



# Implementing the WHO recommendations on the marketing of food and non-alcoholic beverages to children in the Eastern Mediterranean Region

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# Executive summary

Over the past 15 years, evidence has accumulated which shows that the marketing of nutritiously poor food high in saturated fats, trans-fatty acids, free sugars or salt (unhealthy food) influences children's preferences, purchase requests and consumption patterns. Consequently, the Sixty-third World Health Assembly in 2010 adopted a set of recommendations which calls on Member States to adopt policies restricting the marketing of unhealthy food to children (*Set of recommendations on the marketing of foods and non-alcoholic beverages to children*). However, despite growing rates of childhood overweight and obesity and the extensive marketing to children of unhealthy food in the Eastern Mediterranean Region, Member States have been relatively slow in implementing the WHO Recommendations. This report provides a situational analysis of the progress made in the Region in implementing the WHO Recommendations and identifies issues Member States need to consider when adopting policies intended to restrict the marketing of unhealthy food to children.

The first section of the report highlights the alarming increase in overweight and obesity in the Region and the commitment Member States have made to ensure that they implement the WHO recommendations and restrict the marketing of unhealthy food to children.

Section 2 focuses on the extent to which unhealthy food is marketed to children in the Region, and highlights some of the media and techniques most frequently used to do so. The evidence linking unhealthy food marketing and children's food preferences, purchase requests and consumption patterns, and ultimately childhood obesity, is reviewed and the complexity of the current media environment and its effect on children is discussed.

After making the case that Member States should implement the Recommendations as part of effective overweight and obesity prevention strategies, the report describes the actions taken in the Region to date to implement them. It highlights the achievements and identifies areas where further progress is required to ensure that the Recommendations are fully implemented.

The third section of the report emphasizes the importance of building consensus across and beyond government in order to facilitate the adoption of as comprehensive a policy as possible, which tackles the two main components of marketing: exposure (reach and frequency) and power (content, design and execution). This requires that Member States consider the key policy parameters and set clear definitions for "marketing to children" and "unhealthy food". The more comprehensive a policy is, the less easy it will be for the food industry to shift its investment from one medium to another or from one marketing technique to another. The fewer loopholes a policy



contains, the more effective it will be. Nevertheless, the Recommendations also acknowledge that if a comprehensive approach is not feasible, Member States should develop a stepwise approach. Thus, any steps Member States take to restrict the marketing of unhealthy food to children – even if they cannot do so comprehensively – is preferable to no intervention at all. In light of the current media environment in the Region, Member States who are not in a position to adopt a comprehensive approach to regulating unhealthy food marketing to children should consider at least television and in-school marketing as two priority areas for regulatory intervention. Section 3 concludes by highlighting the need for the Region to adopt cross-border marketing standards as Arabic is widely spoken as a common language and a broad range of media readily cross national borders.

The final section of the Report discusses the need for policy-makers to act in the public interest and avoid all conflicts of interest, as specifically mentioned in the Recommendations. The main stakeholders responsible for the implementation of the Recommendations are competent public authorities. Member States have a duty to ensure that the Recommendations are effectively implemented so that they comply with their duty to protect the child's right to health and other related rights under the United Nations Convention on the Rights of the Child and other international human rights treaties they have ratified. A human rights approach to childhood obesity and noncommunicable disease prevention requires that the Recommendations are read in light of the Convention on the Rights of the Child and other human rights treaties. In practice, this means that Member States should not delegate their responsibility to define the policy parameters to private stakeholders such as the food or the advertising industries.

There is no time for complacency. Despite rapidly growing childhood overweight and obesity rates and the extensive marketing of unhealthy food to children in the Region, Member States have been slow to implement the Recommendations. The Global Action Plan for the Prevention and Control of Noncommunicable Diseases 2013–2020 and the regional resolution EM/RC61/R.3 explicitly call on Member States to urgently implement the Recommendations as part of effective obesity prevention strategies. This report is intended to help countries do so. In particular, it draws on the main lessons learnt over the past few years from countries within and outside the Region that have taken some steps to implement the Recommendations. The recent adoption of Agenda 2030 and the Sustainable Development Goals, particularly Goals 2 and 3, make it even more urgent for Member States to ensure that robust policies are in place, including effective restrictions on the marketing of unhealthy food to children.

# 1. Increase in childhood obesity and related noncommunicable diseases in the Eastern Mediterranean Region

In the Eastern Mediterranean Region of the World Health Organization (WHO), noncommunicable diseases (NCDs) are responsible for over 50% of mortality and more than 60% of disease burden. Most of the deaths from NCDs are caused by cardiovascular diseases, diabetes, cancers and chronic lung disease. The four groups of diseases largely share the same risk factors, namely tobacco use, physical inactivity and unhealthy diets (1, p. 2).

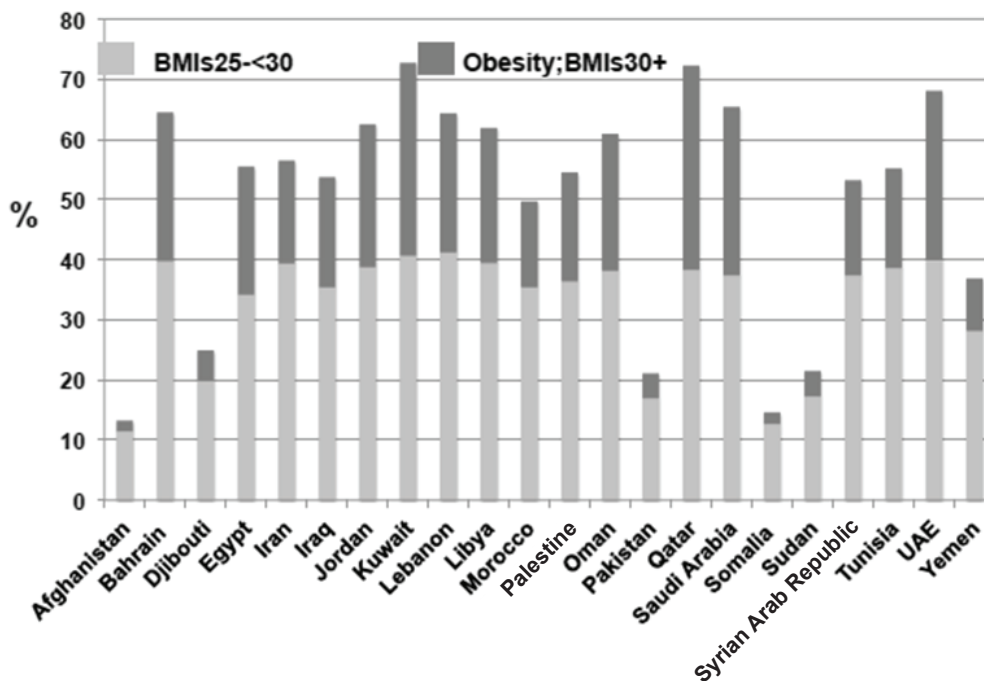
This report focuses on unhealthy diets and, more specifically, on the need to regulate the marketing of food and non-alcoholic beverages to children in order to promote healthier diets as part of effective obesity prevention and nutrition strategies. This introductory section is intended to give the context of the issue. It describes the fast rising prevalence of overweight, obesity and diabetes (section 1.1) and the dietary risk factors responsible for this in the Region (section 1.2), and highlights the importance of regulating the marketing of food and non-alcoholic beverages to children as part of the multisectoral, coordinated strategies needed to stop the increase of obesity and diabetes and reduce diet-related NCDs (section 1.3). It concludes by explaining the purpose, methodology and structure of the rest of the report (section 1.4).

## 1.1 Increasing prevalence of overweight, obesity and diabetes in the Region

The prevalence of obesity and overweight is worryingly high in the Region – at 46.8% it is well above the global average (39%) among adults<sup>1</sup>. In 2014, half the Region's adult women (50.1%) and more than two in five men (43.8%) were overweight or obese (2). These figures rise to over two thirds in some countries, whilst other countries, in an earlier stage of the nutrition transition that often accompanies economic development, have moderate levels of overweight or obesity, or have emerging overweight or obesity only in certain socioeconomic groups (3) (Figs 1 and 2).

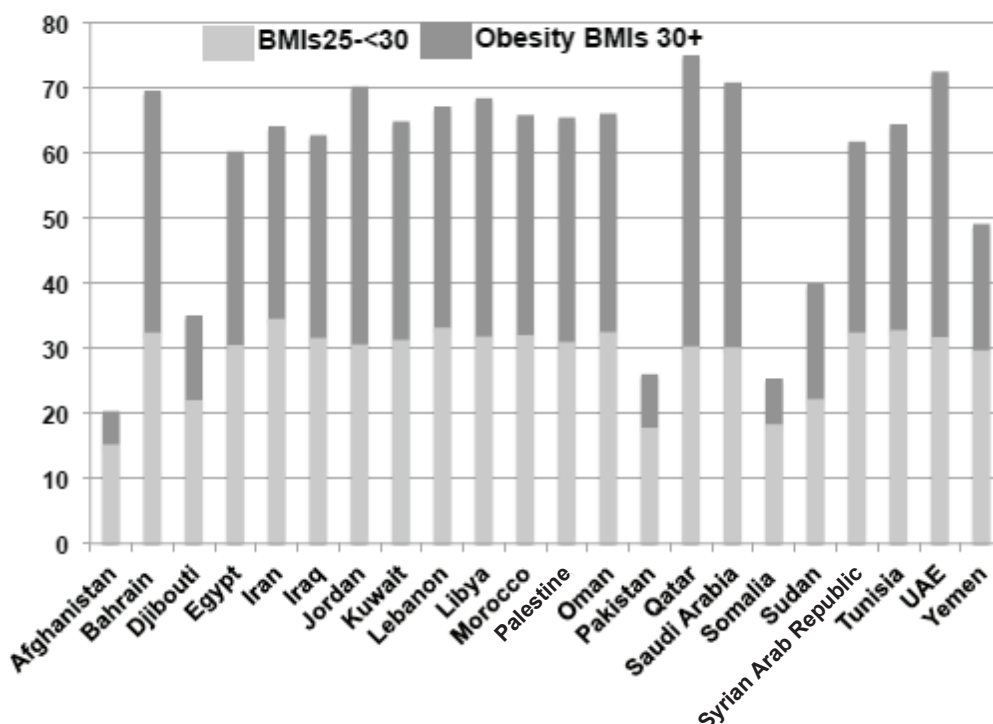
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<sup>1</sup> World Health Organization. Obesity and overweight. Fact sheet. Reviewed February 2018 (<http://www.who.int/mediacentre/factsheets/fs311/en/>).



**Fig. 1 Age standardized prevalence of overweight (BMI 25–29.9 kg/m<sup>2</sup>) and obesity (BMI ≥ 30 kg/m<sup>2</sup>) in males in countries of the Eastern Mediterranean Region, 2014**

(Source: Data from NCD Risk Factor Collaboration. Trends in adult body-mass index in 200 countries from 1975 to 2014: a pooled analysis of 1698 population-based measurement studies with 19.2 million participants Lancet 2016;387:1377–96)



**Fig. 2 Age standardized prevalence of overweight (BMI 25–29.9 kg/m<sup>2</sup>) and obesity (BMI ≥ 30 kg/m<sup>2</sup>) in females in countries of the Eastern Mediterranean Region, 2014**

(Source: Data from NCD Risk Factor Collaboration. Trends in adult body-mass index in 200 countries from 1975 to 2014: a pooled analysis of 1698 population-based measurement studies with 19.2 million participants Lancet 2016;387:1377–96).

High rates of childhood overweight give particular cause for concern<sup>2</sup>. On average, 6.9% of children under five years are already overweight in the Region – higher than the global average of 6.2% – and in some countries more than 15% are affected. In many countries of the Region, more than half of adolescents aged between 13 and 18 years are overweight or obese (4). As childhood obesity tends to persist during adulthood<sup>3</sup>, the development of obesity prevention strategies specifically targeting children is therefore all the more necessary.

The Eastern Mediterranean Region has the highest prevalence of diabetes in the world. Around 43 million people in the Region live with this chronic disease – an increase from 6% in 1980 to 14% in 2014. It affects more than 20% of adults in some countries<sup>4</sup>. If not properly controlled, diabetes puts people affected at increased risk of serious complications, such as cardiovascular disease, vision loss, nerve damage, leg amputation and kidney failure, and of early death. More than 10% of deaths in adult women and 9% of deaths in adult men in the Region are attributable to high blood glucose (2). In addition, there are many millions more with pre-diabetes, who are increased risk of developing clinically evident diabetes within the next 5–10 years and who already have a greater risk of heart disease (3, p. 10).

Children born to women who are overweight or obese before pregnancy are immediately disadvantaged for life as they are at greater risk of later health problems, including obesity (5). Diabetes during pregnancy not only exposes a mother to much greater risk, but also markedly increases her child's chances of ill health in the future (6).

## **1.2 Dietary factors responsible for the increase in overweight, obesity and diabetes in the Region**

Children become overweight if they consume more calories than they use over a period of time. The main drivers of child overweight and obesity therefore include unhealthy diet and physical inactivity. A multitude of factors explain why a population consumes more calories or expends fewer than it did before. The difficulty comes from the fact that no single factor can, on its own, explain this evolution. Unravelling the complex combination of factors is key to tackling the problem

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<sup>2</sup> Childhood overweight and obesity refers to children and youth between the ages of 2 and 18 years who suffer an excess of body fat.

<sup>3</sup> Approximately one third (26% male, 41% female) of obese Arabic-speaking preschool children and half (42% male, 63% female) of obese school-aged children were also obese at adulthood according to a survey of data collected between 1970 and 1992 (Serdula MK, Ivery D, Coates RJ, Freedman DS, Williamson DF, Byers T. Do obese children become obese adults? A review of the literature. *Prev Med.* 1993 Mar;22(2):167–77).

<sup>4</sup> The risk of diabetes is known to increase as children and adults in particular gain weight. Thus, the longer an adult has been obese and the more extreme their obesity, the greater the risk of diabetes. Yet in the Region, the prevalence of diabetes is about twice the rates found for equivalent prevalence rates of obesity in, for example, European Union countries; this potentially indicates a greater sensitivity of the population in the Region to diabetes if they gain weight (3, pp 10,11).

effectively<sup>5</sup>. Therefore, as the Commission on Ending Childhood Obesity (ECHO) has noted, “it is only by taking a multisectoral approach through a comprehensive, integrated package of interventions that address the obesogenic environment, the life-course dimension and the education sector, that sustained progress can be made” (7, p. 40).

Once regarded only as a problem for high-income countries, overweight and obesity have also risen sharply over the past several decades in low- and middle-income countries. Consequently, some countries are now facing a “double burden” of disease. While they continue to deal with the problems of infectious diseases and undernutrition, at the same time they are experiencing a rapid upsurge in chronic disease risk factors such as overweight and obesity, particularly in urban settings. It is not uncommon to find undernutrition and obesity existing side by side within the same country, the same community and even within the same household. This double burden may reflect the effect of inadequate prenatal and infant nutrition predisposing individuals to weight gain and metabolic risks from later exposure to unhealthy food and lack of physical activity. It also reflects the documented consequences of the “nutrition transition”. Most countries in Asia, Latin America, northern Africa, the Middle East and the urban areas of sub-Saharan Africa have all experienced a shift in the overall structure of their dietary patterns and an increase in associated disease patterns over the past few decades. Major dietary changes include a large increase in the consumption of fat and added sugar and often animal food products, and a fall in total cereal and fibre intake, with a large proportion of the population consuming over 30% of energy from fat. This, coupled with equally rapid changes in physical activity levels with the shift from a preindustrial agrarian economy to industrialization, has led to the inexorable rise in obesity<sup>6</sup> (8).

This report does not focus on physical inactivity – it merely notes that the Eastern Mediterranean Region has some of the highest rates of physical inactivity in the world (1, p. 2). It focuses instead on the dietary risk factors which explain the growing prevalence of overweight, obesity and diabetes in the Region.

Dietary risk factors causing weight gain and diabetes include high intakes of total fat and free sugars, excessive saturated fatty acid consumption and an inadequate intake of fibre-rich foods. In addition, high intake of sugary drinks, not just overall sugar intake, increases the likelihood of being overweight or obese, particularly among children, and is also associated with an increased risk of type 2 diabetes (2).

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<sup>5</sup> For a very striking map of the causal web of obesity, see Fig. 5.2 “The full obesity system map with thematic clusters” in the Foresight Project Report, *Tackling obesities: future choices* (London: Government Office for Science, October 2007:84).

<sup>6</sup> It should not be assumed that underweight and overweight are opposing public health concerns. As the UN Special Rapporteur pointed out, “the increased reliance on food imports is a major cause of ‘nutrition transition’ in the developing world, by which nutritionists mean the shift to processed foods richer in salt, sugar and saturated fats – foods that have a long shelf life and are attractive to urban populations and younger generations, but are often less nutritious and less healthy” (De Schutter O. Final report to the UN General Assembly. The transformative potential of the right to food. A/HRC/25/57, at page 7).

Remarkable increases in total energy, fat and sugar intake in countries throughout the Region in recent decades mean that diets in the Region have gone in the opposite direction to all national and WHO recommendations (3, p. 11). In particular, while women should, on average, consume less than 25 g of free sugars per day and men less than 35 g per day<sup>7</sup>, average intakes in many countries already exceed 80 g per person daily.

The types of food and drinks consumed by children in the Region tend to be extremely high in sugar, including breakfast cereals and soft drinks of poor nutritional value. On average 50% of adolescents drink one or more soft drink daily<sup>8</sup>. The highest prevalence is in Kuwait (74.3%), followed by Qatar (62.5%), Lebanon (60.2%) and Palestine (58.2%)<sup>9</sup>. Data on the types of food consumed in the Region are limited. However, according to a review by Badran and Laher, adolescents tend to eat ready-made food more often than home-made food (9).

Many factors have contributed to the change in eating habits in the Region. In Saudi Arabia and Kuwait, the increase in food intake is part of the socialization process, which is usually based on large gatherings where traditional meals, consisting of rice (high carbohydrates) and meat (high fat), are shared. Food intake outside the home has also increased, thus increasing the risk of obesity<sup>10</sup>. In Lebanon, the diet style has changed to a fast-food style diet. The fat consumption in Lebanese children has increased from 24% to 34% during the period 1963–1998. In Bahrain, although a good percentage of children consume fresh fruits three or more times a week, a large majority eat fast food at least once a week and eat whilst watching television (10). Finally, a high proportion of schoolchildren in the Region skip breakfast, increasing their risk of snacking on the way to school or during school breaks, having unhealthier diets more generally and becoming obese<sup>11</sup>.

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<sup>7</sup> This is based on the WHO-recommended daily intake of less than 5% from free sugars – Guideline: sugars intake for adults and children. Geneva: World Health Organization; 2015 ([http://apps.who.int/iris/bitstream/10665/149782/1/9789241549028\\_eng.pdf](http://apps.who.int/iris/bitstream/10665/149782/1/9789241549028_eng.pdf)).

<sup>8</sup> Global school-based Student Health Survey data, 2011 (<http://www.who.int/ncds/surveillance/gshs/en/>). This survey is a collaborative surveillance project designed to help countries measure and assess the behavioural risk factors and protective factors in 10 key areas among young people aged 13 to 17 years.

<sup>9</sup> Other countries also have extremely high consumption rates (e.g. Egypt with 60% of boys and 51% of girls aged 13–15 years drinking one or more carbonated soft drink daily, or Pakistan with rates of 28% and 49% respectively).

<sup>10</sup> For example, in Saudi Arabia, the more food that primary-aged schoolchildren (aged 6–11 years) eat outside the home, the higher the risk they will be obese: among those who did not eat outside the home, 9% were obese, while among those who ate outside the home more than five times per week, 53% were obese (Amin TT, Al-Sultan AI, Ali A. Overweight and obesity and their association with dietary habits, and sociodemographic characteristics among male primary school children in Al-Hassa, Kingdom of Saudi Arabia. *Indian J Community Med.* 2008 Jul;33(3):172–81).

