverages to children, such as statutory regulation, self-regulation, voluntary measures and co-regulation;
- develop tools and share experiences to support the monitoring of food and beverage marketing to children;
- discuss and provide advice on the use of systems of categorizing foods as a tool for controlling the marketing of food and beverages;
- follow up and identify how WHO recommendations and the code prepared by the Network can be used to support countries in their work to protect children from food and beverage marketing; and
- report to the World Health Assembly and WHO Regional Committee for Europe.

Country overview

In May 2007, as a follow-up to the 2006 WHO European Ministerial Conference on Counteracting Obesity (6), a questionnaire was sent by the Regional Office to the Nutrition Counterparts in the 53 WHO European Member States. The first part of the questionnaire concerned actions that countries may have undertaken to tackle overweight and obesity, while the second part asked Member States to provide a qualitative assessment of the level of implementation of each action (clearly stated, partly implemented or enforced; clearly stated, entirely implemented and enforced; or nonexistent but planned within the next two years). A total of 33 countries completed the questionnaire. With regard to the action on “regulations on marketing of unhealthy foods and non-alcoholic beverages to children”, which was included in the questionnaire, this review focuses in specific on regulations with regard to the advertising of food and beverages directed to children.

As part of the joint WHO/EC monitoring project, the 27 National Information Focal Points, WHO Nutrition Counterparts and other country informants completed two country reporting templates and were requested to provide information on policy development and implementation of statutory and self-regulatory codes in the area of marketing foods and non-alcoholic beverages to children.

The outcome of this reporting exercise was updated with the outcomes of the EU-funded PolMark project and the WHO European regional consultation for the preparation of the set of recommendations on the marketing of foods and non-alcoholic beverages to children. A draft of this review was presented at the meeting of WHO Nutrition Counterparts of the WHO European Region and the project’s National Information Focal Points in Geneva on 24–26



March 2010. The country delegates were asked to go through their countries' overview, make alterations and provide any information that had not so far been included.

An overview is given below on existing policy initiatives that are taking or have taken place in each of the 27 EU Member States, based on the information identified up to November 2010. In summary, 15 countries have adopted a code of conduct (self-regulation) with regard to food advertising restrictions on television, one (United Kingdom) has co-regulation and two (Spain and Sweden) have statutory regulations banning television advertising of HFSS foods to children at specific times.

Austria

The first Austrian report on obesity published in 2006 (25) mentioned measures being taken on marketing and advertising by working with the private sector. Based on the national implementation of the AVMS Directive 2007/65/EC (16) at the end of 2009, the Austrian Government and national television companies reached agreement on a code of conduct concerning the marketing of foods to children (26). This self-regulatory mechanism has been in operation since February 2010.

Belgium

The National Plan on Nutrition and Health covering the period 2005–2010 was launched in April 2006 (27). It is intended that advertising should be in line with the principles of the Plan, and an ethical code of conduct for marketing developed by the food industry will be thoroughly and objectively evaluated. The White Paper for Belgium on the advertising of food and non-alcoholic beverages to children (28) (covering the exposure of children to marketing and the conducting of social marketing), developed within the framework of the National Plan, has been partly implemented by the self-regulatory code on advertising, set up in 2005 by the National Food and Drink Industry Federation and the Union of Belgian Advertisers (29). The code applies to all advertising for food and drinks in Belgium. This has been done in line with Le Jury d'Ethique Publicitaire (JEP) (30). JEP was set up in 1974 by the Belgian Advertising Council and its mission is to verify the compliance of advertising with the rules as laid down in the advertising codes and legislation. In 2008, JEP set up an appeal body to deal with complaints. JEP comprises representatives of various stakeholders such as industry and civil society and also collaborates with public advisory and regulatory bodies such as the Audiovisual Media Council, the Council of Youth, Sport and Media, the Consumers' Council and the Federal Ministry of Public Health. JEP is the officially appointed body for all ethical issues with regards to advertising.

In 2008, the Flemish Government and Parliament approved a code of conduct for advertising on television and radio directed to children (31). Advertising should be clearly aimed at certain age groups (under 12 and under 16 years). The promotion of an excessive use of HFSS foods is not allowed. The Flemish Regulator for the Media (32) monitors compliance with the code and handles complaints.



