An analysis of the regulatory and voluntary landscape concerning the marketing and promotion of food and drink to children
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- International Association for the Study of Obesity (IASO)
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# Contents

Introduction .................................................. 7
Executive summary ........................................... 11
Methodology .................................................... 23

Section 1  Mapping exercise ................................... 31
1.1 Introduction .................................................. 32
1.2 Mapping area 1: Current nature and extent of food marketing to children ........................................... 33
1.3 Mapping area 2: Current statutory and self-regulatory regimes and voluntary codes applicable in the UK .................................................. 55
1.4 Mapping area 3: Statutory and self-regulatory regimes in other countries ........................................... 69
1.5 Mapping area 4: Voluntary commitments, policies and pledges of manufacturers, retailers, trade groups and media owners ........................................... 73
1.6 Mapping area 5: Proposals and recommendations by consumer and health non-governmental organisations (NGOs) ........................................... 89
1.7 Mapping area 6: Methods for categorising foods and beverages (including nutrient profiling) that are being used in the UK and in other countries ........................................... 93

Section 2  Engagement with stakeholders ............... 97
2.1 Corporate stakeholder consultation ......................... 99
2.2 Consultation with children, young people and parents ........................................... 101

Section 3  How principles are developed – learning from a case study ........................................... 105
3.1 Introduction .................................................. 106
3.2 Transferable learning and principles of good practice ........................................... 107

Taxonomy of marketing terms ........................................... 117

Acronyms .......................................................... 123

References ........................................................ 127

Appendices ........................................................ 133
Appendix 1  Notes of the corporate stakeholder meeting (International Business Leaders Forum)
Appendix 2  Consultations with children, young people and parents regarding food and drink marketing techniques – final report and survey tools (National Children’s Bureau)
Appendix 3  The Marine Stewardship Council certification scheme – a case study (Institute for Social Marketing)
Appendix 4  Grids of information captured during the mapping exercise
(See List of Grids on page 5. Note: Appendix 4 is supplied as a separate document.)
List of Figures

Figure 1  Advertiser-owned websites mapped for this project  33
Figure 2  Promotion of Snickers product and brand on advertiser-owned website and Facebook  38
Figure 3  Educational materials on Cadbury’s advertiser-owned website  40
Figure 4  Nestlé Box Tops for Books website  41
Figure 5  Coca-Cola’s Gimmecredit website  45
Figure 6  Free toys with Burger King UK’s children’s meal  45
Figure 7  Sainsbury’s product display for Pringles crisps during the football World Cup (2010)  47
Figure 8  Examples of kiosk checkouts and checkout lines at Co-op supermarkets  47
Figure 9  Example of checkout line at Morrisons  47
Figure 10  Examples of checkout kiosks at Tesco  48
Figure 11  Children’s brand awareness  49
Figure 12  In4Merz web presence  50
Figure 13  Doritos (PepsiCo) website featuring the King of Ads competition  51
Figure 14  Example of an integrated marketing campaign by Coca-Cola Great Britain  52
Figure 15  BCAP Code rules applicable to all food and drink advertising to children – a summary  56
Figure 16  CAP Code rules applicable to food and drink marketing to children – a summary  57
Figure 17  Standards for food provided in schools at times other than lunch (School Food Trust)  62
Figure 18  Analysis of gaps and potential weaknesses in regulatory regimes and the extent to which these may be addressed by voluntary codes  64
Figure 19  Food and drink company pledges included in the review  74
Figure 20  Case study: the Children’s Food and Beverage Advertising Initiative (US Pledge)  80
Figure 21  Case study: The Walt Disney Company and food  82
Figure 22  Non-governmental organisation proposals mapped for this project  89
**List of Grids**

*These grids are all supplied in a separate large-format publication.*

### Mapping area 1: Current nature and extent of food marketing to children

| Grid 1 | Current nature and extent of food marketing to children on advertiser-owned websites (8-26 February 2010) |

### Mapping area 2: Current statutory and self-regulatory regimes and voluntary codes applicable in the UK

| Grid 2a | Current statutory and self-regulatory regimes applicable in the UK market |
| Grid 2b | Trade body codes, guidance and best practice applicable in the UK |
| Grid 2c | Proposals and recommendations from intergovernmental organisations including WHO |

### Mapping area 3: Statutory and self-regulatory regimes in other countries

| Grid 3a | Characteristics of government policies on food marketing to children in 59 countries |
| Grid 3b | Government policies on food marketing to children in 59 countries – focus on non-broadcast provisions |

### Mapping area 4: Voluntary commitments, policies and pledges of manufacturers, retailers, trade groups and media owners

| Grid 4a | Food industry pledges on marketing to children, as of December 2009 |
| Grid 4b | Company members of pledges for marketing to children, as of December 2009 |
| Grid 4c | Pledges on marketing to children: content ‘at a glance’, as of December 2009 |
| Grid 4d | Pledges on marketing to children: communication channels covered, as of December 2009 |
| Grid 4e | Audience definition by company for each pledge, with published individual company commitments, as of December 2009 |
| Grid 4f | Pledges on marketing to children: marketing techniques covered, as of December 2009 |
| Grid 4g | Communications channels and marketing techniques by individual company commitment: comparison to multi-company pledges, as of December 2009 |
| Grid 4h | Company nutrition criteria for food marketing to children, world, as of December 2009 |
| Grid 4j | Summary of the type of definition of foods covered in marketing pledges, by company, as of December 2009 |

### Mapping area 5: Proposals, and recommendations by consumer and health non-governmental organisations (NGOs)

| Grid 5 | Proposals and recommendations from health and consumer groups |

### Mapping area 6: Methods for categorising foods and beverages (including nutrient profiling) that are being used in the UK and in other countries

| Grid 6 | Methods used for categorising foods (including nutrient profiling models) in relation to food promotion to children |
Introduction
Background on the initiative

The National Heart Forum (NHF) was commissioned by the Department of Health to undertake a mapping and consultation exercise on the marketing and promotion of food and drink to children. This work is a precursor to any further work which may look to develop a set of voluntary principles to underpin all forms of marketing and promotion of food and drink to children, particularly where established mandatory self- or co-regulatory regimes do not exist. The NHF brought together a consortium of partner organisations to undertake the work. Consortium members and their roles are listed below.

Consortium members and their roles

**National Heart Forum (NHF)** – The NHF is a national alliance of 70 national organisations working to reduce the risk of coronary heart disease and associated conditions such as stroke, diabetes and cancer. Members of the NHF include charities, non-governmental organisations and professional bodies. The NHF undertook a mapping exercise of marketing practices, current regulations, commitments, policies and proposals relating to food marketing to children.

**National Children’s Bureau (NCB)** – The NCB is a charitable organisation dedicated to advancing the health and well-being of children and young people. The NCB conducted professional consultations with children and parents.

**Institute for Social Marketing (ISM) at the University of Stirling** – The Institute provided an analysis of the development of the Marine Stewardship Council sustainable fisheries certification scheme, as a case study from which to draw any transferable learning which could be applied to the development of voluntary principles for marketing food and drinks to children.

