

# **SUBMISSION ON THE DRAFT WHITE PAPER ON AUDIO AND AUDIOVISUAL CONTENT SERVICES POLICY FRAMEWORK**

**By email: [aacsedtps.gov.za](mailto:aacsedtps.gov.za)**

**15 February 2021**

To: Acting-Director Director -General, Department of Communications and Digital Technologies

**IN RE: DRAFT WHITE PAPER ON AUDIO AND AUDIOVISUAL CONTENT SERVICES POLICY FRAMEWORK: A NEW VISION FOR SOUTH AFRICA 2020**

1. We write this letter to you as individuals, who are academics at various South African universities and members of a scientific working group advising the Department of Health on Front of Packaged Labelling. We endorse the policy proposal to regulate advertising of beverages and harmful foods that are high in salt, sugars, fat, saturated fats or trans-fatty acids or that otherwise do not fit national or international nutritional guidelines.
2. Since 2018 we have been researching nutrient profiling models to classify unhealthy foodstuff in South Africa, front-of-package labelling, as well as restriction of marketing to children. Although our work has not yet been published, we are currently finalising our report for the Department of Health, and as such are in the unique position to provide some comments on the aspects of child-directed marketing, and the classification of unhealthy foodstuffs.
3. Our work has culminated in a proposed code of good practice for child-directed marketing (hereafter “the Code”) which is under review by the Department of Health. We attach a copy of the Code below. We would like to draw your attention to the following aspects of the Code which may be of assistance with developing policies and bills moving forward:
  - a. The extent of restrictions on child-directed marketing;
  - b. The definition of a child;
  - c. The scope of advertising;
  - d. The definition of unhealthy food.

## ***The extent of restrictions on child-directed marketing***

4. To protect children, the scheduling of any advertisements of unhealthy foods which target children should be prohibited absolutely. This includes advertisements which uses a child actor, a celebrity, sport stars, public figure, cartoon-type character, puppet, computer animation or similar persona which appeals to children. It also includes the use of a token, gift, or collectable item which appeals to children.

### **Definition of a child**

5. The common cut-off point for increased regulation of child-directed marketing is often children below the age of 12. However, the Code endorses the view that the definition of children is to be given its ordinary meaning and refer to persons below the age of 18, which is aligned to the South African constitution.

### **Scope of advertising**

6. Advertising should not be viewed narrowly. Advertising includes both direct and indirect forms of promotional activities including product placement, the use of competitions and contests, the sponsorship of events or the sponsorship of social campaigns. Therefore, any regulatory action aimed at protecting children from advertising of harmful foods, should include these forms of indirect advertising in its ambit.

### **Definition of unhealthy food**

7. The Code contains a clear definition of unhealthy foods which could be used to give certainty and clarity to any regulatory action. The scientific working group has undertaken extensive research on the topic, and is willing to provide the evidence behind our recommendations (should it be required and with permission from the Department of Health). The definition proposed in the code is:

*“Unhealthy food” means energy dense, nutrient poor food and non-alcoholic beverage which are too high in saturated fat, trans-fatty acids, total sugar or total sodium which exceeds the nutrient levels in the food or beverage per 100 g/ml as indicated in the table below:*

<b>Undesirable Nutrient</b>	<b>Nutrient levels in food (per 100 g)</b>	<b>Nutrient levels in nonalcoholic beverages (per 100 ml)</b>
<i>Total sugars</i>	<i>10 g</i>	<i>5 g</i>
<i>Saturated Fat</i>	<i>4 g</i>	<i>3 g</i>
<i>Sodium</i>	<i>400 mg</i>	<i>100 mg</i>
<i>Non-sugar sweetener</i>	<i>Contains any</i>	<i>Contains any</i>

*These criteria are to be applied to all foods and non-alcoholic beverages (both locally manufactured and imported) that contain any of the following: Free sugar, added sodium, added saturated fat and non-sugar sweetener. Trans-fat is not included as it is sufficiently restricted in foodstuffs under regulation 127 of 2011.*

8. The definition of unhealthy food, and regulations relating to child-directed marketing, should be aligned with those developed by the Department of Health in order to strengthen interdepartmental alignment, simplify monitoring and ensure no confusion.
9. Thank you for the opportunity to comment on the draft White Paper. We hope this is a backdrop to take the necessary steps to protect children from harmful food. For any queries, please feel free to contact Prof Rina Swart at [rswart@uwc.ac.za](mailto:rswart@uwc.ac.za).

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# CODE OF GOOD PRACTICE: CHILD-DIRECTED MARKETING OF UNHEALTHY FOODS

## INTRODUCTION

1. This code of good practice is designed to deal with some of the key principles to regulate advertisement and commercial marketing of unhealthy foods directed at children. Principles are discussed in broad terms to accommodate the evaluation of marketing practices on a case-by-case basis.
2. The key goal of this Code is to eliminate exploitative advertisement and commercial marketing practices designed to encourage the sale of unhealthy goods to, and consumption of unhealthy goods by children.

