



Coalition on Food Advertising to Children

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Speaking out against unhealthy food advertising to children

Submission to the Australian Communications and Media Authority on the Draft Children's Television Standards 2008

October 2008

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1.0 Overview

The Coalition on Food Advertising to Children (CFAC) appreciates the opportunity to offer this submission to the Australian Communications and Media Authority (ACMA) on the draft Children's Television Standards 2008 (CTS).

The CFAC was formed in July 2002 and includes key organisations that recognise that the commercial promotion of unhealthy foods and beverages high in fat, sugar and salt to children is a significant concern to their nutrition and future health. The Coalition's goal is to improve the diets and overall health of Australian children through a marked reduction in the commercial promotion of foods and beverages to children. The vital first step is to extend statutory regulations to prohibit unhealthy food and beverage advertising during television programs where a significant number of children are watching. This does not preclude the promotion of healthy eating messages to children through non-commercial social marketing.

The member organisations of the CFAC are:

- ❑ Australian and New Zealand Obesity Society
- ❑ Australian Dental Association
- ❑ Australian Dental and Oral Health Therapists Association
- ❑ Australian Health Promotion Association
- ❑ Australian Medical Association
- ❑ Cancer Council Australia
- ❑ Home Economics Institute of Australia
- ❑ Nutrition Australia
- ❑ Public Health Advocacy Institute of Western Australia
- ❑ Public Health Association of Australia
- ❑ Royal Australasian College of Physicians, Paediatric Branch
- ❑ Royal Australian College of General Practitioners
- ❑ Young Media Australia
- ❑ Ms Kaye Mehta, Senior Lecturer in Nutrition and Dietetics, Flinders University
- ❑ Dr. Rosemary Stanton, OAM

The draft CTS proposed by ACMA and the conclusions formed in the *Report of the Review of the CTS 2005* (hereafter referred to as 'the Report') released in August 2008 are extremely weak and evasive.

ACMA has a duty of care to protect children from the possible harmful effects of television, which includes the harmful effects of television food advertising. The draft CTS, as it currently stands, will do little to protect children from the well recognised harmful effects of unhealthy food advertising.

ACMA is required to consider prevailing community views, yet the draft CTS has ignored the strong community concerns about unhealthy food and beverage advertising to children. ACMA has essentially ignored the 20,521 postcards it received from concerned Australian community members calling for better regulations to protect children from unhealthy food advertising. Parents, public health

experts and consumer groups are concerned about the lack of effective recommendations in the draft CTS.

The evidence base used by ACMA lacks scientific rigour, credibility and currency. The Brand review had a number of failings that appears to have led ACMA to ignore the substantial body of evidence that food advertising to children represents a potential harm to children. The evidence clearly demonstrates that

- food advertising is a likely contributing factor in the obesity-promoting (“obesogenic”) environment;
- there is a strong link between exposure to TV food advertising and children’s food preferences, food purchasing and food consumption;
- improved regulation will be a cost effective strategy to reduce childhood obesity;
- young children are not sufficiently cognitively developed to understand the persuasive intent of advertising;
- the current high level of unhealthy food advertising undermines the role of parents in promoting healthy eating; and
- ACMA has an obligation to protect children from possible harms and the impact of food advertising on nutrition behaviours and health represents one such harm.

Food* advertising to children impedes the ability of parents and government programs to promote healthy eating. Food advertising to children contributes to an obesity-promoting environment, whereby unhealthy food choices are increasingly normalised and become routine food choices.

Specific restrictions on unhealthy food and beverage advertisements are needed during broadcasting periods when high numbers of children are watching television.

The CFAC has never suggested that food marketing is the only factor contributing to childhood obesity, and we support a comprehensive and whole of government approach to the prevention of obesity. We understand that ACMA does not have expertise on public health issues such as childhood nutrition and obesity. However, the CFAC believes that ACMA has a responsibility to recognise and accept the overwhelming weight of the evidence that supports strong links between food promotions and children’s food preferences, household purchases, and children’s food consumption patterns. The severe public health consequences of childhood obesity means that ACMA should introduce restrictions on food marketing to children as part of a comprehensive approach to obesity prevention.

It is not acceptable for ACMA to dismiss the weight of evidence that supports the link between food advertising and children’s poor nutrition and obesity, and to ‘pass the buck’ on societal problems that they do not consider to be core business but that they have the capacity to influence.

One of ACMA’s main objectives in the implementation of the CTS is to “provide for the protection of children from *possible* harmful effects of television”. In keeping with this objective, the CTS must do more to protect children from the obesity-

* In this submission, the word “food” refers to food and beverages

promoting effects of food advertising. Children are a vulnerable group and susceptible to exploitation from food marketers who obviously would not spend millions of dollars on advertising products if advertising was not effective in increasing consumption. The food industry may claim that advertising only encourages brand switching, but this claim was proven wrong when restrictions on advertising tobacco were proposed.

At the very least, ACMA should act on a precautionary basis. While there is sufficient empirical evidence to conclude that television food advertising has a modest, direct effect on children's food choices, the negative indirect consequences of food advertising are likely to be much larger. As there is limited ability to quantify these indirect effects, predominately because the types of studies are difficult or impossible to conduct, the precautionary principle and indeed ACMA's own remit suggests that these possible harmful effects should be considered and guarded against. The CFAC urges ACMA to be mindful of its obligations of protecting children from all "possible" harms of food advertising and make a commitment to urgent reform in this area.