**International Association for the Study of Obesity (IASO)** – IASO provided selective analyses drawing on data from a work package of the PolMark Project – a review of regulatory controls worldwide conducted by Dr Corinna Hawkes for the PolMark team.

**International Business Leaders Forum (IBLF)** – The IBLF is an independent, not-for-profit global organisation working with business leaders to support sustainable development. It conducted a consultation with members of the food and beverage industry to identify key issues and challenges.

Advisory Group

An Advisory Group was convened by the Department of Health as a resource to the project and to support wider stakeholder engagement. The Advisory Group met in March and in July 2010.

A list of members of the Advisory Group is given on page 2.
About this report

The report is organised into the following sections:

Methodology describes the methodology used for all aspects of the project.

Section 1 presents the findings of the mapping exercise.

Section 2 presents the outputs from the consultations with corporate stakeholders and with parents, young people and children.

Section 3 presents an analysis of the development of the Marine Stewardship Council certification scheme as a case study from which to draw transferable learning for developing principles of good practice.

There is also a Taxonomy of marketing terms and a list of Acronyms used in this report.

Appendix 1 contains the full report of the consultation with corporate stakeholders.

Appendix 2 contains the full report of the NCB consultations with children and parents.

Appendix 3 contains the full report of the Marine Stewardship Council case study.

Appendix 4 contains the grids used to capture data for the mapping exercise. This Appendix is supplied as a separate document.
Executive summary
The National Heart Forum (NHF) was commissioned by the Department of Health to undertake a mapping and consultation exercise on the marketing and promotion of food and drink to children. This work is a precursor to any further work which may look to develop a set of voluntary principles to underpin all forms of marketing and promotion of food and drink to children, particularly where established mandatory self- or co-regulatory regimes do not exist. The work was awarded through a government competitive tender process. The draft report was subject to peer review.

Working through a consortium of partner organisations (the National Heart Forum, the International Business Leaders Forum, the National Children’s Bureau, the International Association for the Study of Obesity and the Institute for Social Marketing at the University of Stirling), the project undertook:

- a mapping exercise of marketing practices, regulations, policies, commitments and proposals relating to food and drink marketing to children
- consultations with corporate stakeholders
- consultations with children, young people and parents, and
- an analysis of the development of the Marine Stewardship Council certification scheme as a case study from which to draw transferable learning for developing principles of good practice.

An Advisory Group convened by the Department of Health provided input from stakeholders to the project and fact-checking (see page 2 for membership).

**Key messages**

**The case for voluntary principles**

The objective for this piece of work was to undertake a mapping and consultation exercise as a precursor to any further work which may look to develop voluntary ‘principles’ for food and beverage marketing to children in the UK – one which addresses the issue of marketing for products high in fat, sugar and/or salt (HFSS) and their contribution to poor dietary health. Prerequisites for such a process are a clear understanding of the issues, and an analysis of current controls on food marketing to children, including their strengths and gaps. By mapping the regulatory environment in the UK (including voluntary codes) and checking this against a snapshot of the marketing environment that children experience, this report shows that current codes and regulation do not fully address the integrated nature of marketing to children across many platforms using a variety of techniques. Examples have been identified where weaknesses in the definitions or exemptions or gaps in codes and regulations leave children exposed to HFSS food marketing (1.3).

**Lessons from around the world**

It is recognised that around the world, governments, intergovernmental agencies, food companies, advertisers, non-governmental organisations (NGOs) and consumers are all deeply engaged with this issue and have come up with a huge range of approaches and strategies in response. A critical element of this project was to map existing efforts outside the UK, both regulatory and voluntary, to see what lessons may be learned.

What is striking about the voluntary pledges made by commercial companies and trade organisations is the potential reach of these pledges. The parties to the International Food and Beverage Alliance (IFBA) pledge are estimated to be responsible for more than 83% of global food and beverage advertising. It is also noteworthy that, despite the number and diversity of these pledges, they are remarkably consistent in some respects (age definitions and common exemptions, for example) and very varied in other respects (such as nutritional criteria) (1.4).
Since this work was commissioned, the World Health Assembly of 193 governments endorsed a set of recommendations on marketing food and beverages to children as part of the WHO global strategy for the prevention and control of non-communicable diseases. Its recommendations seek to address the current limitations of voluntary actions, particularly in terms of setting credible standards: ‘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.’¹

There are also interesting developments from the US. The case study of the Children’s Food and Beverage Advertising Initiative (CFBAI) (1.5) shows how the Federal Trade Commission (FTC) is seeking to strengthen the pledge by making recommendations to standardise the CFBAI definitions, criteria and implementation. To drive this forward, the FTC is currently working with other government agencies to agree nutrition standards and parameters for voluntary food marketing standards for children aged two to 17. A final report of the Interagency Working Group is due in mid 2011.

The White House Taskforce on Childhood Obesity, in its report to the US President in 2010, pointed out that ‘effective voluntary reform will only occur if companies are presented with sufficient reasons to comply. The prospect of regulation or legislation has often served as a catalyst for driving meaningful reform in other industries and may do so in the context of food marketing as well.’²

**Lessons in developing principles**

A valuable contribution to the project is the case study of the Marine Stewardship Council multi-stakeholder process to develop principles and criteria for marketing standards and certification. The analysis identifies potentially transferable, tried and tested strategies and mechanisms which could be applied in the development of voluntary principles for marketing food to children and which deal with many of the critical steps and challenges in common, such as gaining consensus, handling conflict and confidentiality, and setting credible standards.

A key learning point is that progress could be best made through an ‘independent broker’, such as an intergovernmental body or government agency, which would involve independent expertise for standard-setting and ensure transparency and accountability when taking account of different interests and issues where there is current disagreement (such as age definitions, notions of targeting and categorisation of foods).

**Next steps**

The brief for this piece of work did not include making practical proposals for how a process of principle development might be taken forward. A further piece of work could investigate third-party verified standards setting, using the International Organization for Standardization (ISO) standards process as a template. ISO standards for direct marketing are already developed, suggesting that this is likely to be a fruitful avenue to explore.

A set of principles which operate at a high level and which take an inclusive approach could help resolve some of the difficulties observed in current codes and reduce the burden of continuously adapting regulations and codes to respond to a rapidly evolving marketing landscape. It could also help to reframe the problem in a constructive way. Rather than focusing on whether regulation or
self-regulation is the best way forward, it would be helpful to focus instead on determining what standards should apply ‘in principle’ and only then think about the most appropriate and effective mechanisms for implementing those standards.

Because effective controls on marketing to children pose a significant challenge to many food companies and advertisers, it is important that the government provides the right environment and incentive to ensure that food marketers engage with a process of developing voluntary principles. This could be through the government’s Responsibility Deal, bringing together the food industry and NGOs in a process under government leadership.

This report presents findings from the four areas of work, and draws together themes and issues which could inform the development of a set of voluntary principles. A summary of the key findings from each element of the project follows.

Mapping exercise (section 1)

1 Current nature and extent of food marketing to children

Children are engaging with more media, at a younger age.
There are clearly observable trends showing that children have increasing access to commercial media, through a growth in online and mobile media use, coupled with a proliferation of more traditional media, such as digital TV.