Bulgaria

A multisectoral working group was established to develop the National Food and Nutrition Action Plan 2005-2010 (33) covering the three strategic areas of nutrition, food safety and food security. The Plan aims at a multisectoral approach involving the private sector and nongovernmental organizations, and includes activities addressing people of low socioeconomic status. Further activities that address overweight and obesity comprise the development of new standards for the marketing of foods.

As of 2010, the implementation of the Action Plan is at the stage of preparing a panel discussion with stakeholders (institutions, producers, traders, nongovernmental organizations and the media) on initiation of national measures to reduce the advertising of “unhealthy” foods and beverages to children.

Cyprus

A second National Nutrition Plan was adopted in 2007 involving specific actions to address marketing pressure on children, but no further specific details have been reported on the implementation of statutory or self-regulatory codes in this area.

Czech Republic

In 2004, the Minister of Health established the National Council for Obesity as a specialist advisory body to the Ministry of Health. The basic task of the Council was the design of a National Action Plan against Obesity, which is based on the WHO’s Global Strategy on Diet, Physical Activity and Health (2). The members of the Council are representatives of various ministries (Health, Agriculture, Interior, Education, Youth and Physical Education, and Regional Development), specialist institutions, health insurance companies, non-profit organizations and universities whose work is related to the tasks set out in the proposed Action Plan. Within the framework of the Council, working groups have been formed on nutrition and foodstuffs, community programmes and education, child obesity, and treatment of obesity.

In 2008, the Czech Advertising Standards Council launched a self-regulatory Code of Advertising Practice (34) to address all entities active in the field of advertising in the Czech Republic.

Denmark

Since 2006, Denmark has had statutory regulation through the Marketing Practices Consolidation Act (35) and the guidelines from the Danish Consumer Ombudsman (36). As a supplement to the statutory regulation, a number of stakeholders from the food industry, advertising, the media and retailers’ organizations launched a self-regulatory code (37,38) in the beginning of 2008 limiting the marketing and advertising of food and beverages to children.



The Forum of Responsible Food Marketing Communication (37), covers advertising agencies, retailers, television, magazines, the Internet and food producers. The core of its code (38) is to address the advertising and sponsoring of foods directed towards children, especially advertising and sponsoring of HFSS foods in the media or parts of the media where the target audience is children under 13 years of age. A guide sets out the nutrition profiles for foods included in the code and defines “the media” in detail (38).

Through the 2006 Nordic Plan of Action on better health and quality of life through diet and physical activity (39), the Nordic countries have declared their support for international collaboration in matters concerning the marketing of unhealthy foods to children: “The Nordic countries agree that the advertising and marketing of less healthy foods affect children’s and youth’s consumption of and attitudes towards foods and therefore need to be restricted”.

Estonia

Advertising targeted to children in Estonia is regulated by the Advertising Act (40) and the Consumer Protection Act (41). Commercial advertising is prohibited in kindergartens, primary and secondary schools and vocational schools. Advertising aimed at children should not be aggressive, i.e. directly inviting children to purchase a marketed product themselves or take up a marketed service themselves or cause their parents or other adults to do so.

The Estonian Association of Advertising Agencies and the Estonian Consumer Protection Board have together prepared a guide explaining the meaning of aggressive advertising targeted at children (42). Currently, no specific regulations in Estonia restrict the marketing of unhealthy foods to children. There are guidelines (43) from the Estonian Consumer Protection Board on, for example, the advertising and sale of “energy drinks” to children in order to ensure ethical and moral standards in this area. Nevertheless, campaigns targeting children are permitted, including campaigns where prizes are awarded if the food is consumed or by drawing lots. The national television channel is the only one where commercial advertising is not permitted.

Finland

In October 2005, a consensus was reached about evidence-based current care guidelines (44) on preventing and treating childhood obesity, and the National Consumer Ombudsman published guidelines (45) on the marketing of food to children. A new government innovation fund has been established to improve collaboration with the food industry.

In June 2008, the Government adopted a resolution on the development of guidelines for health-enhancing physical activity and nutrition (46). The main targets include reducing the prevalence of obesity and the intake of saturated fat, salt and sugar and increasing the intake of vegetables and fruit (particularly berries). As a part of this resolution, the Government has

set special development priorities for children, young people and families. According to these priorities, “Food marketed to children and young people should not be contradictory with health promotion message; if necessary, the state will create regulatory systems alongside corporate self-regulation that restrict marketing of unhealthy foods to children and young people and ensure efficient monitoring of the regulations”.