Further, ACMA's claim that there is no existing tool to identify HFSS foods is incorrect. While we acknowledge that the nutrient profiling model developed by Food Standards Australia New Zealand (FSANZ) has not yet been ratified, this should not impede a commitment from ACMA to act. In the absence of a finalised tool, ACMA should work with FSANZ on the applicability of using the Australian version of the nutrient profiling model for use in television advertising restrictions.

2.0 Reflecting Prevailing Community Standards

ACMA states in the Report that one of their guiding principles in reviewing the CTS is to reflect prevailing community standards.

ACMA has failed to address this guiding principle and has not reflected prevailing community standards in any meaningful or significant way in the draft CTS. ACMA received 20,521 postcards from Australian community members urging them to introduce more effective regulations to address the high levels of junk food advertising during the times when children are watching television. The majority of public submissions received by ACMA, and published on the ACMA website, also support stronger food advertising regulations.

Recent community surveys of Australian parents conclusively show that the majority of Australian parents believe the government should provide leadership in this area. In contrast it would appear that ACMA chose to heed the concerns expressed by a minority of submissions from industry-related groups, who argued against restrictions of television food advertising to children.

A nationwide survey, commissioned by the CFAC, questioned 400 randomly selected parents about their views on the CTS and found that:

- 86% of parents supported a ban on advertising of unhealthy foods at times when children watch TV;
- 89% agreed the government should introduce stronger restrictions on food advertising at times when children are watching; and
- 75% parents were concerned about advertising using toys and giveaways to promote unhealthy food to children.¹

These findings have been supported by more recent new research, conducted in March 2008 by the consumer group Choice, which found that 88% of parents think the marketing of foods specifically to children contributes to difficulties ensuring children develop healthier eating habits.² The Choice survey also found that 82% of parents were in favour of tighter restrictions over the way unhealthy food is marketed to children in Australia.² These results have remained stable since an earlier survey conducted by Choice in 2006, which reported that 82% of respondents were in favour of government regulating the way food and drink is advertised and marketed to children.³

In 2004 and 2006, a South Australian government health survey, which asked 2000 randomly selected households about their opinion on television food advertising to children also found strong support of restrictions on food advertising to children, and:

- 71% in 2004 and 78% in 2006 agreed that there is too much advertising of unhealthy food during children's viewing time;
- 89% in 2004 and 84% in 2006 agreed that television advertisements for food such as confectionery and fast food cause children to persuade their parents to purchase the advertised foods; and
- 94% in 2004 and 90% in 2006 agreed or strongly agreed that the advertising on television of toys and giveaways associated with food products influence children to want to buy the food.^{4,5}

These surveys strongly show that consumer concern about the issue of unhealthy television food advertising to children is consistently high and pervasive. The community has indicated strong support for restrictions to unhealthy food advertising during broadcast periods when high numbers of children are watching, and want the government to take decisive action on this issue. To fail to act according to these prevailing community standards is an affront to Australian parents and does not support ACMA's established guiding principles.

3.0 Protecting Children from Harm

Another guiding principle in the development of the revised CTS, and outlined by ACMA in the Report, is to protect children from harm. The draft CTS shows that ACMA has failed to address this guiding principle in any meaningful or significant way.

3.1 *Evidence about the association between food marketing and behaviours that contribute to childhood obesity*

In considering the evidence relating to television food advertising and childhood obesity, it is imperative that ACMA consider research beyond the scope of that considered in the ACMA commissioned literature review by Jeffrey Brand. As highlighted in our previous submission in August last year, this literature review contained many glaring omissions and failed to give appropriate consideration to previous robust systematic reviews by renowned social scientists which analysed a larger body of scientific studies. The Brand literature review failed to comprehensively and systematically review the existing scientific literature on food marketing and associated nutrition behaviours.

The Brand literature review concludes that there is a positive correlation between food advertising and children's nutrition knowledge, their food preferences and their food purchasing requests, but fails to acknowledge research which indicates that food advertising is linked with childhood obesity. The most comprehensive systematic review conducted on this issue (Hastings *et al.* in 2003)⁶ found that food advertising was linked to increased energy (kilojoule) consumption by children, even after controlling for the amount of television that children were viewing. Television food advertising affects the amount and type of food that children consume, thereby impacting on their weight, and this occurs irrespective of other factors associated with television viewing, such as sedentary behaviours.

The ACMA Report notes that the Brand literature review failed to demonstrate causal links between advertising and any of these factors. However, the type of evidence required to establish such causal links, is not possible. The argument debating a lack of causal evidence on the effects of food advertising on obesity highlights an ignorance of scientific processes. If causality would be accepted only on the basis of randomised controlled trials, which would require exposing one group of children to food advertising and comparing effects with another group not exposed, proof of causality would clearly be impossible in today's society.

In their systematic review, Hastings and colleagues noted that even though causal evidence is not available, existing research provides sufficient evidence of an effect between television food advertising and children's nutritional knowledge, food preferences, food purchasing requests, food consumption and body weight.⁶

ACMA has acknowledged that it is not a health advisory body, and should therefore not be required or expected to judge the impact of food advertising on child obesity. However, it is expected that ACMA consider the large body of evidence and recommendations from eminent international health bodies, including the World Health Organization and the Institute of Medicine in the United States, which conclude that unhealthy food advertising contributes to childhood obesity.