Children are using a mix of media earlier in their lives than previously. Around 40% of 7-10 year olds and almost all 11-13 year olds own a mobile phone. Eight out of 10 children regularly use the internet at home, with social networking via Facebook now central to children’s online activities (1.2).

Opportunities for parental mediation between marketer and child are reduced.
With increasing numbers of children now reported to have access to the internet, computer games and TVs in their own rooms and with mobile phones in their pockets, the opportunities for children to be exposed to marketing communications without parental mediation are increased.

The weaknesses observed in age verification mechanisms mean that these are not an adequate control on children’s exposure to marketing on websites and social networks.

The major food and drink brands integrate their marketing across a range of media. Food and drink brands use all of the marketing techniques examined in this study.
In the mapping of marketing techniques across different media, food and drink brands featured significantly. Marketers increasingly use branding in games and engaging websites, sometimes without marketing specific products.

Children’s exposure to brands online and via other digital media is more prolonged than through traditional advertising, and industry research shows that food and drink brands achieve the highest awareness among children, compared with brands for non-food products (see Figure 11).

Many of the marketing techniques children are exposed to fall outside current regulatory regimes. Food and beverage marketing via product and brand integration, packaging, equity-brand characters, sponsorships and premiums and give-aways is widespread, but is not controlled by any statutory or self-regulation.
The links between advertiser-owned websites and other social media sites are extensive and suggest a blurring of the boundaries between socialising, entertainment and marketing. A high proportion of food and drink brands are now using Facebook and other social network sites to engage with children and young people and get them to become ‘friends’ or ‘followers’ of brands.

**Immersive marketing techniques are common and are likely to operate at a sub-conscious level.** Indirect marketing approaches such as product placement in films, viral marketing, advergaming, social networking and sponsorship are often more personalised and more participatory and may not be recognised as a form of advertising.

**Food and drink marketing aimed at children and seen by children is dominated by foods and drinks that are high in fat, sugar and/or salt (HFSS).** The majority of food and drink products marketed to children fall within the ‘Big Five’ product categories: pre-sugared breakfast cereals, soft drinks, confectionery, savoury snacks and fast food outlets. In addition to marketing specifically targeted to a child audience, there is a large additional volume of food and drink marketing ‘to adults’ that is seen by children, that is attractive to children and to which children respond.

**Food and beverage companies have a significant presence in sports sponsorship.** Many sports sponsorships link HFSS food and drink brands with sport and fitness.

Many food and beverage companies use equity-brand characters to promote their products across a range of media. The rise of equity-brand characters – characters created by advertisers and designed to appeal to young children – is a cause for concern, since their use falls outside current regulation.

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**2 Current statutory and self-regulatory regimes and voluntary codes applicable in the UK**

The second mapping area for this project examined the regulatory environment in the UK by reviewing the statutory and self-regulatory codes of Ofcom, BCAP (Broadcast Committee of Advertising Practice) and CAP (Committee of Advertising Practice), and also the relevant industry codes, pledges and best practice guidance applicable in the UK. The analysis also looked at relevant best-practice codes from government and NGOs, and intergovernmental recommendations. Section 1.3.5 responds to the request from commercial stakeholders that the project should include a ‘gaps’ analysis of the existing self-regulatory regime in the UK to illustrate the status quo and identify which marketing practices currently fall through the regulatory net (see Figure 18).

The regulatory landscape as it applies to marketing food and drink to children is more developed in the UK than in most other countries.

There are statutory regulations prohibiting HFSS food and drink advertising and product placement during children’s TV programming and there are statutory standards for food sold in schools (Grid 2a). (The Grids referred to in this Executive summary are all in Appendix 4 of the report.)

Advertising in non-broadcast media is governed by a self-regulatory code (the CAP Code). This includes non-paid-for space online and on-demand audiovisual media services (Grid 2a).

There are gaps regarding both the communications channels and marketing techniques covered by regulatory regimes (summarised in Figure 18). Point-of-sale marketing (the formulation, packaging and presentation of food and beverage products to children, premiums and give-aways) is not covered by regulatory regimes (1.3.4). Point-of-sale marketing also falls outside of voluntary codes, with the exception of one retailer code (The Co-
operative Group, see 1.5.4). Where industry codes cover ‘all forms of marketing’, point-of-sale marketing is generally not covered unless it is defined as an ‘advertisement’ at point of sale.

New digital marketing techniques such as product and brand integration in digital media and mobile phone messaging fall outside the CAP definition of ‘advertising’ and are therefore not covered by the CAP Code (Grid 2a).

Any controls on sponsorship and in-school marketing depend on best practice guidance from government and NGOs rather than regulation (Grid 2b). Secondary schools are not covered and some private primary schools may be excluded.

There are important differences between regulations, self-regulatory codes and voluntary codes in their implementation and enforcement and with respect to how they define the age of children and child audiences, and how they categorise the food and drinks which fall in or out of remit. There is no consistent definition of the age of a child in marketing regulations or codes applied in the UK. The age currently varies between 11 and 18 years. Most food and drink rules for children under Ofcom, CAP and BCAP codes apply up to the age of 16. Some specific CAP rules apply to primary school aged children (under 12) (Grid 2a).

The mechanisms by which audience composition is measured or assessed vary. Whether a marketing communication is considered as ‘directed to children’ may depend on the proportion of children to adults in the audience. This proportion is set higher in company pledges than statutory regulations.

The Food Standards Agency (FSA) Nutrient Profiling Model (NPM) – the mechanism used by Ofcom to categorise food and beverages as either HFSS or non-HFSS – is applied to rules on food and drink advertising on TV (under Ofcom and BCAP). The NPM is not applied to rules for radio advertising (BCAP), or to CAP rules for on-demand audiovisual services or non-broadcast media (Grid 2a).

Industry commitments use nutritional criteria based on companies’ own guidelines or no criteria at all, making it difficult to establish an empirical basis on which to encourage marketing for ‘healthier’ products (1.3.2).

Co-regulatory and self-regulatory codes incorporate an inconsistency which allows the use of animated equity-brand characters appealing to children, while restricting the use of licensed characters or cartoons.

3 Statutory and self-regulatory regimes in other countries

The third mapping area examined statutory and self-regulatory regimes in other countries, drawing on a review undertaken as part of the EU-funded PolMark Project (POLicies on MARKeting to children), which was completed in 2009. At the time of the review:

There were areas where statutory or self-regulatory regimes in other countries exceeded the provisions in the UK.
The picture of controls on food marketing to children in other countries showed that, although the UK probably had the most developed controls on TV food and drink advertising to children, there were international examples that the UK could learn from.

In-school marketing: Marketing in and around schools was included in statutory rules in Finland and Norway (and was proposed in Brazil and South Africa), and there were self-regulatory provisions in
at least six other countries. Advertising on school books was restricted under general law in the Russian Federation.

**Age definitions:** In applying restrictions in most media to under 12s, Germany and Spain were at the lower end of the age range applied by other countries. For example, self-regulation in Denmark and the Netherlands set the age at 13, while a draft law in Chile and self-regulation in Australia set the age at 14. The Irish rules on prohibiting the use of celebrities and sports stars to promote food to children covered children up to 15. Finnish guidelines applied up to 18 years of age. The UK, which applied most restrictions up to 16 and some up to 12, sat across the range.

