



Written Comments to the OECD Health Committee

September 2026

Report on *Best Practices in Diet and Physical Activity for Non-Communicable Disease Prevention*

FOODDRINKEUROPE DRAFT COMMENTS

General Comments

- Regulation of food marketing to children

1. 'Ultra-processed food' terminology

'Ultra-processed food' terminology has no legal definition globally or in the EU, is vague, contradicts the established evaluation of foods based on nutrient composition, and could hamper our collective efforts to improve public health and environmental outcomes. NOVA is the most famous and widely referenced food classification system based on the level of processing, but there is a large and growing body of evidence that questions NOVA, and other classifications.

Various national health authorities concluded that the evidence is currently insufficient to make dietary recommendations based on such classification. In June 2023, the Nordic Nutrition Recommendations (NNR) were revised. The Nordic Nutrition Council decided not to include any dietary guideline based on the concept of "ultra-processed foods" and noted that this categorization captures a heterogeneous group of foods with various nutrient quality. The Nordic Nutrition Council also noted that it has not been possible to assess causality on the type of processed foods and health outcomes. Moreover, it indicated that the dominating NOVA classification contains a variety of unhealthy foods, but also a number of foods with beneficial health effects. Hence a guideline including the concept of "ultra-processed foods" would introduce conflicting messages about some foods, for example some ready-made foods, wholegrain bread, and granola.

In July 2023, the UK Scientific Advisory Committee on Nutrition (SACN) published a position statement on processed foods and health. The UK SACN concluded that there is currently insufficient evidence to make any dietary recommendations on the topic. The UK SACN underlined that "there are uncertainties around the quality of the available evidence on food processing and health. Studies are almost exclusively observational and confounding factors or covariates may not be adequately accounted for".

For these reasons, we question the use of the terminology "ultra-processed foods" and its use in the report.

All foods can be part of a healthy diet, where consumers consider the overall nutritional value in the products they eat, the frequency of consumption, the amount of consumption and their personal lifestyle.

2. Regulation of food marketing for children

- a) The evidence warrants greater caution in the policy conclusions

The OECD's conclusions rely heavily on moderate-quality evidence from a country-level ecological study and on subsequent modelling assumptions. The underlying evidence identifies associations between food marketing restrictions and decreasing 'HFSS' food sales but does not by itself establish causation or demonstrate that broader statutory measures on food marketing would produce better long-term health outcomes.

The OECD then translates an observed association in sales data into estimated changes in calorie intake, BMI, disease incidence, DALYs and healthcare expenditure. These modelled outcomes may be useful for scenario analysis, but they should be clearly distinguished from directly observed effects.

The OECD relies on a 2018 study by Kovic et al. which concludes that countries with broadcast marketing restrictions saw a decline in per capita 'HFSS' food sales post-implementation. However, this does not necessarily infer a decline in obesity rates. Advertising evidently has an impact on behaviours, preferences and purchases and advertisers have a role to play in supporting healthy diets, particularly when it comes to children. However, the size and relative importance of the impact of food marketing, and any demonstrable impact on health outcomes, are important research questions that have not been settled to date. The UK government-funded Foresight Obesity System Map¹ was an early attempt, followed by McKinsey's 2014 discussion paper on overcoming obesity and comparing different measures and their outcomes².

There are various examples that very strict food marketing regulation does not automatically translate into positive public health outcomes. The legislation in Chile, adopted in 2016, went further than both the UK at the time and Quebec restrictions in that it adopted stricter nutrition criteria and imposed a 10pm watershed ban for TV. 'HFSS' products cannot be advertised from 6am to 10pm, all packs and visual ads for 'HFSS' products must display warning labels, and the use of cartoons and characters of appeal to children are also prohibited. Sadly, childhood obesity continued to rise from 51.2% in 2016 to 54% in 2020³, 58% in 2022⁴ and reaching 60% in 2025⁵ while studies years after the entry into force of the restriction show a 73% decrease of children exposure of foods labelled 'high-in' in television advertisement⁶.