<sup>11</sup> A study carried out in the Region showed that 32% of children aged 6 or 7 years in the United Arab Emirates, 50% of children aged 10–15 years in Bahrain and 74% of girls aged 12–16 years in Saudi Arabia missed breakfast completely (Musaiger A. Overweight and obesity in the Eastern Mediterranean Region: prevalence and possible causes. *J Obes.* 2011;2011:407237).

Rapidly changing diets in the Region and their effect on the fast rising prevalence of overweight, obesity and diabetes call for an urgent response. Diet-related NCDs could largely be prevented if multisectoral, coordinated, population-based initiatives were adopted to reduce exposure to unhealthy diets and physical inactivity (7, p. 40). To this effect, and drawing on the body of existing, evidence-based policy recommendations, the Regional Office has produced a report identifying 10 priority areas for action for the population-wide prevention of obesity and diabetes in the Region. Under these 10 areas, 37 strategic interventions are proposed for Member States to consider. Priority area for action 6 focuses on the implementation of appropriate restrictions on marketing of unhealthy food (3).

### **1.3 Commitment of countries of the Region to tackle marketing of food to children**

#### *1.3.1 From the Global Strategy on diet, physical activity and health to the Recommendations on marketing of foods and non-alcoholic beverages to children*

Recognizing the opportunity to reduce deaths and diseases worldwide by improving diets and increasing levels of physical activity, the 57th World Health Assembly adopted the WHO Global Strategy on Diet, Physical Activity and Health in 2004 (Resolution WHA 57.17). The Global Strategy has four main objectives:

- **to reduce risk factors for chronic diseases** that stem from unhealthy diets and physical inactivity through public health actions;
- **to increase awareness and understanding** of the influences of diet and physical activity on health and the positive impact of preventive interventions;
- **to develop, strengthen and implement global, regional, national policies and action plans** to improve diets and increase physical activity that are sustainable, comprehensive and actively engage all sectors; and
- **to monitor science and promote research** on diet and physical activity.

In particular, the Strategy called on governments to “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” (11, para 40-3).

Subsequently, in light of growing evidence that food marketing influences children’s food preferences, purchase requests and consumption patterns, the WHO Director-General was requested at the 60th World Health Assembly in 2007 to “promote responsible marketing including the development of a set of recommendations on the 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 (unhealthy

food<sup>12</sup>), in dialogue with all relevant stakeholders, including private-sector parties, while ensuring avoidance of potential conflict of interest". Later, at the 63rd World Health Assembly in 2010, WHO Member States endorsed a set of recommendations on the marketing of foods and non-alcoholic beverages to children (Resolution WHA 63.14): the Recommendations (12) (Box 1).

As part of its mandate, WHO has been working with Member States to support them implement the Recommendations. To this end, the Secretariat published a framework implementation report which provides guidance to Member States for implementing the Recommendations and monitoring and evaluating their policies (13). In particular, the report draws the attention of Member States to the key issues at the different stages of the policy cycle. WHO has also provided training to countries at both regional and national levels and support to countries in implementation of the Recommendations.

### **Box 1 Overview of the Recommendations**

Four key points are highlighted here, which pertain to the development of effective policies on marketing of unhealthy food to children and are particularly relevant for this report on the Eastern Mediterranean Region.

#### **1 The Recommendations are evidence-based**

The WHO commissioned an independent systematic literature review to establish whether, and if so the extent to which, restrictions on unhealthy food marketing to children were warranted<sup>13</sup>. The review noted that food marketing to children was primarily for unhealthy food, in contrast to dietary recommendations. It highlighted that food marketing had become a global phenomenon and tended to be mixed and integrated, using multiple messages in multiple channels. The review focused on the effect of unhealthy food marketing on children and concluded that it had the following effects:

- it undermines food knowledge and confuses children as to what is healthy and unhealthy food;
- it stimulates a preference for unhealthy food;
- it encourages the purchase of, and pestering for, unhealthy food; and
- it makes children more likely to consume unhealthy food. This unhealthy eating is directly linked to the recent increases in childhood obesity and weight gain, and related health harms.

Several studies have since confirmed that food marketing contributes to childhood obesity. Section 2 provides an overview of the research underpinning the Recommendations.

#### **2 The Recommendations call for extensive marketing restrictions**

<sup>12</sup> The term "food" is used to refer to both food and non-alcoholic beverages.

<sup>13</sup> The Recommendations specifically refer to the following studies: 1) Hastings G, Stead M, McDermott L, Forsyth A, MacKintosh A, Rayner M et al. Review of research on the effects of food promotion to children. Final report, prepared for the Food Standards Agency. Glasgow: University of Strathclyde; 22 September 2003; 2) Hastings G, McDermott L, Angus K, Stead M, Thomson S. The extent, nature and effects of food promotion to children: a review of the evidence. Geneva: World Health Organization; 2006; 3) McGinnis JM, Gootman JA, Kraak VI, editors. *Food marketing to children and youth: threat or opportunity?* Washington DC: Institute of Medicine, National Academies Press; 2006; and 4) Cairns G, Angus K, Hastings G. The extent, nature and effects of food promotion to children: a review of the evidence to December 2008. Geneva: World Health Organization; 2009.



The WHO Recommendations call for extensive restrictions on the marketing of unhealthy food to children. Not only do they define the key concept of “marketing”, but they also urge countries to adopt as comprehensive an approach as possible so that their policies tackle the many media and marketing techniques used to promote unhealthy food to children and limit the opportunities for the food industry to shift its investment from regulated to unregulated media or marketing techniques.

The concept of “marketing” is defined as “any form of commercial communication or message that is designed to, or has the effect of, increasing the recognition, appeal and/or consumption of particular products and services. It comprises anything that acts to advertise or otherwise promote a product or service” (12, p. 7). This definition is intended to reduce the impact of unhealthy food marketing on children. Consequently, it includes advertising as well as other forms of promotion, and is interpreted to cover all forms of direct or indirect promotion in a marketing strategy (13, p. 9). Importantly, although the definition in the Recommendations does not refer to “brands”, this should not be interpreted as suggesting that brand marketing should fall outside the scope. A literal interpretation suggests that reference to “consumption of particular products and services” could refer to the products and services constituting a particular brand portfolio. Furthermore, excluding brand marketing would not be in the spirit of the Recommendations. As stated in the framework implementation report, “Insofar as certain brands and organizations are clearly associated with products or services whose marketing could fall within the scope of the Recommendations, it is necessary to consider how brands are marketed” (12, p.9). Moreover, the broad definition of the Recommendations would also cover promotion through product labelling or packaging – forms of promotion that are traditionally excluded by industry-wide pledges on food marketing, as discussed in section 4.

Furthermore, to ensure that policies are effective, the Recommendations urge countries to develop policies that tackle the two components of marketing: 1) “exposure”, or the reach and frequency of the marketing message; and 2) “power”, the creative content, design and execution of the message. This covers the full range of media and techniques used by companies to market food to children, including advertising, direct marketing, point-of-sale, product placement, sponsorship, design and packaging. It is only then that policies on food marketing will achieve their stated objective and effectively reduce the overall impact of unhealthy food marketing on children.

The Recommendations distinguish two different approaches: comprehensive and stepwise approaches. A comprehensive approach tackles all forms of unhealthy food marketing to children, and deals with the two main components of marketing, exposure and power. In contrast, a stepwise approach is more selective: it would proceed in stages, prioritizing the regulation of some forms of marketing over others (13, p. 16). There are a variety of stepwise approaches: some policies will tackle exposure rather than power; some will tackle power rather than exposure; and some will tackle certain (but not all) aspects of exposure and power. For example, a stepwise policy might target certain categories of unhealthy food (sugar-sweetened beverages); a particular type of media and programming (children’s television programmes); or particular settings (schools) and/or marketing techniques (celebrity endorsement). All stepwise approaches share a common feature in that some gaps in the regulatory framework are left in place. In countries that have restricted the marketing of unhealthy food to children using a stepwise approach, these gaps have allowed the food industry to shift their investment and use loopholes, as discussed later. Therefore, the Recommendations advocate a comprehensive approach (12, Recommendation 3, note 17). The importance of designing comprehensive policies for countries is discussed more fully in section 3.

### **3 The Recommendations urge countries to avoid conflicts of interest**

The Recommendations also urge governments to protect the public interest and avoid conflicts of interests (Recommendation 6). In particular, they call on countries to set clear definitions so as to eliminate the loopholes that have been identified in existing regulatory frameworks. The definitions should include: the age group for which restrictions should apply; the communication channels, settings and marketing techniques to be covered; what constitutes marketing to children including product, timing, viewing audience, placement and content of the marketing message; and what food falls within the scope of marketing restrictions (i.e. what constitutes unhealthy food). In particular, Member States are specifically requested to define settings where children gather and ensure that they are free of all forms of unhealthy food marketing<sup>14</sup>. The question of conflicts of interests and the role of the private sector in the prevention of childhood obesity (and NCDs more generally) continues to be debated. This is discussed more fully in section 4 below.

#### **4 The Recommendations recognize the importance of tackling cross-border marketing**

The Recommendations recognize the importance of tackling cross-border marketing to ensure that the effectiveness of national policies is not reduced<sup>15</sup>. Many countries, including those with restrictions in place, are exposed to food marketing in their country from beyond their borders. This risk is exacerbated when countries have close cultural ties and share a common language, such as Arabic (and, to a lesser extent, French) in the Region. It is therefore important for countries to cooperate and tackle cross-border food marketing. This issue is dealt with in more detail in section 3.

### *1.3.2 Repeated calls for countries to implement the WHO Recommendations*

Following the unanimous adoption of the WHO Recommendations on the marketing of foods and non-alcoholic beverages to children by the 63rd World Health Assembly in May 2010, Member States have taken measures to reduce the impact of unhealthy food marketing on children. Nevertheless, the implementation of the Recommendations has been slow, particularly in the Region.

In September 2011, all Member States adopted the Political Declaration of the High-level Meeting of the General Assembly on the Prevention and Control of Non-communicable Diseases, and committed to promoting the implementation of the WHO Recommendations and discouraging the marketing of food that contributes to unhealthy diets (A/RES/66/2, para. 43). As part of the preparation for this meeting, WHO conducted research which established that the implementation of population-wide interventions could have a high return on investment, in light of the enormous

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<sup>14</sup> This issue was raised by many Member States during the consultation that led to the Recommendations. The special situation of schools as a setting where children are a captive audience and the health-promoting role that schools should have were identified as needing specific attention in the Recommendations.

<sup>15</sup> Recommendation 8. 15 Member States raised cross-border marketing as an issue of particular concern.

social and economic costs of NCDs, particularly for low- and middle-income countries<sup>16</sup>.

Subsequently, in May 2013, the 66th World Health Assembly unanimously adopted the WHO Global Action Plan for the Prevention and Control of NCDs 2013–2020 (14). This plan includes a monitoring framework with nine voluntary global targets to be reached by 2025, including: a 25% reduction in the overall mortality from cardiovascular diseases, cancer, diabetes or chronic respiratory diseases; a 30% relative reduction in mean population intake of salt/sodium; and a halt to the rise of diabetes and obesity (Resolution WHA 66.10). These targets are ambitious, and their achievement requires the development of effective multisectoral interventions and their coordination at global, regional and national levels. In particular, the Global Action Plan urges Member States and the international community to work towards implementation of the Recommendations as a major component of effective childhood obesity prevention strategies. In particular, Indicator 23 focuses on the importance of adopting policies to reduce the impact on children of unhealthy food marketing.

At the regional level more specifically, countries have also been explicitly called upon to implement the Recommendations and reduce the commercial pressure on children. In particular, the 61st Regional Committee for the Eastern Mediterranean in Tunis in 2014 adopted resolution EM/RC61/R.3, which identified the implementation of the Recommendations as a strategic area of intervention and urged Member States to “support the Regional Director’s initiative to protect public health and promote healthy lifestyles, with a special focus on countering the largely unopposed commercial practices that promote unhealthy products, particularly those targeting children”.

To facilitate the implementation of the WHO Global Action Plan on NCDs, several mechanisms and working groups have been set up. In particular, the month following the adoption of the plan, the United Nations (UN) Secretary-General established the UN Inter-Agency Task Force on NCDs, under the lead of WHO. The Task Force coordinates the activities of relevant UN organizations and other intergovernmental organizations and assists countries in their implementation of the WHO Action Plan

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<sup>16</sup> The economic consequences of NCDs are enormous. If intervention efforts remain static and rates of NCDs continue to increase as populations grow and age, cumulative economic losses to low- and middle-income countries from the four main NCDs (heart disease and stroke; diabetes; cancer; chronic lung disease) are estimated to exceed US\$ 7 trillion over the period 2011–2025 (an average of nearly US\$ 500 billion per year). This yearly loss is equivalent to approximately 4% of these countries’ current annual output. On a per-person basis, the annual losses amount to an average of US\$ 25 in low-income countries, US\$ 50 in lower middle-income countries and US\$ 139 in upper middle-income countries. In contrast, findings from the second study by the WHO indicate that the cost of scaled-up implementation of a core set of NCD “best buy” intervention strategies is comparatively low. Population-based measures for reducing tobacco and harmful alcohol use, as well as unhealthy diet and physical inactivity, are estimated to cost US\$ 2 billion per year for all low- and middle-income countries – less than US\$ 0.40 per person. Individual-based NCD “best buy” interventions – such as counselling, drug therapy for cardiovascular disease and measures to prevent cervical cancer – bring the total annual cost to US\$ 11.4 billion. On a per-person basis, the annual investment ranges from under US\$ 1 in low-income countries to US\$ 3 in upper middle-income countries. See WHO: From burden to “best buys” (<http://apps.who.int/medicinedocs/documents/s18804en/s18804en.pdf>).

and other high-level commitments to address NCDs worldwide<sup>17</sup>. Improved global monitoring and improved coordination is intended to provide the foundation for advocacy, policy development and global action, and help frame the concrete actions that countries should take between now and the next UN High-Level Meeting on NCDs in 2018<sup>18</sup>.

Furthermore, in 2014, the WHO Director-General established the WHO Global Coordination Mechanism on NCDs whose scope and purpose is to enhance the coordination of activities, multi-stakeholder engagement and action across all sectors in order to implement the WHO Global Action Plan on NCDs. It is led by the Member States and other participants including UN organizations and non-State actors such as nongovernmental organizations and academic institutions. To date, integrated support has been provided directly to a number of Member States that are willing to take the lead, including the Islamic Republic of Iran and Oman (15).

After noting that progress in tackling childhood obesity had been “slow and inconsistent”, the WHO Director-General also established the ECHO Commission in June 2014. The Commission, made up of 15 commissioners, was entrusted with producing a report specifying which approaches and combinations of interventions were likely to be most effective in tackling childhood and adolescent obesity in different contexts around the world. Two ad hoc working groups were convened to provide the Director-General with guidance, firstly, on the science and evidence for ending childhood obesity and, secondly, on implementation, monitoring and accountability frameworks. One of the tasks of the working group on science and evidence was to provide expert advice to the Commission on the role of marketing of unhealthy food to children in the growing rates of overweight and obesity – highlighting the strength of evidence in relation to obesity (16, pp 69–79). The ECHO Commission submitted its final report to the WHO Director-General on 25 January 2016, including a comprehensive, integrated package of recommendations to address childhood obesity across six areas: promotion of the intake of healthy foods; promotion of physical activity; preconception and pregnancy care; early childhood diet and physical activity; health, nutrition and physical activity for school-age children; and weight management. In relation to food marketing, the report highlighted (7):

*There is unequivocal evidence that the marketing of unhealthy foods and sugar-sweetened beverages is related to childhood obesity. Despite the increasing number of voluntary efforts by industry, exposure to the marketing of unhealthy foods remains a major issue demanding change that*

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<sup>17</sup> World Health Organization. Noncommunicable diseases and their risk factors. UN Interagency Task Force on NCDs (UNIATF) ([www.who.int/nmh/ncd-task-force/en/](http://www.who.int/nmh/ncd-task-force/en/)).

<sup>18</sup> For the ongoing preparations for the 2018 meeting, see: World Health Organization. Noncommunicable diseases and their risk factors. Getting to 2018: Preparing for the third UN High-level Meeting on NCDs (<http://www.who.int/nmh/events/2015/getting-to-2018/en/>)

*will protect all children equally. Any attempt to tackle childhood obesity should, therefore, include a reduction in exposure of children to, and the power of, marketing.*

*Settings where children and adolescents gather (such as schools and sports facilities or events) and the screen-based offerings they watch or participate in, should be free of marketing of unhealthy foods and sugar-sweetened beverages. The Commission notes with concern the failure of Member States to give significant attention to Resolution WHA 63.14 endorsed by the World Health Assembly in 2010 and requests that they address this issue.*

On this basis, it called on Member States to implement the Recommendations (ECHO recommendation 1.3), and in particular to develop a nutrient profiling model (ECHO recommendation 1.4) and address the issue of cross-border marketing (ECHO recommendation 1.5).

In May 2016, the 69th World Health Assembly welcomed the Commission's report (Resolution WHA 69.8) and asked the WHO to develop an action plan for the implementation of its recommendations. Following consultation with Member States and relevant stakeholders, an implementation plan was submitted to the 70th World Health Assembly in May 2017 (EB140/30). Work is now ongoing in advance of the review of the progress in the prevention and control of NCDs scheduled for the Third UN High Level Meeting on NCDs in 2018 (Resolution WHA 68.10).

Other major policy developments illustrate the increased attention being given to nutrition and obesity prevention globally. In particular, in the Rome Declaration on Nutrition in 2014, ministers and representatives of WHO Member States explicitly acknowledged that all forms of malnutrition – including undernutrition, micronutrient deficiencies, and overweight and obesity – not only affect people's health and well-being, but have negative social and economic consequences to individuals, families, communities and countries (17). The UN General Assembly subsequently endorsed the Rome Declaration and proclaimed 2016–2025 the UN Decade of Action on Nutrition (A/RES/70/259). These developments led to the inclusion of malnutrition and NCDs as important elements of the 2030 Agenda and the Sustainable Development Goals (SDGs): SDG 2 urges “all countries and all stakeholders” to “end hunger, achieve food security and improved nutrition and promote sustainable agriculture”, while SDG 3 calls on them to “ensure healthy lives and promote well-being for all at all ages.” (A/RES/70/1). It is hoped that the inclusion of childhood obesity as a major development concern can help galvanize political will and lead, in particular, to the effective implementation of the WHO Recommendations throughout the world.

### *1.3.3 Poor implementation of the Recommendations*

Despite these clear and repeated calls on Member States to implement the

Recommendations, the extent to which they have been used as a tool for the development of policies at the national and regional level has varied from one country to the other. Overall, progress remains slow, and more than seven years after their adoption, several countries still have to implement them (18). This is particularly true in the Region where, despite very varied action and progress, overall far too little has been done to limit the marketing of unhealthy food, particularly to children. This is confirmed by the research underlying this report.

Only a relatively few countries in the world have adopted legally binding measures (as opposed to relying on self-regulatory commitments of the food and the advertising industries)<sup>19</sup>, and from their experiences we can distinguish two main approaches. On the one hand, a growing number of countries have specifically limited – or are considering limiting – the marketing of unhealthy food to children in order to promote a media environment that is more conducive to healthier diets. This is the approach a few countries have taken or are considering, as discussed in section 3. On the other hand, some countries have prohibited all advertising (including, but not limited to, food) to children in order to protect them – given their credulity and vulnerability – from its negative effects. This approach, which was pioneered by Quebec in 1979, has had as a “collateral benefit” of limiting the exposure of children to unhealthy food marketing, thus contributing to specific public health objectives, such as the prevention of childhood overweight and obesity<sup>20</sup>.

In the Region, the Islamic Republic of Iran has taken substantial steps to restrict the marketing of unhealthy food to children. Several others are in the process of adopting national plans to align their national regulations with the Recommendations. Other countries have not taken any serious measures. The regional situation is discussed more fully in section 3.