**Promotion of healthier products:** In Norway, the statutory rules required that efforts be made to promote the sale of healthier products (although it was not clear how this was implemented).

**Broader protection from commercial messaging:** In Sweden and in Quebec province, Canada, children were protected from a wide range of commercial marketing messages, including but not limited to food and drink marketing messaging.

### 4 Voluntary commitments, policies and pledges of manufacturers, retailers, trade groups and media owners

The fourth mapping area examined 24 voluntary commitments, policies and pledges made by manufacturers, retailers, trade groups and media owners.

**Although coverage of voluntary pledges can be high, there are important limits on what types of marketing to children are included.**

The sectoral coverage of company pledges is reported by the pledge hosts to be high. Companies that are signatories of the IFBA Pledge are estimated to be responsible for 83-92% of global food and beverage manufacturers’ advertising (Grid 4a).

However, the pledges and codes limit what they cover: for example, most cover only advertising in specified communication channels, are limited to specified marketing techniques, and do not necessarily apply to independent franchisees (1.5.2).

**Communication channels generally not well covered by codes or pledges are advertiser-owned websites, in-school marketing, sponsorship, point of sale and viral marketing.**

These are the same areas generally neglected in national regulations. In some instances specific techniques are exempt (such as outdoor advertising, point-of-sale advertising, packaging or equity-brand characters). In other instances, because commitments have important exceptions (in schools, for example) the actual impact on marketing practices may be limited (Grids 4c, 4f and 4g).

**Criteria used within pledges differ between pledges and between companies. Some companies that are signed up to more than one pledge may apply multiple definitions.**

Company pledges generally agree on applying restrictions for children aged under 12 years, but have no common criteria for defining marketing ‘directed to children under 12’. Furthermore, some pledges define children as under 13 and some as under 14 (Grid 4e).

**Standards for categorising foods are confusing and very mixed.**

Twenty-nine different sets of nutrient criteria are used by the pledges covered in this project. Criteria vary both between companies, and between categories and products within the same company. Some companies are signed up to different criteria across different pledges (Grids 4h and 4j).
In the majority of cases, companies apply a category-specific approach to nutrient criteria. The effect of category-specific criteria is to shift marketing to ‘better for you’ products. Independent assessment of the US Pledge suggests that most products meeting standards for one company would not meet the standards of one or more of their competitors, and that the overall nutritional value of foods advertised remains low (1.5.2).

In 2008, the Federal Trade Commission (FTC) recommended that the US Pledge be strengthened by standardising nutrition criteria and the definitions of what constitutes advertising to children under 12.

The FTC is currently working with other government agencies to agree nutrition standards and parameters for voluntary food marketing standards for children aged two to 17. A final report of the Interagency Working Group is due in mid 2011.

Licensing companies can play an important role by restricting the products with which characters popular with children are associated (via licensing and promotions). Companies such as The Walt Disney Company and BBC Worldwide have working policies applying nutritional standards. In line with food and advertiser policies, the impact of licensing policies is significantly determined by the nature of exemptions included. The Walt Disney Company, for example, allows up to 15% of their total confectionery portfolio to carry Disney characters (1.5.3).

Lack of retailer-owned codes represents a significant gap when marketing at point of sale is either not covered or specifically exempted from both voluntary and self-regulatory codes (1.5.4). Only one UK retailer (the Co-operative Group) was identified as having a policy on marketing foods to children (which applied to packaging, in-store promotions and checkouts).

5 Proposals and recommendations by consumer and health non-governmental organisations

The fifth mapping area examined proposals and recommendations made by consumer and health non-governmental organisations (NGOs) for codes or best practice to restrict food and drink marketing to children.

An inclusive approach is supported by NGOs covering all forms of food and drink marketing and promotion, and all communication channels.

Where NGOs have specified a minimum age for marketing restrictions for children, this is 16 or 18, but they generally do not set any specific mechanism for determining when marketing is ‘directed to children’.

Emphasis is placed on protecting settings ‘where children gather’. This would include schools, nurseries, playgrounds, and sporting and cultural events. Several of the codes focus specifically on schools as an area that is generally neglected under statutory or self-regulatory controls on marketing (1.6.2).

All the NGO code proposals recommend empirical standards for nutrient criteria. Several favour a nutrient profiling approach such as the Food Standards Agency’s Nutrient Profiling Model used by Ofcom.
All NGOs (except US-based NGOs) identify national governments as having the main responsibility for code setting, implementation and compliance (Grid 5). NGO proposals focus not just on criteria for controls, but on what they judge to be appropriate mechanisms to deliver controls on marketing.

6 Methods for categorising foods and beverages (including nutrient profiling) that are being used in the UK and in other countries

The sixth mapping area looked at methods in use for categorising foods and beverages (including nutrient profiling) that are being used in the UK and in other countries in relation to food promotion to children. This included models used to underpin marketing controls and to set standards for food provided in schools.

Models have been developed by governments, NGOs, and commercial companies.

The parameters used in the different models vary considerably. In some cases these differences may relate to the purpose of the model, while in others it may relate to the assumptions of those responsible for the model (1.7.2).

Relatively few of the models have been developed through a systematic and transparent process and to our knowledge only one (WXYfm, the ‘Ofcom model’) has been subject to external validation (Grid 6).

Engagement with stakeholders (section 2)

Corporate stakeholder consultation

Consultation with corporate stakeholders towards the beginning of the project provided an opportunity for 24 representatives from food manufacturing, retailing, advertising and licensing companies to hear about the project, to share information with the project and to express opinions on the type of analysis the project should usefully undertake.

Contributors recognised that many companies in their sectors were signed up to at least one or more voluntary codes or pledges, but that monitoring information about the impact of these codes is not publicly available. It was suggested that an independent monitoring system might be needed to provide transparency and accountability.

Contributors felt there was a lack of evidence for this initiative and felt that a ‘gap’ analysis of the existing self-regulatory system in the UK would be useful.

Contributors felt that competition law may be a barrier to companies signing up to collective voluntary principles on marketing to children.

Consultation with children, young people and parents

Consultation with children, young people and parents was undertaken by the National Children’s Bureau through a combination of small-scale workshops and a survey to provide a qualitative ‘snapshot’ of views. Specifically, the consultations explored awareness of types of non-broadcast marketing outside of regulatory regimes, and the perceived influence these types of marketing have
on children’s food and drink choices. Parents and children were also asked how they thought marketing techniques could be used to promote healthier eating choices.

The dominant marketing techniques identified by both children and young people were those at point of sale – eye-catching brand, packaging, cartoons, free gifts, competitions, celebrity endorsements, price and special offers. Children and young people were less likely to identify in-school marketing as a means to promote food and drinks.

Children and young people recognised that marketing is one among other influences on their food choices, with gifts and celebrity promotions as the most influential. Parents reported that children as young as two years old responded to features on the product and in store, and that packaging, tempting displays and cartoon characters appealed strongly to under 5s.

All the groups felt that marketing techniques could be used more to promote healthier choices, and that restricting marketing of what they considered less healthy options would help to achieve a better balance in foods of greatest appeal.