We encourage the OECD to reflect these uncertainties more clearly and to distinguish between evidence that marketing can influence children, evidence that a measure reduces exposure or purchasing, and evidence that a particular regulatory design improves long-term population-health outcomes.

b) Robust self-regulation has demonstrably reduced exposure

The OECD argues that 'industry pledges often lack penalties for non-compliance' and 'fail to significantly reduce children's exposure to 'HFSS' marketing'. This assessment is based on a 2013 study⁷ and overlooks recent findings and initiatives.

We support the policy objective of reducing children's exposure to food marketing and limiting the persuasive power of marketing directed at them. Well-designed self-regulatory frameworks

¹ [Reducing obesity: obesity systems map](#), UK Government Office for Science, 2007.

² [Overcoming obesity: An initial economic analysis](#), McKinsey & Company, 2014.

³ BBC article: [The labels encouraging Chileans to buy healthier food](#), August 2021. Overweight and obesity data from JUNAEB, the National Board of School Aid and Scholarships, under the Ministry of Health in Chile.

⁴ In 2022 there are approximately 34% of students with a normal weight, 31% with some degree of obesity, and 27% overweight, that is, **in total, 58% are overweight** (in 2020 they were 54.1%). Since 2009 total obesity has increased 15.1pp, almost doubling in 13 years (from 15.9% to 31%), while severe obesity has increased 6.6pp. Source: [The Chilean Society of Obesity](#) (SOCHOB).

⁵ [SOCHOB, 2025](#)

⁶ Dillman Carpentier, F.R., Mediano Stoltze, F., Reyes, M. et al. [Restricting child-directed ads is effective, but adding a time-based ban is better: evaluating a multi-phase regulation to protect children from unhealthy food marketing on television](#), *Int J Behav Nutr Phys Act* **20**, 62 (2023).

⁷ [Galbraith-Emami and Lobstein, 2013](#)

are already built around these objectives, combining placement rules, audience thresholds, nutrition criteria and creative execution standards to limit both whether children see advertising and how advertising is designed. Available evidence shows substantial reductions in children's exposure in markets where these approaches operate.

- Data from the EU Pledge demonstrates that 'HFSS' food advertising around children's TV programmes fell by 83% compared with the 2005 baseline. In 2025, child audiences saw an average of 0.67 daily TV spots for restricted products, compared with 3.02 for adults.⁸
- Nielsen looked at online environments in 12 markets around the world and concluded that on average only 1.45% of online ads served to children are for 'HFSS' foods and beverages.⁹
- A European Commission study showed that just 1.7% of ads that EU children saw online in 2019 were for food products.¹⁰

These figures demonstrate that existing self-regulatory and co-regulatory systems can materially reduce children's exposure and can evolve as media and technology change.

The report highlights the example of Quebec which has enforced since the 1980s legislation to protect children from advertising through its Consumer Protection Act. However, this has not translated into significantly lower obesity rates in Quebec compared to the rest of Canada¹¹. In this case, the OECD fails to mention that Canada recently updated its mandatory Food Advertising Code, which applies to the entire industry, offers preclearance services and a complaint handling mechanism. This is enforced by Ad Standards, the Canadian national self-regulatory body for advertising.

The OECD should therefore assess contemporary systems on their actual scope, monitoring, enforcement and demonstrated outcomes, rather than treating 'self-regulation' as a single or inherently weaker intervention category. Food and beverage advertising restrictions should not be seen as a silver bullet to the childhood obesity problem. Instead, food marketing policies should be designed in a way that is proportionate and protects the most vulnerable.

c) Recommended measures should be proportionate and targeted

Where existing systems have already reduced children's exposure substantially, policymakers should consider whether new measures would realistically prevent additional exposure, and whether that incremental benefit justifies the wider restriction. The OECD should assess the proportionality of specific policy options separately, rather than assume that broader age coverage, wider scope or more restrictive placement rules will necessarily deliver proportionately greater public-health benefits.

