

A FRAMEWORK FOR IMPLEMENTING THE SET OF RECOMMENDATIONS on the marketing of foods and non-alcoholic beverages to children



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Abbreviations and acronyms

ASA	Advertising Standards Authority (The United Kingdom)
AUTOCONTROL	Spanish Advertising Self-Regulation Organization
AVMS Directive	Audiovisual Media Services Directive (European Union)
BCAP	Broadcast Committee of Advertising Practice (The United Kingdom)
CAP	Committee of Advertising Practice (The United Kingdom)
NCDs	Noncommunicable Diseases
NGO	Nongovernmental Organization
Ofcom	Office of Communications (The United Kingdom)
PAOS	Spanish Self-Regulating Code for Food Advertising Aimed at Children
PAHO	Pan American Health Organization
TV	Television
The United Kingdom	The United Kingdom of Great Britain and Northern Ireland
UNCRC	United Nations Convention on the Rights of the Child
USA	United States of America
WHA	World Health Assembly
WHO	World Health Organization

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Executive summary

In May 2010, the World Health Assembly (WHA), through resolution WHA63.14, endorsed a set of recommendations on the marketing of foods and non-alcoholic beverages to children. The main purpose of the recommendations was to guide efforts by Member States in designing new policies, or strengthening existing policies, on food marketing communications to children in order to reduce the impact of marketing foods high in saturated fats, *trans*-fatty acids, free sugars, or salt. Resolution WHA63.14 requested that the Director-General provide technical support to Member States in the implementation, as well as the monitoring and evaluation, of the recommendations.

This framework document has been developed in response to the mandate of resolution WHA63.14 and is aimed at policy-makers wanting to apply the recommendations in their individual territories. The process involved is set out in four sections. These can be followed consecutively as a process, or used individually to support specific areas of policy development or implementation.

Initially the concept of “marketing to children” is defined; examples of marketing techniques are provided and an explanation given as to how marketing works and who is involved. Policy development is then described in a “step-by-step” process, starting with what is required for a situation analysis and moving to the pros and cons of adopting a comprehensive or stepwise policy approach; which children need protection; what communication channels and marketing techniques to target; and what foods should be included or excluded. Throughout this section there is emphasis on the need to be inclusive and a reminder that building consensus across government is the key to successful policy implementation. Examples and references have been provided in the sections, both to support the theoretical areas, as well as to allow easy access to the literature and policies that have proven effective.

Policy implementation is the third process described and addresses the issue of how to define the role of stakeholders as well as the different implementation options. It is clear that whatever the regulatory approach taken, it is paramount that the objectives of the recommendations are maintained and that key definitions set out by government at the policy development stage are followed comprehensively. The framework provides policy-makers with specific measures and enforcement mechanisms that

can be used to ensure effective implementation. Examples are included in both referenced literature and by describing policies adopted by some Member States.

The final section of the framework addresses the need to establish an effective monitoring and evaluation system and gives practical references on what to monitor and the approaches and methods that can be used. A proposed set of indicators for the monitoring and evaluation of processes, outputs and outcomes have been developed that can be easily adopted and adapted.

The process used to develop the framework has involved input from a number of experts in the field of marketing of foods to children as well as technical experts in the area of policy development. Overall, the framework provides a useful addition to resources available for the implementation of the set of recommendations on the marketing of foods and non-alcoholic beverages to children.

The marketing of foods and non-alcoholic beverages with a high content of fat, sugar or salt reaches children throughout the world. Efforts must be made to ensure that children everywhere are protected against the impact of such marketing and given the opportunity to grow and develop in an enabling food environment — one that fosters and encourages healthy dietary choices and promotes the maintenance of healthy weight.

Dr Ala Alwan, Assistant Director-General, World Health Organization, 2010 (1).



1. Introduction

1.1 Background

In the last decade, there has been increased recognition of the importance of addressing noncommunicable diseases (NCDs). *The Global Strategy on Diet, Physical Activity and Health (2)* and the subsequent *2008–2013 Action Plan for the Global Strategy for the Prevention and Control of Noncommunicable Diseases (3)* set out a strategy to tackle NCDs. Highlighting the importance of addressing food marketing to children was part of this plan. At the Sixtieth World Health Assembly in 2007, the Director-General of the World Health Organization (WHO) was requested to:

promote responsible marketing including the development of a set of recommendations on the marketing of foods and non-alcoholic beverages to

children in order to reduce the impact of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt, in dialogue with all relevant stakeholders, including private-sector parties, while ensuring avoidance of potential conflict of interest (4).

Subsequently, in 2010, at the Sixty-third World Health Assembly, WHO Member States endorsed the set of twelve recommendations on the marketing of foods and non-alcoholic beverages to children through the adoption of resolution WHA63.14 (5). These are referred to throughout the document as “the Recommendations”. The text of the twelve specific Recommendations is provided in Annex 1.

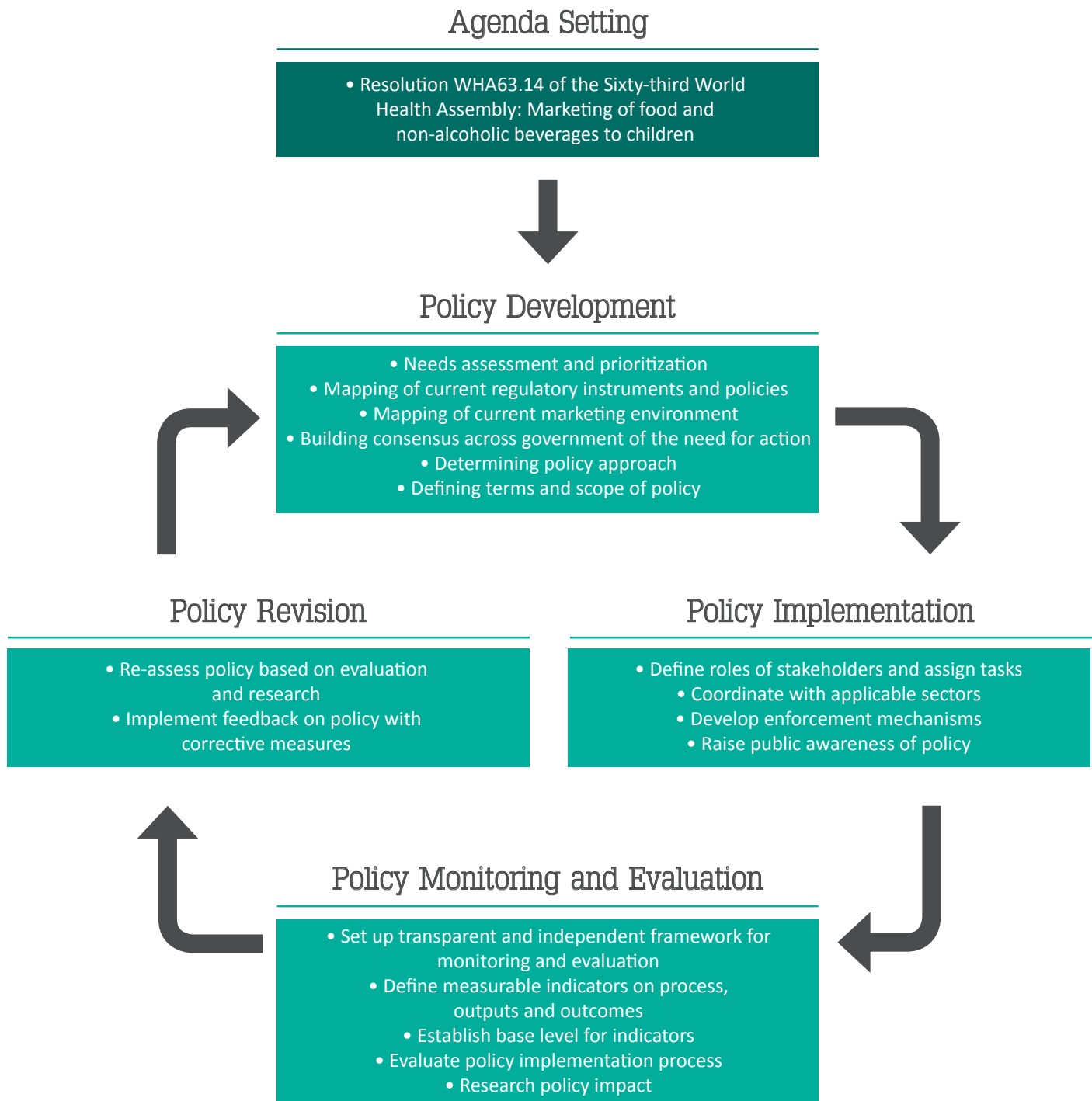
1.2 Purpose and structure of document

The purpose of this document is to assist Member States in implementing the Recommendations by providing guidance in the areas of policy development, policy implementation, and monitoring, evaluation and research. The document responds to the request to the Director-General in resolution WHA63.14 to provide technical support to Member States in implementing the Recommendations and should be read in conjunction with the Recommendations as set out in Annex 1.

The document starts by providing an explanation of what is meant by the term “marketing”. Subsequent sections address the three principal stages of the policy cycle as they relate to the implementation of the Recommendations: policy development, policy implementation and policy monitoring, evaluation and research (as illustrated in Figure 1).

Figure 1

An example of the policy cycle on implementing of the set of recommendations



2. What is marketing?

2.1 How is “marketing to children” defined?

The definition of “marketing”, as set out in the Recommendations, provides that:

“Marketing” refers to 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.ⁱ

The coverage of this definition is broad. Member States should note the following elements:

- The definition focuses not only on the effect of a commercial communication but also on its intention. Thus, if a campaign intends to increase the recognition, appeal and/or consumption of particular products and services, this is sufficient for the campaign to fall within the scope of the Recommendations. It does not have to be successful to do so.
- Marketing is an economic activity in which an organization promotes their goods or services in return for remuneration or other form of consideration. They can do so, for example, through:
 - o paying for advertising (e.g. buying advertising space on a television channel);
 - o product placement (e.g. paying for a branded product to be used in a movie);
 - o sponsorship (e.g. paying for a programme or sports event in schools);
 - o self-promotional means (e.g. via an organization’s own web site, sales promotions in shops, or attractive devices, messages or images used with, on, or in the products themselves).
- The notion of “commercial” should be broadly construed, covering all forms of direct or indirect promotions included in a given marketing strategy.
- The Recommendations refer to the marketing of products and services. They do not refer explicitly to the promotion of brands (as distinct from products and services); however, as certain brands and organizations are clearly associated with products or services whose marketing could fall within the scope of the Recommendations, efforts to restrict marketing in this area also need to consider how brands are marketed.
- Advertising is only one form of marketing among many, including sponsorship and product placement. Furthermore, as the Recommendations indicate, companies tend to rely on integrated marketing strategies, using a range of marketing techniques simultaneously, some of which are often designed specifically to attract the attention of children. Examples of these are listed in Box 1. Efforts to restrict marketing need to ensure that they are sufficiently comprehensive to deal with this broad array of marketing techniques.

ⁱ Definition can be found in the footnote referred to in paragraph 12 of the Recommendations.

Box 1

Examples of techniques used to market food and non-alcoholic beverages to children

Advertising

Broadcast: including TV and radio.
Print media: including newspapers, magazines and comic books.
Online: including on-search engines, social networking sites, news sites and blogs, as well as television programmes, films and media clips watched online.
Outdoors: including billboards, posters and moving vehicles.
Cinemas.

Product placement and branding

Product placement, e.g. in TV, radio, films, computer games.
Publicity.
Branded books, e.g. counting books for pre-schoolers.
Branded toys e.g. fast food store as a playhouse.
Branded computer games.
Interactive web sites, e.g. with puzzles and games.

Sponsorship

TV and radio programmes.
Events: including community and school events and contests.
Educational materials and equipment.
Programmes: including public health campaigns and school breakfast or lunch programmes.
Venues.
Sport teams.

Direct marketing

Promotional emails.
Promotional sales by telephone.
Text messaging to mobile phones.
Home catalogues, leafleting and canvassing (also known as “doorstep selling”).
Contests or sweepstakes.
“Money off” vouchers.
Promotion and sampling schemes in schools, e.g. chocolate drives.

Product design and packaging

Product design: colours and shapes, e.g. dinosaur-shaped products.
Packaging design: imagery, colours, playshapes.
Product portions: e.g. king size, duo packs.
In-pack and on-pack promotions: e.g. gifts, puzzles, vouchers.

Point-of-sale

On-shelf displays.
Displays at check-outs, pay-points, end-of-aisles in supermarkets.
Special offers and pricing incentives.
Vending machines in schools and youth clubs.
Loyalty schemes.
Free samples and tastings.

2.2 How does marketing work?

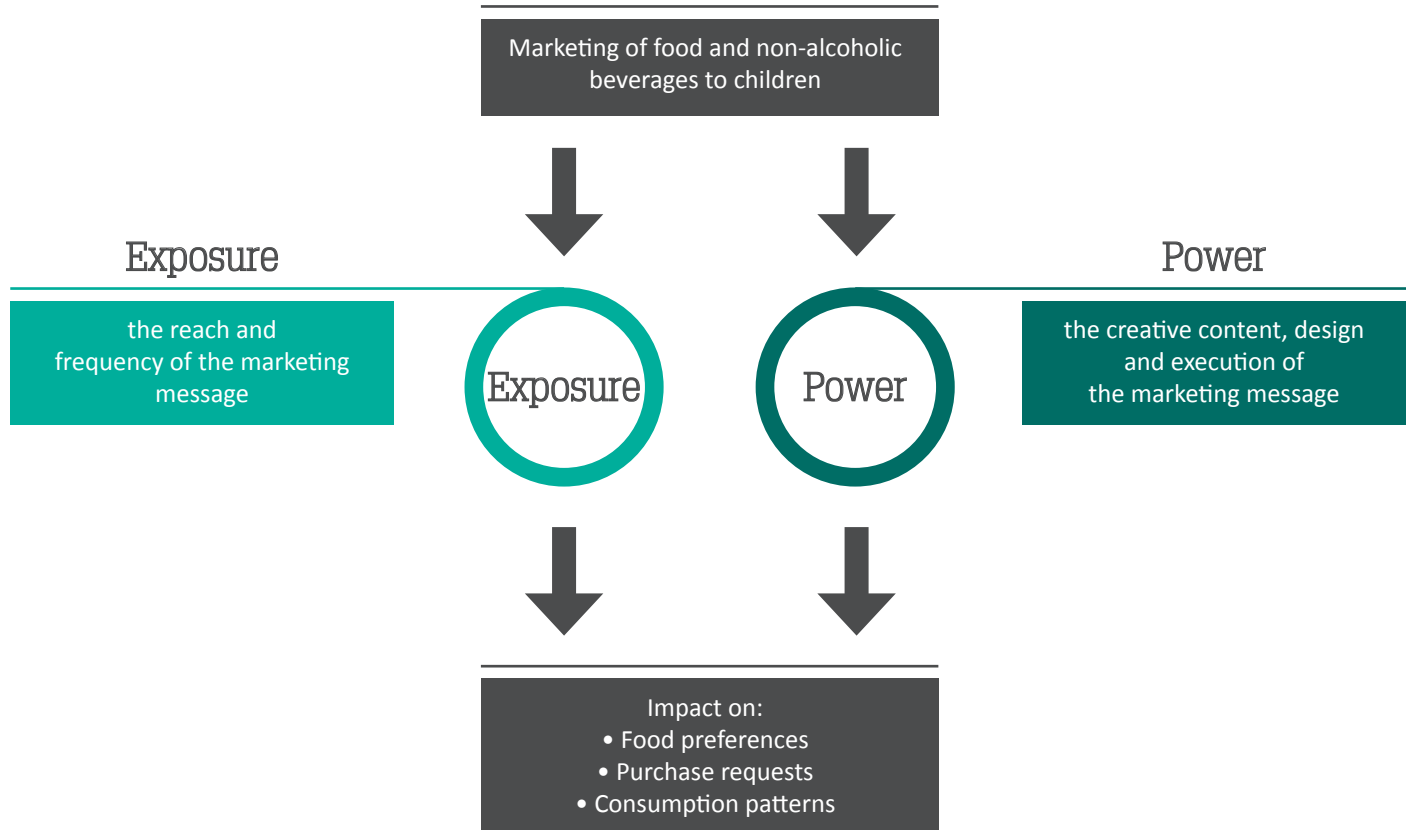
The development of a marketing communications campaign involves two core elements: i) selecting the communications channels, and ii) creating the communications messages (6). The selection of the communications channels influences the “exposure” of consumers to the marketing message. This includes the reach and frequency of the message. *Reach* is the percentage of people in a target market who are exposed to the campaign over a specified period and *frequency* is a measure of how many times the average person is exposed to a message (7). The content of the message, especially the creative strategies used, influences the “power” of marketing communications – i.e. the extent to which

the message achieves its communications objectives. The effectiveness of marketing communications can thus be described as a function of both exposure and power, as illustrated in Figure 2,ⁱⁱ This is the basis of the overall policy objective of the Recommendations, as stated in 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 the power of, marketing of foods high in saturated fats, trans-fatty acids, free sugars, or salt.