Implementation and monitoring of the Government’s resolution is coordinated and followed up by the Ministry of Social Affairs and Health, the Ministry of Education and the Ministry of Agriculture and Forestry. The National Nutrition Council, including representatives of research institutions, food control authorities, nongovernmental organizations and private sector parties, acts in an advisory capacity.

There are currently no specific regulations in Finland restricting the marketing of unhealthy foods to children. However, there are authoritative recommendations (47) drafted by the Consumer Agency, the Consumer Ombudsman and the National Public Health Institute, using the National Food Agency and the National Board of Education as experts. These recommendations are largely based on the relevant provisions of the Consumer Protection Act (48) and discuss good advertising practices, misleading advertising and means of marketing.

The National Board of Education and the National Public Health Institute recommended in 2007 that schools do not provide vending machines on their premises selling sweets and beverages (49).

France

Besides the Ministry of Health, the policy-making bodies responsible for addressing regulations concerning marketing to children are the government department for competition, consumption and suppression of fraud, the Ministry of Culture and Communication (responsible for the development of the media) and the Higher Council for the broadcasting sector, which is an independent administrative authority controlling the objectives, content and broadcasting of advertisements.

The Public Health Act of 2004 (50), through the implementation of the Second National Nutrition and Health Programme (51), comprises two articles concerning food advertisements and the banning of food vending machines in schools. The first article stipulates that television and radio commercials for beverages with added sugar, salt or artificial sweeteners and manufactured food products must contain the following health messages: “For the sake of your health, do not eat foods that contain too much fat, sugar or salt”; “For the sake of your health, eat at least five servings of fruit and vegetables every day”; “For the sake of your health, avoid eating snacks”; and “For the sake of your health, do regular physical exercise”. The same obligation applies to the promotion of these beverages and food



products (however, advertisers can avoid this by paying a tax equal to 1.5% of the annual amount they pay for advertising these types of product).

In 2008, the Minister of Health stated the Government's intention to regulate advertising for food and drink during children's television programmes (52). She called for self-regulation by the industry, stating that if this failed she would then look at the possibility of legislation banning advertisements. Several months of dialogue followed between those in favour of banning food advertising targeting children (a campaign coordinated by the French Public Health Society and the National Consumer Organization) and those advocating less authoritative measures (mainly advertising advocates and broadcasting professionals).

As a result of this consultation, in 2009, the Ministry of Health and the Ministry of Culture and Communication adopted a charter (53) to promote healthy diet and physical activity in television programmes and advertisements. The document expresses the commitment of professionals such as those in television production, advertising and communication, food manufacture, and private and public television broadcasting. A reassessment is to be carried out of the code of conduct applied by advertising professionals in accordance with the Second National Nutrition and Health Programme rules.

Germany

The Federal Ministry of Health and the Federal Ministry for Food, Agriculture and Consumer Protection have made the promotion of healthy lifestyles the main health and nutrition policy objective, placing strong emphasis on overweight and obesity. The Federal Government's National Action Plan "IN FORM – German national initiative to promote healthy diets and physical activity" (54) involves, inter alia, meetings with industry aimed at making it refrain from any advertising targeted at children under 12 years and formulating a voluntary code of conduct on advertising activities targeting older children and adolescents.

According to federal law in Germany, marketing must comply with the legal framework established to control unfair competition (55). It prohibits any type of advertising that directly invites children to purchase a marketed product themselves or take up a marketed service themselves or cause their parents or other adults to do so. Advertising on the radio and on television as well as teleshopping are subject to the provisions on the protection of minors laid down in section 6 of the Interstate Treaty on the Protection of Human Dignity and the Protection of Minors in Broadcasting and Telemedia Services (56).

The German Advertising Federation has developed a Code of Conduct for the protection of children with regards to advertising on radio and television (57). The general rules of the code emphasize that advertising should not abuse consumers' confidence, not undermine a healthy and active lifestyle, not undermine a balanced and healthy diet and not encourage excessive consumption. For children, the code stipulates that there be no direct demand to

purchase, no direct demand for children to induce their parents to purchase, no exploitation of confidence and no inducements.

