



PROTECT KIDS FROM
JUNK FOOD MARKETING

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Unhealthy food and
drink marketing in
Aotearoa New Zealand:

Evidence Snapshot 2022



MEDICAL AND
HEALTH SCIENCES
SCHOOL OF POPULATION HEALTH



UNIVERSITY
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OTAGO
Te Whare Wānanga o Ōtago
NEW ZEALAND





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Executive Summary

Welcome to the 3rd edition of the evidence snapshot, an update of the 2018 version to include additional recent evidence.

In the three years since, the evidence base for protecting our children from unhealthy food and drink marketing has grown stronger, however the updated Advertising Standards Authority Children and Young People's (CYPA) Code still offers little to no protection to children.

In line with te Tiriti o Waitangi and the United Nations Convention on the Rights of the Child, every child has the right to grow up in an environment that allows them to be healthy, no matter where they live. However environments that promote and normalise unhealthy food and drink over healthier options, as well as factors such as poverty and food insecurity, mean that for many children, eating healthy foods is difficult.

Children in Aotearoa New Zealand (hereafter NZ) are exposed to excessive levels of powerful unhealthy food and drink marketing every day. It affects their food preferences and eating behaviour, leading to a variety of health problems including increased dental caries, attention difficulties, emotional problems, and increased body size. This can set children up for a lifetime of adverse health-related and social consequences and intergenerational effects. We must put children before food industry profits and act now to protect the health and wellbeing of all children in NZ.

Effective legislative policy that protects children from unhealthy food and drink marketing is required.

This legislation should:

- protect children up to 18 years of age
- cover all current and future types of marketing to which children are exposed
- be based on a well-recognised scientific nutrient- or food-based classification system such as the World Health Organization's Nutrient Profile Model to identify which products can and cannot be marketed
- be monitored, evaluated and enforced by an independent body.



Unhealthy food and
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What is the issue?

Children and families are bombarded by unhealthy food and drink advertising

Every child deserves the opportunity to be healthy and to live, play and learn in an environment free from unhealthy food and drink marketing regardless of where they live. NZ children are surrounded by unhealthy food and drink advertising in their homes, on their way to and from school, in their classrooms and when out and about in their neighbourhoods^{1,2}. They are exposed to unhealthy food and drink marketing over 68 times a day – this is more than twice the amount of advertising they see for healthy products³.

Unhealthy food and drinks are typically ultra-processed, energy dense and high in salt, sugar and unhealthy fats and lack many of the key nutrients children need to thrive⁴. These foods are highly profitable to food manufacturers⁵.

Children are lucrative consumers for industry as they have a large influence over household spending and go on to become lifetime consumers⁶⁻¹³. The power of marketing to children is such that the term ‘pester power’ has been coined to describe children’s frequent purchasing requests to their parents and caregivers⁴.

Unhealthy food and drink manufacturers use powerful marketing techniques to influence children’s eating behaviours, shaping what children want and ask their parents to purchase^{6,7}. Their tactics are effective, with up to \$17 of revenue generated for every dollar of advertising spent¹⁵. These corporate financial gains are linked to excess consumption of unhealthy food and drinks; evidence shows that sophisticated marketing campaigns are associated with overweight and obesity rates¹⁶.

Children living in more disadvantaged suburbs have greater exposure to unhealthy food outlets and marketing than children living in less deprived neighbourhoods in NZ and around the world^{17,18,19}. As more than half of Māori whānau (families) live in deprived neighbourhoods²⁰, Māori children are exposed to around twice as much unhealthy food and drink marketing than non-Māori²¹. This is an example of the Government failing to uphold the Ōritetanga (Equity) article of te Tiriti o Waitangi.

New Zealanders want change

There is strong public support for change to the current situation. In 2021, two out of three New Zealanders were supportive of tougher rules on unhealthy food and drinks marketing²². The majority (78%) agree that children are exposed to too many advertisements for unhealthy food and drinks, and that this is contributing to obesity²³.

Our children agree too. According to them, they’re frequently exposed to food and drink marketing and persuaded to make purchases they know to be harmful to their health²⁴. When asked, many children agreed that junk food should not be advertised to children. Nearly two thirds of children consulted said they would change something about food marketing if they were Prime Minister for a day; the most common suggestions included making food advertising truthful, providing nutrition information, removing billboards and signs, and increasing promotion of healthy food²⁴.

Notably, the NZ Government declared in September 2021 its commitment to restricting advertising of unhealthy food to children, as part of a transition pathway to healthy and sustainable food systems and contribution to achieving the United Nations Sustainable Development Goals²⁵.



The Children and Young People's Advertising Code

Currently, in NZ, food marketing is self-regulated under voluntary codes developed by an industry body, the Advertising Standards Authority (ASA). The ASA Children and Young People's (CYPA) Code was released in 2017²⁶. The CYPA Code applies to all advertisements that target children or young people, whether contained in children's or young people's media or otherwise, but does not apply to product packaging, *bona fide* news, reviews, editorial and broadcast programmes²⁶. The Code has three principles, including specific rules relating to food and drinks advertising:

1. **Social responsibility**—including that food and beverage advertisements for 'occasional' (i.e. unhealthy) food or beverage products must not target children (with a special duty of care applied to young people), portion sizes shown should be appropriate, and promotional offers of interest to children and young people must not create a sense of urgency to purchase or encourage excessive consumption;

2. **Truthful presentation**—including that food and beverage advertisements must not mislead as to the potential physical, social or mental health benefits from consumption of the product; and
3. **Sponsorship advertising**—sponsorship advertisements must not show any 'occasional' food or beverage product or its packaging, or depict consumption of 'occasional' food or beverage products²⁶.

This current self-regulatory approach to protect children from harmful food and drink marketing practices is not working²⁷. The Government's response falls far behind international best practice for food policy and healthy food environments²⁸—other countries such as Chile, Mexico and United Kingdom are already taking strong legislative action to regulate unhealthy food and drink marketing.

What is the health and societal impact?

Marketing of unhealthy food and drinks harms children's growth and development²⁹ by shaping children's dietary preferences and encouraging the repeated purchase and consumption of foods that do not meet nutritional guidelines^{7,9,30}. Children need nutritious food as they have limited stomach capacity and are growing rapidly³¹. Energy-dense, highly-processed diets are often nutrient-poor, increasing the risk of suboptimal nutrient intake for growth and development. There are many negative impacts to health and wellbeing that stem from unhealthy food and drink that occur regardless of the body size of the child. Foods that are high in sugar, salt and unhealthy fats have been shown to contribute to increased rates of oral health problems including dental caries³², attention deficit hyperactivity disorder³³, and increased suicidality, depressive disorders and sleep disturbances³⁴.

Unhealthy food and drink consumption (in particular fast food, sugary beverages, and large portion sizes) also contributes to excess weight (i.e. overweight or obesity) in children due to their association with high energy (calorie) content and excessive caloric intake³⁵. Children who have obesity are more likely to have: high blood pressure and high cholesterol (risk factors for cardiovascular disease); increased risk of impaired glucose tolerance, insulin resistance and type 2 diabetes; breathing problems, such as asthma or sleep apnoea; joint problems, musculoskeletal discomfort and increased fractures³⁶; and fatty liver disease, gallstones, and heartburn³⁷⁻⁴⁴. Childhood obesity is also linked to psychological problems such as anxiety and depression, low self-esteem and lower self-reported quality of life, social problems such as bullying and stigma, and to negatively affected school performance⁴⁵⁻⁴⁸.

Children who develop and live with obesity are around five times more likely to have obesity as adults⁴⁹, and are more likely to develop non-communicable diseases like diabetes and cardiovascular diseases at a younger age³⁵. In addition, if children have obesity, their obesity and disease risk factors later in life are likely to be more severe⁵⁰ and negatively influence the health of their children, as children learn by modelling preferences and food intake of their parents⁵¹.

Poor nutrition sets children up for a lifetime of health and wellbeing related problems. All of this causes ongoing and avoidable costs for the child, whānau and the health system^{52,53}. New Zealand's children's health and wellbeing needs to improve. We want to provide healthy food for our children but being surrounded by unhealthy food products and marketing for such foods undermines efforts to ensure our children have a nutritious diet. Moreover, inequities in exposure to unhealthy food and beverage marketing and therefore childhood dietary behaviours contribute to lifelong health inequities⁵⁴. Reviews of large international studies have shown behavioural interventions that address child body size are mostly ineffective, and wider environmental modification is needed to normalise healthy eating⁵⁵. A healthy food environment is imperative to support children to grow, thrive and live healthy lives.

The health of NZ children

Current statistics on NZ children's health indicate the importance of addressing the problem of poor nutrition.

Dental caries. In 2014/15, 40.9% of five-year-old children who lived in Auckland and Northland had early childhood dental caries⁵⁶. Additionally in 2020/21, 10.1% of NZ children had had teeth removed due to decay in their lifetime⁵⁷.