ⁱⁱ The use of the terms “exposure” and “power” to describe how marketing works was recommended by the ad-hoc expert group convened by the WHO Director-General to advise WHO in this work. While recognizing that a range of different terms are used in the literature, their recommendation was based on evidence from the marketing literature, together with a judgement on which terminology was most useful for the purpose of policy development in this area.

Figure 2
Marketing communications as a function of exposure and power



In designing effective policies, governments therefore need to consider both *exposure* and *power*. A stepwise approach may give priority to one of the components at

the first stage, but a comprehensive approach requires that both be tackled simultaneously (see section 3).

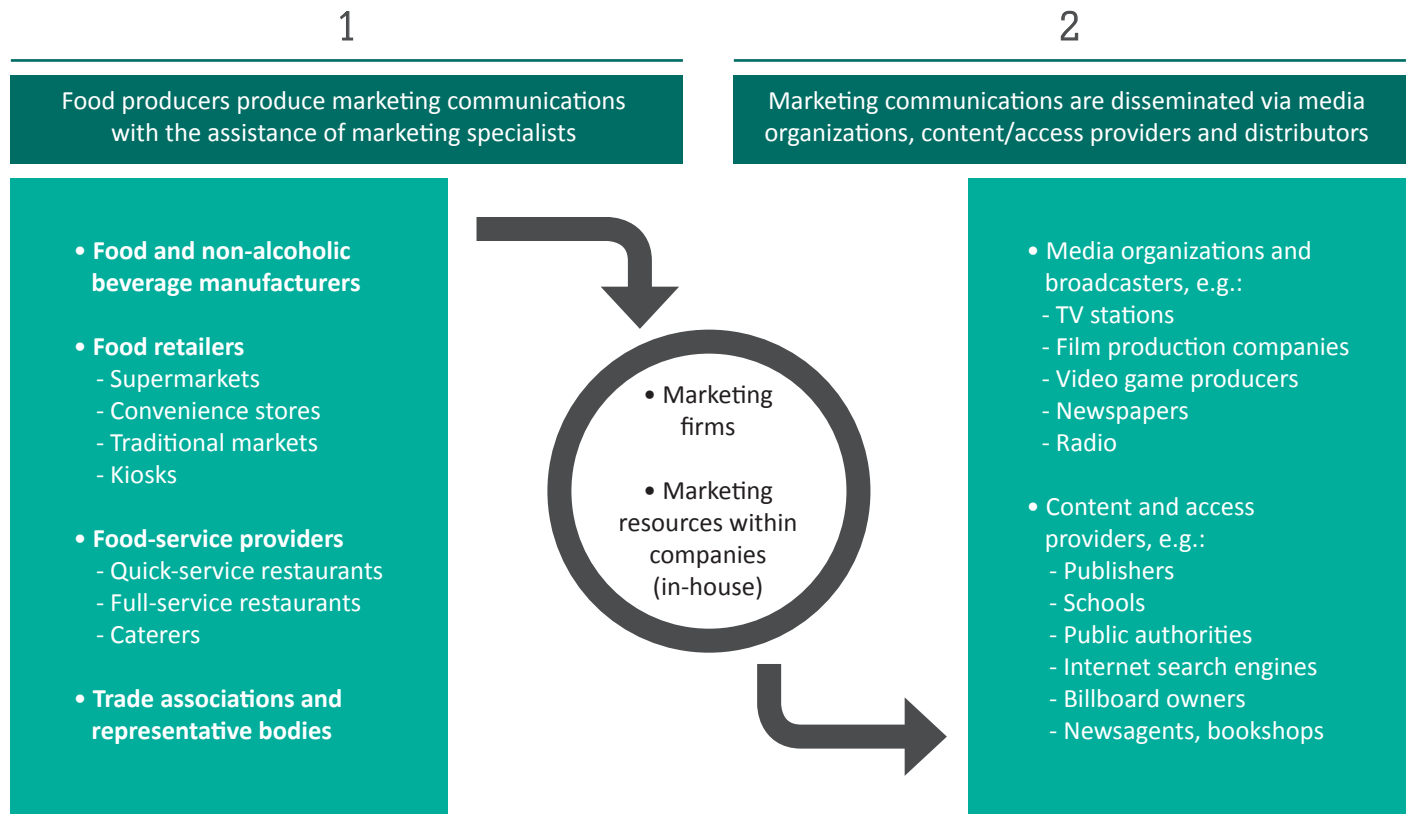
2.3 Who is involved in marketing food and non-alcoholic beverages to children?

There are several actors involved in the development of marketing communications and their subsequent dissemination to the target audience. The key relevant actors are illustrated in Figure 3. Food manufacturers and food retailers (and their respective trade associations and representative bodies) range from large global food and non-alcoholic beverage producers to small local vendors and kiosks, including supermarkets and quick-

service restaurant chains. These organizations typically hire marketing firms or use their own in-house marketing resources to create marketing campaigns which are then disseminated via media organizations and content or access providers. These include broadcasters, publishers, schools, public authorities, newsagents, and Internet search engines. Governments may choose to target policies to some or all of these actors.

Figure 3

Key actors involved in the development and dissemination of marketing communications



3. Policy development

In resolution WHA63.14, the World Health Assembly urges Member States to identify the most suitable policy approach given national circumstances, and to develop new policies or strengthen those existing that aim to reduce the impact on children of marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt. This section proposes steps that may facilitate the policy development process. Firstly, it is advisable for Member

States to seek consensus across government on the need for policy development. Additionally, a situation analysis may prove valuable in assessing the needs and priorities for policy development or revision. The core of the policy development is selecting the comprehensiveness of the policy approach, and the definitions of the terms and scope of the policy. Each of these aspects is discussed in this section.

3.1 Ensuring inclusiveness and political consensus across government

Building consensus of the need for policy development increases the likelihood for successful policy development and implementation. In developing or strengthening policy on the marketing of food and non-alcoholic beverages to children, it is recommended that the Ministry of Health, or other designated body, establish a government-led working group on food marketing to children to include representatives from multiple government departments, agencies and bodies. The aim of establishing a working group would be to ensure that different entities within government with a stake in policy development on food marketing to children would be involved in, and contribute to, the process.

Relevant government sectors for the working group may, in addition to health, include: child protection; education; consumer affairs; food supply; media and communications; agriculture; trade; finance and economic development; and foreign direct investment.

The government-led working group should dialogue with a broader stakeholder group, which would include, for example, members of civil society, academia, legislators, the private sector and the advertising and media industry, while protecting the public interest and avoiding conflict of interest. The government-led working group should ultimately reach consensus on the priorities for intervention, identify the available policy measures and decide how they best can be implemented.

3.2 Situation analysis

A situation analysis is a useful tool to guide the policy development process and may include the following two assessments:

i) *Marketing environment situation analysis*: to determine whether and to what extent children are being exposed to marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt, and the risk such exposure entails.

ii) *Regulatory situation analysis*: to map existing policies and regulatory frameworks and their effectiveness, and to determine the opportunities for using existing controls and existing agencies in designing new policies and/or strengthening existing policies.

3.2.1 Marketing environment situation analysis

A survey of the current marketing activities and their impact can be undertaken with the assistance of stakeholder organizations, including food producers and retailers, nongovernmental organizations (NGOs) and research institutions. If no relevant data, or only limited data, exist, suggestions for survey procedures and indicators of marketing activities are provided in section 5 of this document. Key indicators might include:

- the extent of marketing via TV, Internet, print, outdoor and other media;
- the extent of in-school marketing;

- trends in the use of different marketing techniques and strategies;
- trends in children's TV viewing patterns.

In addition, the following outcome indicators may be included as part of a comprehensive situation analysis:

- sales and purchase data for categories of foods;
- children's dietary patterns, including inequalities in content rather than volume of food in diet;
- children's weight status, including in different socioeconomic groups.

3.2.2 Regulatory situation analysis

Surveys of the regulatory environment and opportunities for utilizing existing regulatory structures and agencies can be undertaken by regulatory agencies and legal analysts, and may be informed by examining the practices of governments that have stronger regulatory controls. In the case of controls on the marketing of food to children, potential areas where existing controls and agencies operate may include:

- public health policies, legislation and institutions;
- media controls and regulating authorities;
- child protection legislation and agencies;
- food labelling, composition and distribution regulations and enforcement agencies;
- consumer protection and consumer rights regulations and institutions;

- planning and zoning controls on food retailing, catering and out-door marketing;
- school regulations and education authorities.

Many countries have some legislation or guidance in place that addresses marketing more generally. In such cases, countries may wish to build upon this by implementing the Recommendations. In countries with limited institutional capacity or experience in monitoring and enforcing laws and regulations, it is recommended that they look to other countries, to draw on the experience and expertise of national or international NGOs and academic institutions, as well as investigate opportunities for development assistance in this area.

3.2.3 Lack of resources need not be a constraint to action

Conducting situation analyses of the marketing and regulatory environments is valuable in identifying policy priorities and ways in which new policies can build on those existing. However, this need not be a prerequisite to action. Policies that limit the impact on children of

the marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt, can be implemented before, or concurrent to, the carrying out of a detailed situation analysis. A short list of questions to guide policy development is provided in Table 1.

Table 1
Questions to guide policy development

Step	Questions to be asked	Surveys/Tools/ Evidence	Assessment	Action
One	What is the prevalence of unhealthy dietary practices among children and what is the risk of childhood obesity?	Survey data, historical trends, future predictions	Low prevalence, low risk	Regularly monitor and assess situation
			Low prevalence, high risk	Go to step 2
			High prevalence, high risk	Go to step 2
Two	Are children exposed to the marketing of unhealthy ¹ foods?	Aim to determine extent and nature of current marketing to children (marketing situation analysis); consider situation in neighbouring or peer countries; assess risk	Low exposure, low risk	Consider other interventions to improve children's food environment
			Low exposure, high risk	Go to steps 3 and 4
			High exposure, high risk	Go to steps 3 and 4
Three	Identify priority interventions based on communications channels and techniques exerting the greatest marketing exposure to children, e.g. school and community, television, Internet, supermarkets; or decide to intervene across all media and settings	Gather available information and evidence and seek support from academics, NGOs or other civil society groups who may have relevant information and experience to assess the situation	Consider impact on population sub-groups, e.g. schools may reach all children, while the Internet may only reach certain groups	Go to step 4 (See also Table 6 for types of monitoring, evaluation and research methods)
Four	What policy measures can be used and how can they be implemented or integrated into existing policies?	Identify policy measures already in place (regulatory situation analysis) and other measures available that are suitable for the exposure identified	Assess measures used by other countries and how stakeholders should be involved	Interagency working group to set definitions for the policy (e.g. what foods to cover) and develop implementation strategy

Unhealthy foods can be defined in various ways, such as using national food-based dietary guidelines, or as identified in expert reports such as *Diet, Nutrition and the Prevention of Chronic Diseases*, WHO Technical Report 916. See also section 3.4.3.

3.3 Selecting a comprehensive or stepwise policy approach

Recommendation 3 distinguishes two possible types of approaches for policy development depending on national circumstances and resources in Member States: i) a comprehensive approach, and ii) a stepwise approach.

i) A *comprehensive approach* means that Member States should restrict all forms of marketing to children of foods which are high in saturated fats, *trans*-fatty acids, free sugars, or salt.

ii) A *stepwise approach* implies that some form of risk assessment and prioritization is undertaken in order to identify different forms and types of marketing and the impact of such marketing. Policies are then developed which prioritize action to control the marketing practices, the highest risk being top priority. Separate steps may thus be taken with the following actions:

- to prioritize the places where children gather – e.g. schools;
- to take action against specific types of product;
- to protect certain groups of children;
- to control specific forms of marketing;
- to control specific media.

Using a stepwise approach, a Member State can start with one or more actions and progressively add actions to build a stronger protection. Given that a comprehensive approach has the highest potential to achieve the desired

policy impact, governments need to aim, ultimately, to take such an approach, (i.e. to restrict *all* marketing to children of foods which are high in saturated fats, *trans*-fatty acids, free sugars, or salt). Nevertheless, some Member States may prefer to adopt a stepwise approach initially before moving towards a comprehensive approach at a later stage.

Further details and examples of comprehensive and stepwise approaches are provided in Tables 2 and 3. Table 2 demonstrates the possibilities of developing a comprehensive approach which goes beyond restricting the marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt to either restricting the marketing of *all foods and non-alcoholic beverages* to children, or to restricting the marketing of *all products* to children. Such approaches are based on the view that children are best informed about healthy eating by parents, schools and health professionals rather than commercial entities and that children should grow up in commercial-free environments. The most comprehensive approach to date can be found in the Canadian province of Quebec, where all forms of commercial advertising of any goods directed at children are prohibited (8).

Similarly, but in a more stepwise manner, Norway and Sweden prohibit marketing of any commercial products to children in the broadcast media (9,10). However, these bans only apply to broadcasts originating in their own countries (11).ⁱⁱⁱ

ⁱⁱⁱ These bans must comply with the Audiovisual Media Services Directive (AVMS Directive) which prevents EU and EEA Member States from imposing stricter standards than those laid down by the Directive to audiovisual media services originating from other Member States.