Greece

Currently, there is no official government measure or legislation addressing the marketing of food to children. In the private sector, however, a self-regulating set of rules known as the Hellenic Code on Advertising – Communication Practice (58) has been established by the Hellenic Association of Communication Agencies and the Hellenic Advertisers Association. The Code is based largely on the existing Code of Marketing and Advertising Practice of the International Chamber of Commerce (59). Since 2003, adherence to this Code has been monitored and penalties issued by an independent non-profit association, the Council of Communication Monitoring. The Council is a member of the European Advertising Standards Alliance and has created rules in relation to the marketing of foods and beverages (two rules address food marketing to children) in collaboration with the Federation of Hellenic Food Industries and the Association of Alcoholic Beverage Companies.

Hungary

The National Public Health Programme 2003–2013 (60) was finalized in 2003 and a number of activities related to marketing to children have been carried out since then under the auspices of the Programme.

Hungary has legislation in place on the basic conditions for and restrictions on advertising, which prohibits marketing in any kind of institutions caring for children under the age of 14 years. Act XLVIII of 2008 (61) prohibits commercial advertising in child welfare and protection institutions, kindergartens, elementary schools and elementary school dormitories. Such prohibition does not apply, however, to the advertising of activities and events related to a healthy lifestyle and to displaying the names, trademarks and other designations of those organizing such activities and events, as long as the display is directly related to these activities and events. An advertising code of ethics, developed by the Self-regulated Marketing Body, also exists (62).

Ireland

In Ireland, a Broadcasting Act (63) in force since 2001 entailed setting up a code applicable to all broadcast services. The code has been developed on a phased basis involving key players. The Children's Advertising Code (64) in force since 2005 entails statutory controls to regulate some aspects of television advertising of unhealthy food to children. The Code is currently under review.

In June 2009, a new Broadcasting Act (65) was passed by Parliament, making provision for a new Broadcasting Authority of Ireland to introduce regulations to protect children from advertising of HFSS foods through the broadcast media. In October 2009, the Irish



Broadcasting Authority was set up as an independent regulator for radio and television broadcasters in Ireland.

The next steps in the process are to prioritize diet and nutrition by the creation of an expert working group on HFSS foods and to conduct focus groups with children. An advertising and audience analysis will be conducted. A public consultation and revision of the Children's Advertising Code (64) will take place in 2010, leading to a further statutory review for 2013.

The provisions of the AVMS Directive 2007/65/EC (16) are incorporated into Irish law through the statutory instruments.

Italy

The objective of the Italian National Health Plan 2003–2005 (66) included the promotion of healthy lifestyles and the prevention of obesity. In May 2007, the National Health Plan 2006–2008 (67) was approved by the Government and promoted by the Ministry of Health for fighting cardiovascular diseases, cancer, diabetes, obesity and chronic food diseases. In this programme, a section on food advertising to children proposes the monitoring of marketing messages and the reduction of advertising through self-regulation.

Latvia

Plans for the implementation of the 2001 Public Health Strategy (68) and the "Concept of the Cabinet of Ministers – Healthy Nutrition 2003–2013" were accepted in September and November 2004, respectively (69,70). In August 2006, regulations were adopted by the Cabinet of Ministers (71,72) with the aim of restricting and controlling the marketing of beverages and foods of limited nutritional value (such as soft drinks, confectionary, chewing gum and savoury snacks containing specific additives) in pre-school institutions and schools, and of creating the conditions for making healthy foods easily available.

Regarding advertising, Latvia has no policies in place to reduce the impact of marketing of foods to children. The only existing legislative framework with regard to advertising to children is the Advertising Law (73), which is general and as such does not contain a definition of "advertising to children". In 2008, the Ministry of Health attempted to propose some amendments to the Advertising Law (73) regarding the marketing of foods to children. After several meetings with stakeholders, it was decided to adopt a self-regulatory approach. A consensus document between the Ministry of Health and the Latvian Food Enterprises Federation, agreed after several meetings, has been developed but has yet to be signed.