In the *Diet, Nutrition and the Prevention of Chronic Diseases Report*, the World Health Organization concludes that the heavy marketing of fast food and energy-dense micronutrient-poor foods and beverages is a probable causal factor in weight gain and obesity, and a target for preventive action.⁷

A report from the prestigious Institute of Medicine⁸ concluded that:

- There is strong evidence that television advertising influences the food and beverage preferences, purchase requests, and the short term consumption of children aged 2-11 years;
- There is moderate evidence that television advertising influences the food and beverage beliefs of children aged 2-11 years;
- There is moderate evidence that television advertising influences the usual dietary intake of younger children aged 2-5 years and weak evidence that it influences the usual dietary intake of older children aged 6-11 years;
- **There is strong statistical evidence that exposure to television advertising is associated with adiposity (i.e. body fatness) in children aged 2-11 years and teens aged 12-18 years;** and
- The association between adiposity and exposure to television advertising remains after taking alternative explanations into account, but the research does not convincingly rule out other possible explanations for the association; therefore, the current evidence is not sufficient to arrive at any finding about a causal relationship from television advertising to adiposity. **It is important to note that even a small influence, aggregated over the entire population of children and youth, would be consequential in impact.**

Evidence from this report was not included as part of the Brand literature review commissioned by ACMA.

In addition, new research, conducted after the time of the Brand review, also supports the link between food advertising and childhood obesity. New Australian research, which examined associations between children's television viewing habits and their food-related attitudes and behaviour, found increased advertisement exposure was associated with more positive attitudes towards unhealthy food, the perception that other children ate more unhealthy food, and higher self-reported frequency of consumption of junk food among children.⁹ This indicates that constant exposure to unhealthy advertising normalises the consumption of these unhealthy foods.

Further, in a Dutch study conducted in 2008, Buijzen and colleagues found that exposure to food advertising in children aged 4 to 12 years was not only associated with their consumption of advertised brands but also with consumption of unhealthy food products.¹⁰ Therefore, this research indicates that food advertising operates at both the brand and food category level; affecting children's brand choice as well as their consumption of other unhealthy foods.

Emerging experimental studies also provide convincing evidence of a causal relationship between food advertising and children's food behaviours and food preferences. Halford and colleagues exposed children aged 5 to 7 years to advertisements for both food and non-food products and found that children's

consumption of sweet and savoury, and high and low-fat foods (except fruit) increased significantly after watching food advertisements.¹¹ As foods were presented to children with their packaging removed, this experiment further demonstrates how the effect of food advertising on children's food consumption extends beyond brand preferences to food category preferences.

In Australia, Dixon and colleagues have demonstrated positive affects on children's food preferences with exposure to healthy food advertisements.⁹ Therefore, increasing television advertisements for healthy food may promote the attractiveness of these foods to children. Previous research has shown that in the current advertising environment the broadcast of advertisements for healthy foods, such as fruit and vegetables, is diminutive compared to levels of unhealthy food advertisements.¹²

The Brand literature review and the current ACMA position are inconsistent with the conclusions from international health authorities and findings from other major systematic reviews. It is not valid for ACMA to base their current position to avoid introducing restrictions on food advertising on the limited and incomplete findings of the Brand literature review.

Importantly the Australian Food and Grocery Council (AFGC) themselves admit that *"children are impressionable, and potentially vulnerable to promotions which may inappropriately influence their (or their parents) purchase and use of products"*.¹³

Considerable evidence also demonstrates a logical framework linking food preferences, food values and food purchases/purchase requests, to food consumption and body weight. In a literature review conducted on the behavioural factors associated with the development of obesity, increased body weight was linked with exposure to unhealthy food, preference for unhealthy food and the consumption of unhealthy food (Figure 1).¹⁴ The Brand literature review does not directly demonstrate that food advertising is associated with childhood obesity, but acknowledges that food advertising is related to children's nutrition knowledge, their food preferences and their food purchasing requests, thereby conceding the association.

In view of the possible harms of advertising, consideration must also be given to other aspects of children's health and well being, beyond weight gain and obesity. Other potential harms that may result from the over-consumption of unhealthy food include dental caries, inadequate nutrition, and risk of high blood pressure and fatty liver disease.

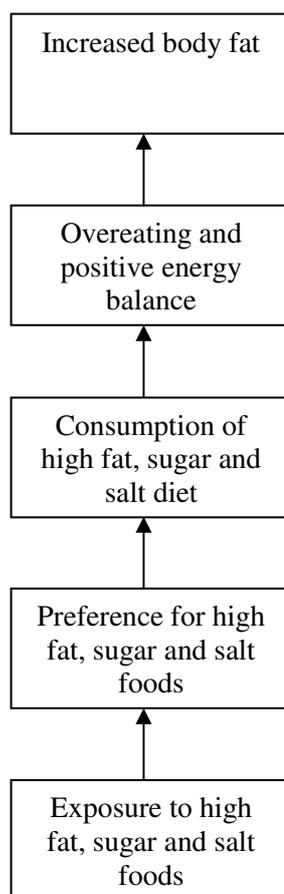


Figure 1: Logic model of association between food exposure and food preferences to body weight (adapted from Mela 1996)¹⁴

The evidence base on the relationship between TV food advertising directed at children is compelling enough for ACMA to follow its obligations of protecting children from *possible* harm. Even modest behaviour change across a whole population can make a significant impact on population health level behaviours and health outcomes. Deferring action until a specific causal relationship between advertising and obesity levels has been established overlooks actions that could be taken using knowledge of how advertising supports and maintains behaviour.

3.2 Action in other jurisdictions

The Australian communication regulations are lagging behind others in relation to the issue of television food advertising to children. The United Kingdom (UK) has moved beyond debate over the effect of food advertising to children and, taking account of available evidence, is taking action to protect children from harm.

Conversely, in Australia, advertising and broadcast industry groups, who do not wish to move this issue forward, have dominated this debate. The CFAC believe ACMA should not be swayed by those who have a vested interest in blocking restrictions to television food advertising. ACMA should consider the reasoning that food

companies would not be so willing to pay high television advertising rates if television advertising were not an effective strategy in selling their products.

