

Restricting Food Advertising Primarily Directed at Children

Health Canada Consultation

June 2023



UNICEF Canada
90 Eglinton St. E - Suite 400
Toronto, Canada
M4P 2Y3
(+1) 416-482-4444
policy@unicef.ca

As a civil society leader in the promotion of child health and well-being in Canada, and as the flagbearer organization for the United Nations Convention on the Rights of the Child (UNCRC), UNICEF Canada is pleased to contribute this submission to the Health Canada consultation on restricting food advertising primarily directed at children.

Childhood obesity and its corresponding impacts on the rise of Non-Communicable Diseases (NCDs) is a global phenomenon of concern that is by no means unique to Canada. The good news is that this means that many jurisdictions and international institutions have already considered how best to limit the negative impacts of food marketing aimed primarily at children. Our goal with the present submission is therefore to highlight some of the emerging global best practices in this space.

In 2022, the Spanish Ministry of Consumer Affairs drafted a Royal Decree to regulate food and beverage advertising aimed at children. This effort explicitly employed a child rights-based approach premised on the UNICEF and WHO publications detailed in this submission. Further details about the Spanish government's efforts to regulate the marketing of unhealthy food and drink to children can be found in this [recent correspondence to the Lancet journal](#).

In [UNICEF's 2017 Report Card on child well-being and the Sustainable Development Goals](#) (SDGs), Canada ranked 37th out of 41 high-income countries on providing healthy food to children, with both food insecurity among households with children and rates of childhood obesity identified as areas of concern. While regulation of food and beverage marketing to children is only one part of the solution, global evidence shows that, if properly implemented, such rules can be a low-cost, high-impact intervention that facilitates social and behavioural changes in childhood nutrition.

As has been notable in the evolution of Canada's Food Guide over recent years, corporate and industry influence over the research, interpretation, and dissemination of nutritional information remains a constant challenge. To achieve the potential benefits of this policy for individual and population health, children and their best interests must be prioritized in these regulations' development.

UNICEF Canada strongly recommends that Health Canada take a child rights-based approach to the regulation of food and beverage marketing.

Taking a Child Rights-based Approach

In April 2018, UNICEF published [A Child Rights-Based Approach to Food Marketing: A Guide for Policy Makers](#). This document builds upon the set of [World Health Organization \(WHO\) recommendations on the marketing of foods and non-alcoholic](#)

[beverages to children](#) unanimously endorsed by the 63rd World Health Assembly in 2010.

“The Convention on the Rights of the Child – interpreted in light of the World Health Organization’s evidence-based set of recommendations on the marketing of foods and nonalcoholic beverages to children – requires governments to protect children from the negative impacts of marketing unhealthy food.”

- UNICEF (2018). A Child Rights-Based Approach to Food Marketing: A Guide for Policy Makers, p. 4

A child rights-based approach to unhealthy food marketing offers a powerful and universally applicable way to consider children as rights holders who are central to any policy discourse. While reflecting and incorporating the provisions of the UNCRC, this approach should complement, rather than exclude, existing strategies and processes.

The guide identifies two defining elements to a child rights-based approach:

1. It recognizes children as rights holders and governments as the corresponding duty bearers, and works towards strengthening children’s capacities to understand and realize their rights and governments’ capacities to meet their obligations, and;
2. It emphasizes that standards and principles derived from international human rights treaties should guide all policies that have potential impacts on children.

Adopting a child rights-based approach to the adverse impacts of marketing to children, rooted in international human rights law, offers several potential benefits, including:

Accountability – A child rights-based approach guarantees a degree of accountability, by both holding stakeholders to their commitments, as well as, by providing an opportunity to proactively put effective remedies into place, should rights be violated. A children’s rights approach can also be used to monitor commitments made, for example, by governments as an intrinsic part of their follow-up to ratification of the Convention, including through public and independent assessments of performance, with the help of recommendations from the Committee on the Rights of the Child.

Legitimacy – The rights of all children are derived from universally recognized treaties, conventions and other internationally agreed upon standards. Because children’s rights are inalienable and universal, there is an inherent legitimacy to the language of human rights and value in the perspectives and language that accompany a child rights-based approach.

Advocacy tool – A child rights-based approach 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, this approach is likely to foster the involvement of a broad range of actors who may not have viewed the issue of marketing unhealthy food to children as raising concerns. In turn, this is likely to help galvanize political will to ensure that governments fulfill their commitments under the UNCRC.

Empowerment – Once the concept of ‘rights’ is introduced in policymaking, the rationale for limiting unhealthy food marketing to children no longer derives merely from the fact that children have needs but also from the fact that they have rights.

The policy guide to food marketing and children’s rights is structured into four parts, all of which should be carefully considered in the development of any regulations here in Canada:

Part 1 highlights the consequences of the growing rates of childhood obesity throughout the world, and the commitments that governments have made to halt the rise of childhood obesity by 2025.

Part 2 discusses the extent to which children are exposed to unhealthy food marketing and examines the evidence on how marketing influences children’s food preferences, purchase requests and consumption patterns.