## 1.4 Purpose, structure and scope of this report

In its commitment to scale up technical support to Member States, the Regional Office has taken a number of actions to raise awareness and facilitate the implementation of the WHO Global Action Plan on NCDs across the Region, and more specifically to support the adoption of effective restrictions on the marketing of unhealthy food to children. Following a technical advisory meeting on NCDs in Kuwait in April 2013, the Regional Office organized in collaboration with the University of Liverpool which

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<sup>19</sup> The World Cancer Research Fund has developed the NOURISHING database, a tool supporting the work of policy-makers, researchers and civil society organizations worldwide. It comprises a list of policies to promote healthy diets and reduce obesity and NCDs, and, in particular, examples of implementation of the Recommendations ([http://www.wcrf.org/sites/default/files/4\\_Restrict\\_advertising\\_Oct2017.pdf](http://www.wcrf.org/sites/default/files/4_Restrict_advertising_Oct2017.pdf))

<sup>20</sup> While Quebec’s legislation does not apply exclusively to food marketing, it has had a positive impact on reducing children’s exposure to unhealthy food marketing (see section 2.1.1).

included:

- a consultation in Amman with an interdisciplinary group of experts on food marketing to children (including lawyers, consumer and public health organizations and journalists) and selected countries of the Region;
- a regional workshop in June 2015, also in Amman, to build capacity to help countries to implement the Recommendations;
- personalized training for the Omani government on their implementation of the Recommendations (May 2017).

This report is the outcome of the work carried out in the past four years. It is primarily intended to support Member States in their implementation of the Recommendations at national and regional levels. In particular, it attempts to map the regulatory scene. It identifies what action has already been taken in the Region to implement the Recommendations on the basis of three questionnaires circulated to all countries of the Region in April 2013, January 2015 and January 2017. The questionnaire circulated in January 2017 is available in Annex 1. The report also highlights what Member States need to consider when implementing the Recommendations, drawing on experiences both within and outside the Region.

Section 2 provides an overview of the media and marketing techniques used to promote unhealthy food to children in the Region and beyond. It looks both at the extent to which such food is marketed to children in the Region, as well as the effect that such marketing has on children's food preferences, purchase requests and consumption patterns, and highlights the growing complexity of the current media environment.

Given that unhealthy food is bad for children and undermines their rights, the question arises of how Member States should best implement the Recommendations as part of effective overweight and obesity prevention strategies. Section 3 assesses what has been achieved to date in the Region following the endorsement of the WHO Recommendations and identifies opportunities for further progress at national and regional levels. It emphasizes the importance of building consensus across and beyond government in order to facilitate the adoption of a wide-ranging policy restricting unhealthy food marketing to children. Section 3 concludes by looking at the issue from a regional perspective, highlighting the importance for the Region as a whole to adopt cross-border standards to ensure that the efforts of individual Member States to restrict unhealthy food marketing to children are adequately supported.

Section 4 discusses the important need for policy-makers to act in the public interest, and avoid all real, perceived or potential conflicts of interest. In practice, this means that Member States should not delegate their responsibility to set the policy parameters to private stakeholders such as food or advertising industry operators. In particular, section 4 focuses on the limitations of relying on voluntary commitments, and the responsibility of the food industry to stop promoting unhealthy food

marketing to children. It also emphasizes that countries in the Region have a legal obligation to regulate the harmful marketing strategies of the food industry under the UN Convention on the Rights of the Child and other international human rights instruments. A human rights approach to childhood obesity and NCD prevention requires that the Recommendations are read in light of this Convention and other human rights treaties.

It is worth highlighting from the outset that this report focuses exclusively on the implementation of the Recommendations. It does not discuss the implementation of the International Code of Marketing of Breast-milk Substitutes<sup>21</sup> and other relevant instruments intended to protect, promote and support breastfeeding. This does not mean that measures to improve infant nutrition, including the imposition of restrictions on the marketing of breast-milk substitutes, do not have an important role to play in preventing childhood overweight and obesity. Quite the contrary, new scientific evidence highlights the need to focus on the life course, and the need to intervene even before conception and reduce the exposure of pregnant women, infants, children and adolescents to an obesogenic environment<sup>22</sup>. Similarly, this report does not discuss food labelling policies which are intended to help consumers make healthier food choices by providing them with clear, sufficient and non-misleading information. The focus is exclusively on the extent to which restrictions on the marketing of unhealthy food to children are justified. This report also does not discuss social marketing and education campaigns, and the role that marketing of healthy food could play in promoting healthier diets. Even though they fall outside the scope of this report, food labelling and nutrition education are nonetheless components of effective overweight and obesity prevention strategies<sup>23</sup>. It is important to point this out as the information gathered through the three questionnaires distributed to countries in 2013, 2015 and 2017 on implementation of the Recommendations suggests that the distinction between these intervention areas is still unclear.

Finally, because this report takes as its starting point the implementation of the Recommendations, it focuses on the marketing of unhealthy food to children. This does not mean that Member States should not consider adopting a whole population approach and restrict the marketing of unhealthy food to both children and adults. On the contrary, the Regional Office considers that “restricting all marketing of [unhealthy food] is a way to protect adult health and to protect adolescents and

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<sup>21</sup> Adopted at the 34th World Health Assembly in 1981, the Code bans the marketing to the general public of – among others – breast-milk substitutes, including infant formula (Article 5) ([www.who.int/nutrition/publications/infantfeeding/9241541601/en/](http://www.who.int/nutrition/publications/infantfeeding/9241541601/en/)).

<sup>22</sup> The final report of the ECHO Commission is unequivocal in this respect with its focus on the importance of adopting a life-course approach and the importance of breastfeeding as “core to optimizing infant development, growth and nutrition”. In particular, the Commission urges States to enforce the International Code of Marketing of Breast-milk Substitutes and subsequent World Health Assembly resolutions (ECHO Recommendation 4.1) (7).

<sup>23</sup> See the final report of the ECHO Commission, Recommendations 1.6 and 1.7 on food labelling and Recommendations 1.7, 4.3, 4.10 and 5.4 on nutrition education (7). On social marketing, see: Hastings G, Domegan C. Social marketing: rebels with a cause, 3rd edition. Oxford: Routledge; 2017.



children from exposure to marketing that is supposedly targeted only at adults. Given that no country has completely eliminated children's exposure to marketing of [unhealthy food] by defining child audiences, a whole population approach might well be particularly relevant to the Region, where children and adolescents comprise more than half of the population" (3, p. 20).

## 2. Harmful effect of food marketing on children

In the past 20 years, a direct link between unhealthy food marketing and childhood obesity has been established as stated in the ECHO Commission's final report: "There is unequivocal evidence that the marketing of unhealthy foods and sugar-sweetened beverages is related to childhood obesity." (7, p. 18).

Little systematic research has been done in the Region to evaluate the extent of unhealthy food marketing and its effect on children. However, it is clear that unhealthy food is promoted extensively in the Region, as discussed in section 2.2. More research would help provide a more complete picture of the extent, nature and impact of unhealthy food marketing in Member States. This in turn could better inform national and regional policies to implement the Recommendations. Nevertheless, the knowledge gathered in a growing number of countries worldwide demonstrates that there are clear trends in the extent, nature and impact of unhealthy food marketing on children. Countries of the Region should use this to introduce restrictions on unhealthy food marketing in their countries without further delay.

This section reviews the evidence base underpinning the Recommendations (section 2.1), and presents data more specifically on the marketing of unhealthy food in the Region (section 2.2).

### 2.1 International evidence supporting the regulation of marketing of unhealthy food to children

One of the first studies was published in 2003 after the United Kingdom (UK) Food Standards Agency commissioned a systematic literature review of all sound studies that had been carried out on food marketing to children in order to establish whether, and if so the extent to which, restrictions on unhealthy food marketing to children were warranted (19, p. 3). After noting that food marketing to children was primarily for unhealthy food, the review highlighted that food marketing had become a global phenomenon and tended to be varied and integrated, using multiple messages in multiple channels. It concluded that unhealthy food marketing had the following effects on children:

- it undermines food knowledge and confuses children as to what is healthy and unhealthy food;
- it stimulates a preference for unhealthy food;

- it encourages the purchase of, and pestering for, unhealthy food; and
- it makes children more likely to consume unhealthy food. This unhealthy eating is directly linked to the recent increases in childhood obesity and weight gain, and related health harms (19,20, pp 378–80).

Importantly, the report found that advertising led to an increase in consumption not only of the product of a given brand, but also of all the products of the category in question (19). In other words, not only will children prefer one brand of fizzy sugary drink to another if they are exposed to the marketing of the advertised product, but they will also increase their consumption of fizzy sugary drinks to the detriment of other healthier drinks, such as water and milk.

This review has been regularly updated since it was first published in 2003. The latest update was commissioned by WHO (21) and provides the evidence supporting the Recommendations, which state (12, paras 12,13):

*“Evidence from systematic reviews on the extent, nature and effects of food marketing to children concludes that advertising is extensive and other forms of food marketing to children are widespread across the world. Most of this marketing is for foods with a high content of fat, sugar or salt. Evidence also shows that television advertising influences children’s food preferences, purchase requests and consumption patterns.*

*The systematic reviews show that, although television remains an important medium, it is gradually being complemented by an increasingly multifaceted mix of marketing communications that focuses on branding and building relationships with consumers. [...] Food marketing to children is now a global phenomenon and tends to be pluralistic and integrated, using multiple messages in multiple channels.”*

Subsequent studies have confirmed these findings. For example, a review published in 2012 concluded that, “current marketing practice predominantly promotes low-nutrition foods and beverages” and that “food promotions have a direct effect on children’s nutrition knowledge, preferences, purchase behaviour, consumption patterns and diet-related health” (22).

Evidence about the relationship between unhealthy food marketing and children’s food preferences and purchase requests comes from a range of sources, including systematic literature reviews, experimental studies and studies evaluating the effectiveness of restrictions on food marketing to children. It is likely that this evidence provides a conservative assessment of the effect of unhealthy food on children’s health, given that beyond the direct effect of unhealthy food marketing on children, there is a range of indirect effects that are more difficult to measure (16, pp 72–5).

Seven years after the adoption of the Recommendations, television is still a frequently

used medium to market unhealthy food to children (section 2.1.1). However, other media are being used more and more to promote unhealthy food to children, particularly the Internet and other forms of digital marketing (section 2.1.2). Furthermore, bearing in mind that the effectiveness of marketing is a function of both exposure and power (Recommendation 2), section 2.1.3 discusses the marketing techniques that have been used to promote unhealthy food to children and their effect. The medium in which the communication message appears relates to the reach, frequency and impact of the message (or exposure, as discussed in sections 2.1.1 and 2.1.2), whereas its creative content, design and execution relate to its power (as discussed in section 2.1.3). This section does not provide a comprehensive account of research on unhealthy food marketing to children. It is intended to give a snapshot of the research which supports the existence of the relationship between unhealthy food marketing and obesity, which could be replicated in the Region, and which therefore supports the implementation of the Recommendations.

### 2.1.1 Television advertising

A 2010 global study of television food advertising on the commercial channels most watched by children included several European countries (UK, Germany, Italy, Greece, Sweden and Spain). The results showed that food advertisements comprised 11–29% of all advertisements broadcast, and of those, between 53% and 87% were for unhealthy food. Although this study speaks to children’s potential rather than actual exposure, it was found that non-core food advertisements were more prevalent at times when higher numbers of children would be watching television (“peak times” based on typical viewing patterns for each country) (23).

In 2004, the Office of Communications (Ofcom), an independent regulator for the UK communication industries, commissioned research into the role played by television advertising in influencing children’s consumption of unhealthy food. The report concluded that advertising had a modest, direct effect on children’s food choices and a larger but unquantifiable indirect effect on children’s food preferences, consumption and behaviour<sup>24</sup>. On this basis, while noting the multiple factors responsible for childhood overweight and obesity, Ofcom acknowledged that there was a case for regulating food advertising to children on television to address this public health issue. This research was the basis for a ban on all unhealthy food marketing in and around children’s television programmes in the UK, as discussed in section 3.

Studies also show that children are often exposed to a high volume of television advertising for unhealthy food on commercial television at times when the largest numbers of children are watching (during children’s programmes and family shows which are designed for a mixed audience including children) (24–26), and that this

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<sup>24</sup> Sonia Livingstone produced three reports for Ofcom on the effects of food advertising (February 2004, May 2004 and January 2006). They are all available at <http://www.ofcom.org.uk>. Her findings are summarized in: Livingstone S. Does TV advertising make children fat: what the evidence tells us? Public Policy Research. 2006;13(1):54–61.

marketing influences their food preferences, purchase requests and consumption patterns (27). In the Region, a review by Nassar and Al Zien supports the conclusion that the negative effects of television commercials are particularly noticeable, including on nutrition and childhood obesity (28).

Evaluation of the existing restrictions on television advertising to children further supports the argument that there is a relationship between unhealthy food marketing and children's food preferences, purchase requests and consumption patterns. For example, a study in Quebec, where advertising to children of up to 13 years of age is prohibited (including unhealthy food marketing), estimated that the ban led to an 11% decrease in the probability of purchasing fast food and that it had reduced fast food consumption by US\$ 88 million per year (29).

These findings are important in light of the fact that television is still one of the most popular media for promoting unhealthy food to children (30). It is also important to note that, even though the Internet and other forms of digital marketing have grown rapidly and are expected to become even more significant worldwide, reduced spending on television advertising does not necessarily mean reduced exposure to such marketing<sup>25</sup>.

### *2.1.2 Other media used to promote unhealthy food to children*

As mentioned in section 1, the Recommendations define the notion of marketing broadly as "any form of commercial communication or message that is designed to, or has the effect of, increasing the recognition, appeal and/or consumption of particular products and services. It comprises anything that acts to advertise or otherwise promote a product or service." This broad definition is necessary because food marketing is everywhere. Even though the main food and beverage companies are allocating an increasing part of their marketing budgets to digital media<sup>26</sup>, they also continue to use more traditional ways to promote unhealthy food to children, including advertising through television, radio, print and billboards, as well as sponsorship, point-of-sale advertising and packaging design.

Despite the fact that there is less evidence to draw on about the effect of unhealthy food marketing in media other than television, evidence is growing rapidly and confirms that there is indeed a direct link between unhealthy food marketing and

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<sup>25</sup> The proliferation of television channels and expanding new media has reduced average costs and therefore increased opportunities significantly. For example, the number of television impacts in the UK (one person seeing one advertisement) rose by 21% from 790 billion impacts in 2006 to 956 billion impacts in 2010, despite the fact that expenditure on television advertising across major categories was reported to have fallen by nearly 60% (Marketing of foods high in fat, salt and sugar to children: Update 2012–2013. Copenhagen: WHO Regional Office for Europe; 2013:2).

<sup>26</sup> By 2018, Internet advertising is likely to become the most invested media type for advertising globally; advertising expenditure on social networks in 2017 reached US\$ 35.98 billion ([www.emarketer.com/Article/Social-Network-Ad-Spending-Hit-2368-Billion-Worldwide-2015/1012357#sthash.tjwLObVZ.dpuf](http://www.emarketer.com/Article/Social-Network-Ad-Spending-Hit-2368-Billion-Worldwide-2015/1012357#sthash.tjwLObVZ.dpuf)).

children's food preferences, purchase requests and consumption patterns.

In November 2016, the WHO Regional Office for Europe published an important report that provided a comprehensive analysis of digital marketing of unhealthy food to children in the WHO European Region (31). It noted with concern that:

- children are exposed to countless numbers of hidden digital marketing techniques promoting unhealthy food;
- parents might be unaware of or underestimate the harmful impact of digital marketing, despite the effect of such marketing on children;
- in the absence of effective regulation of digital media in many countries, children are increasingly exposed to persuasive, individually tailored marketing techniques through, for example, social media sites and “advergames” (i.e. computer-based and online games which include brand advertising and product placement);
- using sophisticated techniques, digital platforms are able to collect extensive personal data from Internet users, including children, in order to deliver behavioural advertising, targeting audiences with precision. For example:
  - geolocation data from mobile devices enable marketers to deliver advertisements and special offers in real time when users are in an area in which specific products are sold, encouraging them to “walk in and buy”;
  - some food chains partner with gaming companies in order to, for example, make the chain's restaurants important game locations;
  - digital marketing can be pursued on numerous platforms, such as advergames, social media and animated movies, or through powerful peer influencers such as video bloggers, known as “vloggers”;
- assessing the extent of digital unhealthy marketing viewed by children of all ages is a major challenge for researchers external to digital platforms because proprietary data are not published, and other currently available methods do not readily allow access to these data.

**Social networking sites** such as Facebook and message services such as Twitter are particularly popular with children and young people as well as with advertisers<sup>27</sup>. Early indications are that substantial advertising of food high in fat, salt or sugar reaches children in digital media. For example, the five food and beverage Facebook brand pages in Australia most popular with users aged 13–17 years featured sugar-sweetened drinks, ice-creams, chocolate and fast food (32). Similarly, in Ireland, of the 113 most popular retail and Facebook food and soft drink brands, the 18 that Facebook

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<sup>27</sup> In China, for example, advertising spending on social networks was expected to increase to US\$ 6.11 billion in 2017, or 12.5% of all digital advertising dollars in the country. eMarketer, 15 April 2015 (<https://www.emarketer.com/Article/Social-Network-Ad-Spending-Hit-2368-Billion-Worldwide-2015/1012357?ecid=PR1020>).

estimated had the greatest “reach” among users aged 13 or 14 years all featured sugar-sweetened carbonated drinks, fast foods, savoury snacks, sweets, chocolate and ice-cream (33). Social media marketing can increase advertisement recall, awareness of the product or brand and intent to purchase. Even if children are required to declare they are over a certain age to register on networking sites and message services, they often declare a false age and access them at a much younger age. This raises concern about the effectiveness of age-verification and whether enough is being done to prevent children from accessing age-restricted content on social media sites<sup>28</sup> (34).

The report of the WHO Regional Office for Europe also noted that mobile digital marketing was developing at a fast pace (31, p. 4). In particular, it referred to the net children go mobile study in six European countries (Belgium, Denmark, Ireland, Italy, Portugal, Romania and the UK) which reported a “post-desktop media ecology” among children aged 9–16 years (35), with smartphones being the devices most frequently used daily. Mobile device ownership is rapidly increasing: 67% of British children own a tablet (36), and tablet ownership is increasing very rapidly in Central and Eastern Europe and Turkey (37). Companies collect mobile phone numbers from their interactive websites and customize their messages on the basis of users’ interests. Smartphone applications further increase the opportunities for unhealthy food marketing, allowing food operators to communicate information about products (38).

Box 2 illustrates the strategies food companies can use with digital online marketing to extend their reach to children.

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<sup>28</sup> Combined exposure to television and Internet social networking is also increasing: over 50% of X Factor viewers in the UK reportedly used the Facebook site whilst they were watching the television show (Marketing of foods high in fat, salt and sugar to children: Update 2012–2013. Copenhagen: WHO Regional Office for Europe; 2013:6). For a more complete discussion, see: (31).

## Box 2 Digital online marketing<sup>29</sup>

Children access the Internet from an early age<sup>30</sup>, and often without parental or any adult supervision. Furthermore, as is the case for television advertising, the food marketed to children online or via other new media tends to be unhealthy. However, the Internet and other forms of digital marketing allow food companies to develop marketing strategies which are far more immersive, interactive and integrated than they have ever been able to do on television or other more traditional media.