ACMA's position and interpretation of the evidence relating to unhealthy food advertising to children is also at odds with assessments made by the Queensland and South Australian governments, who have recognised that food advertising represents a significant harm and warrants government action.^{15,16}

It should be noted that while the UK has at least taken some decisive action on this issue, the Office of Communications (OfCom) regulations are not as effective as they initially appear. The UK restrictions apply to programs that attract a high proportion of child viewers, relative to the overall audience for that program (when proportion of the audience watching a particular program is more than 20% higher than the proportion of under-16s in the UK), rather than the absolute number of children watching at a particular time period. Because of this, many of the most popular children's programs are not covered by the new regulations. Research by the UK consumer organisation Which? shows that 16 of the top 20 children's programs, in a typical broadcast period spanning two weeks, were not covered by the restriction.¹⁷

To avoid such major shortcomings, ACMA should consider the restriction of unhealthy food advertising during broadcast periods when high **numbers** of children are watching.

This shortcoming is evident in the Australian Food and Grocery Council's (AFGC) proposed *Responsible Children's Marketing Initiative*. While it is symbolically important that the food industry has recognised the importance of restricting unhealthy food marketing to children, through the development of this code, the CFAC believes that this additional self-regulatory code will not be sufficient in curbing unhealthy food marketing to children, and the need for government action remains unchanged despite this recent re-position by the food industry.

The main limitations of the proposed *Responsible Children's Marketing Initiative* are that:

- The code will not apply during television broadcast periods when large numbers of children are watching. Advertising restrictions will be based on the proportion of the total program audience that are children, rather than the absolute numbers of children watching. Television audience measurement data indicate that many of the programs that are most popular with children also have high appeal to older adolescents and adults. For example, industry data indicate that children's most popular programs in 2005 included the AFL grand final, Big Brother, Australian Idol and The Simpsons.¹⁸ These programs would not be covered by the proposed code.
- Not all food companies will be signatories to the code.
- There are no significant deterrents to ensure food companies will comply with the industry's code.
- It is unclear what nutrient criteria will be used to define healthy and unhealthy foods.
- Restrictions will not apply to all forms of food marketing directed at children. For example, the proposed code will continue to allow the use of proprietary characters/spokes-characters. As noted below, spokes-characters have been

associated with children's recognition of, and positive attitudes towards, food products.¹⁹

- The proposed code adds very little to those codes already in place by the Australian Association of National Advertisers (AANA), and does not substantively address the concerns of parents.

3.3 Evidence of benefits of food advertising restrictions

Quebec, Norway and Sweden, and more recently the UK have all implemented bans on food advertising to children. Unfortunately no systematic evaluations of the impact of these bans have been conducted, and the nature of broadcasting in many of these jurisdictions has meant that children remain exposed to unrestricted television food advertising via satellite channels.²⁰ For example, in Sweden, advertising restrictions only apply to broadcasting that originates in Sweden, and not to other European Union member states.

Similarly, despite advertising bans children in Quebec remain exposed to cross-border advertising from the United States. However, research has shown that French-speaking children living in Montreal, Quebec, who do not watch television broadcast from the United States, have a lower consumption of sugary breakfast cereals, compared to English-speaking children.²¹ That is, English-speaking children continued to be exposed to unhealthy food advertisements for sugary breakfast cereals, and thus their consumption of these food products remained high.

While there is little available evidence on the effect of food advertising bans on children, due to a lack of published data and likely attrition of advertising bans by unrestricted cross-border broadcasting, tobacco advertising bans provide a clear precedent for the potential affects of advertising restrictions on product consumption. As part of a multi-strategy approach to tobacco control, tobacco advertising restrictions have assisted in lowering the smoking rate of Australians to one of the lowest in the world.

4.0 Balancing Public Interest Considerations and the Burden on Industry

ACMA states in the Report that another one of their guiding principles in reviewing the CTS is to balance public interest considerations and the burden on industry. In the draft CTS, ACMA has explicitly put considerations about the potential burden on industry way above public interest considerations. The CFAC is disappointed that ACMA has so blatantly ignored the significant health and grassroots movement calling for tighter food advertising regulations as well as considerable evidence on the potential harms to children from advertising, and instead has been driven by the commercial interests of the broadcasters and advertising industry groups.

Of the 76 submissions received by ACMA for the review of the CTS, more than 40 were from organisations concerned about the public health impact of food advertising, compared to just 20 submissions from food industry or advertising groups. As well, 20,521 members of the Australian community signed up to a request for stronger regulations of food advertising to children.

Rather than balancing competing interests, public interest and community groups have had their concerns ignored, while advertisers and the food industry have not been required to make any substantial changes.

4.1 Comments on the Economic Evaluation

The CFAC believes that the economic evaluation conducted by ACMA is disproportionately one sided; focusing predominately on the costs involved in introducing food advertising restrictions to television broadcasters, and ignoring most of the potentially large benefits of such restrictions.

In addition, when considering the potential cost benefits of reducing food advertising, ACMA have severely underestimated the costs of overweight and obesity on society. Assumptions about the cost of obesity were based on the Access Economics report from 2006,²² which estimated the financial cost of obesity in Australia to be \$3.8 billion. If the costs of lost wellbeing were added (i.e. the value of healthy years lost to either premature mortality or morbidity), this total increases to \$21 billion. As well, the costs associated with overweight (opposed to just obesity) have been ignored.