Adolescents who consume one cup of unhealthy drinks (fruit juice, energy drinks, fizzy drinks, sport and vitamin water) per day are consistently more likely to report oral health issues⁵⁸. There are large inequities in these statistics with Māori and Pacific children disproportionately represented in rates of dental caries^{59,60}.

Dietary intake. Fruit and vegetables are an important source of vitamins, minerals and energy, fibre and carbohydrate for children and they help maintain healthy body weight and reduce the risk of chronic diseases³¹. Previous NZ dietary surveys showed that unhealthy food and drink intake displaces children's consumption of healthy food and drinks³¹. In 2020/21, less than half (41.9%) of NZ children were meeting the vegetable intake guidelines (2-3+ serves of vegetables) and 70.2% were meeting the fruit intake guidelines (2 serves of fruit)⁵⁷. Additionally, since 2011/12 vegetable consumption has significantly decreased by 16.3% in NZ children. Of concern, NZ children consume five unhealthy snacks per day, to an average of three healthier snacks⁶¹. Furthermore, almost a third (32.3%) of children were consuming fizzy drink at least once a week and more than half (54.0%) were consuming fast food at least once a week⁵⁷. Māori and Pacific children and children living in the most deprived areas are disproportionately more likely to have suboptimal fruit and vegetable intake and consume fizzy drinks and fast food more frequently⁵⁷.

Excess weight. Childhood obesity is reaching alarming proportions in many countries and poses an urgent and serious challenge⁶². One in three children (30.8%) aged 2-14 years old in NZ live with overweight or obesity⁵⁷. This is the second highest child overweight and obesity rate across all Organization for Economic Co-operation and Development (OECD) countries⁶⁵. These statistics hide socioeconomic inequities—Pacific children are 3.7 times more likely, and Māori children 1.7 times more likely, to live with obesity than other children⁵⁷.

The societal impact: societal costs of excess weight

As described above, food preferences are developed during childhood and track into adulthood, impacting on children's long-term health⁴⁹. Children who are overweight are more likely to become overweight adults⁶⁴. There is also a long-term societal cost to allowing unhealthy food and drink marketing to continue to pollute our neighbourhoods, homes and children's learning environments.

Sapere Research Group⁵² was commissioned by Hāpai Te Hauora to compile research and data to provide an estimate of the current per annum cost to NZ society of excess weight. The report indicates these costs to be between NZ\$4 billion and NZ\$11 billion. These costs comprise two components:

1. **The direct costs** are the health care costs of excess weight. These are estimated to be NZD\$2 billion per annum, with the range being between NZ\$1.5 to NZ\$2 billion per annum. For comparison, the health care cost of diabetes alone has been previously estimated to be NZ\$1 billion⁶⁵.
2. **The indirect costs** measure productivity losses and reduction in gross domestic product (GDP) and are conservatively estimated to be at least \$2 billion, with high-level figures from global analysis placing the NZ estimate at \$7 billion to \$9 billion per annum⁵².

There are also **intangible costs** which take the broadest perspective and include pain, stress, physical limitations, and loss of life as a result of excess weight. These do not easily translate into dollar terms. These costs are however considerable, with estimates as high as NZ\$26 billion calculated using the value of a statistical life (VOSL), reflecting a monetisation of disability adjusted life years (DALYs) as determined by the Global Burden of Disease study⁶³. These intangible costs, in particular the non-health impact, have been investigated previously in more detail by the NZ Institute for Economic Research⁶⁶. Non-health impacts to people with obesity include but are not limited to: lower educational achievement, lower wages, limited occupational attainment, having barriers to employment, being subjected to stereotyping and discrimination, low self-esteem, higher risk of mental illness, and lower socio-economic status^{52,66}.

Why focus on children?

Children are an important target market for food and drink manufacturers because they wield considerable purchasing power both directly (e.g. with pocket money) and indirectly (e.g. influencing their parents' purchases)^{6-12,14,67}. They are a future – as well as current – market, and hence manufacturers invest significant resources into building positive relationships between children and their brands so that they purchase their products now and into the future.

Psychological differences between adults and children make children more vulnerable to marketing messages. Adults are more likely to critically evaluate marketing claims whereas children (especially those younger than 12 years) are more likely to accept marketing messages as truthful, accurate and unbiased^{68,69}. Adolescents also require protection, as evidence shows they continue to be negatively affected by unhealthy food and drink marketing⁶⁸⁻⁷⁰.

There is also a child's rights-based argument to protect children from harmful unhealthy food and beverage marketing. The United Nations Convention on the Rights of the Child (UNCRC),

of which NZ was one of the first countries to ratify in 1993, requires the Government to uphold article 24 which states "*that children have the right to the enjoyment of the highest standard of health*"⁷¹. This has been interpreted by the UN Committee on the Rights of the Child in its General Comments as requiring governments to regulate the harmful marketing of unhealthy food and beverages. Article 17 of the UNCRC encourages governments to develop "*appropriate guidelines for the protection of the child from information and material injurious to his or her well-being*", and Article 32 further stipulates that children have the right to "*protection from economic exploitation*"⁷¹. Given the harmful impact of unhealthy food and beverage marketing on health and well-being, introducing laws to protect children from exposure to unhealthy food and beverage marketing is one way the Government can fulfil their obligations under the Convention^{72,73}.

This evidence snapshot defines a child as "*every human being below the age of eighteen years*", consistent with the definition in the UNCRC⁷¹.

...children have the right to the enjoyment of the highest standard of health.⁷¹

What is unhealthy food marketing and how does it work?

What is marketing?

Marketing is defined by Kotler and colleagues as “*the process by which companies engage customers, build strong customer relationships, and create customer value in order to capture value from customers in return*”⁷⁴. From an industry perspective, according to the American Marketing Association (2021) latest definitional work, marketing is defined as “*the activity, set of institutions, and processes for creating, communicating, delivering, and exchanging offerings that have value for customers, clients, partners, and society at large*”⁷⁵.

The World Health Organization (WHO) has defined marketing 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*”⁷⁶. This is the definition applied throughout this evidence snapshot.

The negative social and psychological impact of marketing on children remains a cause for concern. Dr Darren Powell from the University of Auckland studies the commercial exploitation of children through all forms of marketing. Powell argues that **all** marketing to children is harmful because it “*encourages forms of consumption that are potentially harmful for the whole child, the planet, and children’s futures*”⁷⁷. Powell’s work reinforces the importance of including all brand communications in government regulation of unhealthy marketing to children due to the impact marketing has on children’s identities as consumers and the follow-on impacts this can have on how children form their identities on important issues such as gender, sexuality, age, culture, ethnicity, and class^{77,78}. Children are being exposed to brand communications through an

increasing number of channels and methods^{79–81}; and efforts to regulate advertising to children (deemed a vulnerable audience) remains a controversial topic due to the pervasive influence of the food and drink industry that does not want to lose a valuable source of income^{82–84}.

Marketing focuses on four key elements – product, price, place and promotion – all of which are experienced by people who are defined by markets as ‘consumers’ (see Figure 1)⁸⁵. That is, the product itself (e.g. a sugary drink), its price (the cost to the consumer), the place it is available (e.g. dairy, supermarket, vending machine) and promotion (including the *medium*, e.g. digital media, street signs, and the *message*). This evidence snapshot focuses on promotion. Issues of product (e.g. product reformulation), price (e.g. sugary drinks tax to reduce consumption) and place (e.g. should unhealthy food be sold at school) are outside the scope of the paper. The focus of this report includes promotion of products as well as brand promotion (a common strategy of food marketers, e.g. promotions are for McDonald’s, not a specific menu item such as a ‘happy meal’).

Figure 1. The five components of marketing

Source: Borden⁸⁵



What is unhealthy food and drink marketing?

Unhealthy food and drink marketing is the marketing of energy-dense and nutrient-poor food and drinks, i.e. high in unhealthy fats, salt, and sugars (HFSS); such products are often (but not always) ultra-processed. Examples of foods not recommended to be marketed to children include confectionery (e.g. lollies), sweet snack food (e.g. biscuits), most savoury snacks (e.g. crisps), sugary breakfast cereals, and sugar-sweetened drinks including juices^{4,86}.

In addition to more ‘traditional’ marketing channels (e.g. television advertising, outdoor advertising, packaging), a range of emerging marketing media methods are now being used to promote unhealthy food and drink products including online advertising, product placement and branding, integrated marketing and user-generated marketing (see Table 1 for details).