*Immersive:* the online environment often portrays marketing opportunities as entertainment, making it particularly difficult for children to distinguish marketing from content, to the point that marketing sometimes becomes content. For example, major food companies have internet sites offering a range of games promoting their goods, services and brands (“advergaming”). These games, which are often intended for children without always referring explicitly to the goods, services and brands thus promoted, are highly immersive. They are designed to be entertaining and rely on children playing for long periods of time, sometimes with several repeat visits. They are a particular cause for concern as they tend to operate “under the cognitive radar”, i.e. without children being aware that they are the targets of unhealthy food marketing. A systematic review of the impact of advergaming on children was carried out in 2012, highlighting their influence on children’s dietary choices (39). Moreover, it also emphasizes that “research that tests the effects of advergaming on children rather than their understanding of commercial intent concurs that older and more experienced children are just as affected by advergaming as younger children” (emphasis in the original)<sup>31</sup>. Several studies have since confirmed the poor nutritional value of the foods marketed to children via advergaming (40–44).

*Interactive:* media such as the Internet and smartphones enable companies to gather information and adapt their marketing strategies to target each potential customer as individually and effectively as possible. In particular, the increasing use of “behavioural marketing” (coupled with geolocalization technology) personalizes the connection between a brand and its customers. This trend is compounded by the rapid development of social networking sites which allow food manufacturers to ensure that their brands are referred to, “liked” and promoted by children themselves without them always realizing that they have been recruited as “brand ambassadors”. This form of “viral marketing” in turn enables the brands to create a mix of social impressions which incorporate both “paid” and “earned” media. However, social media marketing increases advertisement recall, awareness of the product or brand and intent to purchase (45). Even though children may have to declare that they are over a certain age to register on networking sites and message services, evidence suggests that they often register under false ages and access them at a much younger age which, in turn, raises questions around the effectiveness of age-verification (34), and gives rise to both public health and data protection concerns.

*Integrated:* the Internet has significantly increased the opportunities available to food operators to ensure that their strategies are always more integrated. For example, in the United States, a survey reviewed 130 food company websites: 48% had designated children’s areas featuring a variety of marketing techniques including advergaming, interactive programmes, branded spokes-characters and tie-ins to other products. Of the companies with child-oriented sites, 87% promoted unhealthy food (46). Beyond their own websites, major food operators have created powerful alliances with companies such as Google in order to increase their presence on search engines and emails, as well as Facebook, Twitter and YouTube and other user-generated content sites.

Digital online marketing has become an integral component of the “marketing mix” of food brands: it has not replaced other forms of more traditional food marketing; rather, it has been added to them to increase brand presence across a larger, more diverse range of media. With digital opportunities, food marketing has become more ubiquitous and multifaceted than ever.

Even if advertisers spend an increasing part of their marketing budget on new media, they also continue to use **more traditional settings** to promote unhealthy food to

<sup>29</sup> Box 2 is reproduced from box E in the report of the ad hoc working group on science and evidence for ending childhood obesity (16, pp 72–5).

<sup>30</sup> For example, in 2011, 65% of UK children aged 5–7 years and 85% of children aged 8–11 accessed the Internet through home computers. Several of them also own a smartphone: 1 in 50 children aged 5–7 years and 1 in 8 children aged 8–11 years (Children and parents: media use and attitudes. London: Ofcom; 2011).

<sup>31</sup> A study by Harris and others also found that children playing advergaming with energy-dense food consumed more energy-dense snacks and fewer fruits and vegetables than children who played advergaming with fruit or those in the control group (Harris JL, Speers SE, Schwartz MB, Brownell KD. US food company branded advergaming on the Internet: children’s exposure and effects on snack consumption. *Journal of Child Media*. 2012;6:51–68).



children<sup>32</sup>. For example, a recent study carried out in New Zealand showed that **magazines** specifically targeted to children and adolescents contained a significantly higher proportion of unhealthy branded food references compared with the most popular magazines, most of which were targeted to women (47). **Packages** are also used extensively to promote unhealthy food to children (48).

**Marketing in schools** is particularly worrying as it allows for the promotion of food brands in educational settings where children and parents trust that action is taken in the best interest of children. In the United States of America, the Federal Trade Commission reported that food companies spent US\$ 186 million on in-school advertising in 2008, 90% of which was spent on soft drink promotion (49, p. 23). In-school marketing includes advertising or promotional activities in or around a preschool, elementary school, middle or junior high school, and high school, including cafeterias, vending machines, school events, athletic events or fields, school buses, and closed circuit television channels (49, p. 24). WHO has specifically urged countries to ensure that children are not exposed to unhealthy food marketing in settings where they gather, not least schools. This is discussed further in section 3.

Similarly, **sponsorship** provides the food industry with unique business opportunities to target a captive audience of new, young consumers – particularly when the arrangements relate to sports events of wide appeal. For example, the Olympic Partners benefit from exclusive marketing rights worldwide within a designated product or service category. Thus, Coca-Cola is the Olympic Games exclusive non-alcoholic beverages supplier and McDonald's the exclusive retail food services supplier – until 2020, when its sponsorship terminates (50). At the Beijing Olympic Games, Coca-Cola was the largest spender, with an investment of US\$ 125 million in advertising three months prior to and including the Olympics. McDonald's followed with an advertising spend of US\$ 87 million. However, there was also a marketing frenzy among competitor companies not involved as sponsors. PepsiCo spent almost US\$ 100 million on advertising over the same period, while KFC trumped McDonald's by spending US\$ 238 million on advertising<sup>33</sup> (51). Similarly, Coca-Cola sponsors the football World Cup, and it will sponsor the championship which is due to take place in Qatar in 2022<sup>34</sup>. The food industry not only has a direct commercial interest in investing in sports sponsorship with the expectation of

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<sup>32</sup> “Traditional” settings for advertising are discussed in: Marketing food to children and adolescents: a review of industry expenditures, activities, and self-regulation. (49); and A review of food marketing to children and adolescents: follow-up report. Washington (DC): Federal Trade Commission; December 2012.

<sup>33</sup> For a criticism of the commercialization of the Olympic Games, see in particular: Tomlinson A. The commercialization of the Olympics: Cities, corporations, and the Olympic commodity. In: Young K, Wamsley KB, editors. Global Olympics: Historical and Sociological Studies of the Modern Games (Research in the Sociology of Sport). UK: Emerald Group Publishing; 2005:179.

<sup>34</sup> The FIFA site itself states: “The FIFA World Cup™ is the most effective international marketing platform, reaching millions of people in over 200 countries throughout the world” (<http://www.fifa.com/about-fifa/marketing/sponsorship/partners/>).

significant returns on investment, but it also helps its overall image as a key stakeholder in the prevention and control of NCDs<sup>35</sup>.

### 2.1.3 Beyond exposure: power

Food operators also use a broad range of marketing techniques, known to be particularly effective with children, to promote their products, services and brands. A systematic literature review in 2014 identified 38 articles examining persuasive marketing techniques to promote unhealthy food to children (52). The most frequently reported techniques were: premium offers, promotional characters, nutritional and health claims, the theme of “taste” and the emotional appeal of “fun”. Similarly, a study published in 2011 in the UK found that the television food advertising likely to be seen by children made widespread use of promotional characters, celebrity endorsers and premium offers, and that these techniques were used more frequently to promote unhealthy rather than healthy food, even on dedicated children’s channels (53).

More specifically, some studies have shown that food packaging which displays familiar cartoon characters can increase children’s liking of the food (54,55). In one of these studies, children aged 4 to 6 years differentiated identical food on the basis of their packaging and consistently stated that they preferred the taste of those foods with a popular cartoon character on the packaging. The effect was seen most strongly for unhealthy food (56,57).

Similarly, evidence suggests that “gifts” distributed with children’s meals are a widespread and effective fast-food marketing tool targeting children, and are seen by parents in the UK as the marketing technique most likely to encourage children to pester their parents for unhealthy food (13, p. 25, box 4). According to a report from the U.S. Federal Trade Commission, 10 leading fast food restaurant chains spent US\$ 360 million in 2006 on toys distributed with children’s meals in the United States alone (49, p. 23). The Commission also reported that in 2006, fast food restaurants sold more than 1.2 billion meals with toys to children under 12 years, accounting for 20% of food sold for children. Recognizing the potential power of “free toys”, the city of San Francisco has legislated to restrict “free toys” promotion in fast food outlets, specifying that toys can only be offered if the food sold is less than 600 kcal per meal or portion and does not exceed certain thresholds in salt, fat, saturated fat and sugar content<sup>36</sup>.

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<sup>35</sup> For a more detailed discussion of the sponsorship of sports events by food industry operators, see: Garde A, Rigby N. Going for gold – should responsible governments raise the bar on sponsorship of the Olympic Games and other sporting events by food and beverage companies? *Communications Law*. 2012;17:42; and the Sustain Report. The obesity games – junk food sponsorship of the Olympic Games, London, 2012 (<http://www.sustainweb.org/publications/?id=237>).

<sup>36</sup> Ordinance 290-10 amended Article 8 of the San Francisco Health Code by adding Sections 471.1 to 471.9 to set nutritional standards for restaurant food sold accompanied by toys or other youth focused incentive item.

Research suggests that children are also influenced by celebrity endorsement and that the influence of a celebrity endorser on food intake in children extends beyond his or her role in the specific endorsed food commercial, prompting increased consumption of the endorsed brand even when the endorser has been viewed in a non-food context. The ubiquitous nature of celebrity media may reinforce unhealthy eating practices in children, although further research is needed to confirm these findings (58,59). This is why Ireland, for example, has prohibited the use of celebrities to promote unhealthy food to children up to 18 years of age<sup>37</sup>.

Overall, the power of food marketing remains under-researched and the use of specific techniques promoting unhealthy food to children is rarely regulated – a few exceptions aside (60).

The pervasiveness of unhealthy food marketing combined with the use of powerful marketing techniques exacerbates children’s “pester power”. Food companies target children not only because they often have their own money to spend but they influence the overall purchasing decisions of their families (61). They also use children as a bridge into low- and middle-income countries where adults may be more resistant to westernized diets (62). Children should not be used as surrogate salespeople to pester their parents to buy heavily promoted unhealthy food. This is particularly so if children in lower-income households pester their parents when they have seen images of products their parents cannot afford (63), and in light of recent evidence that pestering is modestly related to diet and weight<sup>38</sup>.

This section, which has briefly reviewed the evidence on the nature, extent and effect of food marketing to children, confirms that it can no longer be argued that unhealthy food marketing does not contribute to childhood obesity. This should not, of course, be read as suggesting that obesity is not multifactorial in nature. Rather, it is intended to establish that – among the many areas of intervention required to address childhood obesity – unhealthy food marketing is one of them. The next section (2.2) looks more specifically at the situation in the Region.

## 2.2 Food marketing trends in the Region

As the Recommendations noted in 2010, “most of the available evidence to date comes from high-income countries” (12, para. 35). This remains largely true seven and half

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<sup>37</sup> Celebrities in this instance are defined as persons who are widely acclaimed, or honoured and/or known to children. It does not include those persons or characters that become known to children solely as a result of their participation in commercial communications. See section 11(9) of the Irish Children’s Commercial Communications Code ([http://www.bai.ie/?page\\_id=1929](http://www.bai.ie/?page_id=1929)).

<sup>38</sup> Asking for items seen on television has the most robust relationships across 23 child outcomes and over time (Huang CY, Reisch LA, Gwozdz W, Molnár D, Konstabel K, Michels N, et al. Pester power and its consequences: do European children's food purchasing requests relate to diet and weight outcomes? *Public Health Nutr.* 2016 Sep;19(13):2393–403).

years after the Recommendations were adopted with few studies coming from low/middle-income countries (28,64–66).

In order to address this gap, the Regional Office commissioned the **Pan Arab Research Center (PARC<sup>39</sup>)** to provide new data with a view to assessing the nature and extent of the marketing of unhealthy food, particularly children, in the Region and therefore support evidence-based policies<sup>40</sup>. These data, collected in 2012 and 2015, supplement the data which some countries have started to gather and analyse as a first step towards the implementation of the Recommendations. This also follows from the regional strategy on nutrition 2010–2019 and plan of action which specifically calls for “monitoring the characteristics of the food environment, including nutritional quality, food prices and marketing practices” (67).

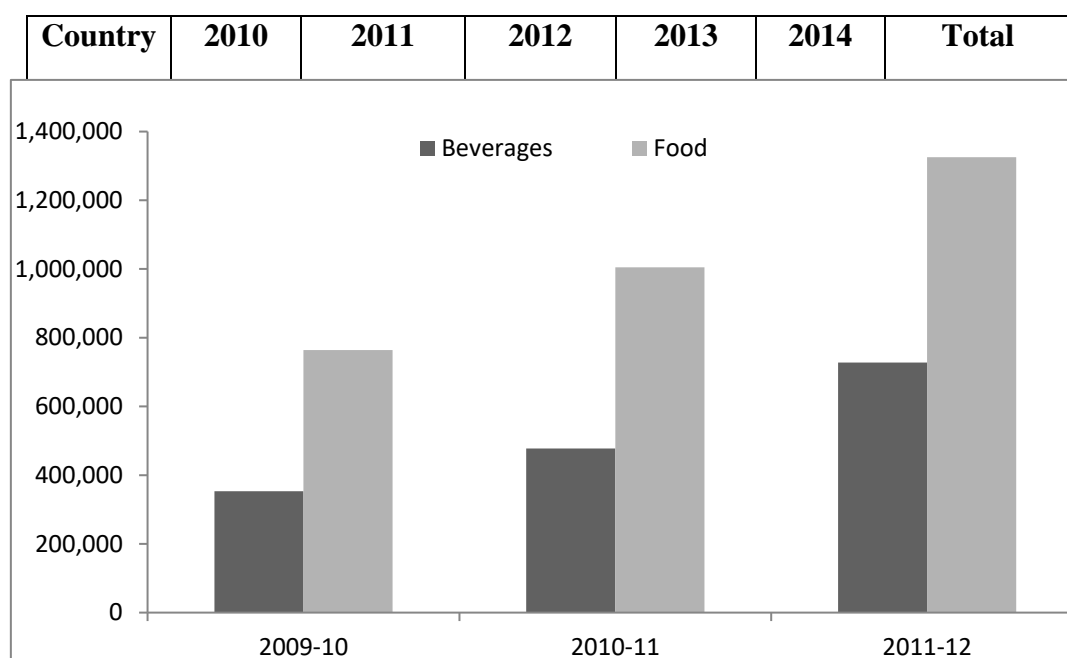
The data that PARC gathered focuses on multinational and regional food and beverage companies, and primarily companies with a presence in most of the countries. The media focused on were mainstream broadcast, print and outdoor media. They did not include the Internet and other digital media, nor did they include packaging, point-of-sale advertising and sponsorship arrangements. The power of specific marketing techniques was also not evaluated –the focus was on the *exposure* of children to unhealthy food marketing in the media mentioned above. Despite these gaps, the data provide interesting insights into the nature of the food advertised to children in the Region and the extent of this advertising, particularly on television.

The marketing investment of the food and beverage industry has increased steadily in the Region (Fig. 3 and Table 1).

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<sup>39</sup> PARC is a market research centre with its regional centre in Dubai. It operates through a network of independent branch offices in several countries including Saudi Arabia, Bahrain, Kuwait, Qatar, Oman, Lebanon, Egypt, Jordan, and Yemen. PARC’s advertising monitoring system can track the advertising expenditure relating to more than 800 product categories across over 10 000 brands across the Arab region and on a range of media, including broadcasting media, newspapers and magazines, outdoors, as well as online and on social media (<http://arabresearch.iniquus.com>).

<sup>40</sup> The WHO Recommendations note explicitly that most of the evidence collected to date originates from high-income countries and call on low- and middle-income countries to gather national data to support their implementation of the Recommendations (12, *para.* 35).



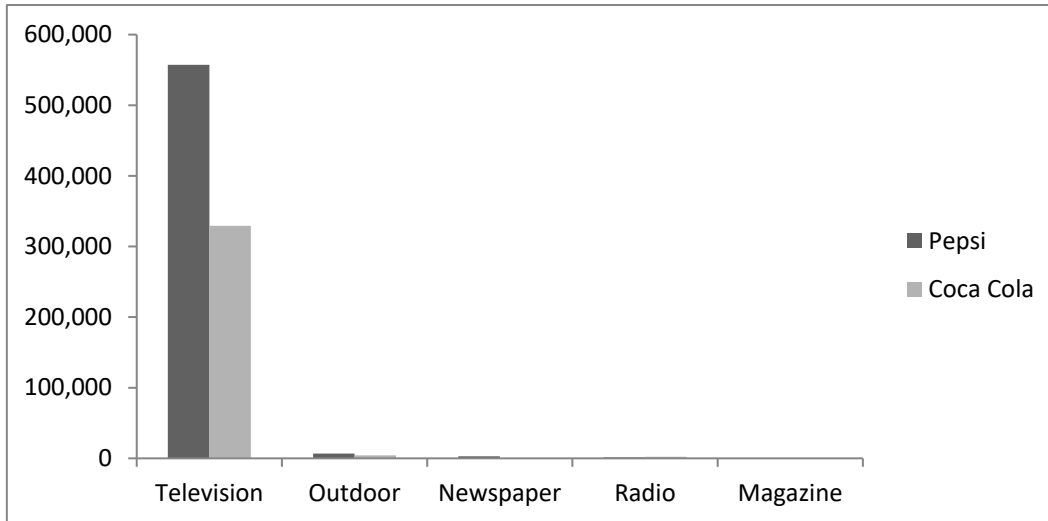
**Fig. 3 Unhealthy food marketing expenditure in selected countries of the Eastern Mediterranean Region (US\$ 000s)**

(Source: PARC, 2012)

Food marketing is ubiquitous and shifts eating habits towards hyper-caloric snacks, fast food, sugar-sweetened carbonated drinks and other unhealthy food categories. The food industry spends millions every year in marketing products across all media with access to children, particularly on television. The problems from the extensive marketing of unhealthy food are further compounded by the general lack of awareness in the Region of what constitutes a healthy diet.

Furthermore, the data collected clearly demonstrate that the food categories promoted in the Region are largely unhealthy food. This reflects the findings of the systematic literature reviews discussed in section 2.1 (19). However, these data were collected before the Regional Office published its nutrient profile; the food classification system used by PARC therefore differs from the model promoted by the Regional Office. The situation is likely to be worse than the PARC data suggest if the stricter nutrient profile is applied.

Television remains a preferred media for marketing of unhealthy food, particularly to children. Looking more specifically at the marketing strategy of two large producers of sugar-sweetened carbonated drinks, the data show that television is the main communication channel in the Region (Fig. 4), reflecting what has been discussed above.