Lithuania

In 2004, the Government adopted the National Food and Nutrition Strategy and Action Plan 2003–2010 (74). Specific targets and measures of the Action Plan include advertising and marketing, intended to enable consumers to choose safe and nutritious foods by ensuring

that food labelling, advertising and marketing satisfy the legal requirements. Specific national advertising rules (75) ensure no advertising on Lithuanian national television.

A procedure for the provision of healthy nutrition in primary and secondary schools was adopted in 2010 through Ministerial Order V-645 (76). The aim is to improve school meals by reducing fat, simple carbohydrates and carbonized drinks and restricting other energy-dense foods with low nutritional value as well as several synthetic food additives. The content of vending machines in schools has since been restricted. A draft amendment to this procedure, aiming to extend similar rules to kindergartens and all other types of educational institution for children, is with the Ministry of Health for approval.

Luxembourg

During the last few years, Luxembourg has increased its efforts in the area of nutrition, physical activity and the prevention of obesity. The implementation of the national Programme of Nutrition and Physical Activity is assured by an inter-departmental policy, "Gesond iessen, méi bewegen" (Eat healthier, do more exercise) (77), formalized in 2006 by a joint declaration (78) between the Ministry of Health, the Ministry of National Education and Professional Training, the Ministry of Family and Integration and the Ministry of Sports. This action plan is based on a dynamic, evolving and multisectoral approach involving partners with different areas of responsibility. A national coordinating body composed of representatives of the four ministries coordinates the implementation of the project. A label reading "Gesond iessen, méi bewegen" was created to encourage potential partners to develop initiatives in the field of healthy eating and physical activity.

In 2009, Luxembourg set up a code of practice for advertising (79) that applies to all media and is handled by the Commission for Ethics in Advertising.

Malta

A Food and Nutrition Policy (80) was adopted by Parliament in the 1990s and was followed by several initiatives to implement aspects of the policy.

Maltese subsidiary legislation 350.05 "Broadcasting Code for the Protection of Minors", which came into force on 1 September 2000 and was amended in 2010, states in paragraph 19: "Advertisements for confectionery and snack foods shall not suggest that such products may be substituted for balanced meals" (81).

Malta does not yet have a policy that aims to reduce the impact of the marketing of HFSS foods to children. Nevertheless, a strategy for the prevention and management of obesity has been outlined and is expected to be launched in 2011. It is anticipated that it will also address with the various stakeholders the question of reducing the marketing of HFSS foods to children.



The Health Promotion and Disease Prevention Directorate follows a policy to reduce the impact of non-broadcast forms of advertising of HFSS foods to children (82). For example, these foods are not allowed to be used as sponsorship for health campaigns or any initiative that takes place within schools or that involves children. An intersectoral committee is working on a strategy to counteract obesity.

Netherlands

To tackle the problem of obesity from a wide range of perspectives, the Ministry of Health, Welfare and Sport drew up a Covenant on Overweight and Obesity (83) towards the end of 2004. The Covenant, signed in January 2005, was an important pillar of the Ministry's policy to address overweight but it was not enforceable by law. It was chosen to be the platform in the Netherlands to promote certain characteristics that are different from more traditional policy-making and implementation instruments. It emphasizes communication, self-regulation, self-implementation, self-enforcement, implementation based on "real life" scenarios, networks of mutually dependent actors, and knowledge and information for effective action. The Ministry of Health deliberately chose to reshape the Covenant in 2010 and to continue with the public-private partnership structure until 2015.

In 2009, the Ministry of Health, Welfare and Sport produced a Memorandum on Obesity (84), including a strategy concerning marketing pressure to children and co-regulation with the food industry.

Throughout 2009, the Minister of Health, Welfare and Sport and the Minister of Youth and Families have had several official meetings with the Dutch Food Industry Federation to discuss what to expect of them in terms of a code of conduct. Both ministries agreed to initiate research to monitor marketing by the food industry to children between 7 and 12 years of age. The research began in 2010 and has a duration of 12 months. The results of this monitoring can provide input to the evaluation and further formulation of policy adjustments on this topic.

Poland

The existing legislation related to advertising addressed to children comprises the Act of 23 August 2007 (85) on combating unfair commercial practices and the Broadcasting Act of 29 December 1992 (86). Article 9 of the former stipulates that: "In all circumstances, the following aggressive commercial practices shall be regarded as unfair commercial practices: including in an advertisement a direct exhortation to children to buy advertised products or persuade their parents or other adults to buy advertised products for them".