In response to the OECD's policy options to enhance performance, we suggest taking into account the below criteria when looking into responsible food marketing to children.

Age thresholds and general audiences

⁸ See [2016 annual report](#) of the EU Pledge.

⁹ The [Digital Avatar Project](#) used four avatars (simulated consumer profiles) to track advertising activity across 12 markets (Belgium, Brazil, Czechia, Denmark, Ireland, Japan, Mexico, Netherlands, Nigeria, Philippines, South Africa, and Spain). Through the findings, Nielsen estimated the general pervasiveness of HFSS advertising, as well as the probabilistic rate of a child's exposure to HFSS advertising.

¹⁰ [Study on the exposure of children to linear, non-linear and online marketing of foods high in fat, salt or sugar](#), ECORYS, 2021. Fieldwork September–October 2019; n=228 children, n=262 adults. HFSS accounted for 64% of the 184 food and drink advertisements served to children. Across the full 490-participant panel, 305 of 29,716 advertisements were for HFSS products.

¹¹ See Share of Canadian adults who were overweight in 2024, by province [here](#), and Continuation of Table 3c 'Overweight/Obesity' of [Obesity Statistics in Canada: Report](#).

The OECD recommends protection of all under-18s but does not estimate the additional exposure reduction, dietary effect or health gain attributable specifically to moving from U13, U15 or U16 to U18. We support strong protection for children, who are inherently vulnerable consumers as they cannot distinguish commercial intent. Most academic reviews recognise that by the age of 12 children develop their behaviour as consumers, effectively recognise advertising and can adopt critical attitudes towards it. A landmark review by Sonia Livingstone¹² found no justification for why older children, e.g., those above 12 years of age, should be targeted for restrictions to food advertising. She concluded:

- Before the age of four or five, children regard advertising as simply entertainment.
- Between four and seven, they begin to be able to distinguish advertising from programmes.
- By the age of eight, the majority have generally grasped the intention to persuade.
- After 11 or 12 they can articulate a critical understanding of advertising.

A U18 threshold materially expands the communications affected and risks restricting advertising intended for general or adult audiences, particularly where it is combined with broad tests based on whether advertising may ‘appeal’ to children. Creative executions that appeal to a 16- or 17-year-old will often also appeal to young adults.

We therefore support clear criteria focused on whether advertising is primarily directed at or appealing to children, together with reliable audience data where available. Food and non-alcoholic beverages should not automatically be regulated in the same way as inherently age-restricted products such as tobacco or gambling.

Audience data and targeting tools

We recommend that placement restrictions be based on audience data and, where available, demographic targeting tools rather than simply on the time of airing. Audience thresholds can identify media where children make up a significant share of the audience, while digital platforms allow advertisers to apply age filters, exclude unknown-age audiences and avoid content primarily appealing to children. These tools allow advertisers to reduce children’s exposure while continuing to communicate responsibly with adult audiences.

Changes in the media landscape have accelerated the exposure decline and continue to do so, which is why recent exposure data needs to be the basis of any food marketing to children framework. Specifically, for the past decade, children have been abandoning television in favor of digital media. And when they do so, ad exposure plummets thanks to platforms’ demographic targeting tools.

Because food ads are rarely targeted to children on digital media, children largely are not exposed to them, which explains not only the mere 9 seconds of daily exposure in the UK, but also similar findings in other markets. For example, a recent U.S. study¹³ examined the exposure of children to food and beverage marketing when using mobile devices in 2022 and 2023 and found the median number of estimated food and beverage advertisements seen on mobile devices per day per child to be 0, with only a small percentage of children seeing more than 1 instance of food marketing per day.¹⁴

¹² Ofcom, *Childhood Obesity - Food Advertising in Context* (review of academic research conducted by Prof. Sonia Livingstone, LSE, London, UK), 22 July 2004

¹³ Kenney, *et al*, “Estimating Young Children’s Exposure to Food and Beverage Marketing on Mobile Devices,” *Current Developments in Nutrition*, 2024 (Nov. 8).