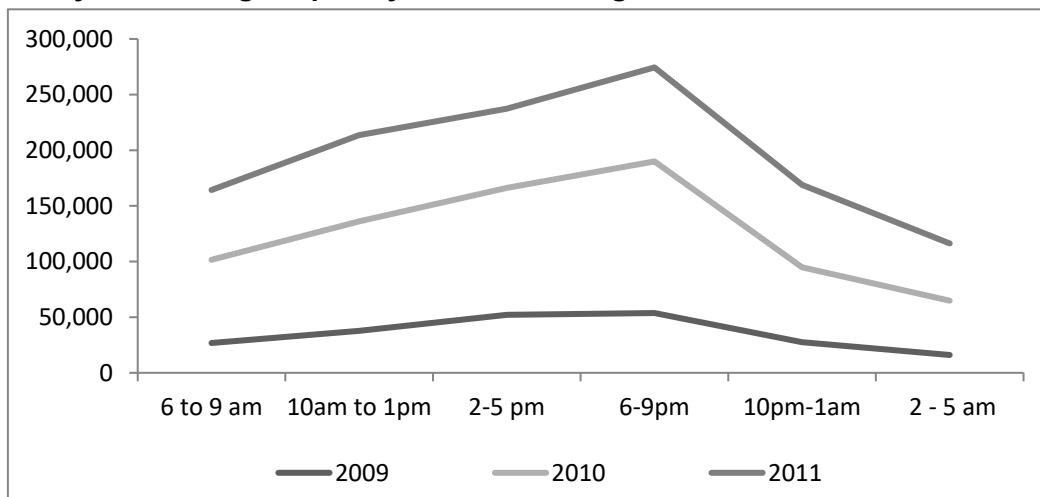


**Fig. 4 Expenditure by communication channel of two major beverage companies (2009–2012) (US\$ 000s)**

(Source: PARC, 2012)

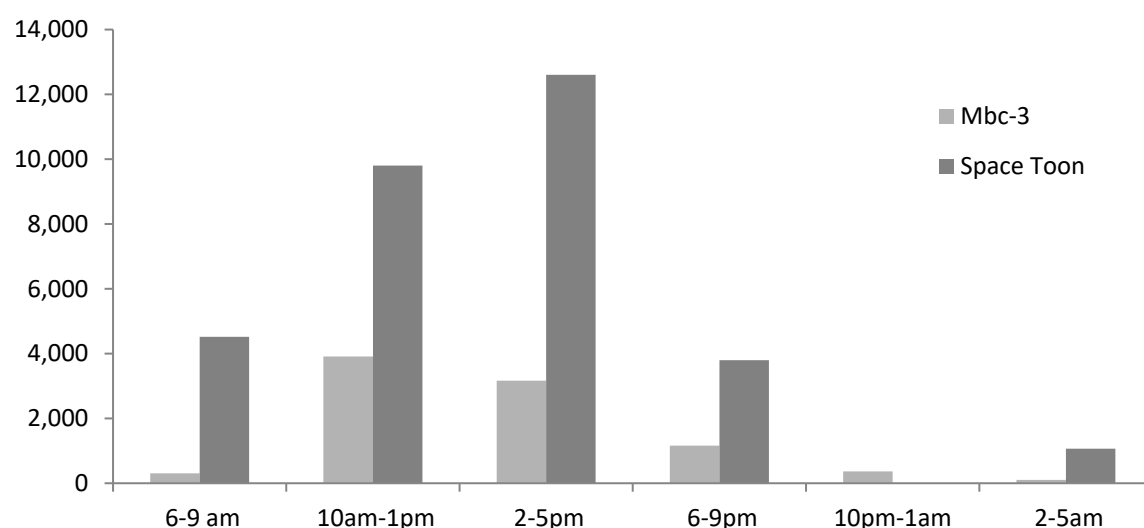
Furthermore, the rate of advertising by the main sugar-sweetened carbonated drink and fast food companies peaks around 18:00 to 21:00 hours. These daily hours correspond to times when a large number of children and adolescents will be watching television (Fig. 5). The marketing of food and beverages on regional children channels follows the same pattern (Fig. 6). This emphasizes the importance of ensuring that the restrictions on unhealthy food marketing to children are defined sufficiently broadly to include these “peak viewing” times during which many children will be exposed to such marketing. This point is discussed further in section 3.

**Fig. 5 Daily advertising frequency of the main sugar-sweetened carbonated drink and fast food companies in the Eastern Mediterranean Region (total number of advertisements from 2009 to 2011)**



**fast food companies in the Eastern Mediterranean Region (total number of advertisements from 2009 to 2011)**

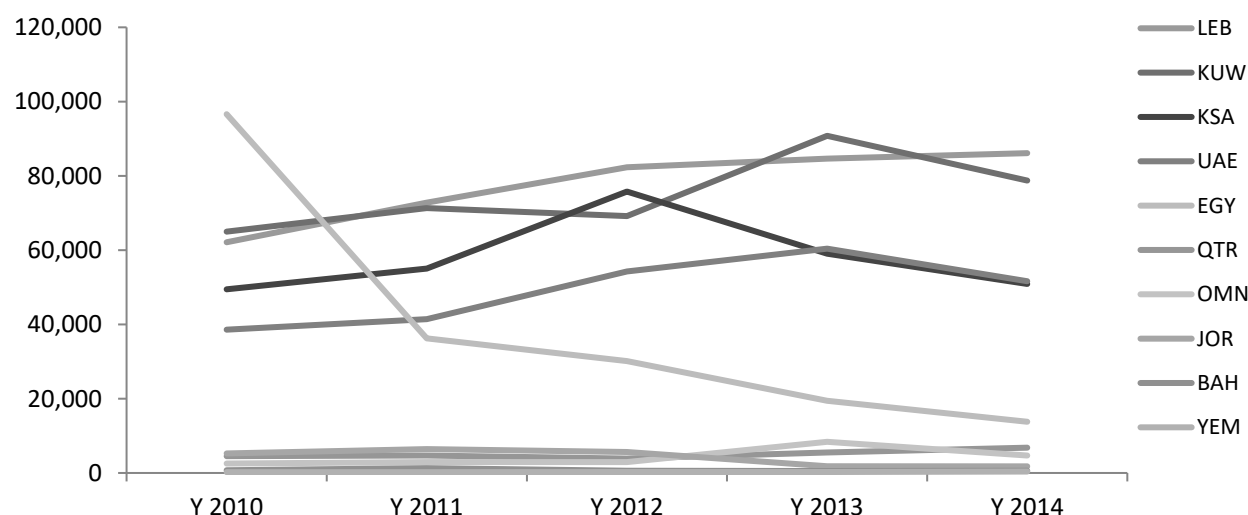
(Source: PARC, 2012)



**Fig. 6 Daily frequency of television advertisement for food and beverage on two main children’s channels in the Eastern Mediterranean Region (total number of advertisements from 2009 to 2011)**

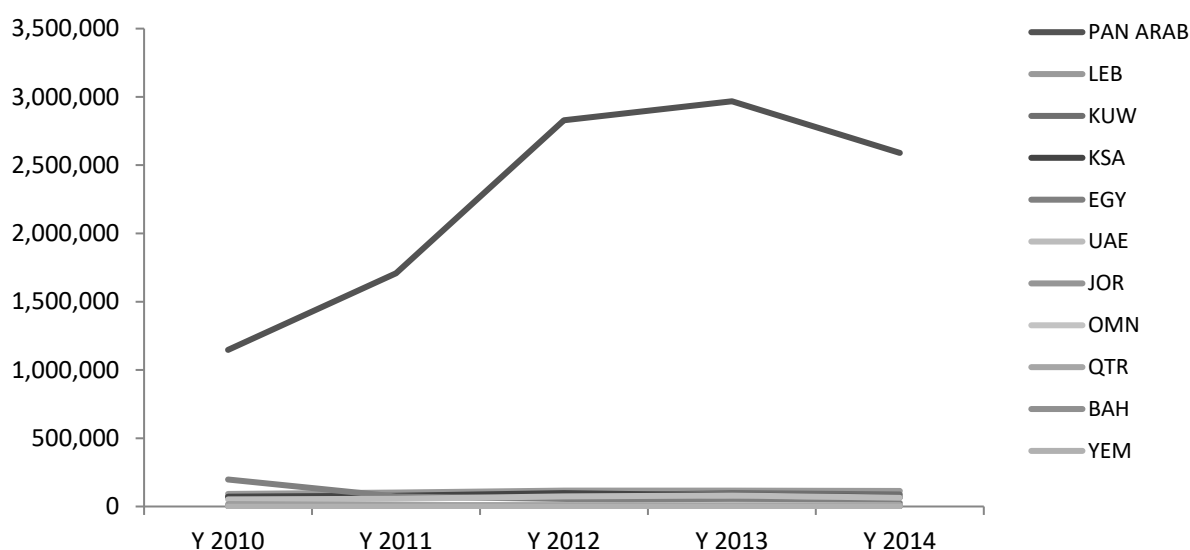
(Source: PARC, 2012)

Finally, the data show very strikingly that regional television channels have received growing advertising investments – far more rapidly than national channels (compare Fig. 7 with Fig. 8). This reinforces the argument that unhealthy food marketing to children should be restricted on both national and regional channels: cross-border marketing, which is discussed more fully in section 4, is a particularly acute problem in the Region where several countries speak Arabic as their first language, thus increasing the opportunities for regional channels to grow.



**Fig. 7 Expenditure on selected food and beverage advertising in national mainstream media in several countries of the Eastern Mediterranean Region, 2010–2014 (excluding regional media) (US\$ 000s)**

(Source: PARC, 2015)



**Fig. 8 Expenditure on selected food and beverage advertising in national and regional mainstream media in the Eastern Mediterranean Region, 2010–2014 (US\$ 000s)**

(Source: PARC, 2015)

The PARC data provide a useful starting point for the development of a stronger evidence base for restricting food and beverage advertising. The data show intensive marketing of unhealthy food in the Region which takes a variety of forms. However, the data have major gaps and do not provide a comprehensive picture of the extent, nature and impact of the marketing of unhealthy food to children.

Countries of the Region should therefore endeavour to gather country- and region-specific data to fill existing knowledge gaps and better inform their policies at national and regional levels. The responses received to the three questionnaires circulated by the Regional Office in 2013, 2015 and 2017 confirm that little research has been undertaken in the Region<sup>41</sup>. Public health authorities, assisted by academia and relevant nongovernmental organizations, have an important role to play in gathering region-specific evidence on the relationship between unhealthy food marketing and childhood overweight and obesity, raising awareness of the need to implement the Recommendations, and working within and beyond government to increase political and public support for restrictions on unhealthy food marketing, as discussed in section 3.

Gathering evidence on the extent and the nature of unhealthy food marketing to children can support ongoing efforts to regulate the marketing of unhealthy food and prevent obesity and related NCDs. For example, the Nutrition Department of the Ministry of Health in Oman has recently gathered empirical data examining the scope and nature of marketing techniques targeting children (aged 0–18 year) in Oman as

<sup>41</sup> For one exception, see the review by Nassar and Al Zien (28).



part of its efforts to implement the Recommendations<sup>42</sup>. The nutrient profile model developed by the Regional Office was used as the basis to determine whether a product was healthy or unhealthy. The study focused on a range of media, including television, radio, newspapers and retail outlets (both inside and outside of schools). Even though the study did not include digital media, it provides new insights that confirm the need to restrict unhealthy food marketing to children.

Such country-specific data should be interpreted in light of the extensive knowledge gathered at the global level that unhealthy food marketing has a detrimental effect on child health, thus supporting the effective implementation of the Recommendations at national and regional levels. Other countries of the Region should gather similar evidence. However, countries should not be swayed from their commitment to implement the Recommendations by the argument that there is not sufficient evidence available to justify restrictions on unhealthy food marketing to children. The worrying rise in childhood overweight and obesity, as well as the substantial body of evidence at the global level on the extent and nature of food marketing and its detrimental effect on children, emphasize that Member States should implement the Recommendations without further delay.

## 2.3 Recommendations

- Member States should gather further evidence on the relationship between unhealthy food marketing and food preferences, purchase requests and consumption patterns to support their national and regional policies. The research should focus on a broad range of media and marketing techniques, including online and digital marketing, and it should compare trends over the years.
- Member States should reflect on how existing evidence on the nature, extent and impact of marketing unhealthy food to children could inform policies at national and regional levels.
- In any event, Member States should avoid further delays in implementing the Recommendations. They have undertaken to limit the impact of unhealthy food marketing to children and should do so to honour their commitments as part of effective childhood obesity and NCD prevention strategies.

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<sup>42</sup> Oman has endorsed the WHO regional strategy and framework for action on health and the environment 2014–2019, and works with WHO to pursue its multisectoral Health Vision 2050 strategy which seeks to adopt successful health strategies for the country across ministries: Al-Riyami A. Health Vision 2050 Oman: A committed step towards reforms. *Omani Medical Journal*. 2012;27(3):190; WHO, Oman Health Profile (2015):24–26 ([http://apps.who.int/iris/bitstream/10665/253772/1/EMROPUB\\_2016\\_EN\\_19273.pdf](http://apps.who.int/iris/bitstream/10665/253772/1/EMROPUB_2016_EN_19273.pdf))

## 3. Designing effective regulation on food marketing to children

The Recommendations distinguish different stages in the policy cycle, from policy development and implementation to policy monitoring and evaluation. This section assesses the extent to which Member States of the Region have developed policies to restrict unhealthy food marketing to children and provides some guidance to help them assess whether the policies they have developed – or are considering – comply with the Recommendations. In particular, it draws on the main lessons learnt over the past 10 years from the experience of countries of the Region and beyond that have taken steps to regulate the marketing of unhealthy food. It should be read in light of the WHO framework for implementing the Recommendations published in 2012 which contains useful guidance for Member States when implementing the WHO Recommendations (13, p. 8) and, more recently, the final report of the ECHO Commission (7). Reference is also made to the policy report that the University of Liverpool was commissioned to write for UNICEF on food marketing and children's rights (68).

Even though this report focuses on the development and implementation stages of the policy process, the monitoring and evaluation stages must also be considered from the start of the policy cycle. In particular, countries should try to establish a system that allows them to gather relevant data before policies on the marketing of unhealthy food to children come into effect. This will make comparisons easier and help determine whether the policies are effective in reducing the effect of unhealthy food marketing on children, and whether they need to be amended<sup>43</sup>.

This section discusses the need for countries to adopt a multisectoral (section 3.1) and comprehensive approach to the implementation of the Recommendations (section 3.2), and highlights the need for action at both national and regional levels (section 3.3).

### 3.1 Multisectoral approach to the regulation of food marketing to children

It is widely accepted that only a multisectoral approach to NCD prevention and control has the necessary elements to contribute to halting the rise of childhood

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<sup>43</sup> To visualize the policy cycle, see the graphic on page 8 of the A framework for implementing the set of recommendations on the marketing of foods and non-alcoholic beverages to children (13). On policy monitoring and evaluation more specifically, see Section 5 of the framework, pp 39–50.

obesity. “Countries need to build institutional capacity and competencies to engage with different sectors and stakeholders.” (1). This is particularly true with the regulation of food marketing.

As pointed out in the regional strategic directions 2012–2016 (1, p. 6):

*Governments are expected to adhere to the commitments included in the Political Declaration, put multisectoral national plans in place by 2013, increase investments, develop national capacity and monitor progress. The priorities for WHO are, therefore, to advocate for higher levels of political commitment and multisectoral engagement, to provide technical support to Member States in developing multisectoral plans and implementing the actions recommended in the Declaration, and to develop monitoring frameworks including a set of national targets and indicators.*

The multisectoral component of NCD prevention and control strategies recognizes that tackling NCDs requires the integration of a broad range of policies across the entire policy spectrum, not only health, but also consumer, agriculture, food, trade, media, education, sport, employment and transport policies. There is no “magic bullet”; only a coordinated intervention from all the relevant government sectors can achieve the objectives in the WHO global action plan (14) and its monitoring framework (69).

Health in All Policies implies, at its core, that a high level of public health protection should be pursued not only through separate, designated policies, but must be incorporated in all policy areas. Public health protection laws, and NCD and childhood obesity prevention actions more specifically must be integrated horizontally into all aspects of the work of government.

The implementation of the Recommendations requires the engagement of non-health sectors to be strengthened through coordinated, intersectoral collaboration. In light of the considerable business interests at stake, restricting unhealthy food marketing is sensitive. This is why building consensus and capacity both within and beyond government is particularly important in order to increase the political support needed to adopt evidence-based policies intended to reduce the impact of unhealthy food marketing on children. To do this, countries need to develop institutional capacities and engage with multiple sectors to achieve full implementation of the WHO Recommendations in their jurisdiction.

To develop the mechanisms required to ensure that public health concerns are addressed across all relevant sectors of government, it is first necessary to identify the sectors of government that have an interest in the regulation of food marketing to children. Their interest may stem either from their responsibility to regulate such commercial practices, or from their opposition to the regulation of food marketing practices.

The regulation of marketing practices is of primary concern to the Ministry of Health, but also to a broad range of non-health **governmental sectors**. The structure of government varies from one country to another. This being said, the relevant ministries could include:

- the Ministry of Trade/Commerce/Industry/Business
- the Ministry of Consumer Affairs
- the Ministry of Food and Agriculture
- the Ministry of Information/Media/Communications
- the Ministry of Family Affairs and Child Protection
- the Ministry of Education
- the Ministry of Culture and Sport
- the Ministry of Urban Planning
- the Ministry of Legal Affairs.

Furthermore, there may also be **specialized agencies** in place which could provide valuable information and skills, such as:

- food and agricultural agencies
- consumer and fair trading agencies
- broadcasting and communications agencies
- child protection agencies.

There must be a clear understanding of who is responsible for what. Different countries could entrust different government ministries to implement the Recommendations; responsibility could also be allocated jointly. In any event, the lead department(s) must set the agenda and other departments must have a strong supporting (rather than defeating) role.

The establishment of a specific working group can help build consensus and address any disagreement within government, without running the risk of different departments publicly taking different positions, which would create confusion and reduce the chances of success. However, this requires that adequate resources are allocated to policy development and implementation in this area. For example, Bahrain has set up a high-level, multisectoral working group which comprises: the Ministry of Health, the Information Affairs Authority, the Ministry of Industry and Commerce (including both the Consumer Protection Directorate and the Standardization and Metrology Directorate) and the Bahrain Chamber of Commerce and Industry. Its mission is to develop a strategy and working plan for the implementation of the WHO Recommendations. More recently, Oman established a national multisectoral NCD committee which involves Directors-General across government and is headed by the undersecretary of planning.

The higher the level of government the commitment comes from, the more likely it is that a policy is adopted. For example, the Islamic Republic of Iran's High Council of Health and Nutrition Security is under the direct supervision of the President. This serves to emphasize how important tackling malnutrition, and in particular childhood overweight and obesity, is considered<sup>44</sup>.

An effective multisectoral policy also requires that the intersectoral dialogue extends beyond government to build as broad a consensus as possible in the population and therefore increase the support for restrictions on unhealthy food marketing. In particular, **public health and consumer organizations** can play an important role, as they have in some countries<sup>45</sup>, in raising awareness of the relationship between food marketing and childhood obesity, and of the importance of implementing the Recommendations. They also have an important role to play in helping build capacity, in monitoring independently the activities of government and private actors, such as the food and the advertising industries, and in advocating wherever necessary in favour of a more effective intervention. **Religious leaders and other community figures** may also have a role in promoting the adoption of restrictions on unhealthy food marketing in the Region.

Finally, **academics and lawyers** specialized in the role that legal instruments can play in promoting healthier lifestyles should be involved in discussions on the implementation of the Recommendations. For example, some of them may have worked on the regulation of tobacco advertising and sponsorship, or other related issues (e.g. the implementation of the International Code of Marketing of Breast-milk Substitutes and the subsequent World Health Assembly resolutions), and they could use their knowledge and skills to help implement the Recommendations. Their absence from the debates to date in the Region (and often beyond) is striking. There is an enormous gap in legal knowledge between the public health community and private actors. The industry understood long ago that the law was a powerful tool and have recruited many lawyers to develop legal arguments to challenge measures to promote public health that do not suit their corporate interests. The history of tobacco control clearly shows this, and there is no reason to believe that the strategies of the tobacco industry will not also be used in the food sector (70). The sooner legal capacity can be built on marketing issues, the more quickly the law can be used as a tool to protect and promote public health. This is why the 2018–2030 Montevideo roadmap on NCDs as a sustainable development priority, which was adopted in October 2017, explicitly calls for more “policy and legal expertise to develop NCDs responses in order to achieve the SDGs”, and in particular urges “the UN Inter-Agency Task Force

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<sup>44</sup> Note that this Report does not discuss the question of allocation of power between different levels of government in Member States with a federal structure, including the United Arab Emirates, Iraq and Sudan. This question may add a layer of complexity for the relevant Member States when developing policies which are comprehensive and effective in banning unhealthy food marketing to children.

<sup>45</sup> Consumer organizations seem to have made the marketing of unhealthy food to children one of their campaign areas in Oman, for example, thus contributing to the increased awareness within and beyond government of this issue and the need to tackle the problem of unhealthy food marketing to children.

on the Prevention and Control of NCDs and its Members, within their mandates, to scale up and broaden intersectoral work integrating expertise relevant to public health-related legal issues into NCD country support, including by providing evidence, technical advice, and case studies relevant to legal challenges. We encourage the UN Inter-Agency Task Force on the Prevention and Control of NCDs to explore the relationship between NCDs and the law to improve support to Member States in this area and to raise the priority it gives to this work" (71, para. 21).