Further, the estimate of the cost of obesity used by ACMA is outdated. The more recent Access Economics report shows the cost of obesity to be much higher than previously estimated.²³ ACMA should reconsider their economic analyses in light of this updated report. On the basis of the new estimates, a smaller reduction in the direct costs of obesity would be required to exceed loss in advertising revenue to broadcasters. If the costs of lost wellbeing were taken into account, as well as the cost of overweight, then the cost benefit of restrictions on unhealthy food advertising to children would far exceed broadcasters' revenue loss.

ACMA also did not investigate the full range of regulatory options available to them. Research that has modelled regulatory options for television food advertising to children have also considered a volume-based restriction, which limited unhealthy food advertisements to 30 sec/hour during children's peak viewing times.²⁴ While this type of regulation did not reduce children's exposure to unhealthy food advertising as

much, compared to more restrictive regulations, it should be included in the range of regulations that ACMA consider. By reducing supply of advertising spots during peak children's viewing times, this may in fact drive up demand, thereby reducing the effect of advertising restrictions on broadcasters' revenue.

In considering the cost effectiveness of food advertising restrictions, ACMA should consider the potential cost of such an intervention as a function of the cost per child. Ofcom in the UK estimated that television advertising or viewing accounted for about 2% of variation in food choice or obesity. Given that food choice and obesity are influenced by multiple factors, reducing the impact of one variable by 2% would have potentially large effects at the population level.

By extrapolating the predicted cost to industry by the number of Australian children, the cost of advertising restrictions which ban HFSS food advertisements between 6am and 9pm would equate to between \$20-\$60 per child per annum^{*.25} This represents a relatively low burden on industry compared to the costs borne by families and taxpayers that result from health burden associated with poor nutrition and obesity.

In addition, these predicted costs to industry are unlikely to be realised. Based on the experience from previous tobacco and alcohol advertising regulations (refer to section 11.0 below). Costs to industry are also likely to be lower if restrictions were limited to broadcast periods when high numbers of children are watching (between 7am to 9am and 4pm to 9pm weekdays and 7am to 9pm on weekends).

* \$79.6-\$238.6 million per annum divided by four million children aged under 15 years in Australia in June 2006

5.0 Food and Beverage Advertising

5.1 Nutrient Profiling Model

ACMA claims that there is no appropriate tool to identify foods high in fat, sugar and salt (HFSS) and this is therefore an impediment to introducing restrictions on food and beverage advertising. The CFAC recognises that a practical, actionable definition of what defines an unhealthy or healthy food product is vital.

However, the proposed Food Standards Australia New Zealand (FSANZ) Nutrient Profiling model provides such a tool. While this tool has been developed by FSANZ for the classification of foods permitted to use health claims on food, it was originally developed by the Office of Communications (Ofcom) in the United Kingdom to classify foods as healthy and unhealthy for the purpose of television advertising restrictions. In fact, modifications made to this tool by FSANZ have substantially improved the tool's specificity in identifying healthy and unhealthy foods.²⁶ Therefore, ACMA's claim that there is no existing tool to identify HFSS foods is incorrect.

New research from New Zealand, which applied the UK nutrient profiling tool to television food advertisements showed that the tool could easily be applied to real world television food advertisements and could clearly identify HFSS products.²⁷ This study assessed four weeks of television data broadcast between 3:30pm and 6:30pm daily on one popular children's free-to-air commercial television channel. The authors found that 66% of all food advertisements were classified as for HFSS products, according to the UK nutrient profiling tool.²⁷ These results are consistent with previous research from New Zealand and Australia, which have identified a similar proportion of unhealthy food advertising using different food classification systems.²⁸⁻³¹

We acknowledge that the nutrient profiling model developed by FSANZ has not yet been ratified into the standard for nutrition and health claims in the Food Standards Act. However, this should not impede a commitment from ACMA to act. Indeed, in other areas of policy development, where food classification tools were not previously available, such as classifying foods eligible for sale in school canteens across most states and territories, and in Department of Health facilities in NSW, Queensland and Western Australia, specific classification tools have been designed for these purposes. ACMA does not need to design such a tool, as the FSANZ nutrient profiling model is adequate. If ACMA wishes to work inter-sectorially between traditional government silos, as stated by ACMA representatives in personal consultations, the substantiation of the nutrient profiling model to classify television food advertisements would be possible.

ACMA has also used a tool to identify HFSS foods in its Economic Impact Report - *Economic Impact of Restrictions on Television Food and Beverage Advertising Directed at Children* Report. This classification system could be used as an intermediary tool to classify food advertisements, until such time as the FSANZ nutrient profiling was made available.

The CFAC recommends ACMA could undertake any of the following actions to address this claimed stumbling block:

- Work with FSANZ on the applicability of using the Australian version of the nutrient profiling model for use in television advertising restrictions;
- Adopt the same classification system used by Ofcom to determine which foods are permitted to be advertised;
- Work with the Commonwealth Health Department on the best way to classify foods as healthy or unhealthy;
- Commission an independent nutrition expert group to develop a classification system; or
- Use the tool adopted in the Economic Impact Report until the FSANZ nutrient profiling tool is finalised.

6.0 Premium Offers

While ACMA has made a small attempt to better define the provisions relating to premium offers, the CFAC believes that the draft CTS 31 should be further strengthened so that premiums are completely banned for the promotion of unhealthy food and beverages.