## DEFINITIONS

3. **“Advertisement/ commercial marketing”** means any written, pictorial, visual or other descriptive matter or verbal statement, communication, representation or reference—
  - (a) appearing in a newspaper or other publication; or
  - (b) distributed to members of the public; or
  - (c) brought to the notice of members of the public in any manner,

and which is intended to promote the sale or encourage the use of such unhealthy foods, and “advertise”, “market” and “marketing practice” has a corresponding meaning;

Commercial marketing also means a multifaceted, integrated mix of marketing communications, campaigns and techniques that focuses on branding and building relationships with consumers and includes, but is not limited to –

advertising through any media in any manner, directly or indirectly, combining traditional media, digital marketing, packaging, online sweepstakes, outdoor advertising, food companies’ websites, search engines, social networking sites and blogs, around or in films and media clips viewed online, around or in online and downloaded games and music, print media, in-school marketing and all other marketing techniques;

radio, television, the internet, any other electronic online medium, e-mails and text messages, mobile and viral marketing, digital marketing, packaging, online sweepstakes; and cross promotions (e.g. linking foods with popular children’s movies and television characters), product placement, sales promotion, promotional activities such as redemptions, under-the-cap offerings, advergames, text message/SMS contests;

cross-promotions using celebrities including sport stars, brand mascots or characters popular with children;

Sponsorship of TV and radio programmes, music videos, celebrity product endorsement, sponsorship of community and school events and contests, corporate gifts of educational materials and equipment, corporate support of health campaigns, sports clubs, school meals.

4. **“Child”** means any persons younger than 18 years old; and “children” shall have a corresponding meaning
5. **“Responsible party”** means any person who sells or advertises unhealthy foods, including to offer, keep, display, transmit, consign, convey or deliver for sale, or to exchange, or to dispose of to any person in any manner whether, for a consideration or otherwise, and "sold", "selling" and "sale" have corresponding meanings.
6. **“Unhealthy food”** means –
  - i) energy dense, nutrient poor food and non-alcoholic beverage which are too high in saturated fat, *trans*-fatty acids, total sugar or total sodium which exceeds the nutrient levels in the food or beverage per 100 g/ml as indicated in the table below:

<b>Undesirable Nutrient</b>	<b>Nutrient levels in food (per 100 g)</b>	<b>Nutrient levels in nonalcoholic beverages (per 100 ml)</b>
Total sugars	10 g	5 g
Saturated Fat	4 g	3 g
Sodium	400 mg	100 mg
Non-sugar sweetener	Contains any	Contains any

ii) It is recommended that these criteria be applied to all foods and non-alcoholic beverages (both locally manufactured and imported) that contain any of the following”

1. Free sugar
2. Added sodium
3. Added saturated fat
4. Non-sugar sweetener

Note: These criteria were developed by the research working group advising the Department of Health on front of package labelling and have been identified as appropriate cut-points to use in restrictive food policy in South Africa.

## **RESTRICTIONS**

7. A responsible party shall not be permitted to market unhealthy foods directly or indirectly to children through the use of –

- a. a child actor, any celebrity, sport stars, public figure, cartoon-type character, puppet, computer animation or similar persona; or
  - b. a competition or a token, gift, or collectable items which appeal to children.
8. No commercial marketing activities to children shall be permitted between 06.00 and 21.00.
9. A responsible party shall not abuse positive family values such as portraying any happy, caring family scenario, in order to advertise unhealthy foods.
10. No advertisement may encourage excess consumption or inappropriate portion sizes, undermine the promotion of healthy and balanced diets, or promote inactive lifestyles.
11. Any promotional activities offering prizes or rewards which will require consumers to eat and drink excessive quantities of products in order to participate is prohibited.
12. Responsible parties are strictly prohibited from including misleading or incorrect information as to the quality of unhealthy foods in any advertisements, including omitting important aspects of a product's nutritional profile, or misrepresenting unhealthy foods as a meal replacement.

#### **EDUCATIONAL AND CHILDREN'S HEALTH ENVIRONMENTS**

13. No commercial marketing of unhealthy food is permitted in any environment whose primary function is to provide educational or health services to children, such as, but not limited to, nurseries, school premises, pre-school centres, playgrounds, family and child clinics and pediatric services, or on any other premise where a sporting or cultural activity primarily attended by children is occurring.
14. Responsible parties shall respect the commercial-free character of these environments by providing, where directly responsible for final distribution of products, unbranded vending machines, preferably including educational images and messages promoting balanced diets and healthy and active lifestyles. Third-party distributors shall be made aware of these commitments in such cases where a food business operator is not directly responsible for the final distribution of their products to schools.
15. Suitable beverages, such as pure water and milk – in appropriate portions – can be promoted, and should be displayed most prominently where beverages are being sold.

#### **GUIDING PRINCIPLES**

16. Responsible parties must take into account the abilities and judgment that children at various stages of development can be expected to bring to the understanding of communications. This understanding and judgment may not be exploited.
17. Commercial marketing should avoid creating a sense of urgency in children.
18. Refrain from content which might harm children in any way.
19. Encourage parental figures or supervising adults to interact with children and encourage healthy food choices.

**OTHER DUTIES**

20. Nothing listed in this Code should be seen to detract from, or alter the meaning, of any other restriction or duty placed on responsible parties in terms of the Constitution, national or sub-ordinate legislation.