In 2003, an Advertisement Council was established, formed of associations of food producers, advertising agencies and the media. The Code of Advertising Ethics (87), developed by the Advertising Council and agreed on 4 June 2008, is a self-regulatory tool of a general character

and describes obligations related to advertising as such, without any specific mention of food advertising.

Portugal

The marketing of food and beverages to children is governed by two self-regulatory codes: the EU-Pledge (20) and the Portuguese self-regulatory code (88) addressing the targeting of children by the audiovisual media. This code introduces specific rules for the food and drinks sector, addressing:

- reduced commercial pressure;
- the use of testimonials and fantasy;
- truthfulness in describing product characteristics and in comparisons with other similar products;
- caution in the use of health claims;
- prohibition of portraying children who are too slim or too fat or implying that a product raises social status;
- specific health issues such as disregard for health and physical activity, comparison with medical drugs, encouragement of excessive consumption or substitution for normal eating habits;
- the use of celebrities and well-known characters;
- sales promotions; and
- the banning of marketing campaigns to first- to fourth-grade schoolchildren unless specifically authorized by the school board.

Romania

Ministerial Order 1563/2008 (89) addressing the approval of the list of foods not recommended for preschool children and schoolchildren and the principles underlying healthy diets for children and adolescents establishes the criteria for which specific food items should not be recommended. These food items are not allowed to be sold within school premises in order to encourage schoolchildren to adopt healthy dietary habits.

Slovakia

The National Programme on Nutrition Improvement for 2006-2010 (90) (amended on 17th December 2008), the National Obesity Prevention Programme (91) (adopted on 9 January 2008) and the National programme of care for children and adolescents (92) (adopted on March 2008) include educational activities focused on reducing the consumption of HFSS foods by adults, children and adolescents. Slovakia is planning to develop policies to reduce the impact of the marketing of HFSS foods to children.

Slovenia

In March 2005, the National Assembly approved a resolution on the National Nutrition Policy Programme for 2005–2010 (93). The Programme covers three basic pillars: food safety,



balanced and preventive nutrition, and sustainable food supply. One of its main objectives is to reduce the prevalence of obesity in all population groups, but especially in children and adolescents. Advertising to children is regulated generally, and is in most cases not applied specifically to the marketing and advertising of food and beverages.

The Media Act (94) from 2001 forbids advertisements whose target audience is primarily children or that feature children, and whose content could harm their health and mental and physical development. The only exception is the self-regulation code of the Slovenian Chamber of Advertising (95), which was revised and adopted in late 2009 and came into force at the end of 2009.

The legal basis for food control is also provided to some degree by the Act on the Sanitary Suitability of Foodstuffs, Products and Materials Coming into Contact with Foodstuffs (96) and the Consumer Protection Act from 1998 (97).

According to the Slovenian Code of Ethics of the national television broadcaster (98), only selected advertising can be shown on Slovenian television. Misleading advertising is considered unethical and illegal, and advertisements that use incomplete or unsuitable methods to mislead potential customers are banned. Special attention must be paid to advertising intended for children. Advertisements must not contain anything that could endanger their health, safety and education. It is prohibited to broadcast any content that violates international child protection conventions such as the Convention on the Rights of the Child and children must not be directly invited to purchase goods or services.

Ministry of Education drafted a new law on school nutrition (99), which was adopted in May 2010 and came into force in June 2010. The law introduces a ban on vending machines selling food and beverages in all primary and secondary schools. The Ministry of Culture is in the process of implementing the AVMS Directive (16) and consultations with different stakeholders took place in the spring of 2010 to investigate the best ways to proceed with the implementation. To aid this process, the Ministry of Health has nominated an intersectoral and multidisciplinary group.

Spain

The Law on General Advertising (100) has governed the Spanish advertising industry since 1988 but does not specifically cover the marketing of food and beverages to children. In 2010, a new General Law on Audiovisual Communication (101) related with marketing came into force in Spain. The new law regulates advertising according to the criteria set out in the AVMS Directive (16). It contains specific rules protecting the rights of minors. For example, children are protected against material "to the detriment of the development, mental or moral, of minors" by limiting its broadcasting to the period between 22:00 and 06:00 (this is applied, for example, to the advertising of spirits). The law also bans advertising directed to children that exploits celebrities or product placement.