Evidence suggests that young children lack the cognitive development to discriminate between a premium offer and an advertised product.³² Further, behavioural outcomes, such as purchasing requests, are modified by premium offers.³³ Premium offers included with food products encourage children to pester parents to purchase these products. This is particularly the case when premiums are offered as collectibles, such as sets of toys provided with fast food restaurant meals.³⁴

Strong community support exists among parents for a ban on this type of marketing, with 75% of Australian parents concerned about advertising using toys and giveaways to promote unhealthy food to children.¹

New Australian research has investigated the extent that premium offers are used to advertise food to children on television. In this study, which assessed two weeks of Sydney commercial television broadcasting, for a total of 20,201 advertisements, significantly more food advertisements broadcast during children's peak viewing times contained premium offers, compared to non-peak times.³⁵ Further, during the programs that were most popular with children, the rate of unhealthy food advertisements containing premium offers was more than 18 times higher than during adults' popular programs.³⁵ Crucially, children's popular programs and peak viewing times do NOT correspond with the broadcast periods currently covered by the draft CTS 2008.

Previous research has also shown that the standards relating to premium offers are frequently breached, so that children are not protected from this type of harm. In one study which analysed 63 hours of children's television programming in Adelaide (2001), 31% of food advertisements broadcast during children's programs, were found to be in breach of CTS 2005 20.2a, which states that premium offers must be incidental to the main product or service being advertised.³⁶ In another study examining 645 hours of Australian television (2005), a total 194 breaches of the CTS were identified, of which 78% also related to CTS 20.2a.²⁸

Ideally the use of premium offers to market unhealthy food and beverages to children should be banned. However, should ACMA continue to ignore the weight of evidence and support of parents in favour of such a ban, due care should be taken to ensure that appropriate guidance is given to allow breaches to be easily identified and actioned.

We acknowledge that ACMA has recently over-ruled the previous nonsensical interpretation made by the Australian Broadcasting Authority in response to a complaint lodged by CFAC,³⁷ whereby food companies could bundle food and non-food items (toys) as a single "product" and advertise that "product" in a way that focuses solely on the non-food item. It has also been interpreted so that the "incidental" reference is measured by the extent to which the advertisement might stimulate an unreasonable expectation of the product.

Evidence shows that premium offers impact on children's food purchase requests and purchasing behaviour, and Australian children are currently bombarded with unhealthy food advertisements containing premium offers. The CFAC is calling for a ban of the use of premium offers to promote unhealthy food and beverages to children. This ban must apply to broadcast periods when high numbers of children are watching. Bans that apply only during C and P programs are insufficient to protect children.

7.0 Promotions and Endorsements by Program Characters

The CFAC welcomes ACMA's decision to strengthen the provisions in the proposed CTS 33 so that the promotion and endorsement of commercial products by program characters; figures; cartoons; celebrities including popular personalities; licensed characters; and C and P characters are banned during C periods. This amendment is a step in the right direction to protect children from the harmful effects of advertising.

However the CFAC is disappointed that the ban only applies during C periods, and we urge ACMA to extend this provision to the times when high numbers of children are watching television. The CFAC believes this standard should apply between the times 7am to 9am and 4pm to 9pm weekdays and 7am to 9pm on weekends.

The majority (67%) of Australian parents also report strong concern about the use of characters or personalities to advertise unhealthy foods to children.¹

The OzTAM data provided in the ACMA Issues Paper clearly illustrate that lower numbers of children watch television during C and P programs compared to G and PG programs. As the proposed standard does nothing to prevent the endorsement or promotion by personalities or characters at times when most children are watching TV, it is likely to have limited impact. To remedy this, the CTS should be amended to prohibit the use of personalities or characters that are likely to appeal or be familiar to children to promote unhealthy foods during broadcast periods when high numbers of children are watching.

Research indicates that use of characters or personalities in television advertisements attracts children's attention, creates positive attitudes towards products and improves children's memory of products.¹⁹ Promotional characters, in particular cartoons and spokes-characters, have been shown to be associated with children's recognition of, and positive attitudes towards, food products, creating long-term brand recognition and loyalty from an early age.¹⁹ When children have repeated and food-specific exposures to cartoons and spokes-characters, such as when they are used for a limited range of products, they are more likely to transfer positive effects associated with the character to the advertised product.³⁸ Spokes-characters act as visual cues to represent a brand's attributes,³⁹ such as fun and fantasy that are appealing to children. In the same way, celebrities and sports people add credibility to the branded product and attract attention to the advertisement.⁴⁰

New research from the United States, investigating primary school aged children's awareness of beer advertising, has also made similar conclusions. In this study, researchers found high levels of awareness for a beer commercial featuring an animated animal amongst third and fourth graders.⁴¹ Even advertisements that do not deliberately target children can lead to high product awareness in children.

This evidence indicates that the determination of what constitutes a promotional character must take a broad definition, including licensed characters and spokes-characters, celebrities and sports figures and other popular personalities and characters from television programs and movies.

We note that the draft CTS 33 does not apply to the advertising of non-commercial products, which we interpret to include non-commercial social marketing by government and non-government organisations. The CFAC is concerned that no loophole be created whereby popular characters and mascots that are heavily associated with the brand of unhealthy food and drink products can be used to promote other health messages. For example, Ronald McDonald has been used to promote road safety, fire safety and little athletics, which is a technique for extending brand awareness.

8.0 Application of CTS

It is nonsensical and illogical to apply the CTS to P and C programs only, when peak children's viewing times fall outside of these timeslots. As indicated in the ACMA Issues Paper, OzTAM shows that "*child audience numbers on commercial free-to-air televisions are low at the times C and P programs are usually broadcast. The peak viewing time for 0–14 year olds on commercial free-to-air television is in the evening between 7.00 pm and 8.00 pm, with average child audiences close to 500,000, compared with around 80,000 between 4.00 pm and 5.00 pm*". Further, "*child audience numbers remained at over 100,000 from 7.00 am to 11.00 pm on Saturdays and Sundays, with audience numbers of almost 200,000 between 8.00 am and 10.00 am and a peak of 450,000 at 7.00 pm to 8.00 pm*"

The CFAC urges ACMA to extend the CTS to broadcast periods when high numbers of children are actually watching television. That is, between 7am to 9am and 4pm to 9pm weekdays and 7am to 9pm on weekends.