Table 1: Emerging techniques to market food and beverages to children

Source: Adapted from World Health Organization Europe⁸⁷

Placement of online advertising	<ul style="list-style-type: none"> On search engines On social networking sites On news sites, music sites and blogs Around or in TV-on-demand Around or in films, media and all video content viewed online Around or in online and downloadable games, music and other media
Product placement and branding	<ul style="list-style-type: none"> Product placement in scheduled TV and radio programmes, films, computer games, downloadable “apps” (downloadable software applications) Branded books such as counting books for pre-schoolers Branded toys such as the fast food store as a playhouse Branded computer games Interactive company-owned web sites, for example with puzzles and games Branding on sports teams and advertising at sports and cultural events
Viral marketing	<ul style="list-style-type: none"> Word-of-mouth and personal recommendation by consumers, sometimes in return for payment or reward, and increasingly encouraged in social networking sites
Sponsorship	<ul style="list-style-type: none"> Sponsorship of TV and radio programmes, music videos Celebrity product endorsement Sponsorship of community and school events and contests Corporate gifts of educational materials and equipment Corporate support of health campaigns, sports clubs, school meals
Direct marketing	<ul style="list-style-type: none"> Promotional e-mails Promotional sales by telephone, text messaging to mobile phones Promotion and sampling schemes in schools
“Advergaming”	<ul style="list-style-type: none"> Branding and advertising embedded in video games and interactive fantasy worlds, available online or for downloading (the users may provide their contact details to marketers in return for multiplayer interactive gaming and opportunities for rewards.)
Point of sale and product promotion	<ul style="list-style-type: none"> Packaging vouchers with links to discounts on videos, films, music Packaging codes with links to online games, social networking sites or downloadable apps Vending machine codes with links to online immediate discounts
Integrated marketing	<ul style="list-style-type: none"> Linking film, toy and food products and new media, such as a breakfast cereal with on-pack promotion of a brand-promoting game played on a web site, with matching Facebook page and Twitter messaging (the game can be played interactively with other people worldwide and is downloadable as an app to play on a smartphone.)
Interactive and user-generated marketing	<ul style="list-style-type: none"> Includes two-way marketing and market-shaping activities (for example, TV advertisements invite viewers to vote for different flavours of a brand which then get produced and marketed; or the company launches a competition to create a video commercial which individuals put on YouTube for viral distribution.)

How does marketing work?

Marketing works by repeatedly exposing people to powerful messages about products and brands using a range of marketing methods. The aim is to reach as many people as possible, as frequently as possible, to build product and brand loyalty. The methods use powerful creative content, design and execution to get the message across. Exposure refers to the reach and frequency of marketing messages, whereas power describes the creative content, design, and execution of marketing messages. It is this combination of exposure and power that drives food preferences, food purchases or requests for food purchase and, ultimately, consumption (as explained in Figure 2).

As discussed above, children are particularly vulnerable to marketing. For those under four years old it's seen as entertainment, and the purpose of advertising is not recognised by those less than eight years old^{68,69}. By the age of 10-12, the persuasive intent is understood but not the sales tactics. Adolescents also require protection, as evidence shows they continue to be negatively affected by unhealthy food and drink marketing⁶⁸⁻⁷⁰.

Kelly et al.¹³ propose a pathway of effects model to describe the domino effect that marketing of food and beverages can have on children and the resulting impact on their weight (Figure 3). This model outlines the impact of exposure and its influences on awareness of brands usually seen and the implicit preference for these familiar brands. Children are exposed to direct cues such as outdoor advertisement and sales; the consumption of these advertised foods can be initiated through children's 'pester power' with parents and caregivers, or through their own direct purchases¹³. However, the advertised food is often high in energy with low nutrient values and consumption can imbalance the energy consumed and energy used, if there is no compensation for the energy consumed. Sustained consumption of these unhealthy products can lead to weight gain and diet-related illnesses¹³.

Figure 2. Marketing works through exposure and power

Source: World Health Organization⁷⁶

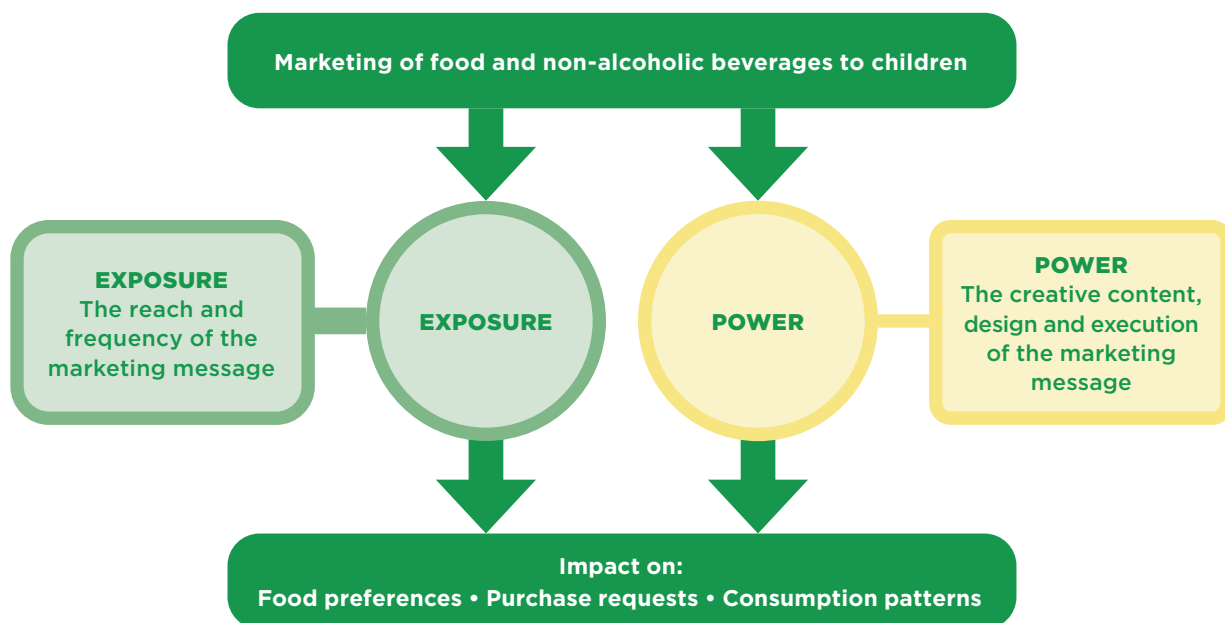
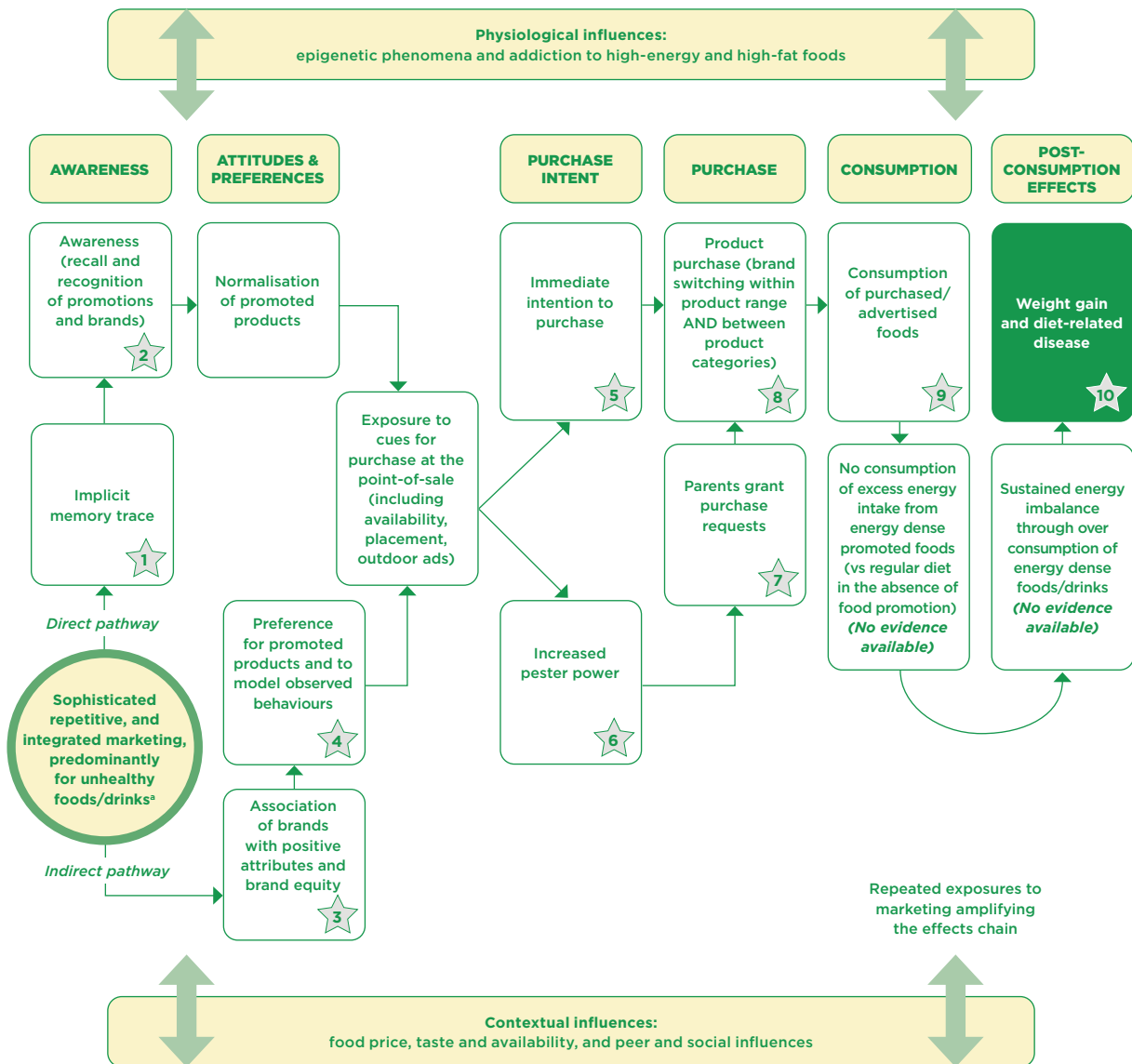