How principles are developed – learning from a case study (section 3)

A case study of the Marine Stewardship Council (MSC) was undertaken to examine a process where principles and criteria were developed through a multi-stakeholder endeavour to deliver public benefit in an unrelated field. The purpose was to identify any transferable learning which could be applied to the development of voluntary principles for marketing food and drinks to children.

The case study examines key parts of the development process – agreeing parameters, gaining consensus, managing issues of confidentiality and conflict of interests, for example – and identifies potential transferable learning at each stage (3.2).

Optimal processes for consultation and collaboration require a broad consensus on core goals to foster a sense of common purpose. Champions within a sector can help in the early stages to encourage wide engagement.

Agreement on the parameters of any principles needs to take into account the ambition of the initiative, scientific evidence as well as a pragmatic appraisal of what can be achieved. Supporting criteria and guidance on the interpretation of principles may act as adaptive parameters as new evidence, practices, technologies, and socio-economic conditions emerge. Core principles and the parameters for the underlying intent for those principles provide continuity of strategic goals.

Developing consensus and handling conflict demands a sensitive understanding of stakeholders’ positions and motivations. A key challenge is to find mechanisms to demonstrate how the common goal may support or enhance individual positions. Conflicts of interest may be best managed openly and transparently, but to do this may require an ‘independent broker’ such as an intergovernmental body like the World Health Organization (WHO) or the Food and Agriculture Organization (FAO). Independent expertise is also critical for setting standards, developing measurement methodologies and for monitoring and verifying the implementation.

Managing commercial confidentiality can be supported in a number of ways, including offering companies an early-stage pre-assessment and guidance ‘offline’. Third-party certification schemes are ideally positioned, and have the experience and motivation to ensure the protection of commercially sensitive data.
The way in which principles are used to underpin criteria for the MSC standards could suggest parallels for standards on food marketing to children. For example, the principles span three levels: commodity-specific, context (i.e. marine environment), and practice-specific (i.e. the governance management systems). Parallels for food marketing might be: the nutritional content of the portfolio of food product marketed (commodity-specific), impact assessment of marketing activity on children’s and families’ consumption behaviours (context), and the new product development and reformulations strategy of the company (management and governance).

Assessing the impact of principles needs to be built into the strategy, with a clear rationale for indicators at the outset. A lesson from the MSC experience is that the existence of multiple schemes and messages may dilute impact, and that controls on self-regulatory, self-monitored standards and labels together with a high-impact communications strategy could pre-empt this. Retailer activities contributed to the proliferation of the MSC scheme standards and criteria, and a lesson for food marketing may be that close engagement with the retail sector could help to reduce proliferation and increase impact.

There are many potential strengths to exploring the concept of third-party verified standards for food marketing in a further piece of work, using the ISO standards process as a template.
Methodology
Methodology for mapping exercise (section 1)

The purpose of the mapping exercise was to describe: the principal marketing practices used to promote food and drinks to children; the current regulations and codes of practice applicable in the UK; and the commitments, policies and proposals from industry, governments and civil society relating to food marketing to children.

Advice and information were also provided by some members of the Advisory Group to the project. (Membership of the Advisory Group is listed on page 2.)

The findings of the mapping research are captured in grids for ease of analysis. These are given in Appendix 4.

Current nature and extent of food marketing to children (section 1.2)

The first phase of the mapping exercise consisted of a desk-based literature review of publicly available reports, data and studies from government, commercial and academic sources. Special effort was made to identify information about marketing in media that fall outside of regulatory regimes, including in-school marketing, product packaging, point of sale and sponsorship. The period of survey was between January and March 2010 using search engines including Google, Google News, PubMed, British Library Catalogue, trade journal archives and World Advertising Research Center (WARC) archives. Search terms included ‘child+’, ‘adolesc+’, ‘market+’, ‘promot+’, ‘advert+’ and a range of terms for the various media, settings, forms and techniques of promotional marketing and the various types of food and beverage category likely to be marketed.

The second phase of the exercise was primary research consisting of content analysis of 63 advertiser-owned websites and associated marketing activities to gain an appreciation of the integrated nature of food marketing. The websites were accessed over a three-week period from 8-26 February 2010 and the exercise recorded the presence or absence of 14 features of interest (e.g. use of licensed or brand characters, use of age restrictions, use of games on the site). The features were selected to identify mechanisms used by advertisers to appeal to visitors to their website, any mechanisms to prevent children accessing material on the sites, and any examples of material about nutrition and health on the websites. Each website’s content was analysed according to features specified in Grid 1, in Appendix 4.

Websites were selected to include those belonging to 11 companies signed up to the EU Pledge in 2009 (Burger King, Coca Cola, Danone, Ferrero, General Mills, Kellogg’s, Kraft, Mars, Nestlé, PepsiCo and Unilever) plus Cadbury, Haribo Dunhills, KFC (Yum!), McDonald’s and Weetabix which were identified as companies of relevance to the UK market and which had been featured in recent UK analyses of marketing to children by Which? (the consumer organisation). These 16 companies between them provided 63 sites which were analysed in phase 2 of the mapping exercise.

Detailed primary research into point-of-sale promotions was not possible within the constraints of this project. Information was gathered from industry and NGO reports (British Retail Consortium and National Consumer Council) and personal communications from the Co-op (February 2010) and the British Retail Consortium (March 2010). Where studies or reports of company practices have not been found, illustrative in-store observations are included.

This report includes findings from relevant qualitative research conducted by Discovery Research and published in *Marketing Week* magazine (Figure 11). Discovery Research provided the following information about the methodology used.
During unspecified dates in 2010, three group discussions were undertaken with children aged six, eight and 10 years in each group respectively. Each group discussion was attended by three boys and three girls (18 children in total). Two group discussions of six mothers were also undertaken. The research aimed to provide insights into:

- how children develop and interact with technology in the three key media of internet, mobile and TV
- what technology they use or want
- what role technology plays in these three areas
- what are the key brands operating in this space
- how brands use technology to enhance interaction
- the specific brands the participants are aware of, and
- what the participants understand by these brands.

The results of these first two phases of the mapping exercise are shown as Mapping area 1, in section 1.2.

**Current statutory and self-regulatory regimes and voluntary codes applicable in the UK (section 1.3)**

A third phase of the mapping exercise examines current statutory and self-regulatory regimes and codes applicable in the UK. These were identified via a combination of communication with officials at the Department of Health, reference to the NHF’s repository of relevant reports and media cuttings, and an internet search using Google. The project’s Advisory Group was invited to identify any examples of relevant codes. Members of the Group also provided comments on an early draft of the report. This included fact-checking by the Advertising Standards Authority on the detail of the self-regulatory codes applicable in the UK.

Grid 2a analyses different types of marketing or promotions and the nature and extent of the regulatory provisions that do or do not apply to them. Grid 2b identifies the international and national trade body codes and best practice guidance applicable in the UK market, and analyses these codes to show how they are framed, what they add to regulatory provisions and what they do and do not cover. Grid 2c analyses proposals and recommendations from intergovernmental organisations, including the World Health Organization, which are applicable to the UK. Grids 2a-c are structured to allow comparison, where possible, but acknowledge that regulators, trade bodies and health organisations start from different points and perspectives. See Grids 2a-c are given in Appendix 4.