Once awareness and public support have been built on the need to implement the Recommendations, policies need to be developed at national and regional levels to effectively restrict the marketing of unhealthy food to children.

### **3.2 Adoption of comprehensive restrictions on the marketing of unhealthy food to children**

The Recommendations emphasize that a comprehensive approach, as opposed to a stepwise approach, has the highest potential to reduce the impact of unhealthy food marketing on children.

#### *3.2.1 Overview of implementation of the Recommendations in the Region*

As a starting point, Member States of the Region should assess the extent to which each one of them is aware of and has implemented the Recommendations in their countries.

No country in the Region has adopted comprehensive policies restricting the marketing of unhealthy food to children; nevertheless, the three questionnaires the Regional Office circulated between April 2013 and January 2017 show a varied picture. On the one hand, some countries do not seem aware of the Recommendations and were not particularly engaged in the mapping exercise. On the other, some countries have started to align their national regulations with the Recommendations or to consider how they could do so.

Some answers to the three questionnaires still show a lack of understanding of what the Recommendations are urging Member States to do<sup>46</sup>, although comparison of the responses in 2013 with those in 2015 and 2017 shows a growing awareness of the Recommendations throughout the Region.

Table 2 summarizes the responses received to date to the questionnaires. It gives a

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<sup>46</sup> When asked specifically about the implementation of the set of recommendations on the marketing of foods and non-alcoholic beverages to children, several respondents focused their responses on the implementation on the Code on the Marketing of Breast-milk Substitutes, on the nutritional quality of menus served in schools or on food labelling – although this was less common in the 2015 and 2017 questionnaires than the 2013 questionnaire.

snapshot of the extent to which the Recommendations have been discussed and implemented in the Region. It highlights clearly that much work remains to be done to ensure that children in the Region are adequately protected from the harmful effects of unhealthy food marketing. The resolution of the 2014 Regional Committee (EM/RC61/R.3) as well as the repeated commitments which countries have made at the World Health Assembly and at the UN General Assembly provide a strong mandate for Member States to accelerate their efforts to implement the Recommendations<sup>47</sup>.

**Table 2. Implementation of the WHO Recommendations in the Eastern Mediterranean Region (compilation of the responses received to the 2013, 2015 and 2017 questionnaires)**

Country	Country has responded to at least one of the three questionnaires <sup>a</sup>	Country has discussed the Recommendations <sup>b</sup>	Country has adopted legislation that contributes to the implementation of the Recommendations <sup>c</sup>
Afghanistan	Yes	No	No
Bahrain	Yes	Yes	No
Djibouti	No	–	–
Egypt	Yes	Yes	Yes (limited)
Islamic Republic of Iran	Yes	Yes	Yes
Iraq	Yes	Yes	No
Jordan	Yes	Yes	No
Kuwait	Yes	Yes	No
Lebanon	Yes	Yes	No
Libya	Yes	Yes	No
Morocco	Yes	Yes	No
Oman	Yes	Yes	No (in development)
Pakistan	Yes	No	No
Palestine	Yes	No	No
Qatar	No		
Saudi Arabia	Yes	Yes	Yes (limited)
Somalia	No		
Sudan	Yes	Yes	No
Syrian Arab Republic	Yes	No	?d
Tunisia	Yes	Yes	No (in development)
United Arab Emirates	Yes	Yes	No
Yemen	Yes	Yes	No

<sup>a</sup>Few countries have responded to all three questionnaires. The largest number of responses was received for the last questionnaire (January 2017), which may suggest that Member States are becoming more aware of the importance of regulating the marketing of unhealthy food to children as part of effective obesity prevention strategies.

<sup>47</sup> See also: Proposed policy priorities for preventing obesity and diabetes in the Eastern Mediterranean Region (3).

<sup>b</sup>There have been discrepancies between responses on the same questionnaire from the same country, one respondent stating that the Recommendations had been discussed and a second respondent that they had not. The difference between responses may be related to a misunderstanding of what the Recommendations cover: they refer specifically to the marketing of unhealthy food to children, not to all WHO recommendations on diet and childhood obesity. The extent to which a Member State had discussed the Recommendations was interpreted generously: if there were contradictory responses, it was assumed that the Recommendations had been discussed. However, none of the discussions that may have taken place in these cases has led to the development or implementation of a policy restricting the marketing of unhealthy food to children.

<sup>c</sup>Some countries indicated that they had marketing restrictions of unhealthy food to children in place. However, after reviewing the measures, it was clear that they related instead to nutrition standards imposed on foods served in schools rather than to marketing restrictions as such, or to the marketing of breast-milk substitutes. Hence there may be discrepancies between what Member States perceive they have done to implement the Recommendations and what they have actually done.

<sup>d</sup>The response to the 2017 questionnaire states that the Syrian Arab Republic would have restricted sponsorship by food industry operators of sports or cultural events broadcast on television, but it does not provide any further details, making it difficult to determine the nature and scope of the restrictions.

### 3.2.2 *Advantages of a comprehensive approach to tackling marketing of unhealthy food to children*

As mentioned earlier, a comprehensive approach tackles all forms of unhealthy food marketing to children, dealing effectively with the two main components of marketing, i.e. exposure and power. In contrast, a stepwise approach is more selective: it would proceed in stages, prioritizing the regulation of some forms of marketing over others, e.g. some but not all unhealthy foods, media, settings or techniques (13, p. 16). As such, all stepwise approaches leave gaps in the regulatory framework, and the experiences of countries that have used a stepwise approach to marketing of unhealthy food to children show that the food industry uses these loopholes to by-pass restrictions, as discussed below<sup>48</sup>. Hence the explicit preference of the WHO Recommendations for a comprehensive approach (12, Recommendation 3, note 17).

To ensure the effective implementation of the WHO Recommendations, countries need to set clear definitions that eliminate any loopholes in existing regulatory frameworks. These definitions should include:

- which food falls within the scope of marketing restrictions, that is, unhealthy food that is high in fat, sugar and salt; and
- what constitutes marketing to children, according to factors such as media, product, timing, viewing audience, placement and content of the marketing message.

Before we consider these two questions in turn, it is important to emphasize that countries should act in the public interest and avoid conflicts of interest (12, Recommendation 6). As discussed more fully in section 4, the responsibility of deciding

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<sup>48</sup> See section 1.3.1, Box 1, item 2.



what marketing should or should not be permitted primarily lies with the governments, not with the food industry<sup>49</sup>.

### *3.2.3 Concept of unhealthy food*

Determining what constitutes unhealthy food requires that food be categorized on the basis of its nutritional value, and its content of fat, salt and sugar. In the absence of such categorization, it is impossible to determine the health value of each food and whether it should be subject to marketing restrictions.

Nutrient profiling is “the science of classifying or ranking food according to its nutritional composition for reasons related to preventing disease and promoting health” (72). Nutrient profiling can be used for various operations, including marketing of food to children and implementing the WHO Recommendations. Different models have been proposed to classify food (13, pp 26–8,73,74).

The questionnaires circulated in the Region in 2013 and 2015 established that the concept of unhealthy food was limited<sup>50</sup>, while the questionnaire in 2017 suggested that this had changed following the publication by the Regional Office of a regional nutrient profiling model (75).

In the Islamic Republic of Iran, an expert committee defines food as healthy or unhealthy, mostly based on their sugar, salt, fat and harmful additives content. Food classified as unhealthy cannot be advertised and cannot be served in school canteens. The committee is composed of representatives of the ministries of health, economics and commerce, as well as organizations representing the interest of consumers and those representing the interest of media operators. The Ministry of Health and Medical Education chairs the committee.

Some countries have prohibited certain food categories from being marketed to children, without, however, devising a comprehensive system to classify food into healthier or less healthy categories. Many have banned soft drinks, potato crisps and sweet biscuits in schools, including Bahrain, Islamic Republic of Iran, Jordan, Kuwait, Lebanon, Oman, Qatar and Saudi Arabia. For example, Bahrain banned carbonated drinks in schools in 1997 and has recently proposed to regulate the marketing of energy drinks. The Ministry of Health, in cooperation with the Ministry of Education, has also identified a list of healthy items in school canteens, including fortified food, and some sweeteners have been banned in schools. In Tunisia, there is no established

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<sup>49</sup> Recommendation 6. Subsequently, the WHO global action plan on NCDs recognized the need to manage “real, perceived or potential conflicts of interest” (14). Similarly, the ECHO report noted that “conflict of interest risks need to be identified, assessed and managed in a transparent and appropriate manner” (7, p. 39).

<sup>50</sup> The focus before was on promoting the consumption of fruits and vegetables alone; however, after Member States became involved in the development of regional guidelines on healthy diet, including the reduction in the intake of salt, fat and sugar, their concept of unhealthy food broadened.

system to classify food into healthier and less healthy categories, even though nutrition profiling is taught to future nutritionists at university.

The situation seems to be changing after the Regional Office developed and published a regional nutrient profiling model for the use by Member States when implementing the Recommendations (75). This model is based on the model developed by the WHO Regional Office for Europe (76). It has been adapted to the EMR and tested in several Member States, including Bahrain, Islamic Republic of Iran, Kuwait, Lebanon, Morocco, Oman and Tunisia.

The nutrient profiling model divides food into 18 categories and further sub-categories. Seven of these categories can never be marketed to children, whereas two of them can. For these nine categories, there is no need to define any further specific nutrient criteria. For the other nine categories, the nutrient profile defines specific thresholds that must not be exceeded if a food is to be marketed to children (75, part 5).

In response to the region-specific dietary culture and cuisine, several changes were made to the European model. For example, in most countries of the Region, daily salt intake levels are very high and a significant proportion of this intake comes from bread; therefore, permitted salt levels in bread products have been reduced. The list of food products included in the food categories has also been modified to reflect products commonly consumed in the Region, such as: *labneh*, *ayran* and *doogh* (yoghurt category); *kashkawan*, *lighva* and *nabulsi* (cheeses); falafel and hummus (ready-made); and tahini and harissa (sauces).

Adopting the nutrient profiling developed by the Regional Office has at least two important advantages. Firstly, it will limit the diversity of the criteria applied across the Region to determine which food is healthy and which is not. It will therefore facilitate comparisons as well as the development of common of cross-border standards on the marketing of unhealthy food to children, as discussed later. Secondly, this model offers a clear, simple method to distinguish healthy and unhealthy food, and is built on objective, evidence-based analyses. Therefore, its adoption is likely to protect countries from possible challenges from the food industry based on international trade rules, and in particular the principle of non-discrimination which is at the heart of the law of the World Trade Organization<sup>51</sup>.

### 3.2.4 Concept of marketing to children

The mapping carried out in 2013, 2015 and 2017 showed that no country in the Region had adopted a comprehensive policy on the marketing of unhealthy food to children. A few countries had taken some measures to limit such marketing and some others

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<sup>51</sup> On the relationship between international trade law and NCD prevention see: McGrady B. Trade and public health: diet, tobacco and alcohol. Cambridge: Cambridge University Press; 2011.

were in the process of preparing legislation intended to do so.

This report does not propose to repeat what has been said in the framework implementation report and other relevant documents about what Member States should bear in mind when developing policies intended to implement the Recommendations (13, chapters 2 & 3). Instead, it emphasizes the risk of a shift in the investment of food industry companies if restrictions on the marketing of unhealthy food to children are too limited, and highlights how industry operators have used – or could use – loopholes in existing regulations (i.e. when the policy is stepwise rather than comprehensive). Box 3 describes how, despite regulations, children are still exposed to unhealthy food marketing.

### **Box 3 Marketing to children: making their real exposure the primary concern<sup>52</sup>**

Defining the term “marketing to children” could seem like a simple prospect, but it raises a crucial question: to what extent are children exposed to unhealthy food marketing beyond “children’s programmes” or “children’s media”?

Business operators have tended to interpret marketing to children narrowly, focusing on programmes or media specifically intended to attract a children’s audience, to the exclusion of other age groups. Placing an advertisement in a children’s television programme, for example, would constitute marketing to children. However, children are exposed to a significant amount of marketing outside programmes for children or programmes targeted to children – and focusing exclusively on children’s programmes or children’s media does not reflect this reality.

A range of studies show that children are often exposed to a particularly high volume of advertising for unhealthy food on commercial television, even at times when the largest numbers of children are watching.<sup>[1]</sup> This, in turn, influences their food preferences, purchase requests and consumption patterns. A recent study on the exposure of minors to alcohol advertising in nine EU member states finds that many children aged 4–17 watch television during peak hours that would generally be characterized as “family viewing” times and therefore fall outside the scope of marketing bans regarding children’s programmes.<sup>[2]</sup>

An example from the United Kingdom (UK) illustrates how narrow definitions limit the effectiveness of efforts to restrict unhealthy food marketing to children. In July 2010, the Office of Communications (Ofcom) in the UK published a final review of the effectiveness of the rules it had introduced in 2007 to prohibit the marketing of unhealthy food on television in and around children’s programmes.

The Ofcom review concluded that broadcasters, with very few exceptions, were “complying with the letter and the spirit of the scheduling restrictions.”<sup>[3]</sup> Between 2005 (before advertising restrictions were introduced) and in 2009 (after the restrictions had been fully implemented) children saw around 37% less unhealthy food advertising (52% for children aged 4–9; 22% for children aged 10–15). In addition, exposure fell in all parts of the day before 9 p.m. and by 25% between the peak hours of 6–9 p.m. The volume of unhealthy food advertising aired throughout the day had increased, however, and children only saw 1% less unhealthy food advertising overall in “adult” airtime.<sup>[4]</sup> The relatively high threshold adopted by Ofcom is therefore still too low to ensure that children are adequately protected from unhealthy food marketing.<sup>[5]</sup>

Other research findings suggest that children’s exposure to unhealthy food advertising has actually increased. Researchers from Newcastle University, for example, found that children were exposed to the same level of unhealthy food advertising as they were before the Ofcom rules entered into force, confirming that children are still being exposed to unhealthy food advertisements during programming that is not specifically aimed to them.<sup>[6]</sup>

Similarly, researchers from the University of Liverpool concluded that despite regulation, children in the United Kingdom were exposed to more television advertising for unhealthy than healthy food items, even at peak

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<sup>52</sup> This box is reproduced from Food marketing and children’s rights (68, section 2.3.2).

children's viewing times. There remained scope to strengthen the rules regarding advertising of unhealthy food around programming popular with children and adults alike, where current regulations do not apply.<sup>[7]</sup>

Many programmes or events target mixed audiences. Family shows and sports events, which are frequently used as media to promote unhealthy food, are classic examples of the artificial separation of 'direct' from 'indirect' marketing: What counts is the exposure of children to unhealthy food marketing. If this is not taken into account, the risk is that investment will shift from programmes prohibiting unhealthy food marketing to programmes that do not, or from regulated media (e.g., television) to unregulated media (e.g., the Internet or other digital media).

[1] B. Kelly et al., 'Trends in Food Advertising to Children on Free-to-Air Television in Australia', *Australian and New Zealand Journal of Public Health*, vol. 35, no. 2, 2011, pp. 131–134. See also: G. Jenkin, N. Wilson and N. Hermanson, 'Identifying "Unhealthy" Food Advertising on Television: A case study applying the UK Nutrient Profile model', *Public Health Nutrition*, vol. 12, no. 5, May 2009, pp. 614–623; and L. Huang, K. Mehta and M. Wong, 'Television Food Advertising in Singapore: The nature and extent of children's exposure', *Health Promotion International*, vol. 27, no. 2, June 2012, pp. 187–196.

[2] European Commission, *Study on the Exposure of Minors to Alcohol Advertising on TV and in Online Services* (final report), European Union, Brussels, 2016, p. 61.

[3] Ofcom, *HFSS Advertising Restrictions: Final review*, Ofcom, 26 July 2010, p. 31. Open PDF from <<http://stakeholders.ofcom.gov.uk/binaries/research/television-research/hfss-review-final.pdf>>.

[4] *Ibid.*, p. 3.

[5] For a more detailed account of the implementation of the WHO Recommendations in the United Kingdom, see: A. Garde, S. Davies and J. Landon, 'The UK Rules on Unhealthy Food Marketing to Children', in *Implementing the WHO Recommendations on Food Marketing to Children in Europe*, edited by A. Garde, *European Journal of Risk Regulation*, Special Issue 2, 2017, vol. 8, pp. 270-282.

[6] J. Adams et al., 'Effect of Restrictions on Television Food Advertising to Children on Exposure to Advertisements for "Less Healthy" Foods: Repeat cross-sectional study', *PLoS ONE*, vol. 7, no. 2, 2012, e31578, <<http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0031578>>.

[7] E. Boyland et al, 'The Extent of Food Advertising to Children on UK Television in 2008', *International Journal of Pediatric Obesity*, vol. 6, no. 5–6, 2011, pp. 455–461.

### 3.2.5 A stepwise approach a better option than no implementation

If a comprehensive approach is not feasible because of a lack of sufficient political will or any other considerations<sup>53</sup>, countries should not delay their intervention until it becomes feasible. Instead, they should opt for a stepwise policy, targeting the media most frequently used by children, including television, as well as the settings in which they gather, including schools and nurseries. They should also monitor and evaluate the regulations adopted with a view to revising them where appropriate – for example, if loopholes are identified which would prevent the rules from achieving their primary objective of reducing the effect of unhealthy food marketing on children. The important thing is to put the marketing of unhealthy food to children on the agenda and raise public awareness of its importance, even if this can only be done through a stepwise approach.

<sup>53</sup> Some Member States have expressed concerns as to their ability to regulate digital marketing in the absence of a coordinated regional response.

In light of the fact that **television** is a frequently used medium to target children with unhealthy food marketing in the Region (as described in section 2), some countries, in particular the Islamic Republic of Iran and Egypt, have started to develop and implement policies. The UK example discussed in Box 3 provides some insight into what countries should consider when devising regulations to restrict the marketing of unhealthy food on television. It suggests that countries should not limit a ban on unhealthy food marketing to children's programmes as this will not prevent the exposure of children to such marketing in family programmes to which many children are exposed. The PARC data clearly confirm the need to regulate television food marketing in and around programmes that are watched by large numbers of children, beyond what are considered "children's programmes". The data show that unhealthy food marketing is common between 18:00 and 21:00 hours – it is therefore necessary to include programmes broadcast up to at least 21:00 in restrictions on unhealthy food marketing to children.

Furthermore, countries should – as a priority – implement Recommendation 5 and ensure that **settings where children gather** are free of all forms of unhealthy food marketing. These settings include (but are not limited to): nurseries, schools, school grounds and pre-school centres, playgrounds, family and child clinics and paediatric services (including immunization programmes) and sporting and cultural activities that are held on these premises. Ensuring that such settings are regulated and unhealthy food prohibited is particularly important in these settings because they are "privileged institutions acting *in loco parentis*, and nothing that occurs in them should prejudice a child's well-being" (12, para. 20). They are indeed places which the public trust to act in the best interest of the child; they could therefore be seen as giving their implied approval to any marketing messages delivered on their premises (13, p. 23). As the framework implementation report points out, however, there are several additional settings where children commonly gather, such as public playgrounds, swimming pools, summer schools and programmes, after-school programmes and sporting events. They could also include temporary displays or gathering points for children, such as activity areas for children in airports, community centres, places of worship and shopping malls. As the framework noted, the areas surrounding settings where children gather are worth considering too, for example where marketers use highly prominent billboards to advertise near schools or on children's routes home from school (13, p. 22). If the purpose of the Recommendations is to reduce the overall impact that the marketing of unhealthy food has on children, it follows that such settings should be prioritized and cleared of any such marketing so that children grow up in a protective environment.

The stepwise approach characterizes the measures some countries have taken on unhealthy food marketing to children.