Figure 3. Pathways of effect: logic model of unhealthy food promotion effects on children

Source: Kelly et al.¹³



Note: Stars indicate that studies are available to assess response indicators (see Kelly et al.¹³).

^aAssessed in studies measuring extent and nature of exposure to marketing.

There is no standardised international definition of what marketing elements appeal to children, but a study by Mulligan et al in 2021⁸⁸ of Canadian children’s perceptions and preferences of product packaging found that key elements included: child-appealing visual/graphic design; unconventional colour, flavour, or shape of the product; appeals to fun; appeals to health/

nutrition; appeals to taste/texture; appeals to coolness or novelty; games or activities on the package; toys or prizes; coupons, contests, or giveaways; interesting product name; and interesting font/lettering⁸⁸. However, even when marketing does not use child-appealing strategies, children and young people are vulnerable to its effect^{68,69}.

What is the evidence in Aotearoa New Zealand?

NZ children see unhealthy food and drink marketing in many places throughout the day

World-leading NZ research, Kids'Cam, recorded the food marketing in the everyday lives of 168 twelve year old children in 2014/2015. The study included near equal numbers of Māori, Pacific and NZ European children and thus has equal explanatory power for each ethnic group. Study participants wore automatic cameras that took photos every seven seconds of the world in which they live, thus enabling the first ever study of the food marketing present in children's daily lives⁸⁹. Previously, research has relied on children's memory of what they see and audits of the advertising in their community. The advertisements were classified as recommended (core) or not recommended (non-core) to be marketed to children based on the WHO Regional Office for Europe Nutrient Profiling Model.

The Kids'Cam data has been comprehensively analysed. The initial publication of results² showed most unhealthy exposures occurred at home (33%), in public spaces (30%) and at school (19%). Food packaging was the predominant marketing medium (74% for 'core' and 64% for 'non-core' foods), followed by signs (e.g. billboards, posters on shop fronts, sandwich boards on the street, 21% 'core' and 28% 'non-core'). The rest of the exposure was in-store, in print media, on screen, and on merchandise. Children attending higher decile schools (schools with more children from higher socio-economic backgrounds) were exposed to more healthy food marketing, and Māori children were exposed to more food marketing of both types (healthy and unhealthy) than NZ European or Pacific children (though not statistically significant)². Further analysis of the Kids'Cam study found that NZ children were exposed to unhealthy food

marketing over 68 times a day across multiple settings, excluding images in food stores (as these were too numerous)³. The overall findings of Kids'Cam are consistent with previous studies in NZ and overseas that have found unhealthy food marketing to be ubiquitous in children's environments^{9,93,94,96-100} with sugary drinks, fast food, confectionery and snack foods the most commonly encountered unhealthy foods marketed⁸⁹⁻⁹⁴.

Children's snacking behaviours

Snacking is the eating of food and beverages between meals, and high rates of snacking on highly processed, high salt, sugar or fat (unhealthy) foods is a concern for people's health and wellbeing. Unhealthy marketing in public spaces and access to unhealthy foods influence children's snacking behaviours. Another analysis of the Kids'Cam data found that children eat five unhealthy snacks a day, compared to three healthy snacks⁶¹. The research shows the nutritional quality of these snacks is impacted by the location of consumption. When in public settings, children are consuming 15 times more unhealthy than healthy snacks. Even though there are some school-based nutrition policies, children are still consuming 2.4 times more unhealthy snacks than healthy snacks in schools⁶¹.

Product packaging

Product packaging was the predominant marketing medium to which children were exposed in the Kid'sCam research. Product packaging is a particularly effective marketing medium as it is commonly used to attract attention, provide information and product attributes and to encourage point-of-sale purchases¹⁰¹. On-pack promotions including the use of cartoon and movie characters, celebrity endorsements, colour and typography, are all

Children eat five unhealthy snacks a day, compared to three healthy snacks⁶¹.

widely used to target children and their parents^{30,101,102}. Further, photographs of the product, premiums and competitions, and nutrient and health claims are also widely used on product packaging. Evidence suggests that promotions appear more frequently on product packaging for unhealthy foods than on healthier food products, thus making unhealthy foods more appealing¹⁰².

Unhealthy food marketing on product packaging dominates in dairies and service stations, according to further analysis from Kids'Cam. Children who visited dairies and service stations were exposed to eight unhealthy product packages in each visit, six times more than for healthy food product packages¹⁰³. However, evidence suggests that using warning labels and plain packaging can reduce the likelihood that children and young people purchase sugar-sweetened beverages¹⁰⁴.

Outdoor advertising

Children in NZ access a wide range of destinations during their usual everyday activities in which they are exposed to outdoor advertising. These destinations can be grouped into settings that span across: education, retail, health, public transport, social and cultural and recreation¹⁰⁵.

Children are exposed to more outdoor advertising for unhealthy food and beverages compared to advertising for healthy food and beverages¹. Children in the Kids'Cam research were exposed to 7.4 unhealthy food advertisements for every hour they spent in outdoor public spaces such as shopping centres, residential areas and sports facilities¹⁰⁶.

Children are exposed to unhealthy food advertisements in their own neighbourhoods, when they travel to and from school and when they play outside with their friends¹. Primary

school children say that moving about in their neighbourhood, particularly on the to-and-from-school trip is important to them for social interactions¹⁰⁷. This is especially significant for children's exposure, as there is a high concentration of unhealthy food outlets near schools¹⁰⁸. Children also say that they go to the shops to eat junk food/drink on their way to/from school¹⁰⁷, and going to the shops with friends and family is an important activity to do in their neighbourhoods¹⁰⁹.

The Kids'Cam research suggests children were exposed to approximately seven unhealthy outdoor food advertisements on their way to or from school each week, not including advertisements in food outlets²¹. A national study found that two-thirds (65%) of food advertised within 500m of NZ schools was for unhealthy food¹¹⁰. Another NZ study of outdoor food marketing (e.g. billboards, bus shelters, posters, signage) using Google Street View (GSV) for a walkable distance of 800m from 19 primary and intermediate Auckland schools, found that children were exposed to a significantly greater number of unhealthy advertising than other advertising of foods and beverages¹. Huang et al (2020) investigated advertising on bus stops, using GSV, within 500m of all schools within the Tāmaki Makaurau, Auckland region. Of the total advertisements at these bus shelters, the majority of advertisements were for non-food items or services (64.3%). Of the advertisements that were for food and/or beverages, half were for unhealthy foods (50.2%). One in eight (12.8%) of all bus stop advertisements within 500m of Auckland schools promoted unhealthy dietary options¹¹¹.

Exposure to unhealthy advertising is not evenly distributed across ethnicities. Māori children are exposed to unhealthy outdoor advertising 1.5 times more than children of NZ European



ethnicity and to fast food advertising at almost double the rate of NZ European children²¹. Results of a 2015 NZ survey of food retail outlets reported a higher density of outlets in the areas of high socioeconomic deprivation (NZDep2013 deciles 9 and 10)¹⁰⁷. The findings of this and previous NZ research suggest that outdoor food advertising is primarily found on, or at, retail outlets^{1,19,91,112}. The higher number of unhealthy food advertising exposures among Māori participants may thus be partially explained by a higher density of food retail outlets in higher deprivation neighbourhoods in which Māori are overrepresented^{1,19,21}.