Section 1.3 includes a ‘gaps’ analysis to identify what sectors and types of marketing are not presently addressed by co- and self-regulation and to examine whether and to what extent voluntary codes fill those gaps (Figure 18). The gaps analysis was made by drawing together a list of marketing techniques and communication channels referred to in the material reviewed in phases 1 and 2 of the mapping exercise. These were analysed against the provisions of the UK regulatory regimes to show where techniques or media fall outside current regimes.

Where techniques and media were within the current regimes, a further comparative analysis was made to highlight potential weaknesses or inconsistencies in the provisions. The regulatory provisions were compared with best practice guidance or voluntary codes to identify if any of the gaps were, in principle, addressed by those codes. A similar comparison was made with the recommendations of the intergovernmental institutions (WHO and the European Network on Reducing Marketing Pressure on Children).
Statutory and self-regulatory regimes in other countries (section 1.4)
Section 1.4 analyses findings from the PolMark Project (captured in Grids 3a and 3b in Appendix 4). Funded by the European Commission’s Executive Agency for Health and Consumers, the PolMark (POLicies on MARKeting Food and Beverages to Children) project was coordinated by the International Association for the Study of Obesity (IASO). The Project included a review of regulatory practices and policies in EU Member States which was subsequently extended to include available material from countries around the world. To gather this information, PolMark approached all WHO European region countries, plus all those countries outside the WHO European region where it was believed actions were being undertaken (based on the previous [2004] WHO survey of marketing regulations worldwide), and all other countries which emerged in literature searches and web-engine searches. Policies were gathered from 59 countries around the world. Summary reports are available at www.polmarkproject.net. The findings of the regulatory review are also available in the International Journal of Pediatric Obesity.3

Note: The analysis in this report is confined to the PolMark regulatory review only. It does not draw on the stakeholder opinion review also carried out under the PolMark Project. See Grids 3a and 3b, in Appendix 4.

Voluntary commitments, policies and pledges of manufacturers, retailers, trade groups and media owners (section 1.5)
A further phase of the mapping exercise analyses policies and pledges by food and drink companies, advertising bodies, licensing companies (1.5.3) and retailers (1.5.4). Grids 4a to 4j (in Appendix 4) capture the findings of primary research carried out by Dr Corinna Hawkes between April and December 2009. It comprised website searches of international, regional and national trade associations for food manufacturers, retailers and the advertising industry, and of individual leading food companies. Supplementary information was requested from industry groups and companies by Dr Hawkes. See section 1.5.1 for a full list of the pledges.

The Grids capture the following information about the voluntary pledges:
- membership and sectoral coverage of pledges (Grids 4a and 4b)
- minimum requirements of pledges (Grids 4c)
- communication channels (Grid 4d)
- audience definitions (Grid 4e)
- marketing techniques (Grid 4f)
- comparison of individual and multi-company pledges (Grids 4g)
- nutrition criteria (Grids 4h and 4j).

A case study is included which describes the key findings from analysis of one multi-company pledge – the Children’s Food and Beverage Advertising Initiative (CFBAI) – undertaken by the US Federal Trade Commission and Children Now (a US children’s interest organisation).

This section also includes a review of codes by licensing companies and media owners (1.5.3) to identify the provisions they include, how the codes are applied and any reported impact of the codes. Information was obtained from a Which? report of 2007" and this was followed up by searching for updates on websites and through personal communications, including a series of communications with LIMA (the International Licensing Industry Merchandisers’ Association). An in-depth case study of one of the codes – from The Walt Disney Company – is presented, based on information from a face-to-face briefing from the company in June 2010 (see Figure 21).

The section also includes a brief review of policies adopted by seven major UK retailers (1.5.4) based on desk research of published surveys and company corporate social responsibility (CSR) reports.
Supplementary information about the policies adopted by The Co-operative Group was supplied by personal communications (in February 2010). See Grids 4a-4j, in Appendix 4.

Proposals and recommendations by consumer and health non-governmental organisations (NGOs) (section 1.6)
This section analyses published recommendations and proposed codes from non-governmental, non-commercial organisations in the UK and internationally. Information was obtained using the NHF’s repository of relevant reports and media cuttings, and an internet search using Google, and personal communications with the International Association for the Study of Obesity. Eight published sets of recommendations were found. A content analysis was undertaken to identify: points of difference and points in common in terms of their scope; communication channels covered; marketing techniques; age and audience definitions; categorisation of foods and compliance and monitoring proposals. For the analysis grid, see Grid 5 in Appendix 4.

Methods used for categorising foods and beverages (including nutrient profiling) that are being used in the UK and other countries (section 1.7)
Information was obtained about different methods of categorising foods and beverages (including nutrient profiling) that are being used in the UK and in other countries. Source materials included literature reviews for the Food Standards Agency (2004 and 2007) by the British Heart Foundation Health Promotion Research Group on nutrient profiles used in relation to food promotion and children’s diets. Other unpublished material was sourced from an international review by Dr Corinna Hawkes for Health Canada in 2009. This review looked at examples of parameters in use for defining ‘healthy’ and ‘unhealthy’ foods. Further information was gathered from company and government websites and personal communications. Nutrient profiling schemes were categorised using an analysis grid – see Grid 6 in Appendix 4.

Methodology for stakeholder consultations (section 2)
Consultation with corporate stakeholders (IBLF report)
The International Business Leaders Forum (IBLF) conducted a consultation event with corporate stakeholders towards the beginning of the project (18 March 2010). Two half-day meetings provided an opportunity for 24 representatives from food manufacturing, retailing, advertising and licensing companies to hear about the project, to share information with the project and to express opinions on the type of analysis the project should usefully undertake.

The event was run under Chatham House rules and a detailed note of the event and a full list of participants are included in Appendix 1.

Consultation with children, young people and parents (National Children’s Bureau report)
The consultation with children, young people and parents was intentionally conducted on a limited scale. It is not representative of the whole population, and the findings provide a ‘snapshot’ of views and opinions. No quotas were applied to the samples. The methods used would be replicable to a larger, more representative sample.

A preparatory piece of work was completed by the NHF to map the current nature and extent of food marketing techniques used to promote food and drinks to children and young people (see section 1.2). Initial findings from this work were used to inform the development of the consultation tools. The project brief was to focus on non-broadcast marketing techniques, particularly those which currently fall outside regulatory regimes.
In total, 104 children aged between nine and 14 years and 36 parents from two geographical areas in England (London and Suffolk) took part in participatory consultation activities, which were further supported by 372 completed surveys. The children were recruited in primary and secondary schools via the NCB’s networks, and the parents were recruited through local children’s centres.

A consultation plan was devised to provide a range of data from three groups of participants:
- primary school age children
- secondary school age young people, and
- parents in early years settings who have one or more children.

Four consultation tools were then developed to obtain qualitative participatory data and quantitative data from these groups. These were:
- four one-hour participatory workshops for groups of children and young people
- a self-completion survey for children and young people
- a self-completion survey for parents, and
- a focus group format for four focus groups of parents.

The consultation tools used are shown at the end of Appendix 2.