Table 2
Comprehensive policy approaches

<p>Restricting the marketing of foods high in saturated fats, <i>trans</i>-fatty acids, free sugars, or salt to children by addressing “exposure” and “power”.</p>	<p>Description: Completely eliminate all forms of marketing (i.e. anything that acts to advertise or promote the product) of foods high in saturated fats, <i>trans</i>-fatty acids, free sugars, or salt, to children.</p> <p><i>Example: Eliminate all forms of marketing to which a broad age range of children are exposed, with a broad definition of what constitutes marketing directed at children, for all foods defined as being high in saturated fats, trans-fatty acids, free sugars, or salt.</i></p> <p>Assessment: A comprehensive approach to reducing exposure eliminates any opportunities for children to be exposed to marketing, and thereby avoids a situation in which restrictions in one area stimulate food marketers to increase marketing communications through other means. This approach removes marketing not just from exclusively child-centred environments and media – such as schools and children’s television programmes – but also from environments shared with adults, such as shopping malls and prime-time television. This approach only seeks to restrict the promotion of the specific foods and beverages that are considered detrimental to children’s diets. The implementation of this approach requires clear identification of products that cannot be promoted, using methods to distinguish different food types. This approach could act as an incentive for the food industry to develop healthier products (see section 4.3).</p>
<p>Restricting marketing of all foods and beverages to children</p>	<p>Description: Instead of targeting specific food types, this approach removes all forms of marketing of any foods and beverages to children. Exceptions could be made for approved public health campaigns promoting healthy diets.</p> <p><i>Example: Eliminate all forms of marketing of foods and beverages to which a broad range of children are exposed, with a broad definition of what constitutes marketing directed to children, for all foods and beverages – avoiding classifying foods as “good” and “bad”.</i></p> <p>Assessment: This approach is based on the view that children are best informed about healthy eating by parents, schools and health professionals rather than commercial entities. No system to distinguish food types is required; however, this approach restricts the commercial promotion of more healthy foods to children.</p>

Restricting marketing of all products to children

Description: Instead of targeting marketing of foods and beverages, this approach targets marketing of all products to children and aims to protect children from any commercial interests. This is the broadest approach of all and is based on the premise that children have the right to a commercial-free environment.

Example: Eliminate all forms of marketing of any products to which a broad range of children are exposed, with a broad definition of what constitutes marketing directed to children.

Assessment: This approach requires a comprehensive multisectoral approach to restricting marketing of any products specifically to children. This is concordant with the UNCRC and with consumer protection legislation operating in many countries and provides a degree of equity between different industrial sectors. However, consideration needs to be given to issues such as “positive” marketing which encourages healthy behaviour. It also requires acceptance by more players, including the media and communication industries.

Table 3 provides examples of how to develop stepwise approaches and shows that when addressing exposure, consideration should be given to when, where, to whom, and for what products, marketing i) will be permitted, and ii) will not be permitted.

Table 3
Stepwise policy approaches

<p>Restricting marketing of foods high in saturated fats, <i>trans</i>-fatty acids, free sugars, or salt, to children by addressing “exposure”</p>	<p>(i) Specify when, where, to whom, and for what products, marketing <i>will be</i> permitted.</p> <p>Description: This involves specifying when, where, to whom, and for what products, marketing <i>will be</i> permitted.</p> <p><i>Example: Prohibiting all marketing except for certain point-of-sale techniques in supermarkets; prohibiting advertising on television during specified time periods, for children over a specific age, or for specifically defined food products.</i></p> <p>Assessment: The spirit of this approach is to restrict exposure as much as possible. At the same time, however, a means of permitting exceptions needs to be provided:</p> <ul style="list-style-type: none"> • where exposure is not significant for children; • where it is not perceived that exposure is a problem; • where technical, cultural, societal, ethical and practical considerations provide a rationale; • where marketing could have a positive influence; or • where the exception otherwise removes obstacles to policy development. <p>(ii) Specify when, where, to whom, and for what products, marketing <i>will not be</i> permitted.</p> <p>Description: Place restrictions either overall, or by age, communications channel, marketing technique, food types etc. This involves specifying when, where, to whom and for what products marketing <i>will not be</i> permitted.</p> <p><i>Example: Restricting television advertising, or all marketing, but only for a specific food group or in a specific place.</i></p> <p>Assessment: The spirit of this approach is to target particularly extensive sources of exposure. The approach can, for example, restrict the most commonly used channels and marketing techniques, the children who are most vulnerable and/or exposed, or the foods most widely promoted. It thus has the potential to effectively reduce the most significant sources of exposure.</p>
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Restricting marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt, to children by addressing “power”

Description: Place restrictions on the use of marketing techniques that have a particularly powerful effect. This involves specifying which marketing techniques *will not* be permitted.

Example: *Eliminate the use of licensed characters, brand mascots and celebrities, or sales promotions, such as premium offers and collector promotions.*

Assessment: This approach has the ability to reduce the power of marketing by targeting the use of specific techniques which have a particularly powerful effect, a disproportionate influence, or to which children are particularly vulnerable.

Restricting marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt, to children by addressing “exposure” and “power”

Description: Combine a restriction on the use of marketing techniques that have a particularly powerful effect across all media and settings with a restriction of marketing of foods to children in selected media and settings.

Example: *Prohibit all marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt in schools and on school grounds and concomitantly eliminate the use of licensed characters, brand mascots and celebrities, or sales promotions, such as premium offers and collector promotions across all media.*

Assessment: A combined approach allows targeting of those media that are particularly extensive sources of exposure, with elimination of the most powerful marketing techniques or those to which children are particularly vulnerable.

3.4 Defining the terms and scope of the policy: policy specifications

Definitions of the key components of the policy will determine the policy's scope and overall impact. Both the comprehensive and the stepwise approaches raise questions of interpretation. This requires Member States to set definitions for each of the following which are meaningful on their territories:

- How can Member States define “children” for the purposes of implementing the Recommendations,

and who do the Recommendations intend to protect?

- What are the commercial practices falling within the notion of “marketing to children”?
- How can Member States define “foods high in saturated fats, *trans*-fatty acids, free sugars, or salt” or in other ways determine which foods should be targeted for restrictions?

3.4.1 Which children need protection?

The Recommendations do not cover a specific age group, thus allowing Member States to make the decision as to what age group should be protected from the impact of marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt. There are many reasons for this:

i) There is no one globally-agreed definition of the notion of a “child”. However, in certain international treaties and agreements definitions are given, such as in Article 1 of the United Nations Convention on the Rights of the Child (UNCRC) where a child is defined as a person below 18 years of age (12).^{iv}

ii) When determining the age under which children should be protected, policy-makers need to choose an appropriate definition in the context of existing policy, legislation or government guidelines and take into consideration differing cultural traditions.

iii) The evidence is not conclusive regarding a definite “cut-off” age at which children understand the persuasive intent of marketing and adopt the necessary critical stance. Available research studies have focused predominately on marketing to younger children (i.e. children under the age of 12) rather than adolescents, and those studies have been carried out mainly in developed country contexts. The evidence of the impact on children is therefore greater for this younger age group than for older age groups (i.e. age groups of 12–18) (13). Nonetheless, several factors suggest that there is need for caution in

determining whether the policy focus should be placed solely on younger age groups. These factors include:

- The absence of evidence of effects on older children does not mean no effect exists, only that evidence may not have been adequately measured.
- Children are influenced by marketing beyond their understanding of its persuasive intent. Since children may not yet have the maturity for responsible decision making, they remain vulnerable and continue to need protection in many domains.
- There is evidence showing that children react differently to marketing messages based on factors such as socioeconomic status, gender, and the wider environment (14).
- Marketing targeted at teenagers and young adults often reaches children; thus a narrowly-defined age range may not fully protect younger children from the impact of marketing.

When developing the policy it is important to keep in mind that the policy aim is to reduce the impact of marketing on children's diet, not to address whether or not children understand the persuasive intent of marketing. Based on the above discussion, it is clear that several factors need to be considered when deciding which children need protection. Box 2 provides examples of this and Table 4 provides further guidance on factors to consider in setting an age definition in implementing the Recommendations.

^{iv} Article 1, UNCRC, states that “a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”.

Box 2

Examples of age definitions used in restricting marketing to children

Canada:

In the Canadian province of Quebec, Section 248 of the Consumer Protection Act bans advertising of any goods directed at children under the age of 13 (8).

Norway:

In Norway, the Broadcasting Act (9) bans advertising directed at children and advertising in connection with children's programmes on television and in radio. The ban applies to the advertising of any products, including foods and beverages. Regulation No 153 of February 1997 (15) provides guidance on how the Act should be interpreted. In particular, Section 3.6 focuses on advertising and its relationship to children and young people under the age of 18. In determining whether advertising is specifically directed at children, importance is attached, inter alia, to the following factors:

- whether the advertisement concerns a product or a service of particular interest to children;
- the time at which the advertisement is broadcast;
- whether children under the age of 13 are participants;

- whether animation or other form of presentation which particularly appeals to children is used.

Sweden:

In Sweden, Section 7 of the Radio and Television Act (10) states that commercial advertising in television broadcasts, teletext and on-demand TV may not be designed to attract the attention of children aged less than 12 years.

The United Kingdom:

In respect of advertising of high fat, sugar and salt foods, The United Kingdom communications regulator Ofcom specifies the age of 16 years in its binding regulation of TV advertising to children (16).

Internationally:

The social networking site, Facebook, has a general requirement that users must be at least 13 years of age. Advertisements must be age- and country-targeted and must comply with all locally required or recommended industry codes, guidelines, notice and warnings, licenses and approvals.

3.4.2 Communication channels and marketing techniques

As shown in Box 1, a wide range of communication channels and marketing techniques are used to market foods and non-alcoholic beverages to children. Moreover, marketers are increasingly adopting integrated marketing strategies, using a range of techniques simultaneously. Several options are available when deciding the scope of the policy with respect to communication channels and marketing techniques. It is possible to restrict the use of certain marketing techniques across various media and settings, to restrict all marketing to children in certain communication channels or settings, or to restrict all marketing to children across all communication channels and settings. Irrespective of the scope of the policy however, in some media it can be challenging to lay down the definitions for what constitutes "marketing to children". Some considerations and proposals on how to deal with these questions are discussed below and additional aspects are discussed in Table 4.

"Settings where children gather"

Recommendation 5 states that "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". According to the Recommendation, "settings where children gather" include, but are not limited to, nurseries, schools, school grounds and pre-school centres, playgrounds, family and child clinics and paediatric services (including immunization programmes), and during any sporting and cultural activities that are held on these premises. There are many additional settings where children commonly gather, such as public playgrounds, swimming pools, summer schools and programmes, after-school programmes, and sporting events. "Settings where children gather" could also include temporary displays or gathering points for children, such as activity areas created for children in airports, community centres, places of worship and shopping malls. Furthermore, the areas surrounding "settings where children gather" are worth considering, e.g. where marketers use highly prominent billboards to advertise very near schools or on children's routes home from school.

The types of settings where children gather may vary significantly among Member States. It is suggested that, when assessing whether a setting qualifies as a "setting where children gather", Member States aim to include

all places of education and places where child welfare is a primary concern, such as paediatric wards or primary health care settings.

Awareness of how marketing may occur in these settings is important because of the potential implied approval that such settings can give to the marketing message, e.g. a school setting may imply that the school authority approves the marketing message, and a clinic setting may imply a medical endorsement of the message.

A specific focus on in-school marketing

Schools are a captive environment for children, requiring consideration on how best to protect them in the school setting. In-school marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt can encompass the following:

- use of vending machines;
- branding of school catering menus;
- branding of school signs or stadium signs;
- use of vouchers as educational rewards;
- donation of branded school or gym equipment;
- offering of school materials in return for food purchases;
- sponsorship of school events or fairs, or sponsorship in school publications such as yearbooks or event programmes;
- sponsorship of school vehicles.

In-school marketing applies not only to activities on the school premises, but also may apply to any school-organized events, activities or trips that may occur outside the school grounds or outside of school hours. A list of possible types of commercial activities in schools (including, but not limited to, marketing activities) can be found in Annex 2.

In many cases, schools are benefiting from sponsorship from commercial entities associated with foods high in saturated fats, *trans*-fatty acids, free sugars, or salt for educational purposes (e.g. equipment and learning material). In these instances, care should be taken to find alternative sources of funding so as not to jeopardize the financial viability of the educational programme or activity.

Recommendation 5 states that 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. However, Member States may also want to intervene in other ways to promote a healthy food environment for children in schools and other settings where children gather. In the *Global Strategy on Diet, Physical Activity and Health (2)*, governments are encouraged to adopt policies that support healthy diets at school and limit the availability of products high in salt, sugar and fats. Additional ways to intervene in the school environment will not be considered in this document as this issue has been covered in other WHO documents (17).

“Children’s programmes” and “programmes watched by children”

Diverging interpretations have been given of what falls within the notion of children’s television programmes.

One option is to limit the definition of children’s programmes to those programmes broadcast on a dedicated children’s channel and those programmes broadcast on other channels during defined children’s viewing times. However, this does not necessarily reflect the complexity of children’s viewing patterns. In many cases children’s exposure to television advertising may occur during programmes which do not fall within an applied definition of “children’s programmes”. For example, in The United Kingdom study, it was found that 67.2% of children’s viewing in 2009 occurred during adult airtime. For the lower age group (4–9 year olds), the figure was 54.4% and for the higher age group (10–15 year olds) it was 79.8% (18).

An alternative approach is to define children’s exposure in terms of the audience composition, i.e. programmes with an audience of which i) a significant proportion are children or ii) that includes significant absolute numbers of children (both factors can be important).

A third option is to define a “watershed”, i.e. a time in the evening after which the child audience is likely to be small. This may be the easiest option to administer. In some jurisdictions a similar concept is used for other advertising restrictions or showing other material deemed unsuitable for children. The choice of a suitable watershed – e.g. 9.00 pm, 10.00 pm or 11.00 pm – will depend on cultural considerations, typical viewing patterns, and the nature of the programmes broadcast later in the evening. (See Box 3 for examples of definitions of television programmes viewed by children).

Box 3

Examples of definitions of TV programmes viewed by children

Canada:

The Canadian Broadcast Code for Advertising to Children states that a “children’s program” refers to a programme that is directed to the under-12 audience, as defined by the broadcaster (19). In Quebec, the Consumer Protection Act bans advertisement of products that are exclusively designed for children or of particular appeal to children when children consist of 15% of the total audience (8).

Denmark:

The Forum of Responsible Food Marketing Communication to Children – a group of food and media industry associations – sets the age limit to children under 13 years (20).

Ireland:

The definition covers children’s programmes, and programmes where more than 50% of the audience is under the age of 18 or 15 years. In general terms, programmes broadcast after 9.00 pm are not regarded as children’s programmes. If a programme broadcast after 9.00 pm and before 10.00 pm has audience figures which show that over 50% of those watching are under age 18, then in this instance the provisions pertaining to under age 18 apply (21).

Republic of Korea:

Child-targeted programmes are defined by scheduling (i.e. any advertisement that appears in the specified time frame is assumed to target children), and also advertisements which target children by their nature (e.g. all advertisements that feature a “free” toy are assumed to target children).^v

Thailand:

Child-targeted programmes are those rated for children aged between 3 and 13, plus programmes rated for a general audience with a content aimed at children.^v

The United Kingdom:

The definition covers preschool children’s programmes, programmes made for children under the age of 16 shown in children’s airtime on commercial and public service

broadcast channels and all cable and satellite channels.