9.0 Definition of Children

The draft CTS define children as people younger than 14 years. The CFAC recommends ACMA review the age definition and ensure consistency with other health policies and the age restrictions established in other jurisdictions, such as Ofcom, which classify children as 16 years or younger.

10.0 The Need for Separate Provisions Relating to Advertising and Programming

The CFAC believes there should be a separate regulatory scheme introduced in the CTS for advertising restrictions vs. programming requirements. ACMA's priority appears to be primarily focused on programming requirements, and has ignored their responsibility to protect children from the possible harmful effects of television and its associated advertising. Separate provisions for advertising are necessary to adequately address the issues associated with potential harm to children without being overshadowed by programming issues.

The current advertising provisions, which only apply during C and P programs, are extremely limited in their application. The separation of advertising restrictions from programming requirements will help to shift the current narrow rhetoric that advertising restrictions should only apply during children's programming to the broader and more appropriate broadcast periods when high numbers of children are watching.

This separation will also help to quell unsubstantiated claims that unhealthy food advertising restrictions would impact on the quality of children's programming, as the two issues would be further removed. Such claims about less funding for children's programming acts to deflect attention away from the harms of unhealthy food advertising. The argument that children's programming would receive less funding and therefore would be of poorer quality is not backed up by international research. A study that was conducted 15 years after the enactment of legislation banning advertising to children in Quebec, Canada, compared television programming in a city that is not covered by the children's television advertising regulation to programming in a city that is part of the regulated area.⁴² This study shows richer, more diverse and better quality programming in the regulated area in Quebec, which is further emphasised with fewer than 10% of the child audience in this city choosing to watch satellite programming from the United States.⁴²

It is clear that ACMA itself does not support the idea that food advertising is needed to support quality children's programming. In the ACMA Issues Paper it is stated that with regard to Australian produced drama "*Networks' investment in C drama is relatively low compared with their spending on adults drama, providing the financial backing for around one third of total expenditure compared to around two thirds of adult drama expenditure*". The Issues Paper also states that the Film Finance Corporation has been the "*key investigator in children's drama*" and that "*children's dedicated programming is less attractive to advertisers*".

11.0 Bans on Television Advertisements for Tobacco

The ACMA report did not comprehensively explore parallel learning from the area of tobacco control and restrictions on advertising bans for tobacco. The introduction and effect of advertising bans on tobacco provide a useful comparison, and a possible precedent, for prohibitions on unhealthy food and beverage advertising.

The ban on television advertisements for tobacco was phased in between 1973 and 1976, with very little, if any, negative economic impact. It is not possible to isolate the impact of the advertising ban on smoking prevalence rates, as advertising bans were part of a comprehensive public health approach to tobacco control. However, together with other interventions, tobacco advertising restrictions have assisted in lowering the smoking rate of Australians to one of the lowest in the world. The general consensus amongst tobacco control advocates is that advertising bans have been a major contributor to the decline in smoking prevalence. In terms of these bans, one of the main achievements was the implementation of the *Tobacco Advertising Prohibition Act (TAPA)* in 1992.⁴³

Following the introduction of tobacco advertising bans, a slight acceleration occurred in the rate of decline in overall smoking prevalence.⁴⁴ While smoking rates in females continued to increase during the phase-in period, these declined between 1976 and 1980. It is important to note that the tobacco industry and print media advertising extensively targeted women during the mid 1970s. However, smoking among women and men decreased after the television advertising ban was fully in force.

The table below shows total advertising revenue collections from radio and television between 1970 and 1980.⁴⁴ Advertising revenue for both radio and television continued to increase after the ban on tobacco advertising. Some negative figures occurred between 1973 and 1975, but this has been attributed to the severe general economic recession at that time, rather than the bans on tobacco advertising per se.

Table 1: Advertising revenue from Australian television and radio before and after the ban on tobacco advertising

Year	Television \$ '000			Radio \$ '000		
	Actual revenue	Inflation adjusted ♦	% change	Actual revenue	Inflation adjusted ♦	% change
1969/1970	91,192	385,380		37,059	56,600	
1970/1971	87,869	354,410	-8.0	39,481	159,240	1.7
1971/1972	92,040	347,600	-1.9	43,630	164,770	3.5
1972/1973	105,389	375,270	8.0	46,696	166,270	1.0
1973/1974	118,381	373,200	-0.6	53,494	168,640	1.4
1974/1975	136,816	369,100	-1.1	59,017	159,430	-5.5
1975/1976	195,916	468,450	26.9	74,378	177,840	11.2
1976/1977	257,049	539,860	15.2	92,884	195,070	9.7
1977/1978	303,929	582,740	7.9	107,688	206,470	5.8
1978/1979	366,909	650,260	11.5	121,476	215,140	4.2
1979/1980	428,238	689,200	6.0	134,253	216,060	0.4

♦ Actual revenue has been adjusted to allow for inflation, rounded to the nearest \$1,000 and is expressed at constant 1985 prices.

Source: Australian Broadcasting Tribunal.

Paralleling these developments in tobacco control, the CFAC believes that a ban on television food advertising is a critical initiative as part of a multi-strategic effort to control childhood obesity. The CFAC does not believe that a ban on television food advertising on its own will reverse trends in childhood obesity; however without a ban on food advertising, significant progress in the field of childhood obesity will not occur.