- When deciding which media should be covered by the ban on unhealthy food marketing, the **Islamic Republic of Iran** selected radio and television as the main media targeting children, and schools and clubs visited by children as the main

settings where children and adolescents gather. The regulations have been designed to cover both children (under 12 years) and adolescents (between 12 and 19 years) on the grounds that both these groups are susceptible to the adverse effects of unhealthy food marketing. A memorandum of understanding has also been signed between the Ministry of Health and Medical Education, and the Ministry of Education which prohibits the sale of unhealthy food in school canteens and by vendors around schools. Furthermore, the sponsorship of some social events, such as seminars, congresses and food festivals, by the food industry that produces unhealthy food (e.g. soft drinks, edible oils and salty snacks) is restricted. Broadcast advertising (television and radio) of soft drinks has been prohibited since 2004. In 2014, in the context of its Fifth Five Year Development Plan (2011–2015), the Ministry of Health and Medical Education prepared a list of 24 food items to be prohibited from advertising in all media. The list has been sent to the Commerce, Industry and Finance ministries for approval.

- **Saudi Arabia** prohibits the marketing of energy drinks by law, and the Ministry of Health has asked the official media not to promote unhealthy food (such as soft drinks or chips) to children.
- A Ministerial Decree has prohibited the marketing of unhealthy food on governmental television and radio in **Egypt**<sup>54</sup>.

Other countries in the Region are considering their regulatory frameworks and the implementation of the Recommendations.

- The **Omani** government is developing unhealthy food marketing restrictions with the assistance of the Regional Office as part of a broader package of obesity and NCD prevention measures.
- The **Tunisian** National Institute of Nutrition and Food Technology, which coordinates the work on balanced diets under the national strategy for the prevention and the fight against obesity, has drafted a legislative proposal to restrict unhealthy food marketing to children. If adopted, it will define the technical and regulatory specificities for each medium (on television, on the Internet, at games, sports or cultural events). It will also include restrictions on the offer of gifts and competitions by food advertisers.

### **3.3 From national to regional restrictions on unhealthy food marketing to children**

Many media readily cross national borders. Examples not only include broadcast media and Internet-based marketing, but also commercial communications in print

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<sup>54</sup> This measure is supported by a ban on the sale of unhealthy food in Egyptian school canteens.

media, such as magazines or comic books originating in one country and sold in others, as well as other forms of promotions such as sponsorship of events and programmes of regional or international appeal, or product placement in films and other programmes. Furthermore, the extensive trading across borders of packaged food provides a strong rationale for the adoption of regional standards on food labelling and packaging.

In light of the concerns that several Member States expressed at the consultation stage, the Recommendations recognize the importance of tackling cross-border marketing to ensure that national policies are effective and explicitly call upon Member States to cooperate to put in place the mechanisms to reduce the impact of both in-flowing and out-flowing cross-border marketing (12, recommendation 8).

### *3.3.1 Importance of regulating cross-border marketing in the Region*

Member States may find it difficult to restrict media content – including unhealthy food marketing – originating from a neighbouring country. To tackle cross-border marketing comprehensively therefore requires Member States, particularly neighbouring states or those sharing the same language and media, to agree on minimum standards that can be effectively enforced (13). It should be noted, however, that the minimum standards must be sufficiently high to ensure that they contribute to reducing the impact of unhealthy food marketing on children and therefore support rather than hinder Member States in their efforts to implement the Recommendations.

Regulating cross-border marketing at the regional level is particularly important for countries, as cross-border marketing is widespread in the Region because of the cultural and linguistic closeness. Satellite channels in the Region have increased but there has not been any corresponding development of the regulatory environment for cross-border media services and cross-border marketing. Furthermore, the PARC data discussed in section 2 show that advertising expenditure on pan-Arabic television channels has increased far more rapidly over the past five years than advertising on national channels (Fig. 7). The development of unhealthy food marketing on the Internet, through advergames and social networking sites, reinforces the need to adopt and implement cross-border standards at the regional level. Countries have consistently reported, either in their responses to the questionnaires or during capacity-building workshops, that they do not feel particularly well equipped to tackle the negative effect of cross-border marketing individually at the national level.

The Regional Office is committed to assisting Member States in this area: “In seeking to strengthen its support to Member States in improving health in the Region, WHO will [...] reinforce its capacity for resource mobilization, with special emphasis on the potential within the Region and the importance of promoting a vision of regional solidarity.” (1, p. 5). The regional meeting on the prevention and control of NCDs in April 2013 in Kuwait City further highlighted the importance of regulating cross-border food marketing and specifically urged Member States to take collective action.

To date, however, beyond the Regional Office's efforts to raise awareness, no collective action has taken place and the cross-border marketing of unhealthy food remains unregulated in the Region. Action is nonetheless necessary to ensure that the efforts undertaken at the national level to implement the Recommendations are not frustrated by the absence of cooperation at the regional level.

One possible avenue could be the development of a common standard by Gulf Cooperation Council countries. Common standards have already been adopted in the field of nutrition and health, including a standard on trans-fatty acids and a standard on the labelling of pre-packaged food stuffs<sup>55</sup>.

As these standards apply only within the six states of the Gulf Cooperation Council rather than in the Region as whole, it is also recommended that all countries set up a specific working group to consider how best cross-border marketing of unhealthy food to children (through television, Internet or other means) could best be tackled at the regional level to reduce the negative impact this marketing has on children.

In any event, the adoption of cross-border standards must be evidence-based<sup>56</sup> and support the implementation of the Recommendations by countries. Minimum standards can facilitate the trade in food across borders provided that these standards are not so low as to be meaningless<sup>57</sup>.

### **3.4 From policy development to policy implementation**

Once a solid policy has been developed, it must be applied uniformly and enforced, and effective sanctions for infringements must be applied.

There is very little information on enforcement mechanisms in the Region (mostly because of the lack of regulations on unhealthy food marketing to children). The Islamic Republic of Iran however reports that the regulations restricting unhealthy food marketing to children are enforced by the monitoring unit of the High Council of Health and Nutrition Security, under the supervision of the President, and that sanctions take the form of financial penalties (fines).

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<sup>55</sup> GSO 2483:2015 (E) and GSO 9:2013 (E) respectively

<sup>56</sup> This report does not address the broader question of compliance with international trade law, and in particular the World Trade Organization law for Member States who are also members of the World Trade Organization: on this question, see McGrady B. *Trade and public health: diet, tobacco and alcohol*. Cambridge: Cambridge University Press; 2011.

<sup>57</sup> This is the problem that the European Union encountered. It adopted very low standards for the regulation of cross-border food marketing to children, well below the thresholds laid down by the WHO Recommendations. For a critical appraisal of these rules and the ongoing revision process, see: (92), and Bartlett O, Garde A. The EU's failure to support member states in their implementation of the WHO Recommendations: how to ignore the elephant in the room. *Eur J Risk Regul.* 2017; 8(2):251–69.



The experience shared by Lebanon in the related field of breast-milk substitutes suggests that despite the existence of a marketing ban, these products are still promoted in various Lebanese media. This reinforces the argument that effective policies require not only a broad coverage of the rules, but also their effective enforcement.

### **3.5 Recommendations**

- Member States should implement the Recommendations.
- To do so, Member States should develop a multisectoral working group under the supervision of the Ministry of Health (or an even higher authority).
- Member States should consider the role that public health, consumer and children's rights organizations, as well as other representatives of civil society, could play in helping them raise awareness of the problems associated with unhealthy food marketing to children and increase the political will for the regulation of such marketing.
- Member States must continue to build legal capacity and ensure that lawyers responsible for the development and implementation of policies restricting the marketing of unhealthy food to children are sufficiently trained to draw up policies that can withstand legal challenges by the food industry.
- Member States should aim to develop as comprehensive a policy as possible on unhealthy food marketing to children, tackling both exposure and power, so that the opportunities to divert unhealthy food marketing investment from regulated to unregulated media and/or marketing techniques are limited.
- For this purpose, Member States should adopt an objective, independent, evidence-based food classification system, such as the nutrient profiling model developed by the Regional Office, in order to categorize food and identify which food should be included in a marketing ban.
- If a comprehensive approach is not feasible, Member States should not delay their intervention until such an approach becomes feasible. They should implement a stepwise policy, targeting the media most frequently used by children and the settings in which they gather.
- Member States need to bear in mind the full policy cycle, from policy development to policy implementation, and monitoring and evaluation, to ensure that the regulations are applied and revised if they are not effective in reducing the impact of unhealthy food marketing on children.
- Implementing the Recommendations at the national level is important but it is not enough. Regional cooperation is needed, through the Gulf Cooperation Council and/or other appropriate forums, to support and complement national efforts to implement the Recommendations and protect children from cross-border marketing of unhealthy food.

## 4. Protecting the public interest from real, perceived or potential conflicts of interest

When they were adopted in May 2010, the Recommendations anticipated several options for countries willing to implement them. In particular, they recognized that policies on unhealthy food marketing to children could be implemented through a variety of approaches: through statutory regulation (i.e. the adoption of legally binding and enforceable laws or regulations); through self-regulation (i.e. the adoption of rules by industry operators but which do not have the force of law); or through mixed systems (whereby industry operators are asked by law to self-regulate). In other words, the role allocated to different stakeholders, including the food and media industries, will vary from one country to another. However, the Recommendations also provide important safeguards: not only do they call on “governments [to] set clear definitions for the components of the policy, thereby allowing for a standard implementation process” (12, recommendation 4), but they also emphasize that “government should be the key stakeholders in the development of policy and provide leadership [...] while protecting the public interest and avoiding conflict of interest”<sup>58</sup> (12, recommendation 6). As paragraph 21 of the explanatory notes accompanying the Recommendations further emphasize, this is because “governments are in the best position to set direction and overall strategy to achieve population-wide public health goals”. In other words, the main stakeholders responsible for the implementation of the Recommendations are competent public authorities: they should set the standards, key definitions and objectives in light of the Recommendations, as interpreted by the framework implementation report (13) (see section 3).

Evidence has emerged which suggests that government regulation offers a much stronger potential than industry self-regulation to ensure that the Recommendations achieve their objective, namely, to reduce the impact of unhealthy food marketing on children (77,78). This is particularly true if a country envisages a comprehensive – as opposed to a stepwise – approach (section 3). Review of voluntary pledges to promote food responsibly, which apply in countries, demonstrates that the industry has failed to respond effectively to concerns about the impact of food marketing on growing obesity rates among children (section 4.1).

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<sup>58</sup> A conflict of interest has been defined as a situation where “interests or commitments compromise ... independent judgment or ... loyalty”. Rodwin M. *Medicine, money and morals: physicians’ conflicts of interest*. Oxford: Oxford University Press; 1993.

If one reads the Recommendations in light of the obligations of countries under the Convention on the Rights of the Child and other international human rights instruments, it becomes clear that governments are primarily responsible for the protection and fulfilment of the rights of the child. In particular, they are under a legal obligation to regulate the marketing practices of the food industry to ensure that the rights of the child to the highest attainable standard of health and other related rights are upheld and that action is taken in the child's best interests (section 4.2).

## 4.1 Limited value of industry pledges

Box 4 assesses the effectiveness of the voluntary pledge that members of the International Food and Beverage Alliance (IFBA) have made to market responsibly to children in light of the WHO Recommendations. The discussion concludes that industry pledges have limited effectiveness and are unlikely to ever provide a suitable alternative to government-led regulation in this policy area where significant conflicts of interest are unavoidable. Primary responsibility for the implementation of the Recommendations lies with Member States.

### **Box 4 Assessing the Global Policy on Advertising and Marketing Communications to Children of the International Food and Beverage Association**

Several major food companies have responded to childhood obesity concerns by proposing a series of company-led pledges to change, among others things, their marketing activities directed at children so that the food advertised to children would encourage healthier dietary choices and healthy lifestyles. Thus, in 2009, the International Food and Beverage Association (IFBA) was established and made the pledge to market food responsibly to children (79).

IFBA members have **committed** to:

- only advertise products to children under 12 years of age that meet specific nutritional criteria based on accepted national and international evidence and/or applicable national and international dietary guidelines; or
- not advertise products to children under 12 years at all.

In addition, IFBA members have undertaken “not to engage in food or beverage product marketing communications to children in primary schools” and “to publish yearly reports to demonstrate compliance with this policy”.

Although IFBA members claim specifically that their Global Policy on Marketing Communications to Children is in line with the WHO Recommendations and “designed to reduce the impact on children of the marketing of [unhealthy food] and increase their exposure to foods and beverages compatible with a balanced diet and healthy, active lifestyle”, the fact remains that the pledge has a number of shortcomings relating both to its membership and its scope.

#### **Membership**

There are 11 IFBA members: The Coca-Cola Company, Ferrero, General Mills, Grupo Bimbo, Kellogg's, McDonald's, Mars, Mondelēz International, Nestlé, PepsiCo and Unilever. In 2015, they employed more than 3.5 million people worldwide and had a combined annual revenue of about US\$ 397 billion (80). However large

these figures may seem, they are nonetheless relative<sup>59</sup> because several major food producers have not made the IFBA pledge; nor have local, smaller operators. Its effectiveness is therefore limited<sup>60</sup>.

### Scope

Several gaps remain in the scope of the IFBA pledge, even though more commitments were made in 2011 and 2014<sup>61</sup>. There is still a long way to go before the pledge is in line with both the letter and the spirit of the Recommendations. The following remarks focus on the policy development stage of the policy cycle identified in the Recommendations. They are grouped into two sub-sections, reflecting the premise in Recommendation 2 that the effectiveness of marketing is a function of both (1) exposure and (2) power and that both need to be addressed if the policy objective of the Recommendations to reduce the impact of marketing on children of certain foods and non-alcoholic beverages is to be achieved (as discussed earlier in section 3).

#### 1. Policy development: exposure

Overall, the commitments made by IFBA members on the food marketing to children fall below the standards set by the Recommendations. In particular, their coverage is limited and does not offer comprehensive implementation of the Recommendations.

- *Media falling within the scope of IFBA commitments*

Originally, IFBA commitments applied to three media only: television, print and the Internet. The 2011 enhanced commitment extended the application of the pledge to company-owned websites, and the 2014 enhanced commitment added: outdoor<sup>62</sup>, mobile and SMS marketing, interactive games, DVD/CDROM, cinema and product placement.

While the added commitment has closed major loopholes, the IFBA pledge nonetheless continues to allow the marketing of unhealthy food to children in a range of media. In particular, no mention is made of sponsorship arrangements of children's activities (apart from what is mentioned below on in-school marketing), and the pledge explicitly excludes packaging, in-store and point-of-sale marketing, and all forms of marketing communications that are not under the direct control of the brand owner, such as user-generated content. The reason put forward by IFBA members is that "the vast majority of food purchasing decisions are taken by adults and not the children themselves; mothers and adults serve as gatekeepers in these situations". This rationale is far from convincing, particularly in light of the growing evidence that children influence what their parents buy (see "pester power" in section 2.1.3). Governments have a duty to ensure that parents are effectively supported in their child-rearing responsibilities, as discussed more fully later.

As mentioned, the definition of "marketing" provided in the Recommendations was designed to facilitate the adoption of a comprehensive approach as the most effective way to ensure the policy objective (12, recommendation 3). As "any form of commercial communication or message that is designed to, or has the effect of, increasing the recognition, appeal and/or consumption of particular products and services, it comprises anything that acts to advertise or otherwise promote a product or service" (13, p. 7, footnote 2). However, IFBA monitoring reports make no specific mention of settings where children gather. As Recommendation 5 clearly states, such settings should be free of any form of unhealthy food marketing. These settings include but are not limited to nurseries, schools, school grounds and pre-school centres, playgrounds, family and child clinics and paediatric services (13, p. 22). The definition of settings where children gather is discussed more fully in section 3.

It is true that IFBA members have committed "not to engage in product marketing communications to students in primary schools, except if requested by, or agreed with, the school administration for specific educational purposes". However, the wording of this commitment is ambiguous as it does not suggest that primary-school

<sup>59</sup> For example, in 2014, the food industry in the European Union alone employed 4.2 million people and had a turnover of € 1 244 billion.

<sup>60</sup> In its response to the consultation on the interim report of the ECHO Commission, the IFBA recognized "the implicit advantages in a statutory response when it comes to ensuring there is an effective level playing field across the whole industry" (<https://ifballiance.org/documents/2015/06/ifba-submission-to-echo-interim-report-final-4-june-2015.pdf>).

<sup>61</sup> The 2014 enhanced commitments had to be implemented by 31 December 2016 – giving over a two-year transition period to IFBA members.

<sup>62</sup> In the 2014 statement, IFBA noted that "outdoor marketing" would be defined by interpretative guidelines (<https://www.ifballiance.org/uploads/media/59eddc9fba341.pdf>). In 2017, they noted "For outdoor and schools, we are currently developing interpretative guidelines for determining what is permissible and what is not" (<https://ifballiance.org/uploads/media/59f0527104a93.pdf>) and to date no guidelines have been published.

children will not be exposed to unhealthy food marketing at all. The commitment could be strengthened by removing the exception. As stated on IFBA's website, "Members respect that schools are very special environments where healthy lifestyles must be encouraged. As a matter of practice, school administrations often approach IFBA members to request products and support. IFBA members are committed to honour such requests, provided they are for educational purposes and help to promote healthy and balanced lifestyles. As part of the 2014 enhanced global policy, IFBA members have committed to developing and making public specific guidelines on permissible activities in schools." Nonetheless, the extent to which food industry school sponsorship is appropriate – even for educational purposes – should be questioned. Furthermore, "menus or displays for food and beverage products offered for sale, charitable donations or fundraising activities, public service messages, and items provided to school administrators for education purposes or for their personal use are not covered". Rather, "IFBA members commit to developing and publishing specific guidelines on permissible activities in schools"<sup>63</sup>.

- *Definition of a children's programme*

The criteria used to determine whether a television programme is a children's programme and, as such, subject to IFBA commitments, are unlikely to effectively reduce the impact of marketing of unhealthy food to children. Even though the relevant threshold has been lowered from 50% to 35% or more of the audience under 12 years of age – a step in the right direction – it does not greatly change the situation, as illustrated in section 3 with the UK example (with 67.2% of children's television viewing in 2009 occurring during adult airtime)<sup>64</sup>. Even if the exposure to unhealthy food marketing is reduced in children's programmes, their exposure nonetheless remains high outside children's programmes.

- *Setting nutrition criteria*

IFBA's third commitment specifies that "only foods or non-alcoholic beverages meeting specific nutrition criteria based on accepted scientific evidence and/or applicable national and international dietary guidelines" can be promoted to children under 12 years of age. However, it continues, "since food company portfolios vary widely, each company determines its own nutritional criteria and makes these public to children under 12 years". Nonetheless, in their 2014 enhanced commitment, IFBA members recognized that they should, "wherever possible", harmonize nutrition criteria where such criteria do not yet exist, as has been done in the European Union and US pledge groups. As regards making the criteria available to children, it is doubtful that children under 12 years of age would be interested in the nutrient profile of food.

- *Who is "a child"?*

The question may also be raised of the definition of a "child" (anyone of up to 12 years of age for the purposes of IFBA commitments).

As the framework implementation report acknowledges, "there is no one globally-agreed definition of the notion of a 'child' [...] The evidence is not conclusive regarding a definite 'cut-off' age at which children understand the persuasive intent of marketing and adopt the necessary critical stance. Available research studies have focused predominantly on marketing to younger children (i.e. children under the age of 12) rather than adolescents, and those studies have been carried out mainly in developed country contexts [...]. This is probably why the age of 12 is often invoked by industry operators to define the scope of application of their commitments on 'responsible marketing'. Nonetheless several factors suggest that there is need for caution in determining whether the policy focus should be placed solely on younger audiences"<sup>65</sup> (13). Furthermore, there is now a growing and significant body of research suggesting that older children are negatively influenced by unhealthy food marketing (31,68). This is why several countries have chosen to protect older children also from such marketing<sup>66</sup>. In the EMR, the Islamic Republic of Iran went even further and prohibits the marketing of unhealthy food to children aged 2 to 19 years.

## 2. Policy development: power

<sup>63</sup> International Food & Beverage Alliance. Our commitments: Responsible marketing to children. September 2014 (<https://www.ifballiance.org/uploads/media/59eddc9fba341.pdf>).