Youth-oriented programming likely to be of particular appeal to children aged 4 to 15. A programme of particular appeal to children under 16 would be deemed to be one that attracted an audience index of 120 for this age group. If a programme attracts an under 16 audience in a proportion similar to that group’s presence in the population as a whole it is said to index at 100. So an index of 120 is a 20% over-representation by that age group (22).

USA:

The Interagency Working Group on Food Marketed to Children (23) used the audience share (as measured on an annual basis) to define “targeted” to children as 30% for children aged 2–11 years, and 20% for adolescents aged 12–17 years. In both instances, the audience share is based on a percentage that is approximately double the proportion of that age group in the population of the USA. The working group believes that these audience shares are likely to ensure capturing most programming or publications targeted to children or adolescents, while not also including substantial amounts of adult fare that happen to have some young people in the audience.

Company pledges:

Companies with self-regulatory initiatives have defined “children’s television” in several ways, including programmes in which:

- children under 12 constitute over 30% of the audience (McDonald’s USA) (24).
- children under 12 constitute over 25% of the audience (Mars Inc USA) (24).
- children under 6 constitute over 50% of the audience and/or children over 12 constitute over 35% of the audience (Dannon USA) (24).
- children under 12 constitute over 50% of the audience (IFBA Global Commitment, includes Kellogg’s, Mars and others) (25).
- children aged under 14 years of age are targeted (Australian Quick Service Restaurant Industry, including McDonald’s and others) (26).

^v Information collected in the PolMark and StanMark studies of regulatory systems undertaken by the International Association for the Study of Obesity and made available as an interactive database: www.iaso.org/policy/marketing-children/policy-map/ [accessed 2 October 2011].

Marketing techniques of particular appeal to children

This concerns the “power” of the commercial message using various techniques that appeal to the target audience. Techniques can include the use of cartoon characters and fictional narratives which appeal to children, the use of

famous sports personalities or other celebrities which attract children’s attention, or an offer of “free” toys (see Box 4), music, downloadable software, mobile telephone ringtones and other goods and services which may appeal to children. This is the rationale underlying the policy of the Republic of Korea, that the main character of a children’s programme cannot advertise a product during or directly before or after a show (27).

Box 4

The power of “free” toys

“Free” toys given with children’s meals are a widespread and effective fast-food marketing tool targeted at children, and are viewed by parents in The United Kingdom as the marketing technique most likely to encourage children to pester their parents for unhealthy food (28).

According to a report from the US Federal Trade Commission, 10 leading fast service restaurant chains spent \$360 million in 2006 to acquire toys distributed with children’s meals in the United States (29). The Commission reported that in 2006, fast food restaurants sold more than 1.2 billion meals with toys to children under 12, accounting for 20% of food sold for children.

Recognizing the potential power of this form of marketing, the city of San Francisco, California, has legislated to restrict “free” toy promotions in fast food outlets, specifying that toys can be offered only if the accompanying food is under 600 kcal per meal or portion, and less than 0.64 g sodium, less than 35% energy from fat and less than 10% energy from saturated fat and also from added sugars (30). (See Box 5 for other examples of ways to classify foods for determining those foods subject to marketing restrictions).

Other forms of marketing to children via new media

In addition to the marketing techniques and communications channels already discussed, a range of other, and often innovative, marketing methods are increasingly being used. Most food companies now have branded pages on social media networking sites such as Facebook, and have their own sites where they offer a variety of child-friendly attractions. In addition, companies may buy a variety of messaging services which feed advertising to children as pop-up advertisements; they may buy places on the first page of search engine results; and they may track children’s viewing activities so that they can send to a child a set of advertisements related to the child’s favourite activities (31).

Regulating the new media can, in some instances, be challenging and different types of regulation may be used for different forms of marketing. For example, advergames

– computer-based and online games which include brand advertising and product placement – commonly promote food and beverage brands within them, yet they are currently not regulated to the same extent as other types of media, despite their extensive use by children. Individual Internet services may have rules in place to limit irresponsible marketing. For example, Facebook restricts the marketing of alcohol based on the regulations in place in the country of the user. Some food companies may have marketing policies that limit their targeting of children to those over a certain age and may ask that children state that they are over the minimum age when viewing the web sites.

Indirect marketing to children

In order to avoid restrictions on direct marketing to children, advertisers sometimes use methods which they know will influence children’s consumption patterns but

are not directly aimed at the target market. Examples of this include the marketing of products to older age groups. For example, when a younger child sees an advertisement showing older children and young adults enjoying a product, this can have an impact on the child's perceptions and attitudes and may make the product more desirable.

The marketing of child-targeted foods to parents or entire families may also present a problem. The advertisement may appear to be aimed at parents (e.g. "Your child

may enjoy the taste of our healthy breakfast cereal..."), but the child seeing the advertisement is likely to be influenced.

Additionally, it is worth noting that controls or regulations introduced by a Member State, need to be sufficiently comprehensive in order not to be easily circumvented. A restriction on the use of sports stars in promoting foods to children, for example, could be bypassed if the mother of the sports star promotes the food (e.g. "This is what I know my boy likes!").

3.4.3 Which foods to include or exclude?

Recommendation 1 specifies that the aim of the policy should be to reduce the impact on children of marketing of "foods high in saturated fats, *trans*-fatty acids, free sugars, or salt". The use of "or" rather than "and" in the description of the food composition implies that for marketing to be restricted, a high content in one of the nutrients listed above is sufficient to justify marketing restrictions; there is no need for the food to be high in more than one.

Member States can choose to distinguish and classify foods in several ways, for example, by using:

- national dietary guidelines

- definitions set by scientific bodies
- nutrient profile models

More simply, marketing restrictions can also apply on specific categories of foods and beverages only, e.g. sugar-sweetened soft drinks. This method was used in the city of Boston in the United States, where, in April 2011, the mayor issued an executive order requiring city departments to gradually phase out the sale, advertising, and promotion of sugary beverages on city-owned property (32). Further examples of the different methods that have been used to classify and distinguish foods in different countries are set out in Box 5.

Box 5

Examples of methods for distinguishing foods as targets for marketing restrictions¹

Brazil:

Thresholds in the Brazilian regulation specify criteria for nutrients per 100 g/100 ml (33). Food advertisements on television, radio, newspapers, magazines, outdoors, and the Internet need to be accompanied with a written or verbal warning about the risks to health associated with consumption of the product if any of the following thresholds are exceeded:

Saturated fat	5 g/100 g or 2.5 g/100 ml
Trans-fat	0.6 g/100 g or 100 ml
Total sugar	15 g/100 g or 7.5 g/100 ml
Sodium	400 mg/100 g or 100 ml

Drinks with low nutritional value (e.g. soft drinks and concentrates for the preparation of drinks) are also covered

by the regulation. The regulation also requires that health warnings be attached to toys, gifts, "free" samples, discount coupons and charity events associated with such foods. The regulation states that certain foods are exempted: fruits, vegetables (including chilled and frozen vegetables), fruit juices, nuts, seeds, chilled or frozen meats, fresh and frozen fish, milk and yoghurt, cheese, beans, olive oil, vegetable oils, fish oils, and food additives.

Ireland:

In Ireland advertising of all foods must comply with rules concerning the use of celebrities and other techniques. Additional rules requiring specific health messages apply to certain categories of food: primarily fast food, confectionery and carbonated drinks, including low-calorie carbonated drinks.

¹ Unhealthy foods can be defined in various ways, such as using national food-based dietary guidelines, or as identified in expert reports such as *Diet, Nutrition and the Prevention of Chronic Diseases*, WHO Technical Report 916. See also section 3.4.3.

Malaysia:

Regulations on children's TV programme broadcasting in Malaysia restrict the advertising of one category of food, namely "fast foods" defined as foods that are prepared in large quantities in a standardized method, quickly served, and that are advertised through the electronic and printed media.

Republic of Korea:

The model for the Republic of Korea is to ban the sale of energy-dense and nutrition-poor food for children (EDNPFC) at stores within and in the vicinity of school premises, and to restrict TV advertisements of EDNPFC during children's viewing times. The food categories included are:

a) Children's favourite food for snacking: e.g. processed foods: cookies (except traditional sweets); candies; popsicles, breads, chocolate, processed milk; fermented milk (except fermented butter milk and fermented milk powder); ice cream, sausages; fruit and vegetable beverages; carbonated beverages; fermented beverages; mixed beverages and foods prepared on site; pastries, breads and ice cream.

b) Children's favourite food as a meal substitute: e.g. processed foods: (only apply to cup noodles) fried noodles/noodles, Kimbap (steamed rice and various ingredients rolled in seaweed; e.g. Norimaki)/hamburgers/sandwiches and foods prepared on site: hamburgers, pizza.

The levels set for nutrients are:

a) Children's favourite food for snacking

1. Those containing more than 250 kcal and less than 2 g protein per serving.
2. Those containing more than 4 g of saturated fat and less than 2 g protein per serving.
3. Those containing more than 17 g of sugars and less than 2 g protein per serving.
4. Others containing more than 500 kcal or more than 8 g of saturated fat or more than 34 g of sugars per serving.

For those with a serving size smaller than 30 g, levels are applied after converting nutrient contents per 30 g.

b) Children's favourite food as a meal substitute

1. Those containing more than 500 kcal and less than 9 g protein per serving.
2. Those containing more than 500 kcal and 600 mg of sodium per serving (1000 mg sodium in the case of noodle soups in disposable containers such as cups).
3. Those containing more than 4 g of saturated fat and less than 9 g protein per serving.

4. Those containing more than 4 g of saturated fat and 600 mg of sodium per serving (1000 mg sodium in the case of noodle soups in disposable containers such as cups).
5. Others containing more than 1000 kcal or more than 8 g of saturated fat per serving.

The United Kingdom:

The United Kingdom has imposed a statutory ban on TV advertising of food high in fat, sugars, and salt as defined by a nutrient profile model. This model provides a single score based on the values of different constituents of a food, with points given for total energy, saturated fat, salt and total sugars, which are offset by points given for protein and dietary fibre (all per 100 g) and fruit/vegetables/nuts (%). These seven constituents provide a single score for a given food, and if that score is above a certain threshold value, the food or beverage may not be advertised to children. The scoring system has been validated against other models and against expert judgements, and was also reviewed after two years' operational use. The review panel declared that the scheme was suitable and "fit for purpose".

USA:

In the United States, the Interagency Working Group on Food Marketed to Children (23) applies two broad principles (Principle A and B) in categorizing foods as part of their preliminary proposal on recommendations. The aim is to guide industry self-regulatory efforts to improve the nutrition profile of foods marketed to children. The proposed recommendations are designed to encourage children to choose foods that make a meaningful contribution to a healthful diet (Principle A), and minimize consumption of foods with significant amounts of nutrients that could have a negative impact on health or weight – specifically, sodium, saturated fat, trans-fat, and added sugars (Principle B). The proposed goal is that all foods within the food categories most heavily marketed to children meet both principles. Under Nutrition Principle A, individual foods marketed to children would contribute a significant amount of at least one of the following food groups: fruit, vegetables, whole grains, fat-free or low-fat milk products, fish, extra lean meat or poultry, eggs, nuts and seeds, or beans. Main dishes and meals would need to include a meaningful contribution from at least two and three different food groups, respectively. Nutrition Principle B proposes targets for limiting the amount of sodium, saturated fat, trans-fat, and added sugars: foods should not be marketed to children if they contain more than the following amounts:

Saturated fat: 1 g or less per RACC² and 15% or less of calories for individual foods per 100 g (and less than 10% of calories for main dishes and meals)

Trans-fat: 0 g (<0.5 g) per RACC for individual foods (per labelled serving for main dishes and meals)

USA continued:

Added sugars: 13 g of added sugars per RACC for individual foods (per serving for main dishes and meals)

Sodium: 210 mg per serving for individual foods (450 mg per serving for main dishes and meals)

This is a similar approach to the one used in the case of San Francisco's ban on "free" toys with fast food meals if those meals exceeded specified calorie, fat, saturated fat, salt and sugar thresholds, with additional specifications for beverages (see Box 4 for more details).

¹ Unless otherwise indicated, the information in this box is taken from the PolMark and StanMark studies of regulatory systems undertaken by the International Association for the Study of Obesity and made available as an interactive database: see <http://www.iaso.org/policy/marketing-children/policy-map/> [accessed 2 October 2011].

² RACC = Reference Amounts Customarily Consumed. The United States Food and Drug Administration (FDA) has established RACCs for 139 food product categories in order to derive a serving size for a particular product. The RACC values represent the amount of food customarily consumed at one eating occasion.

Member States may use a combination of classification methods, and, for cultural, social or other reasons may also choose to make exemptions for certain products. However, regardless of the approach or combination of approaches taken, Member States should rely on objective, evidence-based methods to determine which foods to restrict, and avoid conflict of interests. This means that the definitions should be developed and approved by independent authorities who have no commercial interest in the subject matter. Furthermore, the classification system should be selected in the context of other regulatory standards already in place. Where foods are classified in a country for other purposes, e.g. as is proposed for regulating health claims in Australia and New Zealand (34), efforts should be made to use the same classification system, or parts thereof, to avoid inconsistencies and repetition (35). (For detailed guidance and a discussion of factors to consider in developing or adapting a nutrient profile model to classify foods, refer to the WHO document, *Nutrient profiling: Report of a WHO/IASO Technical Meeting* (36)).

Although the Recommendations specify "foods high in saturated fats, *trans*-fatty acids, free sugars, or salt" as targets for restriction, Member States are free to elaborate upon this based on their population's epidemiological profile, current nutrition issues, dietary goals and/or existing guidelines. For example, even though "total fats" is not a specific target for restriction in the Recommendations, Member States may decide to include this target to avoid the advertising to children of snacks or deep fried foods containing high levels of vegetable oil.

An additional important consideration is how to deal with the marketing of brands, e.g. company logos or names, particularly where the marketing does not feature specific products. This consideration is discussed in Box 6.

It is also noted that some comprehensive policy approaches do not require distinguishing food types. This would be the case, for example, if marketing of all foods and beverages to children is restricted, or if marketing of all products to children is restricted (as shown in Table 2), the latter of which is the case in the Canadian province of Quebec.

Box 6 Marketing of food brands

A common strategy of marketers is to develop marketing communications that promote only food brands, without referring directly to specific products or services. Efforts to restrict food marketing will need to consider how to deal with brand marketing.

A food brand can be defined as:

a trade mark or design registered in respect of a food product or food range; the name of a manufacturer of a food product or food range; or the name of a food range, or any other words, designs or images, or combination of words, designs or images, that are closely associated with a food range (37).

This area has not been widely addressed in efforts to restrict marketing of foods to children. One potential option for dealing with the marketing of food brands is to restrict the marketing of food brands unless a product, permitted to be marketed (variously defined, see Box 5), is the dominant feature of the marketing communication (37). Another option is to classify the food brand based on the classification (e.g. as healthy or unhealthy) of the top five selling products that are sold under that brand. Other options may need to be considered.