The Spanish Strategy for Nutrition, Physical Activity and Prevention of Obesity (102) was launched in 2005 by the Ministry of Health and Consumers. Key achievements of this strategy in its first years included several agreements signed with food and beverage companies, the catering and vending sectors and retail companies in order to implement the Strategy. One of these agreements was the development of an advertising code for marketing food to children under 12 years of age, the “Code of self-regulation of the advertising of food products directed at minors, prevention of obesity and health” (103) promoted by the Spanish Federation of Food and Drink Industries. This self-regulating code includes the aim of “reducing the prevalence of overweight and obesity and their consequences”. Some 36 companies have joined the code since September 2005, representing 95% of investment in television advertising to children.

The companies that have signed the code have committed themselves to respect its ethical standards in their advertising directed at minors. The code expands the scope of the legal requirements of the advertising and promotion of food and beverages directed at minors in the general interest of both consumers and the market. In collaboration with the Spanish Federation of Food and Drink Industries, a set of guidelines was drawn up to help companies in the development, implementation and dissemination of their advertising messages directed at minors. Advertisements must follow certain criteria regarding the type of food product being promoted, the design of the advertisement and the circumstances in which the advertisement is disseminated.

To ensure that the advertising is appropriate, there are three mechanisms of monitoring:

- a “copy advice procedure” by which companies submit their advertisements for approval to the Technical Office of Self-regulation before they are issued;
- a control a posteriori of compliance with the code by the Advertising Self-regulation Jury, which is responsible for resolving any possible claims; and
- a Monitoring Commission made up of representatives of the Spanish Food Safety and Nutrition Agency, the Consumers’ and Users’ Council, the Spanish Federation of Food and Drink Industries and the Spanish Advertisers’ Association.

Since September 2005, the companies bound by the code have made 1738 “copy advice” consultations. As a result, 10% of food advertisements aimed at children have been refused, 20% have been allowed after changes were made and 70% have been approved. During the same period, there were 17 claims for infringement of the code.

In September 2009, agreements were signed between the Spanish Food Safety and Nutrition Agency and the television broadcasting companies to ban advertising that does not observe the code’s standards. This agreement brings a new and supplementary guarantee of compliance with the code.



A study is being carried out to analyse the results of the application of the code during the last five years and evaluate the effects that its application has had in relation to the content of advertising for food and beverages directed to children up to 12 years of age (104).

In 2010, the Spanish Food Safety and Nutrition Agency launched a draft Regulation on Food Safety and Nutrition. This project, which is still under discussion and is expected to be approved in 2011, may include measures to reduce the number of advertisements to children under the age of 18 between the hours of 06:00 and 22:00, to forbid gifts and rewards given with food and beverages and to forbid any type of marketing to children in schools.

Sweden

In the Nordic Plan of Action on better health and quality of life through diet and physical activity (39), the Nordic countries have declared their support for international collaboration in matters concerning the marketing of unhealthy foods to children: "The Nordic countries agree that the advertising and marketing of less healthy foods affect children's and youth's consumption of and attitudes towards foods and therefore need to be restricted".

In 2003, the Swedish Parliament ratified the Public Health Policy (105), which introduced a new public health strategy focusing on the determinants of health rather than on individual diseases. The overarching aim of the policy is to create societal conditions that ensure good health, on equal terms for the entire population. Physical activity, eating habits and foodstuffs are among the 11 objective domains of the policy. The policy identifies intense marketing of energy-dense and micronutrient-poor foods as contributing to the development of obesity among children.

In 2008, the Government proposed the renewal of the public health policy and marketing was identified as one of the topics to be discussed within the Government's health forum for dialogue with representatives from the food industry, retailers, consumer organizations and the media (106). In June 2009, through meetings with the food industry, the forum agreed on a set of statements for promoting healthy eating habits among the general public, especially children.

With regard to regulations on marketing to children, Sweden has a General Marketing Act (107) and there is a ban on advertising targeted at children under the age of 12 on national radio and television (108). The ban includes advertising before, after and during children's programmes. People associated with children's radio or television programmes are not allowed to take part in advertising targeted at children under the age of 12. According to European legislation, the ban only covers broadcasters under Swedish jurisdiction.