¹⁴ *Id.* Specifically, only 28% of children saw more than 1 instance of food marketing per day, and even that figure is inflated because it includes “brand appearances” (such as in user-generated content that is not paid advertising). If limited to just paid

Broad time-based or all-day restrictions should therefore not be treated as the default where more targeted approaches are available. Watersheds can capture substantial general-audience advertising regardless of whether children constitute a meaningful share of the audience. A proportionate approach should instead focus restrictions on the audiences the policy is intended to protect.

The OECD recommends explicitly including all aspects of digital marketing in the marketing regulations (including sponsorship, brand marketing, mascots, etc.). We believe instead that brand communications, company-owned characters, sponsorships or packaging should not automatically be treated as equivalent to advertising a restricted product. As an example, the UK has excluded brand marketing from its most recent food advertising restrictions. The overall execution, placement, likely audience and whether the communication directly or indirectly promotes a restricted product should remain relevant.

Company-owned characters are part of a brand's intellectual property. Many companies are proactively using their children-appealing licensed characters to promote healthy foods including fruits and vegetables. While many licensed characters appeal to children, not all licensed characters are intended for young audiences. Additional decision filters including primary audience, overall market position and placement on adult foods and in adult content should be considered in lieu of blanket bans.

Likewise, a blanket ban on sponsorships, or limitations that fail to distinguish between audience types, could disproportionately harm companies whose names align with their products. Sponsorships are often crucial for grassroots sports and cultural events, which heavily depend on these funds for their survival. Denying this support risks undermining public access to such events, counteracting public health and community engagement goals. Instead, a targeted approach using audience thresholds, could better prevent children's exposure without jeopardizing essential sponsorship funding. The new Self-Regulatory framework of New-Zealand¹⁵ includes a section on sponsorships and specifically restricts sponsorships of products that do not meet the framework's nutrition criteria when targeted to children under 16.

The final report would be strengthened by calibrating its conclusions more closely to the evidence, assessing current and remaining exposure, recognising the demonstrated contribution of robust self- and co-regulation, and ensuring that any further measures are proportionate to the audience, market context and incremental benefit they are expected to deliver. Transferability should likewise reflect national media use, existing safeguards and enforcement rather than assume that one regulatory model will produce the same effects across markets.

Specific Comments

- *Page 8, point 30:* The report states that foods with a high sugar content were particularly reduced. This does not appear to be consistent with the findings reported in the publication *Pot et al. (2022)* which is cited as a reference. Although carbohydrate intake decreased, sugar intake itself was not directly assessed. Instead, it was reported as part of the consumption of confectionery and/or sweet sauces. The consumption of sugar-sweetened beverages (SSBs) also did not change over the study period.

We therefore suggest removing "(notably high in sugar)" from point 30, as this statement does not appear to be supported by the data reported in the cited publication.

advertising, the instances of exposure would be even lower. These results challenge the presumption that declines in children's exposure to food ads on television are offset by children's increased exposure to food ads in digital media.

¹⁵ [Food and Beverage Advertising Code | New Zealand](#)

- *Page 19, point 51:* The section correctly notes that the EU Pledge is based on voluntary self-regulation and therefore differs from legally binding regulation. However, the description appears somewhat broad in places. In particular, the statement that the initiative is implemented “without government oversight” does not acknowledge that compliance with the commitments is subject to independent third-party monitoring.

While this monitoring does not constitute government enforcement in the same way as statutory regulation, it nevertheless represents a form of external oversight. The current wording could therefore give the impression that the self-regulatory framework operates entirely without external scrutiny, which would be misleading.