<sup>64</sup> For the lower age group (children aged 4–9 years), the figure was 54.4% and for the higher age group (10–15 years) it was 79.8%. Ofcom's Evaluation Report is available at: <http://stakeholders.ofcom.org.uk/binaries/research/television-research/hfss-review-final.pdf>

<sup>65</sup> On the question of age, see section 3.4.1 of the framework implementation report, which also includes a list of the factors to take into account (13).

<sup>66</sup> Looking at television advertising in particular, unhealthy food marketing is prohibited to children under 18 years in Ireland and South Korea, under 16 years in the UK, and under 14 years in Chile.

Until the 2014 enhanced commitments, IFBA commitments related exclusively to the exposure of children to marketing; they failed to address the power of marketing on children.

As discussed in section 3, the Recommendations clearly emphasize that certain marketing techniques are particularly effective with children and need to be specifically regulated if used to advertise or otherwise promote unhealthy food. The power of marketing (the content, design and execution of the marketing message) must therefore be tackled alongside the problem of exposure (reach, frequency and impact of the message) if the Recommendations are to reach their objective of reducing the impact on children of unhealthy food marketing.

The framework implementation report lists certain particularly powerful marketing techniques which have frequently been used to promote unhealthy food to children. These include: the use of cartoon characters, including brand characters, and fictional narratives that appeal to children; the use of famous sports personalities and other celebrities which attracts children's attention; and the offer of "free" toys, music downloadable software, mobile telephone ringtones and other goods and services which may appeal to children (13, p. 25). One could add the use of claims directed at children, and the use of specific types of packaging, colours, graphics which are of particular appeal to children<sup>67</sup>.

Recognizing that their commitments were not in line with the WHO Recommendations, the IFBA pledge on marketing to children now requires that "companies do not use certain marketing techniques that appeal primarily to children under 12, that are primarily directed to children under 12 in the media channels covered, for foods not meeting specific nutrition criteria". However, this enhanced commitment explicitly excludes brand characters – even though such characters are frequently used to promote unhealthy food to children, not least breakfast cereals with a high sugar content. The explanation for the exclusion is that "brand equity characters are part of a brand's intellectual property and so, taking them away from the brand would basically mean that the brand ceases to be the same entity". This is an over simplistic appraisal of what is an inherently complex issue: the use of brand characters is a marketing technique that influences children's food preferences, purchase requests and consumption patterns. Consequently, a comprehensive implementation of the WHO Recommendations would require that their use be restricted<sup>68</sup>. It is only then that IFBA members will be able to argue that they have acted in the spirit of the Recommendations.

Regional and national pledges have also been adopted; they are based on the IFBA Global Policy on Advertising and Marketing Communications to Children, and therefore have the same limitations. In particular, in 2009, seven major food and beverage companies adopted a regional pledge – the Gulf Cooperation Council Marketing to Children Pledge – to change food and beverage marketing and advertising to children under 12 years in Gulf Cooperation Council countries (81). The Gulf Cooperation Council pledge covers the six countries of the Gulf Cooperation Council. In other countries where there is no specific regional pledge in force, the IFBA Global Policy on Advertising and Marketing Communications to Children applies to IFBA member' food marketing practices.

Somewhat confusingly, the list of signatories of the Gulf Cooperation Council pledge differs from the list of signatories of the IFBA Pledge. In particular, Ferrero, Grupo Bimbo, and McDonald's have signed the IFBA pledge but not the Gulf Cooperation

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<sup>67</sup> See section 2 for a discussion of the relationship between these techniques and children's preferences, purchase requests and consumption patterns.

<sup>68</sup> The right to property – often invoked by commercial operators alongside the right to free expression and the right to trade – is not absolute and can be limited for reasons of public interest. States have a broad margin of discretion in ensuring that the health of their citizens is effectively protected. On the nature of these rights and the extent to which they can be restricted on public health grounds, see Alemanno A, Garde A. Regulating lifestyles in Europe: How to prevent and control non-communicable diseases associated with tobacco, alcohol and unhealthy diets? Swedish Institute for European Policy Studies, December 2013 ([http://sieps.se/en/publications/2013/regulating-lifestyles-in-europe-how-to-prevent-and-control-non-communicable-diseases-associated-with-tobacco-alcohol-and-unhealthy-diets-20137/sieps\\_2013.pdf?](http://sieps.se/en/publications/2013/regulating-lifestyles-in-europe-how-to-prevent-and-control-non-communicable-diseases-associated-with-tobacco-alcohol-and-unhealthy-diets-20137/sieps_2013.pdf?))

Council pledge, whilst Mondelez only joined in 2014. This discrepancy is difficult to grasp<sup>69</sup>. Furthermore, the Gulf Cooperation Council pledge does not seem to have been revised in 2011 and 2014 as the IFBA policy was. It was only revised in 2016 and does not exceed the level of protection the IFBA pledge purports to offer.

In any event, the responses received to the questionnaires circulated in 2015 and 2017, in which respondents were specifically asked about their awareness of any self-regulatory mechanisms adopted by the food industry in the Region (Annex 1), demonstrate that the Gulf Cooperation Council and the IFBA pledges are not known by countries of the Region. This, in turn, raises serious questions about their potential to reduce the negative effect that the marketing of unhealthy food has on children – the primary objective of the Recommendations.

More fundamentally, it has been convincingly argued that an inherent conflict of interest arises when the food industry is expected to voluntarily stop marketing to children when they have a primary responsibility to their shareholders to increase their profits (70,77,82–95). Marketing is one of the most effective tools available to them to reach this objective and it is therefore not surprising that the food industry (alongside many others) has actively targeted children as key marketing audiences, as discussed in section 2.

On the basis of the experience acquired to date, countries need to recognize that if regulatory standards in the field of unhealthy food marketing are to be effective, the key policy parameters should be set by competent regulatory authorities and not by the food industry itself, and they must be set in such a way as to avoid conflicts of interest, as Recommendation 6 specifically provides. A regulatory intervention is preferable in countries of the Region because the consumer movement is not always sufficiently organized to provide a counter power to industry operators.

Of course, hearing the views of industry is, of itself, not problematic. However, putting the industry in a position to shape opinions, advice, or standards upon which governments rely is an abdication of government responsibility which is against the public interest (95).

## **4.2 Children’s rights approach to the implementation of the Recommendations**

As Anand Grover, who was the UN Special Rapporteur on the right to the highest attainable standard of health between 2008 and 2014, convincingly argued:

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<sup>69</sup> For example, it is clear that McDonald’s is increasingly implanted in the six Gulf Cooperation Council countries (McDonald’s Middle East Development Company: building business success with a local ingredient. Industry ME: <https://industry-me.com/features/food-drink/mcdonalds-middle-east-development-company-building-business-success-local-ingredient/>)

*Owing to the inherent problems associated with self-regulation and public–private partnerships, there is a need for States to adopt laws that prevent companies from using insidious marketing strategies. The responsibility to protect the enjoyment of the right to health warrants State intervention in situations when third parties, such as food companies, use their position to influence dietary habits by directly or indirectly encouraging unhealthy diets, which negatively affect people’s health. Therefore, States have a positive duty to regulate unhealthy food advertising and the promotion strategies of food companies. Under the right to health, States are especially required to protect vulnerable groups such as children from violations of their right to health<sup>70</sup>.*

There is a growing body of research focusing on unhealthy food marketing as an important children’s rights issue and the duty of States to ensure that the right of the child to health and other related rights are effectively protected from harmful industry interference (96–102).

The importance of adopting a human rights approach to the prevention and control of NCDs is at the heart of the WHO global action plan<sup>71</sup> (14) and is similarly highlighted in the final report of the ECHO Commission (7). This approach maintains that the UN Convention on the Rights of the Child – the most ratified human rights instrument in the world – and other international human rights instruments should guide all policies that have a foreseeable impact on children, including the regulation of food marketing. The Convention on the Rights of the Child has been ratified by all Member States of the Region.

Adopting a children’s rights approach to the prevention of childhood obesity and related NCDs has several benefits:

- **Accountability** – A children’s rights approach guarantees a degree of government accountability, making effective remedies more likely where rights are violated. This, in turn, facilitates the translation of the commitments and obligations established in the Convention on the Rights of the Child into practicable, long-lasting and realizable entitlements.

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<sup>70</sup> Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover. Unhealthy foods, non-communicable diseases and the right to health. UN General Assembly, 26th session of the Human Rights Council, 2014 (A/HRC/26/31, paragraph 25). This statement follows from the statement of Olivier De Schutter, the UN Special Rapporteur on the right to food, in September 2011: “It is unacceptable that when lives are at stake, we go no further than soft, promotional measures that ultimately rely on consumer choice, without addressing the supply side of the food chain. [...] Food advertising is *proven* to have a strong impact on children, and must be strictly regulated in order to avoid the development of bad eating habits early in life.” (A/HRC/19/59).

<sup>71</sup> WHO Global Action Plan relies on the “human rights approach” as one of its nine overarching principles: “It should be recognized that the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being, without distinction of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, as enshrined in the Universal Declaration of Human Rights” (14, p. page 12).



- **Empowerment** – Once the concept of “rights” is introduced in policy-making, the rationale for limiting marketing to children no longer comes only from the fact that children have *needs* but also from the fact that they have *rights* – entitlements that give rise to legal obligations on the part of States.
- **Legitimacy** – Because children’s rights are inalienable and universal, there is an inherent legitimacy to the language of human rights. Thus, arguments based on children’s rights can ensure that an issue is given special consideration and that competing interests lose legitimacy if they are incompatible with children’s rights.
- **Advocacy** – An approach based on human rights provides an opportunity to build strategic alliances, coalitions and networks with other actors who share a similar vision and pursue common objectives. In relation to childhood obesity, a children’s rights approach is likely to encourage the involvement of a broad range of actors who may not have viewed marketing of unhealthy food to children as a concern of children’s rights. In turn, this is likely to help galvanize political will and increase pressure on governments to ensure that they comply with their human rights obligations, particularly under the Convention on the Rights of the Child (68, 3.1.2).

The Committee on the Rights of the Child, which is entrusted with the interpretation and monitoring of the Convention on the Rights of the Child, has noted that the food industry spends billions of dollars on persistent and pervasive marketing strategies promoting unhealthy food to children, and that children’s exposure to fast foods should be limited. Further, the marketing of this type of food, “especially when it is focused on children,” should be regulated, and the availability in schools and other places controlled (103). More specifically, in its concluding observations on the second periodic report of the United Arab Emirates, the Committee urged the country to “regulate the marketing of unhealthy food, especially when such marketing is focused on children, and regulate the availability of such food in schools and other places.” (104).

Countries need to interpret the Convention on the Rights of the Child in a dynamic manner to address health concerns affecting children at a particular time, and not only at the time the Convention on the Rights of the Child was adopted when obesity was not seen as a major global public health problem. As noted by the Committee on the Rights of the Child, “Children’s health is affected by a variety of factors, many of which have changed during the past 20 years and are likely to continue to evolve in the future” (103, para. 5). Governments are therefore encouraged to prioritize issues that have received little attention to date and should ensure, among other things, the availability of “safe and nutritionally adequate food” and “a healthy and safe environment” (105, para. 99). The UNICEF report on food marketing and children’s rights argues that the Recommendations should guide the interpretation of what the Convention on the Rights of the Child requires from countries to ensure that they uphold their legal obligation to protect children’s rights from harmful business practices (68). This will, in turn, provide a healthier environment and support parents

in the performance of their child-rearing responsibilities<sup>72</sup>. In other words, the recommendations made in section 3, which are intended to guide governments in their implementation of the Recommendations, support a children's rights approach and can therefore help countries discharge their obligation to respect, protect and fulfil the rights of the child from the harmful impact of unhealthy food marketing.

Importantly, and in line with Article 3 of the Convention on the Rights of the Child, governments should take the best interests of the child as a primary consideration and ensure that children's rights are placed at the centre of the process for implementing the WHO Recommendations. In particular, they should strive to build a consensus of relevant stakeholders both within and beyond government and develop as comprehensive an approach as possible to unhealthy food marketing, looking at both exposure and power as the two components of the impact of such marketing on children, as discussed in section 3<sup>73</sup>.

The UNICEF report cited earlier (68) focuses on a wide range of children's rights that are negatively affected by unhealthy food marketing, including the right to: health; food; survival and development; education; information; rest, leisure, recreation and cultural activities; privacy; and non-discrimination.

In his message to the UN High-Level Meeting on progress achieved in the prevention and control of NCDs in July 2014, the Secretary-General explicitly called on the private sector to stop marketing unhealthy foods to children (106). More recently, the Montevideo Roadmap encourages the private sector "to reduce the exposure of and impact on children of marketing of foods and non-alcoholic beverages, consistent with WHO recommendations and guidance, and in accordance with national legislation, policies, and relevant international obligations" (71, para. 31). The message is clear: the food industry has a responsibility to stop marketing unhealthy food to children, including older children, and support countries in the performance of their duty to protect children effectively from such marketing and its harmful effects (68, section 4.2).

### 4.3 Recommendations

- Member States should implement the WHO Recommendations in the public interest and avoid all real, perceived or potential conflicts of interests.

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<sup>72</sup> In Article 5 of the Convention on the Rights of the Child, States are expected to support parents' role, respecting "the responsibilities, rights and duties of parents ... to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance" in exercising their rights. In relation to food marketing more specifically, see Food marketing and children's rights (68, section 3.3) and A children's rights approach to obesogenic marketing (101), which refers to the work of Kent G. Children's right to adequate nutrition. *Int J Child Rights*. 1993;1(2):133–54.

<sup>73</sup> The implications of the principle of the best interest of the child for States when implementing the Recommendations are discussed more fully in: Food marketing and children's rights (68, section 4.1).

- Member States, and not food industry operators, should define the scope of the regulations restricting unhealthy food marketing to children in their countries, and ensure that these regulations are effectively implemented.
- Voluntary industry pledges may complement, but never replace, the implementation of the Recommendations by Member States.
- The food industry has a responsibility to ensure that its marketing practices respect all the rights of the child.
- Member States have a legal obligation to respect, protect and fulfil the rights of the child, including the right to the highest attainable standard of health, the right to adequate food and other related human rights under the Convention on the Rights of the Child, and other international human rights instruments they have ratified. Member States must make the best interests of the child a primary consideration in all policies, including when implementing the WHO Recommendations as part of effective childhood obesity and NCD prevention strategies.

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# Annex 1

## Rapid questionnaire on implementation of the Recommendations<sup>74</sup>

### *Background*

WHO passed global and regional resolutions with recommendations to regulate marketing of food and beverages to children (RC54/R9) and (WHA63.14). The implementation of these resolutions in the Eastern Mediterranean has been rather slow, while childhood overweight and obesity has been on constant rise. The food and beverage industries, however, continue to market products high in sugar, salt and fat, and have almost doubled their expenditure on advertising and marketing to children, resulting in unhealthy diets and overweight. This rapid questionnaire was developed to:

- assess progress towards the implementation of the Global and Regional commitments with regards to marketing of food and non-alcoholic beverages to children; and
- identify opportunities to build on existing legislation to include regulations in this area.

The questions of the survey refer the five actions areas in the Global recommendation, which should be taken by Member States namely:

1. take necessary measures to implement the recommendations on the marketing of foods and non-alcoholic beverages to children, while taking into account existing legislation and policies, as appropriate;
2. identify the most suitable policy approach given national circumstances and develop new and/or strengthen existing policies that aim to reduce the impact on children of marketing of foods high in saturated fats, trans-fatty acids, free sugars, or salt;
3. establish a system for monitoring and evaluating the implementation of the recommendations on the marketing of foods and non-alcoholic beverages to children;
4. take active steps to establish intergovernmental collaboration in order to reduce

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<sup>74</sup> This questionnaire was sent to all Member States of the WHO Eastern Mediterranean Region in January 2017.

the impact of cross-border marketing;

5. co-operate with civil society and with public and private stakeholders in implementing the set of recommendations on the marketing of foods and non-alcoholic beverages to children in order to reduce the impact of that marketing, while ensuring avoidance of real, perceived or potential conflicts of interest.

*Target respondents*

- Professionals dealing with issues related to **child obesity, nutrition, food regulations safety, health and legislation** and any other related matters

*Methodology:*

The information will be collected through two types of questions:

- structured closed ended questions (Yes, No, Don't know)
- open ended questions (which needing description/evidences etc.)

*Information about the respondent*

**Country:** .....

**Convener:** .....

**Participating department(s):** .....

**Names of the respondent(s):** .....

### RAPID QUESTIONNAIRE

Q1 *Have the WHO Recommendations on the marketing of foods and non-alcoholic beverages to children been discussed in your country? (Circle your answer)*

Yes                      No                      I don't know

Additional comments if any: .....

Q1-1 *If you answered yes, have the discussions led to any policy developments? (Circle your answer)*

Yes                      No                      I don't know

Additional comments if any: .....

Q1-2 *If you answered no, please suggest ways to make the recommendations a key intervention to prevent and control child obesity?*

.....  
.....

Q2 *To the best of your knowledge, is there any legislation in existence, which limits the marketing of food to children? (Circle your answer)*

Yes                      No                      I don't know

Additional comments if any: .....

Q3 *To the best of your knowledge, is there any legislation that could serve as entre point to introduce regulations of marketing of food to children? (Circle your answer)*

Yes                      No                      I don't know

If you answered yes, please specify

.....  
.....

Q4-1 *To the best of your knowledge, in your country, is it allowed to advertise: (Circle your answer for each section)*

- |                                       |     |    |              |
|---------------------------------------|-----|----|--------------|
| 1) On children's television channels: | Yes | No | I don't know |
| 2) On radio stations                  | Yes | No | I don't know |
| 3) During children's programmes       | Yes | No | I don't know |

Additional comments if any: .....

Q4-2 To the best of your knowledge, are there any legal restrictions to advertise on children's TELEVISION channels, radio stations and/or during children's programmes? (Circle your answer)

Yes                      No                      I don't know

If you answered yes, please specify

.....  
.....

Q5 To the best of your knowledge, are there any restrictions on the marketing of food in schools or other settings where children gather such as nurseries, sports clubs, after school clubs etc? (Circle your answer)

Yes                      No                      I don't know

If you answered yes, please specify

.....  
.....

Q6 To the best of your knowledge, is there a national system in place allowing for the classification of food into healthy and less healthy categories (in reference to nutrition profiling)? (Circle your answer)

Yes                      No                      I don't know

If you answered yes, please specify

.....  
.....

Q7 To the best of your knowledge, is there any self-regulatory mechanism in place adopted by the food industry? (e.g. Industry-wide self-regulatory codes, food marketing communication) (Circle your answer)

Yes                      No                      I don't know

If you answered yes, please specify

.....  
.....

Q8 To the best of your knowledge, is there any pressure from the public to see the marketing of food to children regulated? (Circle your answer)

Yes                      No                      I don't know



If you answered yes, please specify

.....  
.....

*Q9 To the best of your knowledge, are there restrictions in place on the marketing of the following products? (Circle your answer for each product):*

- |   |     |    |              |
|---|-----|----|--------------|
| 1) Breast milk substitutes and infant formulae: | Yes | No | I don't know |
| 2) Tobacco products:                            | Yes | No | I don't know |
| 3) Alcoholic beverages?                         | Yes | No | I don't know |

*Q10 Any further comments?*

.....  
.....

**Thank you very much for taking the time to answer the questionnaire.**



This report provides a situational analysis of the progress made in the Eastern Mediterranean Region in implementing the WHO set of recommendations, adopted by the World Health Assembly in 2010, which called on Member States to adopt policies restricting the marketing of unhealthy food to children. Increasing rates of childhood overweight and obesity and the extensive marketing to children of unhealthy food in the Region indicate that Member States need to urgently implement the recommendations as part of effective obesity prevention strategies and this report provides guidance to them on how to do so. It also identifies the issues that countries need to consider when adopting policies intended to restrict the marketing of unhealthy food to children.