Also, the CFAC is not naïve enough to imagine that advertisers will not redirect marketing budgets into other media outlets, should a ban on unhealthy television food advertising be enforced. The CFAC are aware that other non-television forms of marketing can be equally persuasive in marketing unhealthy food to children. Indeed, with the inception of tobacco advertising restrictions, tobacco marketing has moved into other less conventional areas. However, television advertising currently dominates overall food marketing expenditure and represents a significant driving force in the food industry's pursuit of children's attention and buying power.

12.0 Monitoring and Compliance

The lack of an adequate monitoring and compliance system remains a failing of the draft CTS. It is unclear if and how compliance with the new CTS will be monitored.

ACMA has proposed to restructure the CTS to separately group the provisions on programming and advertising to make it easier for broadcasters to identify their responsibilities and to help members of the public locate relevant provisions if they wish to make a complaint. The CFAC doubts this will have a significant impact on the public's ability to effectively identify and lodge complaints against breaches of the CTS.

The current system, which relies on complaints to monitor compliance for both the CTS and Industry Code of Practice, does not provide the public with sufficient protection. Deferring responsibility to the public to monitor the integrity of broadcasters to the CTS is not satisfactory for several reasons: (1) members of the public do not always have the time to lodge complaints; (2) members of the public do not have an adequate understanding of the details of the Standards to make informed complaints; (3) members of the public do not fully understand the process for making complaints; and (4) members of the public may be fearful of the threat of litigation from food industry. Relying on complaints as the mechanism for monitoring compliance with the CTS falls far short of a commitment to ethical and responsible practice by government and the advertising and television industries.

The CFAC agrees with the recommendation from the WHO Forum on *Marketing of Food and Non-Alcoholic Beverages to Children* that any fines for breaking codes of practice should take into account the annual turnovers of the business involved and should be an adequate disincentive.⁴⁵ Maintaining the reputation of a brand might be a sufficient incentive to most companies to avoid breaking the rules. In the case of a controversy about the legitimacy of a complaint, the burden of proof should be with the advertiser to prove that the advertisement is in line with regulations, rather than with the person or organisation complaining about the advertisement to uphold the complaint.⁴⁵

The CFAC recommends that the CTS be monitored by an independent statutory body, which has the ability to act as a consumer watchdog with the full law enforcement powers of a government body, but acting independently of both government and industry. The monitoring body should enforce clear and transparent monitoring and enforcement, and information regarding this and recognized breaches should be made readily available to the public, both directly and through annual reporting to Parliament.

13.0 Recommendations from CFAC

The CFAC makes the following recommendations to ACMA as they finalise the CTS:

The final Children's Television Standards 2008 must:

- *Include separate provisions for children's programming and advertising, so that issues related to the potential harms of unhealthy food advertising to children are not overshadowed by programming issues.*
- *Regulations must more accurately reflect the times when children are actually watching television.*

The CFAC recommends that standards related to food advertising need to apply between 7am to 9am and 4pm to 9pm weekdays and 7am to 9pm on weekends.

- *Place the rights of children and parents above commercial interests.*

Children do not have sufficient cognitive skills to counter the impact of food advertising. As the majority of food advertisements are for unhealthy foods, children need to be protected from influences that may harm their wellbeing. Parents deserve to raise their children in an environment that is conducive to the development of healthy eating practices.

- *Include new standards that restrict the advertisement of unhealthy foods to children.*

The CFAC supports the use of the FSANZ Nutrient Profiling Model to establish criteria for the advertising of healthy foods and urge ACMA to address the high levels of unhealthy food advertising on television.

- *Ban the use of premiums in advertisement for unhealthy food.*

The CFAC recommends that CTS 31 be amended to better reflect the weight of evidence, which shows that premium offers are highly persuasive to children. The CFAC recommends that CTS 31 be amended to ban the use of premium offers in unhealthy food advertising during broadcast periods when high numbers of children are watching; that is between 7am to 9am and 4pm to 9pm weekdays and 7am to 9pm on weekends.

- *Extend the provisions for the draft CTS 33 for promotions and endorsements by program characters and celebrities to reflect peak children's viewing times.*

The CFAC recommends that CTS 33 apply to food advertising broadcast between 7am to 9am and 4pm to 9pm weekdays and 7am to 9pm on weekends.

- *Establish statutory mechanisms for monitoring of compliance and prompt and appropriate sanctions for breaches.*

The current system of complaints is not adequate and difficult for consumers to understand and operate.

- *Reflect and respect community and public health concerns on this issue.*

The CFAC collected 20,521 sign ups to our Pull the Plug campaign, whereby members of community pledged their support for better regulations to protect children from unhealthy food advertising. As well, formal submissions made to

ACMA for the review of the CTS demonstrate the depth and breadth of concern about this issue from prominent health and medical groups.

14.0 Conclusion – Call to Action

As the CTS fall under the responsibility of the ACMA, the CFAC and its members urge you to take action against unhealthy food advertising that is pervasive and overwhelming in quantity, and that is unfairly manipulative in quality, by updating the standards that specifically relate to food advertising and its possible harms.

To protect children from the possible harms of television, the CTS must restrict unhealthy food advertising during broadcast periods when high numbers of children are watching. Such a restriction is a critical element in any comprehensive public health strategy to address Australia's childhood obesity crisis.

We hope that ACMA will be mindful of its obligations and give due considerations to our feedback and concerns.

Should you wish to discuss any of the issues raised in this submission, please contact the Chair of the CFAC, Ms Kathy Chapman, as below:

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