In summary, children are exposed to a large amount of unhealthy food and drink marketing in their neighbourhoods. Liu et al.¹⁰⁶ report that implementing outdoor unhealthy food marketing bans within 400m of schools, play grounds, and residential areas were estimated to reduce children's exposure by 26.9%, 33%, and 27%, respectively. With a ban covering all these locations combined, children's exposure

would be reduced by 50%¹⁰⁶. However, research involving children indicates that a number of other destinations, often located outside children's neighbourhood 'buffer' (often defined as a 500m radius around schools and home) that children may visit regularly (such as cultural and religious venues), also need to be considered when looking at exposure to unhealthy environments because of their importance to children¹⁰⁵.

Digital marketing

Increasingly life is lived online. It is where people work, learn and play, interact and socialise, and create their identities¹¹³. Food marketing online (digital marketing) may have an even greater impact than traditional media⁶⁷ and is increasingly targeting children who are less able to recognise its persuasive intent^{7,114,115}. NZ children aged six to fourteen years engage with the internet regularly, with 82% of children interacting with internet content daily¹¹⁶. Online advertising occurs through several different channels, including promotions on websites, social media, email, and marketing via mobile devices through text messages,

applications (apps), and branded games 'advergames' (advertising or brands incorporated into a game). Since 2014, social media use by children has continued to rise, with a third of NZ children aged six to 14 years using social media¹¹⁶. YouTube, TikTok, Instagram and Snapchat are their most popular platforms used daily, with 57% of children using TikTok every day¹¹⁶.

Digital marketing, including for HFSS (high fat, salt and sugar) foods, is reported by brands and marketers themselves not only to be very successful but also to further amplify the effects of HFSS food marketing in 'traditional' media, enhancing advertisement attention and recall, brand awareness, attitudes and purchase intent and product sales¹¹⁷.

Digital marketing can be categorised as 'paid', 'owned' and 'earned'¹¹⁸. 'Paid' is where content is disseminated through paid advertising channels, for example advertisements on webpages, social media ads, as well as content created by influencers. 'Owned' is situated within company property, for example posted by companies on their own websites and social media pages. 'Earned' is user-generated dissemination and interaction, e.g. mentions, shares, reposts and product reviews. Most studies monitoring digital food and beverage marketing focus on owned media, as paid advertising is often individually-targeted using complex algorithms, and increasingly uses independent influencers, and earned advertising generated organically by third-parties (for example, by user-generated viral sharing of posts) is difficult to identify and capture¹¹⁸.

A 2020 NZ study of the websites of the 64 most popular food and beverage companies revealed that 81% of these websites featured marketing of unhealthy products. Thirty-five per cent of these websites featuring unhealthy products used promotional strategies positioning their products as 'for kids', and 19% featured company-owned cartoon characters or licensed characters that are potentially appealing to children; a further 13% used family-oriented messaging appealing to parents of younger children. Websites featuring unhealthy products also had designated kids' sections, 'advergaming', and direct messaging to children¹¹⁹.

Social media platforms (e.g. Facebook) and other virtual environments (e.g. online games, content streaming) are commercial entities designed to

generate revenue through marketing. They sell users' information to third parties¹²⁰. Companies can target and tailor their marketing specifically to users based on their previous interactions with a brand to maximise marketing impact⁶⁷. The interactive nature of these advertisements facilitates repeated and extended exposure to branding and food products, building brand loyalty and influencing children's purchases and purchase requests^{30,97,121,122}. The introduction of smartphones and related technology has substantially increased the amount of time children spend engaging with the internet and different forms of digital media⁹⁷. Social media is an important medium for food marketers in NZ, and promotional strategies and premium offers are frequently used, many of which have particular appeal to children according to recent NZ research^{119,123}.

A 2019/2020 study of company (owned) Facebook pages and YouTube channels for the most popular packaged food, fast food, and non-alcoholic beverage brands/companies in NZ found significant promotion of unhealthy food and drinks. Eighty-five per cent of company Facebook posts and YouTube videos featuring food or drinks were unhealthy. Thirty per cent of YouTube videos with unhealthy food products, and one-quarter of Facebook posts with unhealthy food products, used promotional power strategies (for example, featuring animated characters, celebrities, athletes or sports teams, cultural or historical events, or positioning products as 'for kids' or families) or premium offers (such as vouchers, discounts, prizes and giveaways, or limited-time offers). Ten per cent of Facebook posts of unhealthy food and beverages used promotional techniques specifically targeting children, young people and/or families¹¹⁹.

The AdHealth study looked at the exposure of NZ Facebook users aged 16-18 to 'paid' food advertisements. The study found that of advertisements containing food, 98% of them contained unhealthy food and drinks, 34% of these adverts contained promotional characters, and 32% contained premium offers. On average, the users were exposed to 4.8 unhealthy food or drink adverts per hour spent on Facebook¹²⁴.

COVID-19 has introduced new challenges with online marketing. Current research has found that during level 3 and 4 lockdowns in NZ, companies tailored their marketing via social media to target vulnerable groups during this uncertain time^{125,126}.

The term ‘COVID-washing’ refers to unhealthy commodities companies leveraging the pandemic for marketing purposes¹²⁶. This method was used by 14 out of the 20 unhealthy food and beverage companies monitored by Gerritsen et al (2021) for marketing of unhealthy foods items during the first COVID-19 lockdown in NZ¹²⁶. These companies used digital marketing strategies to introduce brand-related lockdown games and activities that suggest consumption helps with handling the situation. They also promoted over-consumption and targeted children¹²⁶.

Television

Television has been a dominant medium for marketing to children, but with the use of digital and on-demand viewing services this marketing type is changing. National surveys of NZ children aged 6-14 reported in-home television viewing decreasing from 74% in 2014¹²⁷ to 48% in 2020¹¹⁶ yet, as noted earlier, 82% of children interacted with internet content daily¹¹⁶. Two-thirds of the food and beverage advertisements that children in NZ see on TV are for unhealthy products¹²⁸. The most recent NZ research conducted in 2018 reveals that children are exposed to an average of 9.5 unhealthy food advertisements for every hour they watch television on weekdays, and an average of 7.3 unhealthy food ads per hour on weekends. This exposure increases to 12 unhealthy food advertisements per hour in their peak weekday viewing times, and 9.5 per hour in peak weekend viewing times (defined as the five hours when most children aged 5-13 are watching TV)¹²⁸.

The on-demand nature of contemporary television means that advertisements often appear periodically and when viewing is paused. Often the viewing of a programme cannot commence until after advertisements have been watched in full and advertisements still occur periodically throughout the programme and when viewing is paused (this is currently the case for TVNZ on Demand and YouTube). Therefore, it is important that in addition to traditional advertisements, such as breaks on free-to-air television, that associated on-demand streaming is also included in restrictions of unhealthy marketing of food and drink to children.

Brands

Manufacturers invest significant money in building positive relationships between children and their brands so that they purchase their products now and into the future. ‘Branding’ has been defined

by Chang & Liu¹²⁹ as “a name, term, sign, symbol, design or combination of these, that identifies the goods or services of one seller or group of sellers and differentiates them from those of the competition” (p. 1688). It is an important feature used in advertisements to engage children and young people in developing brand awareness and brand loyalty at an early age¹³⁰. From early childhood, the majority of children can recognise multiple brands, with the identification of brands and products transforming into purchase requests¹³⁰. Currently, marketing to children is permitted in NZ under the voluntary CYPA Code (discussed in greater detail later in this evidence snapshot) as long as specific unhealthy products are not advertised²⁶. We therefore apply the term ‘brand marketing’ to refer to advertisements that include elements of branding but not showing any specific products.

Studies of unhealthy food and drinks marketing have found that, even when specific products are not shown, children are likely to associate these brands with unhealthy food, and this increases their intention to consume their unhealthy products¹³¹ as well as building long-term brand loyalty for such products¹³².

In the 2018 study of unhealthy food and drink marketing on television reported earlier, in addition to the 682 unhealthy food/drink ads aired per weekday, and 527 unhealthy food/drink ads aired per weekend day (as classified using the WHO-EU nutrient profile model), an average of 44 brand-only food and drink company advertisements were aired on any given day. On weekdays, 51% of these brand-only ads were for supermarket and grocery chains, 18% were for packaged food companies, 16% were for fast food chains, and 9% were for non-alcoholic beverage companies. On weekends, supermarkets represented 74% of brand-only advertisements, followed by packaged food companies (20%), fast food (5%), and beverage companies (1%). During children’s peak weekday viewing times (defined as the five hours when the greatest number of children are watching), they were exposed to 2.2 food brand ads per hour, in addition to the 12 unhealthy product-specific ads per hour (under WHO-EU nutrient profile model) reported earlier. During weekend peak viewing times, they were exposed to an average 1.9 food brand ads per hour in addition to 9.5 unhealthy product-specific ads per hour¹¹⁹.

Research shows that changing the marketing environment to one where nutritious foods are promoted and junk foods are absent would normalise and reinforce healthy dietary patterns¹³⁵.