3.4.4 Summary of factors to consider

Table 4
Summary of factors to consider when specifying the details of policy options

Policy specification	Factors to consider	Rationale and implications
Age of a child	Accepted age-based definitions	Many countries have already specified their own definition of a child, either generally, or in policies specific to children or specific to marketing.
	Children whose diets are particularly affected by the exposure to, and power of, marketing communications	Some age groups may be particularly targeted by, for example, confectionery manufacturers, while others may be particularly targeted by, say, soft drinks manufacturers. When making the selection, it is important to keep in mind that the policy aim is to <i>reduce the impact</i> of marketing on children's diet, not to address whether or not children understand the persuasive intent of marketing.
	Exposure is not always limited as intended	Marketing targeted at older children and/or adults often reaches younger children. Thus a narrowly-defined age range may not adequately protect younger children.
Communication channel and marketing technique targeted by the policy	The existence of numerous communication channels and techniques used to promote foods to children	Multiple channels and integrated strategies are often used in a single promotional campaign. Thus, limiting one channel or technique will still leave children exposed, and marketing via other channels and techniques may increase.
	Different communication channels and techniques are responsible for differing levels of exposure and power	Certain channels and techniques are more significant than others; some may lead to greater exposure and/or power than others.
	Communication channels may originate in another country	This applies mainly to broadcast media, particularly television, but also cinema, video games, and digital media such as the Internet which originate in one country but are seen or heard in another. The ability to regulate this cross-border marketing will be affected by prevailing trade law and other legal restrictions on communications across borders. International co-operation may be needed to address this.
	Frequency and duration of marketing communication	Where the decision is made to reduce, rather than to eliminate specific communications channels or techniques it is necessary to also define how frequently, and for how long, the marketing communication will or will not be permitted.

Policy specification	Factors to consider	Rationale and implications
What constitutes marketing to children?	Product	Whether the promoted food products are specifically developed for children, such as particular types of confectionery, snacks or fast foods, is one way of determining whether the marketing is directed at children. Member States should note that these could include products that are both exclusively intended for children and those which have a marked appeal to children.
	Time	For marketing on the broadcast media, one way of determining whether the marketing is directed at children is when it is scheduled, i.e. when children are likely to be watching. A relatively narrow definition, such as during programmes scheduled particularly for children, would affect fewer children than a broader definition, such as between 6.00 am and 9.00 pm. It should also be noted that a large number of children experience marketing even when they are not the only intended audience (see “viewing audience”).
	Viewing audience	For advertising on television, cinema, in print and on the Internet, the differing ways of defining the audience have important implications for the number of children under the set age who are exposed to the message. Definitions include the proportion of children watching, the proportion relative to the adult audience, the total number of children watching, and the television rating. For example, defining child-directed advertising as TV advertising during programmes with an audience made up of at least 50% children under the age of 12, would not cover programmes for both children and adults or other programmes popular with children but not made especially for them, such as sporting events.
	Placement	Marketing may be specifically targeted at children in particular places where children gather, such as: schools and other formal and informal educational establishments; community and youth centres; places of worship; outdoor areas close to these establishments; events such as music and sporting events; entertainment venues such as cinemas; and restaurants popular with children. They may also appear in communication channels popular with children, such as: television and radio; youth-targeted magazines; the Internet; cellular phones; and outdoor media, such as billboards.

Policy specification	Factors to consider	Rationale and implications
	Content	The content of the marketing communication may determine whether a message targets children – for example the use of colours, voices, images, music or sounds of the type that captivate children, activities which are likely to be popular with children, such as collecting or drawing, or involving characters and celebrities attractive to children.
Restricted foods	The existence of dietary guidelines	National dietary guidelines, including food-based dietary guidelines, provide a benchmark for national nutrition policies and can be used as a specific reference point for determining which foods are most appropriately covered in any food marketing restrictions. These guidelines may often identify foods that should be limited by the population.
	Definitions set by independent, non-commercial scientific bodies already in place	If they exist, these can be used as an alternative to dietary guidelines. Guidelines developed by authorities in other jurisdictions may also be considered.
	Definitions set by nutrient profile models	This approach specifically determines criteria regarding which foods should be subject to food marketing restrictions. This approach is advantageous in that it can provide highly precise specifications in relation to food products available in a given country. However, nutrient profile models can be complex and challenging to develop.
	Specific categories of food products	This approach involves identifying and restricting the marketing of foods high in saturated fats, trans-fatty acids, free sugars, or salt, such as: fried foods; snack foods; soft drinks; pre-sweetened breakfast cereals; and confectionery. In order to define these categories, Member States may choose to use existing dietary guidelines, definitions set by scientific bodies, nutrient profile models or other techniques.
	Company names and brands	Consideration needs to be given on how to deal with the marketing of brands, e.g. company logos or names, particularly where the marketing does not feature specific products.

4. Policy implementation

Once a government has designed its policy and set its definitions, it will need to ensure that the policy is implemented. Implementation means that the standards laid down must be effectively applied, that the application is monitored, and that effective procedures exist to ensure that the policies are enforced and breaches are sanctioned.

4.1 Defining the roles of stakeholders

According to Recommendation 6, governments are best positioned to provide the necessary leadership in ensuring effective policy implementation, monitoring and evaluation, while avoiding any conflict of interest. Nevertheless, this does not preclude other interested parties from having a role in the implementation process. Rather, the Recommendations invite governments to reflect on the “defined roles” which could be allocated to other stakeholders. However, in allocating defined roles to other stakeholders, it is important for governments to protect the public interest and avoid any conflict of interest.

As a prerequisite, governments must ensure widespread communication of policies to all stakeholders. This can be done via a discussion forum or other platform gathering all interested parties. More generally, governments could maximize the impact of policies by informing the public at large of the measures designed to restrict the marketing of foods with a high content of saturated fats, *trans*-fatty acids, free sugars, or salt.

4.2 The different policy implementation options

Government leadership means that a government should define the policy aim and objectives, and determine the appropriate regulatory approaches. A distinction is often drawn between rules which are legally binding and enforceable before courts of law, and rules which are not (i.e. “hard” law as opposed to “soft” law). The Recommendations do not determine how policies developed by governments at national level should be implemented. Recommendation 7 only requires that implementation should be “set within a framework developed to achieve the policy objective”.

Statutory regulation refers to an implementation approach through which implementation and compliance are a legal requirement. Statutory regulation can take the form of laws, legal provisions, statutes and other forms of binding norms as interpreted by courts of law and tribunals.

Governments may consider that statutory regulation is undesirable (e.g. for political reasons), and that other forms of regulation are sufficient. A variety of non-statutory approaches exist, including government-led self-regulation, government guidelines and various co-regulatory mechanisms.

Government-led self-regulation refers to industry-led implementation of restrictions on marketing of foods to children, for which government has explicitly agreed and approved the overall framework, including the policy aim and objectives. This option allows stakeholders (including industry operators) to adopt among themselves and for themselves common guidelines at national, regional or global level while governments maintain oversight and ensure that the outcomes meet government-set targets, within a government-set timetable.

Governments or a mandated body can also issue or implement *government guidelines*, which are informative though not legally binding.

The different approaches are not necessarily mutually exclusive; many possible combinations of approaches exist, and most countries are unlikely to take a single route. Co-regulatory implementation mechanisms may comprise of statutory, self-regulatory and/or voluntary industry initiatives. For example, legislation may be supplemented by government guidelines, and government-led self-regulation can complement statutory regulation.

The different approaches are commonly associated with certain advantages and disadvantages. When governments are identifying the most effective approach to implementation, many factors need to be considered, including resources, benefits and burdens of all stakeholders involved.

Statutory regulation requires uniform implementation and compliance by all market actors, thereby ensuring full coverage and a level playing field for food and non-alcoholic beverage companies. Realizing the responsibility of governments both to protect the health of children, and to set definitions in policy according to public health goals and challenges – as well as to ensure policy is legally enforced

– statutory regulation has the greatest potential to achieve the intended or desired policy impact. With a statutory approach, government, or the public sector, carries the cost of policy development as well as compliance monitoring and enforcement. However, when adopting a statutory approach, countries have the option of improving and monitoring the effectiveness of alternative approaches in order to determine the most effective means of protecting children from the marketing of foods high saturated fats, *trans*-fatty acids, sugar, or salt.

In an approach where private sector leads in the implementation process or participates through co-regulatory mechanisms, the cost of policy development and compliance monitoring and enforcement can be lower for governments. Non-statutory approaches may be faster to develop and may also be adapted more quickly to changes in the marketing environment. However, it can be difficult to gain agreement across industry groups and sectors to ensure key definitions of the policy are broad enough to achieve high effectiveness. For example, different industry groups are likely to favour nutrient profiling models with outcomes that favour their products. It may thus be difficult to obtain agreement on standards or definitions of the policy which are sound enough to meet the objective of reducing exposure at a sufficient level to reduce risk to children.

4.3 Effective implementation

Regardless of the regulatory approach taken, it is paramount that objectives are maintained and the key definitions set out by governments at the policy development stage of the process are fully implemented.

Although the level of details provided in the chosen regulatory process may vary from one country to another, they will need to be sufficiently robust to ensure that the intended outcomes will be achieved, and not easily ignored, undermined or rolled back at a later date.

Specific measures for this can include:

1. developing or strengthening existing, comprehensive national and sub-national regulations which control children's exposure to risk and protect children from potentially harmful inducements;
2. establishing or appointing a main institution or agency, as appropriate, to be responsible for following up national policies and monitoring their implementation (e.g. a consumer ombudsman or ombudsman for children; or a fair trading and consumer protection agency);
3. coordinating marketing control strategies with work in other relevant sectors, including child protection, education, health promotion, chronic disease prevention, food supply and food research support, food importation and foreign direct investment, business and economic development, social marketing programmes and government research support;
4. ensuring broad access to information and effective education and public awareness programmes, throughout all levels of society, on the need to

improve child health and nutrition and support parents in the control of children's environments.

Certain stakeholders may be called upon to assist and strengthen governmental action by supporting policy implementation, monitoring and evaluation. Relevant stakeholders may include:

- *The food and beverage industry and the advertising industry*, who may see value in taking a lead in supporting "responsible" advertising and in helping strengthen government action. They may also monitor each other's marketing activities and make complaints about infringements. In particular, competitors may report infringing companies to competent bodies, on the grounds that they have acted unfairly in breach of the policy implementation measures in place.
- *Civil society organizations*, who may be willing to assist in public education and social marketing programmes, and in the monitoring of the marketing controls and making complaints to competent bodies, including relevant public agencies and courts and tribunals. These may include public health advocacy bodies, health care professional organizations, consumer organizations, children's organizations, parents' organizations, and church and community groups.
- *Consumers*, who either individually or collectively, may be given a role as watchdogs and for making complaints to competent bodies, including relevant public agencies and courts and tribunals.

4.4 Effective enforcement

Effective enforcement is an integral part of effective implementation. Regulations are only fully effective if enforcement mechanisms are in place. Enforcement mechanisms are designed to:

- punish infringements to the rules;
- deter potential infringements;
- compensate victims for the harm they have suffered.

Enforcement requires that effective mechanisms are available to all individuals or organizations with a legitimate complaint, and that effective sanctions are in place to encourage compliance. Enforcement mechanisms

vary considerably among Member States, as they are closely linked to their individual legal systems. Generally, enforcement is carried out through courts and tribunals, through public agencies or through self-regulatory bodies. The parties entrusted with policy enforcement vary and depend largely on the implementation of a national policy. If policy is implemented through legislation or other form of binding regulation, a government agency will have been given the necessary powers to investigate and sanction violation of the rules. By contrast, if policy is implemented through self-regulation, it is more likely that a self-regulatory body will have the necessary powers to investigate and sanction breaches.

4.4.1 Who could complain and how?

Potential categories of complainants include:

- an aggrieved consumer and his or her legal representatives;
- consumer associations and other civil society bodies with a public interest in lodging a claim;
- public agencies entrusted with the protection of the public interest against harmful commercial practices (e.g. competition and consumer protection authorities, a consumer ombudsman or a child ombudsman);
- competitors of the food companies or media service providers that have infringed existing rules. It is in the best interest of food companies that their competitors abide by the same marketing policies as they do. This sets a level playing field for companies and reduces scope for gaining an unfair competitive advantage.

Since legal systems vary by country, the enforcement mechanisms designed to supplement the proper implementation of the Recommendations will have to fit

within the broader framework in place at national level. Traditionally a distinction is drawn between i) public and private claims, and ii) individual and collective claims:

- Public claims are generally lodged by a public authority or agency (a fair trading agency or ombudsman), while private claims are mounted by private national parties, such as a consumer, legal persons, consumer organization or a food company).

- Individual claims are lodged by a single party, for example a consumer, while collective claims are mounted by several parties, all being victim of an infringement of the relevant rules. In collective cases claims may be lodged either by a public authority in charge of protecting the public interest, or by several private parties (for example within the context of a class action, or if a consumer organization undertakes to represent the interests of a category of consumers).

4.4.2 What enforcement mechanisms are available?

In the event of a rule infringement, a range of corrective measures is possible (see Box 7 for examples of enforcement mechanisms in different countries). For deterrence purposes, it is important to ensure that the infringing company is exposed to publicity so that investors and consumers are aware of its infringing activities and other companies are deterred from violating existing rules. Governments should therefore insist on the publication of findings of infringement, whether these findings be judicial, administrative or self-regulatory.

The question of other sanctions would need to be considered, whether they are civil or criminal, specific or general remedies, and would determine which courts should have jurisdiction.

If self-regulatory bodies undertake a sanctioning role of their infringing members, this must not exclude the possibility of subsequent legal action. Moreover, the process must be transparent and the competent panel should include representatives other than industry representatives.

Overall, governments should ensure that the nature and extent of the sanctions and penalties imposed are appropriate in their country context. Some points they may wish to consider include:

- **Insufficient penalties:** Penalties such as fines or bad publicity are not always considered adequate in sanctioning the infringing company. If penalties are used they should be sufficiently stringent to deter potential violations of existing rules. For example, a fine levied for each exposure could be more effective in deterring violations than a one-off fine, such as a \$1.00 fine per child per viewing of an infringing TV advertisement, or per Internet “hit”.

- **Retrospective control:** Without a pre-vetting system, complaints are not dealt with until after an advertisement has been published or broadcast. A complaint may not be made for weeks, or possibly months, after the marketing campaign has finished, and during that time, no public protection from the infringing advertisements has been provided. Pre-vetting offers a more secure protection system, but it also requires more resources.
- **Compound effects of marketing:** While a single advertisement is unlikely to determine children’s dietary choices, it is the cumulative exposure of children to the marketing of foods high in saturated fats, trans-fatty acids, free sugars, or salt that is of concern. Children will therefore be protected from such influences only if exposure is recognized as a negative influence on children’s dietary choices and complaints are consequently upheld and adequately sanctioned.
- **Cross-border advertising:** Currently, advertising which originates from sources outside a national jurisdiction is not typically covered by existing national regulations (see section 3.3 for examples adopted by Sweden and Norway).
- **Access to court:** Consumers are often deterred from initiating court proceedings, tending to find such proceedings expensive and burdensome in light of the gains they may obtain if they win their case. Consequently, it is important to ensure that, alongside legal proceedings, other enforcement mechanisms are in place, such as those provided by a self-regulatory authority, ombudsman, alternative dispute resolution or statutory enforcement agency. In particular, governments should consider whether consumer disputes would

not be better resolved through alternative dispute resolution mechanisms. Moreover, consumers who are willing to have their disputes heard should be entitled to assistance from, for example, relevant interest groups or public bodies, or via legal aid

schemes. Finally, if consumers themselves decide to take their own case to court, they should not face undue barriers; small claims, for example, could be lodged and heard subject to a simplified, accelerated, less expensive procedure.