The consultations sought to elicit, from participants, awareness of various marketing techniques and views on the degree to which different marketing techniques influence children’s food and drink choices. Views were also sought from children about how the marketing of food products to children and young people might need to change, and from parents about possible or potential future food marketing to children to encourage food choices recommended for a healthy diet (using projective questions).

Participatory workshops were chosen for the work with the children and young people because these provide effective ways for them to share their views and opinions in a group setting. Pupils participated within their familiar classroom setting through whole-class participation, smaller group work and individual exercises, which drew on the experience of the NCB in using participation methodology. The participatory methods used are also effective at enabling those with less confidence, problems with literacy skills or English as a second language to contribute.

Focus groups were chosen as the methodology for the work with parents because these closed, small group discussions can enable participants to explore a range of open-ended questions in a structured way, and share insights as part of a wider group dynamic. It was felt that parents may be more comfortable in smaller groups than in participatory workshops and would be able to share their views when in the company of other parents whom they knew from the same setting.

It was decided to complement the workshops and focus groups with self-completion surveys for children and young people and parents attending the same settings used for the qualitative work. Surveys were distributed to children via the schools and to parents via the children’s centres. The child and parent surveys are not linked – that is to say, the sample of parents are not parents of the children who completed the survey.
Methodology for the Marine Stewardship Council case study on how principles are developed (section 3)

A case study of the Marine Stewardship Council (MSC) development of principles and criteria for a sustainable fisheries certification scheme was prepared as background information for the development of responsible and accountable practices on food marketing to children, by Dr Georgina Cairns and colleagues at the Institute for Social Marketing at the University of Stirling (see Appendix 3).

A review of the MSC case study and potentially transferable learning from the MSC to an initiative to develop and establish voluntary principles for responsible and accountable practices in food marketing impacting on children is presented in section 3. Key questions were identified to guide the analysis of the MSC case study:

- What process of consultation and collaboration was involved?
- What parameters were agreed for the MSC scheme, and how?
- How did the process develop consensus and handle conflicts?
- How were issues of commercial confidentiality managed?
- How were principles used to underpin criteria for the standards?
- How does the MSC assess the impact of its principles?

The limitations of the project did not allow for more than one case study to be examined – although it would have been desirable to carry out more. The MSC example was chosen because it had its origins in a joint initiative between an NGO (WWF) and a commercial food company (Unilever) and subsequently involved a wide range of actors from different sectors. It was also chosen because it has been extensively reviewed and critiqued.
Section 1
Mapping exercise

A summary of this section is given in the Executive summary, on page 14.
1.1 Introduction

This section includes the results of the mapping exercise. It covers the following mapping areas:

**Mapping area 1:** Current nature and extent of food marketing to children

**Mapping area 2:** Current statutory and self-regulatory regimes and voluntary codes applicable in the UK

**Mapping area 3:** Statutory and self-regulatory regimes in other countries

**Mapping area 4:** Voluntary commitments, policies and pledges of manufacturers, retailers, trade groups and media owners

**Mapping area 5:** Proposals and recommendations by consumer and health non-governmental organisations (NGOs)

**Mapping area 6:** Methods for categorising foods and beverages (including nutrient profiling) that are being used in the UK and in other countries.

For information on the methodology for each of these mapping areas, see page 24.
1.2
Mapping area 1: Current nature and extent of food marketing to children

1.2.1 Introduction

This mapping area explores the current nature and extent of food and beverage marketing to children. It looks at publicly available data on trends in marketing investment and trends in children’s use of media – especially new media. It also gives examples of marketing techniques currently used by the industry, to provide a ‘snapshot’ illustration of the range and integration of marketing activities which are accessible to children and young people in the UK. A taxonomy of definitions, where available, is included on page 117.

This mapping exercise consisted of a desk-based literature review of publicly available reports, data and studies and a primary analysis of advertiser-owned websites and associated marketing activities to gain an appreciation of the integrated nature of food marketing. (See the Methodology section on page 24.) The mapping exercise looked at advertiser-owned websites for the 16 major food and soft-drink companies listed in Figure 1.

Figure 1: Advertiser-owned websites mapped for this project

<table>
<thead>
<tr>
<th>Burger King</th>
<th>KFC (Yum!)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cadbury</td>
<td>Kraft</td>
</tr>
<tr>
<td>Coca-Cola</td>
<td>Mars</td>
</tr>
<tr>
<td>Danone</td>
<td>McDonald’s</td>
</tr>
<tr>
<td>Ferrero</td>
<td>Nestlé</td>
</tr>
<tr>
<td>General Mills</td>
<td>PepsiCo</td>
</tr>
<tr>
<td>Haribo Dunhills</td>
<td>Unilever</td>
</tr>
<tr>
<td>Kellogg’s</td>
<td>Weetabix</td>
</tr>
</tbody>
</table>

Websites selected included those belonging to 11 companies signed up to the EU Pledge in 2009 plus Cadbury, Haribo Dunhills, KFC (Yum!), McDonald’s and Weetabix which were identified as companies which also had a significant profile in the UK market.

In total, 63 websites were examined (see Grid 1 in Appendix 4) in February 2010. Most of the websites were UK websites (.co.uk), some were global websites (.com) and others were .tv or .info. It
should be noted that some links on .co.uk websites redirect visitors to .com websites (e.g. cokezone.co.uk), suggesting that many of the websites accessible to children in the UK may be outside the national regulatory jurisdiction.

The primary analysis focuses intentionally on marketing techniques and communication channels which fall outside the current statutory and self-regulatory regimes in the UK, to give a feel for the types of marketing techniques and the communication channels that voluntary principles would need to accommodate. (Research findings from the primary analysis are shown in shaded text in boxes titled Primary research findings.)

1.2.2 Children’s use of media

Children are engaging with more media, at a younger age, according to recent reports. They also make extensive use of new media, especially the mobile phone, game consoles and online social networks. Children's increasing access to online and mobile technologies exposes them to a great deal of marketing communications. At the same time the opportunities for parental mediation between marketer and child are reduced.

- The children’s market is undoubtedly expanding, although it is not clear whether it is doing so at a faster rate than other market segments. Children have growing levels of access to commercial media, and are increasingly exposed to commercial messages of many kinds.\(^6\)

- Children are using a mix of media earlier than in their lives than previously. Two-thirds of five to eight year olds go online regularly and one in three has a mobile phone.\(^7\)

- Over 90% of children live in homes with multi-channel TV (cable, satellite, Freeview).\(^7\)

- The percentage of children regularly using the internet at home is around 80% and rising.\(^8\)

- Ownership of mobile phones by children aged 11-13 is almost universal and is around 40% of 7-10 year olds.\(^7\)

- Most children aged 5-15 use mainly PCs or laptops to access the internet at home, but a sizeable minority of children also access the internet via their game consoles or mobile phones. However, accessing the internet through a mobile phone or games console does not appear to be replacing access through a PC or laptop, but rather is in addition to this form of access.\(^8\)

- Half of five-to-seven year olds (49%), two-thirds of 8-11 year olds (67%) and three-quarters of 12-15 year olds (77%) have a TV in their bedroom. In addition, older children (aged 8-15 years) have internet access and/or a game console in their bedroom.\(^8\)

- The number of 7-16 year olds who have access to the internet in their own rooms has risen from 25% to 40% in the last year.\(^7\)

- Facebook is central to children’s online activities, with significant numbers using it from the age of 9-10 years and upwards.\(^7\)

- Younger consumers are moving away from making phone calls, as a consequence of their online social media use — giving the mobile phone [companies] another incentive to get involved with social networking as an alternative revenue-driver to voice calls. Young mobile-phone users are
particularly interested in the photo and video applications of social media, giving crossover potential for internet-enabled camera phones.\textsuperscript{9}

New and old media are increasingly converging, with TV and digital media being more and more integrated. Via new media, children have increasing contact with marketing and promotions from around the world.