The 2021 study of the healthiness of products and marketing strategies on the top NZ food and beverage company Facebook pages and YouTube channels also examined brand marketing¹¹⁹. In addition to their largely (85%) unhealthy product-specific posts, 12% of Facebook marketing posts and 22% of YouTube ads recorded were brand-only. Out of all brand-only advertising recorded on company Facebook pages, 51% were from fast food chains, 21% were from packaged food manufacturers, 21% were from supermarkets, and 7% were from beverage manufacturers that mainly sell sugar sweetened beverages and energy drinks. Out of all brand-only advertising recorded on company YouTube channels, 54% were from supermarkets, 40% were from fast food chains, and 6% were from beverage manufacturers¹¹⁹.

Children see brand marketing in their homes (on screens and products), in their schools (inside the classroom, at school events and at meal-times), when playing sport (at sports clubs and venues) and in their neighbourhoods (on the street and in places children visit as part of a usual day). The role of brand marketing in these locations is to enhance the social acceptability of the brand and their products to children, thereby increasing children's demand for their popular and unhealthy¹³³ products and increasing brand loyalty, supporting children to consume these products into adulthood¹³⁴. Despite it not advertising specific unhealthy products, brand marketing only serves to increase demand for the unhealthy products the brand is known for.

Research shows that changing the marketing environment to one where nutritious foods are promoted and junk foods are absent would normalise and reinforce healthy dietary patterns¹³⁵. However it is important that marketing for 'healthy' products by unhealthy brands is also prohibited as research clearly shows advertising healthy products by unhealthy brands did not drive children to make healthier choices but rather only increased demand for the unhealthy products these companies are known for¹³¹.

However, drawing regulatory distinctions between which brands should and should not be allowed to engage in brand marketing (such as sponsorship) is a key challenge. Regulatory distinctions that can be perceived or interpreted as 'arbitrary' may leave governments vulnerable to legal challenges under international trade and investment agreements¹³⁶. Barr²¹ suggested determining whether a food brand is healthy or unhealthy by assessing the nutrient profile of its product lines and establishing thresholds for the proportion of products that would be classified as 'unhealthy' based on a nutrient profile model. Further research is required to explore the feasibility and impacts of restricting food brand marketing based on different thresholds in the NZ setting.

Sponsorship

Sports sponsorship

Unhealthy food and beverage brands and companies sponsor popular televised sport with large audiences that include children, e.g. Gatorade has sponsored the All Blacks and

KFC has sponsored Super Rugby. An Australian study of children aged 5 – 12 years found that three quarters of children could recall correctly the shirt sponsors of rugby/league sporting teams¹³⁷. In sport sponsorship brand marketing is usually displayed continuously, thereby blurring the distinction between what is considered advertising content and what is entertainment¹³⁸. Sponsorships are favoured by unhealthy food and drink companies (alongside gambling, tobacco and alcohol) because consumers view sponsorships less sceptically than they do traditional marketing¹³⁹. In sports sponsorship, the sponsor becomes associated with a favourable attitude towards the sporting team and consumer perception of the brand is enhanced^{140,141}.

Children are also exposed to brand sponsorship marketing in sports that they play, including by food and drink companies and their brands. A 2019 survey of club websites for the four most popular sports among NZ children (football, rugby, netball and basketball) in four NZ regions found that 28% of all teams (national, regional, and local) had food or drinks corporate sponsorship¹¹⁹. All of the national bodies for these sports had food or non-alcoholic drinks corporate sponsorship, likely representing the highest category of sponsorship income for teams/ corporate expenditure and greatest 'marketing' reach in terms of national exposure. Notably, 21% of all food and drinks sponsors were fast food chains, and 13% of the clubs surveyed had fast food chain sports sponsorship¹¹⁹. However, only about 11% of all club sponsorships were food or beverage-related; the authors concluded that restricting which food and beverage can sponsor children and young people's sports teams would reduce harmful brand marketing, but at the same time would not likely represent a devastating loss of funding for these teams¹¹⁹. For example, the value of unhealthy food and beverage sponsorship could potentially be bought out, or replaced by other sectors¹⁴². The few companies that use additional marketing activities, including merchandise, create repeat exposure for their brands, many of which target children, e.g. Burger Fuel's player-of-the-day certificates.

These findings suggest that children are exposed to unhealthy food and drink marketing in sports settings, and policies that restrict sponsorship of sports (that children both watch and participate in) by unhealthy food and beverage manufacturers are needed to limit children's exposure.

School sponsorship

Companies also market their products within schools⁷⁷, and many of these are food and beverage companies, who provide sponsorship of fundraisers, educational initiatives, and nutrition campaigns. For instance:

- Fundraisers often use unhealthy food e.g. Cadbury chocolate, Tip Top ice cream, Dad's pies, juices, Whittaker's chocolate, thereby heightening their visibility
- Hell Pizza provides pizzas as a reward for borrowing seven books.
- Nestlé and Coca Cola provide free nutrition teaching resources
- Foodstuffs sponsorship of Food for Thought (South Island)

This type of marketing is contrary to the National Administration Guidelines (NAG 5) which states that: *"Each board of trustees is also required to: promote healthy food and nutrition for all students"*¹⁴³.

Marketing to children in schools is particularly pervasive in that, like sports sponsorship, it is a type of brand marketing that is viewed less sceptically by teachers, parents and children alike. Like sports sponsorship, by portraying their brand as being concerned for children's education, the perception of the brand is enhanced and the sponsor becomes associated with a favourable activity being undertaken e.g. fundraising, encouraging children to read, etc., and in some cases a resource is provided e.g. a teaching guide.

Policy implementation

Two assessments of NZ food environments and government's policy response, in 2014-2017¹⁴⁴ and 2018-2021¹¹⁹, found that the level of implementation of policies to protect children from exposure to unhealthy food and drink marketing in NZ was low compared to international best practice. Experts consulted in the assessment called for regulation of unhealthy marketing to children in all media as a national priority⁹⁸.

What are the views of children, parents and caregivers?

New Zealanders want change. As previously mentioned, a 2021 nationally representative survey of 1000 New Zealanders found two out of three New Zealanders are supportive of tougher rules on unhealthy food and drinks marketing²². The majority (92%) of these citizens also endorsed bans on television advertisements for unhealthy food and beverages during viewing times for children. The majority (78%) agreed that children are exposed to too many advertisements for unhealthy food and drinks, and that this is contributing to obesity²². In terms of parental pressure, 74% of people believed that these advertisements influenced what parents purchased for their children. As for the most concerning types of marketing, 79% of participants found television adverts to be the most worrying, followed by online marketing (58%), sponsorship (42%), and product packaging (38%). This is in line with international evidence showing overwhelming support by parents for greater restrictions on unhealthy food and drink marketing and an increasing demand for government action¹⁴⁵.

Our children agree too. According to them, they're frequently exposed to food marketing and persuaded to make purchases they know to be harmful to their health²⁴. A qualitative study from Kids'Cam found children were knowledgeable about food marketing, although most were not aware of the extent to which they were exposed. Children did not distinguish 'marketing to children' from other marketing. According to the children,

they were frequently exposed to food marketing and persuaded against their better judgement to purchase food they knew to be harmful to their health²⁴. This finding suggests children's exposure to unhealthy food marketing may be resulting in companies breaching the CYPA Code's Principle 1: Social Responsibility²⁶, as discussed below. Children are sceptical of the honesty in these marketing messages, and are aware of the persuasive techniques used on them²⁴. In some of the participants' words:

Well I like to eat like McDonald's, because I find it yum. But it's also pretty fattening. But I don't know, I just get the temptation of eating, and feeling hungry whenever I see those ads.²⁴

Many children agreed that unhealthy food and drinks should not be marketed to children. Their view aligns with the World Health Assembly's decision to endorse initiatives to end childhood obesity, including restricting marketing of unhealthy foods. These children also suggested changes that should be made to unhealthy food marketing, including: making advertisements more honest, removing them from billboards and signs, providing nutrition information, and increasing the promotion of healthy food²⁴. For example:

I'd like take off all the false advertising and I'd like make it all true.²⁴



Including the views and recommendations of children for planning healthy environments can improve the success of interventions and policies. Children are highly aware of the attributes of their neighbourhoods and communities, which encourage or hinder healthy lifestyles¹⁴⁶. An attribute children discussed in interviews was food environments, which they viewed as contributing to the childhood obesity epidemic²⁴.

Publicly available complaints made to the Advertising Standards Authority also indicate public concern. A complaint was made in October 2021 about the Burger Fuel player of the day certificates with the following quotes from a parent illustrating the problem.

I was really surprised and disappointed that the club was using 'unhealthy' rewards for player of the day. I felt confused about why they would do this given it's a sports club and we all know that (sports)people perform better when they are fuelled by 'healthy' food.