Part 3 identifies how some articles of the UNCRC are relevant to food marketing and outlines a child rights approach to advancing the global objective of ending childhood obesity.

Finally, **Part 4** discusses how the CRC’s core principles can be applied to systematically support the child’s best interests in general and specifically to ensure that marketing practices respect children’s rights.

Interestingly, the Province of Quebec’s *Consumer Protection Act* is highlighted in the guide as an example of global best practices. Specifically, Section 249(a–c) of the *Consumer Protection Act* is identified as a strong example of how legislation can address the question of what constitutes advertising to children. The guide also notes several gaps in the Quebec regulations, which could be addressed in the regulations under consideration by Health Canada.

Children’s Rights with respect to Food and Beverage Marketing

All rights under the UNCRC are interdependent, but parts 3 & 4 of the UNICEF Policy Guide identify some of the specific articles that should be considered in the restriction of

food and beverage marketing to children. The right to health (Art.24), the right to food (Arts.24 and 27), the right to life, survival and development (Art.6), the right to education (Art.28), access to truthful information (Art.17), the right to leisure, recreation and culture (Art.31) privacy (Art.16) and non-discrimination (Art.2) are all identified as potentially affected, and analysis and mitigation is provided for each.

Such analysis of the intended and unintended consequences of a law, policy, or regulation across the various articles of the UNCRC is a process that has been detailed in a global best practice known as a Child Rights Impact Assessment (CRIA). UNICEF Canada has long advocated for the use of CRIA across all levels of government in Canada and has both developed its own tools (see [Child Policy Lens](#)) and supported the federal government in the development of a CRIA training module and prototype that should be applied to the proposed regulations.

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

The set of recommendations on the marketing of foods and non-alcoholic beverages to children as detailed by the World Health Organization and unanimously endorsed by the 63rd World Health Assembly, May 2010, read as follows:

Recommendation 1: The policy aim should be to reduce the impact on children of marketing of foods high in saturated fats, trans-fatty acids, free sugars, or salt.

Recommendation 2: Given that the effectiveness of marketing is a function of exposure and power, the overall policy objective should be to reduce both the exposure of children to, and power of, marketing of foods high in saturated fats, trans-fatty acids, free sugars, or salt.

Recommendation 3: To achieve the policy aim and objective, Member States should consider different approaches, i.e., stepwise or comprehensive, to reduce marketing of foods high in saturated fats, trans-fatty acids, free sugars, or salt, to children.

Recommendation 4: Governments should set clear definitions for the key components of the policy, thereby allowing for a standard implementation process. The setting of clear definitions would facilitate uniform implementation, irrespective of the implementing body. When setting the key definitions, Member States need to identify and address any specific national challenges to derive the maximal impact of the policy.

Recommendation 5: Settings where children gather should be free from all forms of marketing of foods high in saturated fats, trans-fatty acids, free sugars, or salt. Such settings include, but are not limited to, nurseries, schools, school grounds and pre-school centres, playgrounds, family and child clinics and pediatric services, and during any sporting and cultural activities that are held on these premises.

Recommendation 6: Governments should be the key stakeholders in the development of policy and provide leadership, through a multistakeholder platform, for implementation, monitoring and evaluation. In setting the national policy framework, governments may choose to allocate defined roles to other stakeholders, while protecting the public interest and avoiding conflict of interest.

Recommendation 7: Considering resources, benefits and burdens of all stakeholders involved, Member States should consider the most effective approach to reduce marketing to children of foods high in saturated fats, trans-fatty acids, free sugars, or salt. Any approach selected should be set within a framework developed to achieve the policy objective.

Recommendation 8: Member States should cooperate to put in place the means necessary to reduce the impact of cross-border marketing (in-flowing and out-flowing) of foods high in saturated fats, trans-fatty acids, free sugars, or salt to children to achieve the highest possible impact of any national policy.

Recommendation 9: The policy framework should specify enforcement mechanisms and establish systems for their implementation. In this respect, the framework should include clear definitions of sanctions and could include a system for reporting complaints.

Recommendation 10: All policy frameworks should include a monitoring system to ensure compliance with the objectives set out in the national policy, using clearly defined indicators

Recommendation 11: The policy frameworks should also include a system to evaluate the impact and effectiveness of the policy on the overall aim, using clearly defined indicators.

Recommendation 12: Member States are encouraged to identify existing information on the extent, nature, and effects of food marketing to children in their country. They are also encouraged to support further research in this area, especially research focused on implementation and evaluation of policies to reduce the impact on children of marketing of foods high in saturated fats, trans-fatty acids, free sugars, or salt.

Conclusion

UNICEF Canada is encouraged to see Health Canada consult experts and the broader public on this critical issue with significant consequences for the health and well-being of children in this country. We hope that this robust process will include meaningful consideration of children's rights and the value of a child rights-based approach to marketing regulations. We remain available for further consultation on this issue, especially regarding the UNCRC and international best practices.

Contact:

Lisa Wolff, Director of Policy and Research

LWolff@unicef.ca

Terence Hamilton, Policy Specialist

THamilton@unicef.ca