Box 7

Examples of enforcement mechanisms¹

Denmark:

Industry monitoring via complaints and dialogue is the method adopted in Denmark, with a Code of Responsible Food Marketing Communication being enforced through complaints and dialogues via a Forum for Food Commercials web site. Complaints from any party are welcome, and reviewed by the Danish Food and Drink Federation (an industry body). If necessary, the food company is contacted and requested to change the advertisement. No penalties are enforced, but the Federation tells non-compliant companies that they will not support them in the case of negative media publicity for the violation. According to the Federation, companies are deterred by the threat of bad publicity. Of the 10 complaints from consumer organizations since the code was launched, food companies changed their advertising immediately in 7 cases, while more work was needed to encourage change in the 3 remaining.

Nigeria:

Although Nigeria does not have provisions specifically addressing the marketing of food to children, the Nigerian Code of Advertising Practice and Sales Promotion, which is administered by the Advertising Practitioners Council of Nigeria, a statutory body, requires pre-vetting. According to Nigerian law, all advertisements and sales promotions require pre-exposure vetting before publication or screening and it is a punishable offence to air or publish non-approved advertisements (38).

Spain (39):

A pre-copy advice system is in place in Spain, with advertisers requesting advice on advertisements or campaigns from the Spanish Advertising Self-Regulation organization (AUTOCONTROL) before public release. Within three days of request receipt, AUTOCONTROL recommends modifications to bring the advertisement into compliance with the code on marketing to children (PAOS Code) and relevant regulation. Copy advice is binding on the advertiser. In 2008, 355 copy advices were issued regarding the PAOS Code, of which 33% required modification and 2% were not permitted. PAOS Code breaches result in fines ranging from €6000 to €360,000, issued according to the degree of responsibility, damage to the reputation of the company, degree of unfair competition and repetition of the breach.

Sweden:

Sweden's Radio and TV Act bans all types of advertising in television broadcasts to children under the age of 12 years in television broadcasts, searchable text-TV and on-demand TV, as well as the use in advertising of persons or images who play a leading role in programmes that are mainly directed to children under 12 years of age.

Claims relating to the infringement of these rules are often handled by the office of the Consumer Ombudsman (Konsumentombudsman), which is led by a public official responsible for ensuring that the collective interests of consumers are protected. Individual consumers cannot bring about litigation in this area so the Consumer Ombudsman brings cases before the Market Court (Marknadsdomstolen) on their behalf. This is a specialised court competent to examine cases under a number of market statutes. Before bringing a case to the Market Court, the Consumer Ombudsman negotiates with industry or with individual business operators, and enforcement is achieved primarily through voluntary commitments on the part of industry. Most infringements are settled by consent orders issued by the Consumer Ombudsman, although injunction proceedings may be issued in rare cases.

The main tool used by the Market Court is an injunction subject to the penalty of a fine upon non-compliance. The Market Court can also issue a positive information disclosure order. Furthermore, damages may be claimed for infringement of existing rules, as well as for contravention of a legally binding injunction. The advantages of the procedure are that it is centralized and that the Consumer Ombudsman's high status not only brings public attention to the case, but also means that the Consumer Ombudsman enjoys considerable authority when leading negotiations with industry. Moreover, the Consumer Ombudsman is less impeded by financial constraints than consumer organizations, and can more easily take action against large market actors. Finally, the average case before the Market Court lasts six months, which is relatively expedient in comparison to other judicial proceedings.

The United Kingdom: (40, 41):

The United Kingdom Advertising Codes are written by the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP). Membership of these committees includes the main bodies that represent advertisers, agencies and media owners. The codes are administered by the Advertising Standards Authority (ASA), which is the United Kingdom's independent regulator of advertising across all media, including marketing on web sites. ASA adjudications are published on their web site weekly, providing a record of rulings accessible for the benefit of consumers, advertisers and society at large. It is funded by a levy on advertisers. The ASA is recognised by the Government, the courts and by other regulators, such as the Office of Fair Trading, and Ofcom, as the primary means of protecting consumers from misleading advertising.

In 2008, the ASA received just over 26 000 complaints; nearly 2500 advertisements were altered or withdrawn. Sanctions developed to bring about compliance with the Advertising Codes include:

- Advertising alerts: the Committee of Advertising Practice (CAP) can issue alerts to its members, advising them to withhold services such as access to advertising space.
- The withdrawal of trading privileges: CAP members can revoke, withdraw or temporarily withhold recognition and trading privileges.
- Pre-vetting: Offenders may be required to have their marketing material vetted before publication.
- Legal proceedings: Advertisers who refuse to comply with the ASA can be referred to the Office of Fair Trading for legal proceedings under the Consumer Protection from Unfair Trading Regulations 2008 or the Business Protection from Misleading Marketing Regulations 2008.
- Referral to Ofcom: Broadcasters who persistently break the Codes may be referred to Ofcom, which can impose fines and withdraw broadcasting licences.
- Bad publicity.
- Disqualification from industry awards.

¹ Unless otherwise specified, information is collected in the PolMark and StanMark studies of regulatory systems undertaken by the International Association for the Study of Obesity and made available as an interactive database: www.iaso.org/policy/marketing-children/policy-map/ [accessed 2 October 2011].

4.5 International cooperation and cross-border regulation

In resolution WHA63.14, the World Health Assembly urges Member States to take active steps to establish intergovernmental collaboration in order to reduce the impact of cross-border marketing. To date there are few examples of regional collaborations to address the impact of cross-border marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt.

A broad range of media readily crosses national borders. Examples include not only broadcast media and Internet-based marketing, but also print media, such as magazines or comic books, originating in one country and sold in another, and even sponsorship of events and programmes. Some form of cross-border regulation is therefore valuable to prevent children's exposure to marketing which originates outside a national jurisdiction. Recommendation 8 explicitly calls upon Member States to cooperate to put in place the means necessary to reduce the impact of both in-flowing and out-flowing cross-border marketing.

In addressing in-flowing marketing, Member States can more easily limit certain types of media than others. For

example, it may be difficult for a country to limit radio or television broadcasts from a neighbouring country. Thus, addressing cross-border marketing requires that Member States, particularly neighbouring states or those sharing the same language and media, agree on minimum standards which can be effectively enforced using existing or new mechanisms. If countries have an agreement on cross-border marketing, there is greater potential to limit out-flowing marketing. Thus, even if one country has different standards within its borders, it can cooperate with other countries to ensure the media exported to those countries fulfils the standards of those particular countries. Governments may also wish to encourage globally-operating private sector actors to cooperate among themselves and to follow marketing practices that are consistent with the aims and objectives of the Recommendations, or the highest standard practiced in one of the countries, in order to further reduce the impact of cross-border marketing.

Regional cooperation can be considered between Member States where there are similar needs, priorities and stages of development. One example of regional cooperation is

the European Network on reducing marketing pressure to children.^{vi} The 19 countries currently participating in the network are working together to find ways to reduce the marketing pressure on children of energy-dense, micronutrient-poor foods and beverages. The WHO

Regional Office for Europe facilitated the setting up of this network in 2008. Other WHO regional offices have discussed possibilities of establishing similar collaborations. (See Box 8 for more details of regional action among countries in the European Union.)

Box 8

Regional action among countries in the European Union

An example of regional co-operation is the Audiovisual Media Services (AVMS) Directive which applies in the European Union (42). At the core of this legislative instrument is the “Transmitting State Principle” (also referred to as the “Country of Origin Principle”) which requires that the Member State where the message originates should take primary responsibility for upholding the minimum standards laid down in the AVMS Directive, and more specifically in Article 9(2) on the marketing to children of foods which are high in saturated fats, *trans*-fatty acids, free sugars, or salt (11). Moreover, the European Union has adopted a range of consumer law instruments intended to facilitate the

application of EU rules and ensure better consumer redress in cross-border situations. In particular, the Injunctions Directive ensures the defence of the collective interests of consumers in the EU internal market by providing means to bring action for the cessation of infringements of consumer rights. For this purpose the Directive sets out a common procedure to allow a qualified body from one country – which is usually a consumer representative body recognised by Members States’ authorities – to seek an injunction in another.¹ In Sweden, for example, the Consumer Ombudsman can seek redress on behalf of Swedish consumers from business operators established in other Member States (43).

¹ See Directive 2009/22 of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers’ interests (codifies Directive 98/27 as amended), Official Journal of the European Union (2009) L 110/30. The text of the Injunctions Directive, related policy documents and the list of qualified entities designated by all EU Member States are available at: http://ec.europa.eu/consumers/enforcement/injunctions_en.htm [accessed 2 October 2011].

International cooperation at global level occurs through many bodies and organizations including Codex Alimentarius (the joint body on food standards established by WHO and the Food and Agriculture Organization (FAO)), the International Chamber of Commerce (a self-regulatory body which has developed international marketing standards for businesses) (44), and the International Standards Organization. Other examples of international action that may provide useful experiences of international collaboration are the International Code of Marketing of

Breastmilk Substitutes (45) and the Framework Convention on Tobacco Control (46). Nongovernmental international action includes the International Chamber of Commerce framework on marketing (47), the International Food and Beverage Alliance pledges (48) and the proposals for an international code of marketing published jointly by Consumers International, the International Obesity Task Force and the International Association for the Study of Obesity (49).

^{vi} Information about the network can be found at: www.helsedirektoratet.no/marketing [accessed 2 October 2011].

5. Monitoring, evaluation and research

In resolution WHA63.14, the WHA urges Member States to establish a system for monitoring and evaluating the implementation of the Recommendations. Specifically, Recommendations 10 and 11 state that policy frameworks should include systems for monitoring and evaluation to ensure the overall aims and objectives are being met.

In this case, a typical policy objective would be to reduce the exposure of children to the marketing of foods high in

saturated fats, *trans*-fatty acids, free sugars, or salt, and/or to reduce the power such marketing has on children. Correspondingly, a typical policy aim in this area would be to reduce, through marketing, the ill health effects on children of the consumption of such foods. Monitoring and evaluation activities need to be directed at the specific aims and objectives of the policy, and should be supplemented by additional research as required.

5.1 What needs to be monitored, evaluated and researched?

There are a broad range of activities and outcomes that Member States may choose to monitor and evaluate, and governments will need to prioritize these by deciding what information will be most beneficial. It is important to ensure that policies are being implemented according to the original intention, and that they are effective, with no unwanted side effects. Monitoring may therefore include surveys to assess whether a policy is indeed being put into practice and adhered to by all relevant parties (e.g. that self-regulatory rules are being followed by all participants) as well as surveys to assess the policy outcomes (e.g. that there are reductions in the exposure of children to marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt), the power of this marketing, and changes in children's food preferences and dietary patterns.

Table 5 lists questions relating to the potential scope of monitoring and evaluation, with potential activities ranging from a comparative survey of what regulations are being implemented in different locations, to the monitoring of dietary patterns and health outcomes.

It is noted that most of the available evidence on the extent, nature and effects of food marketing to children comes from high-income countries. Member States with no current national data should consider investing in research programmes to collect baseline data in these areas. Baseline data will enable Member States both to evaluate future progress as well as enable cross-country comparisons to be made.

Table 5
Monitoring, evaluation and research methods

What to monitor and research	Monitoring and research approaches and methods	Considerations
Presence or absence of regulation, and if present, what forms they take	<ul style="list-style-type: none"> • Country-by-country surveys • Local authority surveys • School-by-school surveys 	<ul style="list-style-type: none"> • Needs reliable informants and cross-checking
Presence or absence of the enforcement of regulation, and, if present, the quality of enforcement	<ul style="list-style-type: none"> • Surveys of authorities and agencies • Case studies identifying good and bad practices • Consumer reports 	<ul style="list-style-type: none"> • Needs reliable informants • Assistance from media and NGOs typically required
Advertising activities and material: volume, frequency, media type	<ul style="list-style-type: none"> • Commercial surveys on expenditure for advertising, types of advertisements and audience type (data sources include global and national market research companies). Member States may wish to contact their national advertising associations for details on how to obtain such data. • Company-produced data on their own marketing activity • Case studies on new trends and methods; news stories on industry spending on new media • Government sampling of media exposure • Consumer organizations' surveys of sectors, advertising types and exposures • Academic research 	<ul style="list-style-type: none"> • May be difficult or expensive to obtain commercial data; otherwise may need to rely on spot reports from NGOs or academic studies • Need to consider trends over time and across population sub-groups
Non-advertising promotional marketing activities, including point of sale displays (i.e. displays at checkout till or counter), special offers, labelling, packaging, product presentation (see Box 1 for details on other methods used)	<ul style="list-style-type: none"> • Commissioned surveys or consumer organization surveys of relevant indicators • Industry reports and case studies 	<ul style="list-style-type: none"> • May be difficult or expensive to obtain commercial data; otherwise may need to rely on spot reports from NGOs or academic studies • Need to consider trends over time and across population sub-groups

What to monitor and research	Monitoring and research approaches and methods	Considerations
Children's exposure to marketing	<ul style="list-style-type: none"> • Survey data on audience size and characteristics, including child viewing of non-child programmes • Surveys of children's use of TV, videogames, Internet • Surveys to assess exposure to marketing 	<ul style="list-style-type: none"> • May be difficult or expensive to obtain commercial data; otherwise may need to rely on market surveys, sweeps, NGO and academic reports • Need to consider exposure differences across population sub-groups
Effect of marketing on children's attitudes, beliefs and preferences	<ul style="list-style-type: none"> • Survey and interview data of children, parents and school teachers • Literature review • Marketing industry trade literature 	<ul style="list-style-type: none"> • Need to consider population sub-groups
Effect on actual consumption: product sales, purchase behaviour	<ul style="list-style-type: none"> • Industry reports on sales. • Food purchase surveys and household shopping basket surveys • Surveys of children's purchasing behaviour; "pocket money" surveys, school food purchases • Industry trends in new product development 	<ul style="list-style-type: none"> • May be difficult to directly correlate marketing to sales • Reliant on company-supplied information plus independent surveys • Need to consider population sub-groups
Changes in food and beverage company behaviour	<ul style="list-style-type: none"> • Marketing expenditure for various products • Proportion of brands made up by the foods targeted by restrictions • Proportion of, or absolute sales of, foods targeted by restrictions • Sales trends over time • Corporate Social Responsibility statements • Compliance with marketing codes 	<ul style="list-style-type: none"> • Reliant on company-supplied information plus independent surveys of performance
Dietary patterns and health outcomes	<ul style="list-style-type: none"> • Commissioned and academic sample surveys and nationally representative surveys of dietary intakes • Surveys of changes in food purchase patterns from major outlets, trends in eating away from home, trends in fast food purchases • Health survey trends, reported disease trends, surveys of child nutrition and weight status 	<ul style="list-style-type: none"> • Effects on dietary patterns, and health outcomes in particular, are likely to be long term • Special care needed with self-reported data • Need to consider population sub-groups

Examples of policy monitoring activities related to the implementation of regulations in different countries are provided in Box 9.