(personal correspondence, B.L, 6/09/21)

This complaint went on to specify:

It puts pressure on parents/caregivers... to redeem the voucher even if it doesn't align with the family's values. We don't eat burgers/fries very often in our house for health reasons so this prize created a lot of issues in our house... pressure to redeem the voucher not only for the child (as its given directly to them and therefore taking the control/choice away from parents) but also other siblings in the family as its very difficult to give a 'treat' to one and not the other.

(personal correspondence, B.L, 6/09/21)

What action is needed?

The current self-regulatory system is ineffective at reducing the repeated exposure to, and power of, marketing of unhealthy food and drink to children²⁷ on their screens, in their classrooms and in the neighbourhoods in which they live, play, and go to school. This includes failure to address children's right to health as outlined in the United Nations Convention on the Rights of the Child and the proposed principles for action⁷¹. The CYPA Code also has no mention of reducing exposure or power of marketing²⁷. As the above evidence has shown, the current self-regulatory system in NZ (described later in this evidence snapshot) is clearly not protecting children from unhealthy food and beverage marketing. As such, regulatory action is needed to protect children from exposure to unhealthy food and drink marketing throughout their daily lives.

What principles should guide action?

In NZ we have a mandate to honour te Tiriti o Waitangi. In te reo Māori, tamariki is the word used for children. Tūhoe and Ngāti Kahungunu academic Rose Pere¹⁴⁷ reflected on this word, and noted:

Tama is derived from Tama-te-ra the central sun, the divine spark; ariki refers to senior most status, and riki on its own can mean smaller version. Children are the greatest legacy the world community has.

Therefore, it is worth reflecting on what obligations the Crown might have to tamariki Māori through te Tiriti o Waitangi relative to unhealthy food marketing. The findings of Waitangi Tribunal Hauora inquiry (WAI 2575) give some guidance¹⁴⁸. This inquiry, which is currently ongoing, is a major kaupapa or subject inquiry by the Tribunal into Hauora Māori, or Māori Health.

While food marketing was not specifically referred to in this inquiry, the findings of the first tranche identified the following as having relevance to hauora: the guarantee of tino rangatiratanga, and the principles of equity, active protection, options, and partnership. While all are relevant, perhaps the most obvious principle related to unhealthy food availability is the principle of active protection, which requires the Crown to act to the fullest extent practicable to achieve equitable health outcomes for Māori. The Crown's failure to limit unhealthy food marketing is in breach of this Treaty principle. Furthermore, failing to involve Māori as equal partners in policy decisions related to food marketing breaches the principle of partnership and fails to recognise tino rangatiratanga.

The 2017 World Health Assembly supports a number of key guiding principles that could usefully underpin action in NZ¹⁴⁹. These include:

- **The child's right to health** – children have the right in international law to be able to attain the highest standards of health and to be protected from the adverse health effects of marketing of unhealthy products.
- **Equity** – action is needed to address the equity gaps in childhood health conditions including higher rates of dental caries, emotional problems and body size, particularly for Māori whānau, Pacific communities and low-income children.
- **Government commitment and leadership** – governments need to accept responsibility on behalf of the children they are ethically bound to protect.
- **Accountability** – robust monitoring and enforcement of legislation is needed to ensure equitable action and progress.

What is the opposition?

The food and beverage industry wants to retain the right to advertise unhealthy products to children, because it helps to drive sales and generate revenue. Advertising works, with up to \$17 of revenue generated for every dollar of advertising spent¹⁵. It is of no surprise that calls for unhealthy food and drink marketing restrictions continue to be met with strong opposition from the food and beverage industry¹⁵⁰. According to Deloitte, in 2015 NZ companies spent NZ\$2.4 billion on advertising, which grew by over 7% per year from 1980 to 2015¹⁵. The result of this advertising was that the NZ economy was NZ\$6 billion larger, with foodstuffs and beverages contributing NZ\$566 million and NZ\$167 million to this increase. The authors highlighted the important role of regulation in managing the significant costs to individuals and societal impact of advertising but they contend that it is *“considered unlikely that the costs of advertising would be sufficient to exceed the benefits delivered for the economy each year”*¹⁵. However, to put this in perspective, recent estimates by Sapere Research⁵² put the cost of excess weight to NZ at between NZ\$4 billion to NZ\$11 billion per annum in direct (i.e. health care) and indirect costs (i.e. productivity losses and reduction in GDP) alone, excluding the intangible costs.

Industry position on marketing to children

ASA Member Organisations include the Association of New Zealand Advertisers, Commercial Communications Council, and Out of Home Media Association Aotearoa; all of whom represent the unhealthy food and beverage industry. They are in favour of the current ASA voluntary model, with the freedom to market to children and young people. The Association of New Zealand Advertisers website states that the ASA seeks: *“To retain the legal right to promote products to children and young people”*.

The ASA has support from the unhealthy food and beverage industry and their associations. It can be argued that the ASA is influenced by these associations as they receive approximately \$800,000 of funding annually, mainly from advertisers’ levies, media member levies, and member subscriptions (food industry, related associations and advertising agencies)¹⁵¹. The ASA board have representatives from the food industry, advertisers and food industry associations. Members of the complaints board are documented on the ASA website¹⁵². There is representation from public and industry members. Industry members are predominantly from the advertising/media industries. In addition, the governance board has representatives from Clemenger BBDO Limited (marketing agency), Radio Broadcasters Association, and the Commercial Communications Council.

Government organisations like Auckland Transport publicly support industry self-regulation as stated in their advertising policy *“AT continues to support & endorse industry self-regulation”*¹⁵³.

The Commercial Communication Agencies Association submission¹⁵⁴ on the ASA review of CYPA illustrates that the industry want to be able to advertise to children over the age of 12 years, and states: *“The evidence points to the need for advertising to take particular care when addressed to children below the age of 12”*¹⁵⁴.

In actuality, the evidence, as documented above, determines that we need to protect all children under the age of 18 years. The ASA CYPA Code establishes that advertising to 12 years and under needs to be restricted, however young people under 18 years are also heavily influenced by marketing.

Some associations have implemented policies and guidelines which they claim provide more stringent protection than the CYPA Code. For example, Out of Home Media Association Aotearoa (OOHMAA)¹⁵⁵ has developed a placement policy (best practices) but it has a very limited application (i.e. they recommend not to advertise occasional food and beverage products within a 300 metre sightline of the main entrance to a primary or intermediate school). This is insufficient to protect children from advertising as the distance is too short, it excludes high schools and places where children gather, and excludes other entrances to schools¹⁵⁵. In addition, belonging to the OOHMAA is voluntary and there are no consequences for its members who do not abide by this policy.

Political influence

The exact extent of the unhealthy food and beverage companies and associations political influence is unknown. However, we do know that they take an active role in lobbying and meeting with Members of Parliament as can be seen in the Ministerial Diaries and also actively make submissions (personal communication, MJ Gregan, University of Auckland, 30/11/2021).

Margaret Chan, previous Director-General of the WHO, speaks of the opposition by industry to public health interventions:

It is not just Big Tobacco anymore. Public health must also contend with Big Food, Big Soda, and Big Alcohol. These industries fear regulation and protect themselves by using the same tactics. Research has documented these tactics well. They include front groups, lobbies, and promises of self-regulation, lawsuits, and industry-funded research that confuses the evidence and keeps the public in doubt. Tactics also include gifts, grants, and contributions to worthy causes that cast these industries as respectable corporate citizens in the eyes of politicians and the public. They include arguments that place the responsibility for harm to health on individuals and portray government actions as interference in personal liberties and free choice.

This is formidable opposition. Market power readily translates into political power. Few governments prioritize health over big business. As we learned from experience with the tobacco industry, a powerful corporation can sell the public just about anything.

Let me remind you. Not one single country has managed to turn around its obesity epidemic in all age groups. This is not a failure of individual will-power. This is a failure of political will to take on big business.¹⁵⁶.

Industry has implemented voluntary codes for restricting food marketing to children. However, evidence suggests that these measures have been widely unsuccessful and fail to protect children from unhealthy food and beverage marketing^{27,157-159}. Industry and the industry associations have used a variety of tactics in New Zealand to delay/prevent regulation, including defamation of advocates for working to protect children from unhealthy food and beverage marketing^{160,161}.

Lessons from international best practice

What global action has been agreed?

Governments throughout the world have agreed to take global action. In 2010, the World Health Assembly (which includes New Zealand) endorsed the WHO Set of Recommendations on the Marketing of Foods and non-alcoholic beverages which urged Governments to “take necessary measures to implement the recommendations on the marketing of foods and non-alcoholic beverages to children”¹⁶².

At the 2017 World Health Assembly, delegates agreed governments should: *“Adopt and implement effective measures, such as legislation or regulation, to restrict the marketing of food and non-alcoholic beverages to children (persons under the age of 18) and thereby reduce the exposure of children and adolescents to such marketing”*¹⁴⁹.