According to the European law "country-of-origin" principle (109), Sweden is not permitted to ban advertising broadcast from other countries, and thus Swedish children are exposed

to advertising from abroad. The majority of such advertisements have come from two Swedish language channels based in the United Kingdom. These channels have recently and voluntarily stopped advertising food to children and, with the United Kingdom's new broadcasting code that includes restrictions towards banning the marketing of HFSS foods to children (110), Sweden will probably have relatively little marketing of food to children on television.

United Kingdom

A combination of statutory and government-approved private sector self-regulation techniques are used to control the commercial promotion of food to children (21). Statutory rules apply to child-targeted television advertisements for HFSS foods as defined by the nutrient profiling scheme developed by the Food Standards Agency. "Child-targeted" marketing is defined as marketing during preschool children's programmes, during programmes made for children under the age of 16 in children's airtime, and youth-oriented programming that attracts a significantly higher-than-average proportion of viewers younger than 16 years (the proportion of viewers under 16 is 20% higher than the general viewing population). The rules apply to commercial and public service broadcast channels and all cable and satellite channels. The objectives are to limit children's exposure to advertising for HFSS products and to restrict the use of advertising techniques appealing to children.

Ofcom, which is the independent regulator for the United Kingdom communications industries, imposed television advertising restrictions in 2005 (110) in line with the Government's policy objective of reducing obesity and other diet-related diseases. Television services have co-regulatory arrangements, including HFSS advertisements that may not be shown during children's programmes and during programmes for which the child audience is disproportionately high (e.g. family films). HFSS advertisements aimed at children at other times may not use techniques attractive to children (e.g. licensed cartoon characters) or make health claims. Non-broadcast media have set up self-regulatory arrangements including a Code of Advertising Practice. Food and drink advertisements targeted at children should not condone unhealthy diets, include promotional offers, use exploitative techniques, include licensed characters (e.g. cartoon characters) or encourage "pester power" (111).

In July 2010, Ofcom published the findings of its final review into the effectiveness of restrictions on the television advertising of HFSS foods. It compares the way in which the balance of television advertising of food and drinks seen by children has changed, by looking at their exposure to advertisements for HFSS foods in 2005 (before advertising restrictions were introduced) and in 2009 after the restrictions had been fully implemented. The results demonstrated that children saw much less HFSS advertising in 2009 than in 2005. The number of HFSS advertisements seen by children fell by an estimated 37% overall; for younger children (4–9 years) the fall was greater (52%) while for older children (10–15 years) the fall was smaller (22%) and exposure to HFSS advertising has been eliminated during



children's airtime. The report also showed children saw less advertising featuring licensed characters (-84%), brand equity characters (-56%), promotions (-41%) and other characters (-2%), but more advertising featuring celebrities (143%) and health claims (18%) (112).

Conclusion

This report has aimed to provide an overview of the implementation of statutory and self-regulatory codes in the area of marketing foods and beverages to children in the EU up to the end of 2010. The Regional Office has analysed and validated the information received from the 27 EU focal points appointed for the collaborative WHO/EC monitoring project. The report provides a summary of how guidance is given on marketing in schools (for example, restrictions on product placement such as school vending machines) and self/co-regulation of children's exposure to television advertising.

The subject of children's diets and health and the role of advertising is currently high on the policy agendas of WHO, the EC and most EU Member States.

The EU White Paper (18) acknowledges: "There is evidence that advertising and marketing of foods influence diet, and in particular those of children". The promotion of foods that undermine healthy choices, such as energy-dense, nutrient-poor foods, represents a major threat to healthy lifestyle choices. Several policy options have been introduced by Member States to tackle the marketing of foods and beverages to children, ranging from the development of self-regulatory codes by the advertising and food industry to co-regulation or statutory regulations initiated by governments. The focus has been on television advertising and marketing practices in schools with regard to the marketing of foods to children.

More information is needed on implementation mechanisms, looking to have monitoring and enforcement tools in place for assessing existing policy options taken forward by Member States.

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Joint WHO/EC DG SANCO project: Monitoring progress on improving nutrition and physical activity and preventing obesity in the European Union (EU), 2008-2010

Report series

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- 1 Report of the 1st Meeting of National Information Focal Points, Brussels, Belgium, 23–24 September 2008
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