Box 9

Examples of policy monitoring related to the implementation of regulations

Spain:

Research into the compliance with the Spanish PAOS Code found that, of a total of 203 television advertisements from companies that agreed to the PAOS Code, the overall prevalence of non-compliance was 49.3% (versus 50.8% among those that did not agree to the code), with 20.7% of advertisements considered of uncertain compliance. Non-compliance was more frequent on Saturdays, in longer advertisements, in advertisements containing promotions or dairy products, and for advertisements from companies of French or US origin. The researchers concluded that non-compliance with the PAOS Code was very high and was similar for companies that did and did not agree to the Code, casting doubt on the Code's effectiveness and oversight system (50).

The United Kingdom:

In 2006, the United Kingdom government introduced regulations restricting TV advertising to children. On average, children aged 4–15 saw 37% less advertising of products high in fat, salt or sugar in 2009 than in 2005. Specifically, children aged 4–9 saw 55% less and children 10–15 saw 22% less. Children overall saw less advertising featuring licensed characters (a decrease of 84%), brand equity characters (a decrease of 56%) and promotions (a decrease of 41%) (18,21). Additionally, using 2003 as a baseline, the United Kingdom Department of Health reported that annual expenditure for child-themed food and drink advertisements across all media decreased by 41% from £103 million in 2003 to £61 million in 2007 (51).

5.2 Key principles for monitoring, evaluation and research

Governments need to bear in mind three key principles when monitoring and evaluating their policies on the marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt to children, and when carrying out or commissioning further research:

- Member States are expected to act in the public interest and ensure that there is *no conflict of interest*. Careful consideration is required as to the question of whom they should entrust to monitor and evaluate policies. The national plans must clearly define the roles and responsibilities of each stakeholder in the monitoring and evaluation process. In particular, they must ensure that the process in question is both transparent and independent (i.e. independent from any party which may have a conflict of interest) – a precondition to its trustworthiness.
- Member States may need to take a broad approach to monitoring and evaluation, in light of the fact that commercial entities have diversified their marketing strategies and promote their goods and services (as well as themselves) through a wide range of media, using a broad range of marketing techniques.
- Member States can view monitoring and evaluation as an ongoing, learning process, complemented by research. Monitoring and evaluation should be carried out on a regular basis, and Member States should use the outcome of the process and existing research in order to take corrective measures as necessary, if, for example, aims are not met or unexpected outcomes arise.

5.3 Obtaining data for monitoring and evaluation

As indicated in Table 5, a wide range of data may be required for monitoring and evaluation purposes. Where possible, existing data from surveys and research reports should be used, and collaborations with NGOs and universities are likely to be beneficial in gathering and obtaining necessary data.

Certain key data, e.g. data on market shares, sales volumes and costs for advertising, for use in monitoring and evaluation, are likely to be held by commercial entities such as food manufacturers, retailers, advertisers and market research companies. These data may be commercially sensitive and expensive to obtain. However, it may be possible to work with industry to access such data without harming competitiveness. For example, companies may be more willing to release historical data from previous years or to release data if brand names are removed.

Another response in certain situations is for government-sponsored enquiries to be empowered to require data to

be submitted by commercial agencies, albeit in a form that removes some of the commercial sensitivity. For example, in 2008, the United States Federal Trade Commission published *Marketing Food to Children and Adolescents: A Review of Industry Expenditures, Activities, and Self-Regulation*, which served partly to gather baseline data for monitoring and evaluation activities. In the process of compiling this report, they issued compulsory process orders legally requiring food manufactures, distributors, marketers and quick service restaurants to provide data on marketing expenditure and activities (29). Government bodies may also gather data by holding hearings at which the owners of data may be called to give evidence in person. At the UK Parliamentary Select Committee on Health's enquiry into obesity, oral evidence was given by representatives of the food industry, advertising agencies, supermarkets, government officials and medical experts (52). A problem in these situations is that the validity and reliability of the evidence provided cannot easily be assessed.

5.4 Monitoring, evaluation and research processes

Monitoring and evaluation should consist of a set of processes and a set of indicators. The processes should aim to be *comprehensive, systematic and transparent*, while the indicators should aim to be *clearly defined, specific and quantitative*. Similarly, research should consist of clearly described methods, should be replicable by other investigators, and the results should aim to be objective and quantitative.

These need to be determined by best practices available at the time and in country context. The funding of research

and monitoring needs to be considered carefully, with the need for independence paramount. Continued support is important to ensure that monitoring can be sustained over the necessary time periods, to view the effects, and to prevent any covert rolling-back of the strength of controls in place.

Research skills available to policy-makers may include academic specialist research units, consumer and public health advocacy organizations, and commercial market research organizations.

5.5 Indicators for monitoring and evaluation

There are several layers of evaluation of the effectiveness of policies. The WHO publication, *Global Strategy on Diet, Physical Activity and Health – A framework to monitor and evaluate implementation (53)*, identifies the three activities that need to be monitored: i) processes, ii)

outputs and iii) outcomes. In simple terms, processes are the actions required to develop and implement a policy, outputs are the immediate results of that policy, and outcomes are the longer-term effects that the policy was designed to deliver.^{vii}

5.5.1 Process indicators

In the present case, processes are the marketing controls designed to restrict children's exposure to, and influence from, the marketing of foods and non-alcoholic beverages high in saturated fat, *trans*-fatty acids, sugar or salt. Examples of process indicators include:

- the existence of a regulatory mechanism to control marketing foods and non-alcoholic beverages to children;
- the existence of a monitoring system to ensure compliance with the controls on marketing;

- the number of breaches in compliance, and the trends in this number over time;
- the percentage of schools with policies to limit promotional marketing and promotional branding relating to foods and beverages, and trends in this percentage over time;
- the number of companies that have made pledges/commitments to reduce marketing.

Table 6 shows additional resources related to process indicators.

Table 6
Resources related to monitoring of process indicators

Monitoring resources	Source
Review of national policies and regulatory controls on marketing food and beverages to children	Hawkes and Lobstein, 2010 (54)
Example of an independent analysis of compliance rates with a co-regulatory national code	Romero-Fernández et al, 2010 (50)
Review of media articles on government marketing policies	Henderson et al, 2009 (55)
Analysis of company statements and pledges	Consumers International, 2009 (56) Hawkes and Harris 2011 (57)

^{vii} Resources for monitoring marketing of foods to children are currently being developed by several groups. In particular, the European Network on reducing marketing pressure on children, is developing a protocol for sweeps of food marketing on TV, the Internet and in supermarkets (www.helsedirektoratet.no/marketing [accessed 2 October 2011]), and Consumers International is developing a broader monitoring manual (www.consumersinternational.org/ [accessed 2 October 2011]).

5.5.2 Output indicators

Outputs are the immediate intended results of the policies being put in place. In the present case, this is a reduction in the marketing of certain foods to children, both in terms of children's exposure to the marketing and, if they are exposed, a reduction in the power the marketing has to influence children's consumption patterns.

The two aspects, exposure and power, can be used as a starting point for analysing marketing messages. Exposure can be assessed using indicators such as frequency and repetition of messages in specified settings, their presence/absence on web pages or embedded in games, and other indicators of children's contact with promotional marketing. Exposure surveillance should take account of different population sub-groups, their interaction with different types of media, and their access to different ranges of branded foods.

The most common method in evaluating power is by content analysis, which classifies message content and technique according to a framework providing both quantitative and qualitative evidence. Examples of content analysis scoring include the number and type of child-attractive images (cartoon characters, celebrity

characters, etc.), the use of child-attractive product form (colours and shapes of products, etc.), the use and forms of child-attractive add-ons (gifts, toys, music downloads, cinema vouchers, club membership etc.). As with exposure, power surveillance should take account of differential exposures of children in different population sub-groups and differential sensitivity and effectiveness between population groups and across the different techniques used.

Several examples of indicators and surveillance techniques for monitoring and evaluation related to power and exposure are provided in Table 7.

Further analyses may include the nutritional quality of the food or beverage being marketed. The evaluation of nutritional quality should be made in the light of national recommendations for healthy eating (e.g. food-based dietary guidelines) and specific products may be classified by food category or scored against a chosen nutrient profiling scheme. Several examples of research methodology using different approaches to the categorization of foods are provided in the References section (58–65).

5.5.3 Outcome indicators

Examples of outcomes in the present context include indicators related to the health effects of the marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt on children, which can be used to evaluate policy impact are:

- o Children's awareness, attitudes, beliefs and preferences regarding food and marketing, and changes over time;
- o Children's food consumption, and changes over time;

- o Children's dietary patterns over time (e.g. demonstrating a move away from foods high in saturated fats and *trans*-fatty acids, free sugars or salt);
- o Children's weight status over time (e.g. demonstrating a reduction in the proportions of children and adolescents who are overweight and obese).

Monitoring children's diets, heights and weights requires surveillance schemes which are outside the areas covered in this document.

Table 7
Examples of monitoring and associated indicators related to output:
exposure and power

Media/setting	What to look for	Example indicators	Data sources and methods
TV: (including programmes, sports events, advertisements)	<ul style="list-style-type: none"> - Hours when children are typically watching television (not only children’s programmes but also family shows, sports events and films which children may be watching). - Quantity of exposures per hour for all commercial messages, for food and beverage messages, and for “unhealthy”¹ food and beverage messages. - Promotional techniques used, which might appeal to children (e.g. cartoons, super-heroes, gifts). 	<p>Exposure:</p> <ul style="list-style-type: none"> o Total number of adverts for “unhealthy”¹ foods shown on the television channel(s) most popular among children on 2 weekdays and 1 weekend day during a specified time (e.g. 6.00 pm–11.00 pm). o Total number of adverts for quick-service restaurants (fast food). <p>Power:</p> <ul style="list-style-type: none"> o Number of adverts for “unhealthy”¹ foods using child-attractive images (animation, cartoon and licensed characters, celebrities) or product form (colours and shapes of products etc.) on television on 2 weekdays and 1 weekend day during a specified time (e.g. 6.00 pm–11.00 pm). o Number of adverts for quick-service restaurants offering child-attractive add-ons (gifts, toys, music downloads, cinema vouchers, club membership etc.) on television on 2 weekdays and 1 weekend day during a specified time (e.g. 6.00 pm–11.00 pm). 	<ul style="list-style-type: none"> - Recording of television channels’: <ul style="list-style-type: none"> a) advertising exposure b) content analysis - Data from market research companies on: <ul style="list-style-type: none"> o programme audience size o advertising exposure o company expenditure - Focus group interviews with children or parents. - For examples of surveillance research see: <ul style="list-style-type: none"> - Consumers International, 2008 (64) - China: Parvanta et al, 2010 (66) - The United Kingdom: Sixsmith and Furnham, 2010 (67); - Rudd Center, 2010 (59) - Mexico: Perez-Salgado, 2010 (60) - Spain: Romero-Fernández et al, 2010 (50) - Australia: Kelly et al, 2008 (58) - USA: Harris and Bargh, 2009 (68) - International: Kelly et al, 2010 (65)

¹ Unhealthy foods can be defined in various ways, such as using national food-based dietary guidelines, or as identified in expert reports such as *Diet, Nutrition and the Prevention of Chronic Diseases*, WHO Technical Report 916. See also section 3.4.3.

Media/setting	What to look for	Example indicators	Data sources and methods
Internet: (including social networking sites, search engines, paid-for marketing and company-owned sites)	<ul style="list-style-type: none"> - Food and beverage company-owned sites and sponsorship messages, pop-ups and paid-for links on other sites (e.g. search engines, social networking sites). - Presence of branded images of food and beverage products, presence of food and beverage promotional messaging, links and buttons to promotional messaging. - Promotional techniques used which might appeal to children (e.g. games, vouchers, downloadable software, music, club memberships). 	Exposure: <ul style="list-style-type: none"> o The number of food and beverage companies having web sites with special pages for children. o The number of web sites popular among children having links to television commercials. o The number of adverts for “unhealthy”¹ foods on common search engines over one week. Power: <ul style="list-style-type: none"> o The number of food and beverage companies having web sites with games for children. o The number of selected web sites popular among children having games for children. o The number of food and beverage companies having web sites with quizzes (for market research). 	<ul style="list-style-type: none"> - Strategic selection of web sites to obtain a “snapshot” of the situation, via: <ul style="list-style-type: none"> a) web sites most popular among children b) web sites of food and beverage companies - Data from market research companies on: <ul style="list-style-type: none"> o child use of Internet sites o advertising exposure o company expenditure on child targeted online advertising - Focus group interviews with children or parents. - For examples of surveillance research see: <ul style="list-style-type: none"> - Brady et al, 2010 (69) - Alvy and Calvert, 2008 (70) - Consumers International, 2008 (64) - Kaiser Family Foundation, 2006 (71) - Which?, 2005 (61) and 2006 (72)

Media/setting	What to look for	Example indicators	Data sources and methods
Schools: (including play areas, canteens, pre-schools, kindergartens, nurseries, clubs)	<ul style="list-style-type: none"> - Branding on classroom teaching materials and equipment, posters, exercise books. - Branding on sports clothing and equipment. - Branded vending machines, branded displays in canteens. - Branding of play areas and toys (play shops, play-foods). - Billboards in the school grounds and close to schools. 	<p>Exposure:</p> <ul style="list-style-type: none"> o The number of school activities sponsored by food or beverage companies over a year, including sporting events and competitions. o The presence or absence in schools of branded equipment, clothing etc. for sports activities and branded materials in the classroom sponsored by food and beverage companies. o The presence or absence in schools of branded vending machines. <p>Power:</p> <ul style="list-style-type: none"> o The number of times brand-linked cartoon characters and animation are used in school activities over a 1-year period. o The number of times “free” branded gifts are distributed over a 1-year period. o The number of “free” distribution of gifts (e.g. toys or product samples) associated with food or beverage companies over a 1-year period. 	<ul style="list-style-type: none"> - School inspection reports on school environment, school financing. - Focus group interviews with children or parents. - Data from market research companies on marketing in schools. - For examples of surveillance research see: <ul style="list-style-type: none"> - Molnar et al, 2010 (73) - Walton et al, 2009 (74)

Media/setting	What to look for	Example indicators	Data sources and methods
Magazines: (including comic books, magazine inserts, sports, fashion and music magazines)	<ul style="list-style-type: none"> - Advertising and editorial content. - Gifts, promotions, club memberships offered by the magazine. 	Exposure: <ul style="list-style-type: none"> o The number of adverts for “unhealthy”¹ foods in a selection of the top-selling children’s magazines (e.g. over a 6-month period). Power: <ul style="list-style-type: none"> o The number of branded food references (e.g. direct advertisements, part of an editorial, product competition, premiums, games, puzzles, use of children’s icons, branded non-food promotions by food companies or quick service restaurants) in a selection of the top-selling children’s magazines (e.g. over a 6-month period). 	<ul style="list-style-type: none"> - Content analysis of a selection of the top-selling children’s magazines. - Data from market research companies on print media marketing and company spending. - For examples of surveillance research see: <ul style="list-style-type: none"> - Kelly and Chapman, 2007 (75) - Jones et al, 2010 (76)
Point of sale: (including promotions, packaging and labelling in supermarkets and quick-service restaurants)	<ul style="list-style-type: none"> - Placement by supermarket checkout tills, placement at low, “toddler level”, line of sight. - Labelling and packaging designs aimed to appeal to children. - Purchase incentives aimed at children: “pocket money” size of portions, gifts, cartoons, puzzles. - Provision of play areas, toys, nursery areas at quick-service restaurants. - Quick-service restaurants and confectionery shops located close to schools. 	Exposure: <ul style="list-style-type: none"> o The number of packaged food products targeting children or youth in one major or several selected supermarkets, using cross-promotions (e.g. third-party animated or cartoon characters; celebrities; athletes; sports teams and events; tie-ins with television shows and movies; theme parks; giveaway toys and games; charities). Power: <ul style="list-style-type: none"> o The number of products within selected food categories with a message designed to attract a child’s attention (e.g. promotions, child features and games web sites). 	<ul style="list-style-type: none"> - Data from market research companies on point of sale marketing and company spending on point-of sale marketing - For examples of surveillance research, see: <ul style="list-style-type: none"> - Which?, 2006 (72) - Harris et al, 2010 (77) - Elliott, 2008 (78) - Rudd Center, 2010 (59) - Consumers International, 2008 (64)

Media/setting	What to look for	Example indicators	Data sources and methods
Outdoors: (including billboards, posters, moving vehicles)	<ul style="list-style-type: none"> - Billboards and posters in public spaces, along roads and in sports arenas, and near to schools. - Moving vehicles, such as trucks, buses, boats, ski lifts. 	<p>Exposure:</p> <ul style="list-style-type: none"> o The number of billboards with advertisements for the specified foods in a selection of urban areas (e.g. largest avenues) and suburbs. <p>Power:</p> <ul style="list-style-type: none"> o The number of billboards advertising the specified foods using child-attractive images (animation, cartoon- and licensed characters, celebrities). 	<ul style="list-style-type: none"> - Observation and recording/photographing. - Data from market research companies on outdoor marketing and company spending on outdoor marketing. - For examples of surveillance research, see: <ul style="list-style-type: none"> - Pinto et al, 2007 (79).