Recommendations included:

- Ensuring places children gather are free from unhealthy food marketing;
- Inter-governmental cooperation to reduce the impact of cross-border marketing; and
- Enforcement mechanisms with clear sanctions and monitoring^{149,163}.

This call is supported by the World Health Organization¹⁶⁴.

What has been achieved internationally?

Despite these longstanding calls for action and the overwhelming evidence of need, governments worldwide have largely failed to implement effective policies to restrict food marketing to children¹⁴⁹. Regardless of a growing public demand for greater government restriction^{145,165} industry self-regulation remains a favoured policy approach by many governments including NZ, Australia, the US and Germany¹⁶⁶. However, these measures have been ineffective in substantially reducing the extent of children’s exposure to food and non-alcoholic beverage marketing¹⁶⁷.

Some governments and local bodies are, however, starting to introduce and implement mandatory legislative restrictions, such as in Chile, Canada, Thailand, India, Portugal, Switzerland and the United Kingdom. These initiatives provide international examples of best practice. There is an emerging body of evidence that shows that statutory restrictions work¹⁶⁸.

In Chile, a series of regulations have been introduced and unhealthy food advertising to children has been significantly reduced¹⁶⁹⁻¹⁷³. The advertising regulations ban unhealthy food and beverages from being marketed within preschool and primary schools or on television or cinema between 6am and 10pm. Unhealthy food and beverages cannot be advertised directly to children under 14 years in public spaces, magazines and online, and no gifts or toys, games, prizes associated with such foods and beverages can be given to children¹⁷⁴.



In Portugal, advertising of unhealthy food and beverages is not permitted 30 minutes before and after children's programmes or in and around television programmes whose audiences have a minimum of 25% of the audience below 12 years. Unhealthy food and beverage advertising is not permitted via the internet on sites or pages with contents or in publications intended for children and young people. Advertising is also not permitted at preschools, primary and secondary schools, children's parks, or in a 100 metre radius around those establishments¹⁷⁵.

In the United Kingdom, all unhealthy food and drink advertising has been banned on London's public transport network since 2019 and further bans on digital and television advertising, as well as check-out aisle displays, are set to be introduced. The United Kingdom has proposed legislation to restrict the promotion of high fat, sugar, and salt products by location of the

advertisements and volume¹⁷⁶. Locations will include store entrances, aisle ends, checkouts, and online equivalents. The United Kingdom has also proposed to prohibit less healthy food and drink advertisements between the hours of 5:30am and 9:00pm¹⁷⁷. This includes advertisements during television services and during on demand programme services. This bill also prohibits 'paid' advertisements online of less healthy food and drink.

In Switzerland, Geneva's City Council will ban all outdoor commercial advertising, and instead replace them with cultural and institutional posters^{178,179}. In France, the city of Grenoble has removed all outdoor billboard advertising and replaced them with trees and places for the community to gather¹⁸⁰. In 2009, the Indian city of Chennai (home to >7million people) as part of a wider city beautification initiative banned outdoor billboard advertising¹⁸¹.

Problems with the current Children and Young People's Advertising Code

The CYPA Code Principle 1 of Social Responsibility requires that: “*advertisements targeted at children or young people must not contain anything that is likely to result in their physical, mental or moral harm and must observe a high standard of social responsibility*”²⁶.

For an advertisement to be classified as “*targeting children or young people*”, the context of the advertisement needs to be analysed, as well as the relationship between the following three criteria:

1. **Nature and intended purpose** of the product or service being promoted is principally or generally appealing to children or young people;
2. **Presentation of the advertisement content** (e.g., theme, images, colours, wording, music, and language used) is appealing to children or young people;
3. **Expected average audience** at the time or place the advertisement appears includes a significant proportion of children or young people.

In practice, the Complaints Board requires all three criteria to be met, and even where the product and presentation of a product is appealing to children or young people, the Complaints Board considers the harm can be mitigated by the placement of the advertisement.

This decision is inconsistent with the current media environment, including social media and on-demand television viewing. The code also does not include product packaging, brand advertising or sponsorship in general, all key commonly used marketing techniques. Further, enforcement of the Code is reliant on people making complaints to the ASA about breaches of the Code and the

evidence-base needed to effectively defend a complaint tends to be biased towards the industry stakeholders²⁷. There is no financial repercussion and a limited name and shame element to a decision being upheld and no independent monitoring of its implementation, inconsistent with the proposed principle of accountability¹⁶⁴.

Sing et al. (2020) evaluated whether New Zealand's self-regulatory controls on the advertising of unhealthy food and beverages adequately protect children from the exposure to, and power of, such marketing²⁷. The paper analysed the relevant ASA Codes, including the ASA Complaints Board and Appeals Board decisions from 2017–2019 to determine the application of the Codes in practice. A public health law framework was then applied to the self-regulatory system. Of the 16 complaints assessed, 12 were not upheld, and only one was upheld under the CYPA Code. Three complaints were upheld under the Advertising Standards Code (ASC) but not the CYPA Code. The analysis of the Codes and their interpretation by the Complaints Board found that many facets of the public health law framework were not met, including protecting children up to 18 years old, the use of a comprehensive nutrient profiling system, transparency and accountability mechanisms, an independent body to monitor and enforce, an independent complaint handling scheme, and incentives to encourage compliance. The paper concludes that New Zealand's self-regulatory system does not adequately protect children from the exposure to, and power of, unhealthy food and beverage marketing, and government-led, comprehensive, and enforceable marketing restrictions are required²⁷.

What action is recommended for New Zealand?

Every child has the right to grow up in an environment that allows them to be healthy, no matter where they live. Based on the evidence, a comprehensive regulatory approach by Government to address unhealthy food marketing in NZ is recommended to reduce the harmful impact on health. This is consistent with the World Health Assembly agreement, the principles for action¹⁴⁹, the UNICEF call to protect children's rights to a healthy food environment¹⁸² and te Tiriti o Waitangi. It also has the potential to reduce inequities by ensuring change to the context within which children live their lives. This is likely to most benefit those who suffer most from the burden of poor dietary intake and childhood obesity – Māori whānau, Pacific communities and low-income children.

Aotearoa New Zealand was one of the first to sign the United Nations Convention on the Rights of the Child in 1989⁷¹. This states that children have a right to good health and must be allowed to grow, learn, play, develop and flourish with dignity. This cannot happen when unhealthy food and drink advertising dominates children's environments.

Comprehensive government regulation of food marketing to which children are exposed (including digital marketing, product packaging, brand advertising and sponsorship) is required with robust monitoring to ensure effective and equitable outcomes is recommended.

This legislation should:

- protect children up to 18 years of age
- cover all current and future types of marketing to which children are exposed, across all settings, mediums and techniques (including digital marketing and brand marketing)
- be based on a well-recognised scientific nutrient or food-based classification system such as the World Health Organization's Nutrient Profile Model to identify which products can and cannot be marketed
- be monitored, evaluated and enforced by an independent body.

Conclusion

The evidence presented here reveals that children live in an obesogenic environment that heavily promotes unhealthy food choices and diets as a normal response to their everyday environment. NZ children are more than twice as likely to be exposed to unhealthy food marketing, not recommended to be marketed to children, than healthy food marketing, and are exposed multiple times a day across various settings and via multiple media. Māori children appear to have higher exposure to unhealthy food marketing than NZ European children.

In line with the views of children, parents and caregivers, the wisdom of the World Health Assembly, and obligations to Convention on the Rights of the Child and te Tiriti o Waitangi, urgent action is required to restrict unhealthy food marketing to which children are exposed. Given the disparities in dietary intake and obesity for Māori, Pacific and low-income children, it is these children who stand to benefit most from effective action. Key to this is regulatory action

by government to ban unhealthy food marketing to which children are exposed. This action would require the replacement of the voluntary code with a comprehensive regulatory code with effective monitoring and real sanctions.

Requiring schools to provide only healthy food would greatly assist in reducing the amount of advertising in the school context. While the opposition is strong, such actions, as part of a comprehensive strategy as agreed by the World Health Assembly would likely make an important contribution to improving NZ children's diets, reducing inequities and to achieving the vision of the World Health Organisation Commission on Ending Childhood Obesity.

The evidence that we need to protect children from unhealthy food marketing continues to gain strength but more than that, if we want NZ to be the best place in the world to bring up children, this is the right thing to do and imperative that we act now¹⁸³.

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Thank you

Thank you to the authors of the 2018 Evidence Snapshot, Professor Louise Signal, Dr Michelle Barr and Dr Moira Smith, University of Otago, Wellington, and to Activity Nutrition Aotearoa who commissioned the snapshot, for allowing us to update the original snapshot.

The 2022 snapshot has been updated by the Protect Kids from Junk Food Marketing coalition www.junkfoodfree.org.

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