Definitions and glossary of terms

Advergames: Internet-based or downloadable video games promoting a brand name product by featuring it as part of the game.

Advertising: The paid public presentation and promotion of ideas, goods, or services by a sponsor that is intended to bring a product to the attention of consumers through a variety of media channels such as broadcast and cable television, radio, print, billboards, the Internet, or personal contact.

Advertising directed at children: Marketing intended for children or with particular appeal to children.

Advertising campaigns: A group of advertisements, commercials, and related promotional materials and activities that are designed to be used during the same period of time as part of a coordinated marketing plan to meet specified advertising objectives.

Brand: A name or symbol that legally identifies a company, a single product, or a product line to differentiate it from other companies and products in the marketplace. A “food brand” is a “brand in respect of a food product or food range; the name of a manufacturer of a food products or food range; or the name of a food range, or any other words, designs or images, or combination of words, designs or images, that are closely associated with a food range” (37).

Branding: A marketing feature that provides a name or symbol that legally identifies a company, a single product, or a product line to differentiate it from other companies and products in the marketplace.

Brand equity characters: Characters or mascots associated with a particular brand.

Buzz Marketing: Peer-to-peer marketing.

Co-branding: A technique where two companies partner to create one product. It is used to reach new customers and to extend a company’s name and trademark to new areas of the consumer market.

Consumer promotion: A form of non-personal sales promotional efforts that are designed to have an immediate impact on sales. This form of promotion uses

media and non-media marketing communications for a limited time to increase consumer demand, stimulate market demand, or increase product availability. Examples of consumer promotion include coupons, discounts and sales, contests, point of purchase displays, rebates, and gifts and incentive items. Consumer promotion is also called sales promotion.

Cross-promotions: A consumer sales promotion technique in which the manufacturer attempts to sell the consumer new or other products related to a product the consumer already uses or which the marketer has available.

Direct advertising: A form of advertising that involves sending a promotional message directly to consumers through direct mail or telemarketing rather than through a mass medium such as television or the Internet. Direct advertising is also called direct marketing.

Entertainment and media organizations: Organizations that can play an important role in shaping people’s perceptions, desires and societal norms regarding food. In particular, entertainment organizations (such as television channels and video game producers) and media organizations have substantial influence over consumers in three ways: i) they represent communication channels for advertising and marketing messages reaching consumers; ii) they are a source of information about diets and products; and iii) they report on food-related stories that can have important influences on food environments.

Exposure: The reach, frequency and media impact of the message.

Fast Food: This includes foods and meals that are designed for ready availability, use, or consumption and sold at eating establishments for quick availability or take-out.

Food: Food and non-alcoholic beverages.

Food and beverage manufacturers: These include the manufacturers of the processed foods, that now dominate diets in high-, middle- and many low-income countries. Large multinational and transnational companies dominate the industry globally. Food and beverage manufacturers influence the key areas that are subject to monitoring under the proposed framework, including product composition, marketing, and nutrition labelling and health claims.

Food retailers: These are broadly classified into the following groups: large self-service stores (typically supermarkets and hypermarkets), small self-service stores (e.g. convenience stores), small full-service stores (e.g. delicatessens), and traditional markets (open air or covered). The number of supermarkets is increasing rapidly worldwide. Many supermarkets are part of large chains that operate at national levels and their level of influence in the food supply chain is high, most particularly regarding the range and positioning of products available in store. Furthermore, many supermarkets have extensive ranges of “house” or generic brand products with customised product packaging, meaning that they have a relatively high level of influence over product composition and labelling. The other groups of food retailers are typically independently owned and operate more locally, although convenience stores are often part of larger chains that have increasing levels of influence over the food environment.

Food-service providers: These include full-service restaurants, quick-service restaurants (QSR) and caterers. These organizations have been widely identified as having an important role to play in creating food environments that support, rather than undermine, efforts to encourage healthy eating. In particular, food-service providers control the composition of the products they provide and the way that these products are marketed. Furthermore, through menu labelling they have opportunities to provide detailed and innovative nutrition information to consumers. Many QSR chains are highly globalized and international in their operations, whereas full-service restaurants and caterers tend to be independent and operate more locally.

“Free” (with quotation marks): This refers to the offering of toys or other gifts when purchasing specific children’s menus or meals or a specified number of the same product or brand.

Free (without quotation marks): When used with promotional material refers to material that is given out without the need to make a purchase or provide proof of purchase.

Host selling: A character appearing in a television programme with an advertisement following the television show in which the same character appears.

Indirect advertising: Any advertising not covered under “direct advertising”.

Industry trade associations and representative bodies:

Organizations established and funded by businesses to represent their interests. Industry trade associations typically promote collaboration and standardization between companies, and participate in public relations activities such as advertising, education, and political lobbying on behalf of their members. The majority of associations in the food industry operate nationally with some bodies operating internationally. As representative groups they can have a high degree of influence over standards regarding product composition, marketing and nutrition labelling, and they tend to be powerful in lobbying roles.

Integrated marketing strategies: Strategies designed to assure that all promotional activities, including media advertising, direct mail, sales promotion, and public relations, produce a unified, customer-focused promotion message, relevant to the customer and consistent over time.

Internet marketing: A promotional activity that occurs on the Internet, which connects consumers to companies’ brands and products for the purpose of stimulating sales.

Licensed characters: Characters owned by one company who may be licensed to another company for promoting a product.

Marketing: Various practices which constitute a 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.

Marketing research: This involves activities that link the consumer, customer, and public to the marketer through information that is used to identify and define marketing opportunities and problems; generate, refine, and evaluate marketing actions; monitor marketing performance; and improve understanding of marketing as a process. Marketing research specifies the information required to address these issues, designs the method for collecting information, manages and implements the data collection process, analyzes the results, and communicates the findings and their implications.

Media service provider: The natural or legal person who has editorial responsibility for the choice of the audiovisual content of the audiovisual media service and determines the manner in which it is organized.

New media: This includes the possibility of on-demand

access to content any time, anywhere, on any digital device, as well as interactive user feedback, creative participation and community formation around the media content. Most technologies described as “new media” are digital and include the Internet, web sites, computer multimedia, computer games (Advergaming), online video advertisements and viral videos, mobile marketing, short message service (SMS) and mobile web applications. New media does not include television programmes, feature films, magazines, books, or paper-based publications, unless they contain technologies that enable digital interactivity.

Nutrient profiling: The science of classifying or ranking foods according to their nutritional composition for reasons related to preventing disease and promoting health.

Obesity: An excess amount of subcutaneous body fat in proportion to lean body mass. In adults, a BMI of 30 or greater is considered obese. In this report, obesity in children and youth refers to the age- and gender-specific BMI that is greater than two standard deviations in the WHO Growth reference charts for the age groups 5-19 years.

Persuasive intent: The cognitive awareness and demonstrated ability of children and youth to recognize and comprehend the inherent bias, exaggeration, and self-interest of commercial messages. They understand that a commercial message has other interests and perspectives than the receiver of the message; that the purveyor of the persuasive message is guided by commercial self-interest; that persuasive messages are biased; and that biased messages demand different interpretive strategies than unbiased messages.

Pester power: The ability of children to badger their parents into purchasing items they would otherwise not buy, or performing actions they would otherwise not do.

Premium: A promotional item that can be received for a small fee when redeeming proofs of purchase which come with or on retail products.

Product placement: A marketing technique that uses a message, brand logo, or product in a visual or graphic medium in a variety of forms of media entertainment, including television programmes, films, music, videos/ DVDs, video games, and advergaming.

Programme: A set of moving images with or without sound, constituting an individual item within a schedule

or a catalogue established by a media service provider and the form and content of which are comparable to the form and content of television broadcasting. Examples of programmes include feature-length films, sports events, situation comedies, documentaries, children’s programmes and original drama.

Promotion: Marketing activities other than advertising, personal selling, and publicity that stimulate consumer purchases at the point-of-sale such as a display, product demonstration, trade show, contest, coupon, premium, prize, toy, or price discount.

Power: The extent to which a message achieves its communications objectives.

Quick service restaurant: A category of restaurants characterised by food that is supplied quickly after ordering and with minimal service. Foods and beverages purchased may be consumed at the restaurant or served as takeout or takeaway.


Relationship marketing: A marketing approach that acquires information about a customer during the history of that customer’s relationship with a company. This information is used to market to the customer to promote trust and loyalty. Five components of relationship marketing are: awareness, recognition, preferences, commitment, and endorsement.

Sales promotion: This involves marketing activities other than advertising, personal selling, and publicity that stimulate consumer purchases at the point-of-sale such as a display, product demonstration, trade show, contest, coupon, premium, prize, toy, or price discount. Sales promotion is also called consumer promotion.

Social marketing: The application of commercial marketing principles to the analysis, planning, implementation, and evaluation of programmes designed to influence voluntary behaviour changes in target audiences in order to improve their personal welfare and for the benefit of society.

Sponsorship: Any form of monetary or in-kind contribution to any event, activity or individual with the aim, effect, or likely effect, of directly or indirectly promoting a product.

Stealth marketing: A marketing strategy used to present products or services that consumers do not identify as an attempt to influence their purchase behaviours. Viral marketing is a form of stealth marketing.



Trade promotion: This involves promotion activities that are directed to marketing intermediaries, such as grocery stores, convenience stores, and other food retail outlets, and uses strategies that include in-store displays, shelf space and positioning, “free” merchandise, buy-back allowances, merchandise allowances, and sales contests to encourage wholesalers or retailers to sell more of a company’s specific product or lines.

Viral marketing: A strategy used to build brand awareness and promote purchases by encouraging people to pass a marketing message to a target audience, often through electronic or digital platforms.

Virtual advertisements: Digital advertisements that are inserted into programmes, into films, or onto stadium walls at sporting events.

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Annex 1

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

Rationale

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.
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.

Policy development

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.
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 so as to derive the maximal impact of the policy.
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 paediatric services and during any sporting and cultural activities that are held on these premises.
6. Governments should be the key stakeholders in the development of policy, and provide leadership, through a multi-stakeholder 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.

Policy implementation

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.
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 in order to achieve the highest possible impact of any national policy.
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.

Policy monitoring and evaluation

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.
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.

Research

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.

Annex 2

Categories of commercial activities in schools¹

Product sales	
Product sales benefiting a district, school, or student activity	<ul style="list-style-type: none"> • Exclusionary contracts or other arrangements between district consortia, school districts, or schools and bottlers to sell soft drinks in schools or on school grounds • Contracts or other arrangements between districts or schools and fast food companies to sell food in schools or on school grounds • Contracts or other arrangements between districts or schools and companies providing school pictures, yearbooks, caps and gowns, or gym uniforms
Cash or credit rebate programmes	<ul style="list-style-type: none"> • Programmes that award cash or equipment to schools in proportion to the value of store receipts or coupons collected by the schools • Credit or shopping card programmes that award a percentage of the amount of customer charges to a school designated by the customer • Internet shopping programmes that donate a percentage of a customer's charges to a designated school
Fundraising activities	<ul style="list-style-type: none"> • Short-term sales of candy, magazines, gift wrap, cookie dough, concession items and the like, by parents, students, or both, to benefit a specific student population or club
Direct advertising	
Advertising in schools, in school facilities, and on school buses	<ul style="list-style-type: none"> • Billboards and signs in school corridors, sports facilities, or buses • Product displays • Corporate logos or brand names on school equipment, such as marquees, message boards, scoreboards, and backboards • Advertisements, corporate logos, or brand names on posters, book covers, and student assignment books
Advertisements in school publications	<ul style="list-style-type: none"> • Advertisements in sports programmes, yearbooks, school newspapers, and school calendars
Media-based advertising	<ul style="list-style-type: none"> • Televised advertisements aired by TV stations seen in schools • Computer-delivered advertisements by commercial advertisers and commercial search engines • Advertisements in commercial newspapers or magazines
Samples	<ul style="list-style-type: none"> • Free snack food or personal hygiene products

Indirect advertising

Corporate-sponsored educational materials	<ul style="list-style-type: none">• Dental hygiene units that provide toothpaste and toothbrush samples and display brand names• Materials on issues associated with particular industries that are developed by those industries, such as ecology units produced by oil and plastic companies and safety units produced by insurance companies• Materials that promote industrial goals, such as energy conservation materials produced by power companies and nutritional information produced by dairy or meat associations
Corporate-sponsored teacher training	<ul style="list-style-type: none">• Training by computer or software companies on the use of hardware or software systems that they sell• Training by companies on general subjects, such as management techniques or creativity
Corporate-sponsored contests and incentives	<ul style="list-style-type: none">• Company branded poster contests, book-voucher programme, invention contest
Corporate grants or gifts	<ul style="list-style-type: none">• Corporate gifts to schools that generate commercial benefits to the donor

Market research

Surveys or polls	<ul style="list-style-type: none">• Student questionnaires or taste tests
Internet panels	<ul style="list-style-type: none">• Use of the Internet to poll students' responses to computer-delivered questions
Internet tracking	<ul style="list-style-type: none">• Tracking students' Internet behaviour and responses to questions at one or more web sites

¹ United States General Accounting Office, 2000. Report to Congressional Requesters: Commercial Activities in Schools. Available at: <http://www.gao.gov/new.items/he00156.pdf> [accessed 30 September 2011].

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