1.2.3 Expenditure on food marketing to children

Within the constraints of this project it was not possible to access detailed data on marketing expenditure on food and drinks to children in the UK. Most commercial information is not publicly available. Other reports confirm that detailed breakdown of marketing expenditure by country and region is not given by most of the big food and drinks companies.\textsuperscript{10}

However, for comparison, the report of the US Federal Trade Commission (which required financial and marketing information from companies under compulsory process orders), showed that in the US in 2006, $870 million was spent on child-directed marketing, just over $1 billion on marketing to adolescents, and $300 million between the two age groups. Marketers spent more on TV advertising than any other technique, but for most foods, they employed the full spectrum of marketing techniques and formats.\textsuperscript{11} Expenditure should be treated with care as a proxy for marketing effort. TV advertising is much more costly than other media, and expenditure for some activities (such as corporate websites) may not necessarily be accounted under companies’ marketing budgets.

- Food and beverage products are promoted with massive marketing budgets relative to government expenditure on healthy eating campaigns. One company (Nestlé) spent £14 million in 2008 in the UK marketing one chocolate bar (KitKat).\textsuperscript{12} This compares to £4 million spent on the national ‘salt’ campaign by the Food Standards Agency in 2007.

1.2.4 Trends in marketing expenditure

Publicly available data for UK expenditure indicate that food and beverage companies spend significant budgets on marketing – to both children and adults. While the balance of expenditure may be shifting towards new media (as in the US), traditional media such as TV remain important. Character licensing is big business and is widely used to market food and beverages to children.

- Between January 2003 and August 2008, child-themed internet adspend rose by 89%, whereas the overall child-themed multimedia food and drink quarterly adspend fell by 32%.\textsuperscript{13}

- In the period January 2003 to March 2009, TV child-themed food and drink adspend fell by 34%, but one category (dairy) increased TV child-themed adspend by 37%. All other categories of food and drink advertisers reduced their TV child-themed adspend, with only cereal and confectionery reducing their adspend by less than the average.\textsuperscript{13}

- Internet advertising is growing and has overtaken TV advertising as the major generator of advertising revenue.\textsuperscript{6}

- Advertising expenditure (across all product categories) on social networking sites such as Facebook is rising rapidly and is estimated to grow to £285 million by 2012.\textsuperscript{14}
• In 2002, revenue from character licensing which includes entertainment, TV and film, rose by 4.1% to £61 million. Character licensing was the biggest sector of the £140 million UK licensing market, ahead of fashion, sport, trademark/brands and publishing.\textsuperscript{15}

1.2.5 Types of food marketed to children

Food and drink marketing aimed at children and seen by children is dominated by high fat, sugar and/or salt (HFSS) foods and drinks.

• Food marketing to children is dominated by the ‘Big Five’ categories: pre-sugared breakfast cereals, soft drinks, confectionery, savoury snacks and fast food outlets.\textsuperscript{16}

• Evidence from Ofcom shows that, after the TV advertising rules came into force, some companies reformulated their products to pass the Nutrient Profiling Model, and others developed new product lines that would pass the Nutrient Profiling Model.\textsuperscript{17}

Primary research findings
It was found that the foods and drinks being marketed to children were mainly confectionery, fizzy soft drinks, savoury snacks and products from fast food outlets. (See Grid 1, in Appendix 4.)

1.2.6 Communication channels used to promote food to children

All of the major food and drink brands integrate their marketing across a range of media and all of the marketing techniques examined in this mapping exercise featured food or drink brands.

• TV advertising of food and drinks to younger children is in decline\textsuperscript{13} since the introduction of regulations on HFSS food and drink advertising on children’s TV. However, TV remains very important in a child’s life.\textsuperscript{7}

• According to Ofcom, in 2008 children were watching broadly the same amount of TV as in 2005, with the same proportion of viewing in adult airtime (just over half) and children’s airtime. However, many more households with children had access to multi-channel TV in 2008 than was the case in 2005. As a result, children’s viewing has moved to digital channels away from the public service broadcaster (PSB) channels.\textsuperscript{17}

• The number of food and drink advertising spots on TV between 2005 and 2008 overall increased (mainly due to the proliferation of channels). However, the share of food and drink adverts as a proportion of all TV advertising remained relatively stable at 13.3%.\textsuperscript{17}
Primary research findings

Nearly a third (19) of the assessed product-related websites (for example, M&Ms, KFC, Revels, Snickers, Aero, Pepsi and Cadbury) feature a link to the corresponding product sites on social networking media such as Facebook, Twitter, MySpace or Bebo. Visitors are encouraged to ‘become a friend or fan’ of the product on Facebook or to become ‘a follower’ on Twitter, or to visit the product’s MySpace site. (See Grid 1, in Appendix 4.)

A strong link exists between web-based marketing and mobile marketing such as quick response codes used by PepsiCo on its PepsiMax website, for example. The codes (scanned from a product package via a mobile phone camera) allow the consumer to access downloads or rewards, or to enter prize competitions.

Marketing at point of sale – including formulation, packaging and presentation, use of promotions and gifts – is used to a significant extent by food and drink companies (see section 1.2.8. for examples).

Advertiser-owned websites and social media

The links between advertiser-owned websites and other social media sites are extensive and suggest a blurring of the boundaries between socialising, entertainment and marketing.

‘Social networking sites and virtual worlds such as Bebo, MySpace and Habbo Hotel have also been used extensively by heavyweight HFSS brands such as Burger King, Mars, Coca-Cola and Pepsi, in order to legitimately harness the spending power of tech-savvy children. Of particular note is the campaign by Skittles on Bebo. Skittles has been allowed to create a Bebo profile on which it invites users to create their own Skittles advert ‘that you can show off to all your friends on Bebo. Get active and show us what Skittles mean to you’. The winner’s advert was shown on TV.’

Primary research findings

Many advertiser-owned websites such as M&Ms, KFC, Revels, Snickers, Aero, Pepsi and Cadbury link to corresponding product sites on social networking media such as Facebook, Twitter, MySpace or Bebo (see the Social networking links/accounts column in Grid 1, in Appendix 4). Visitors are encouraged to ‘become a friend or fan’ of the product on Facebook or to become ‘a follower’ on Twitter or to visit the product’s MySpace site.

Figure 2 shows an example of marketing of Snickers confectionery on the advertiser-owned website and a corresponding social media website. It highlights a variety of marketing activities on the product’s Facebook website, such as asking for mobile phone numbers from friends of the Facebook user. This example is part of an integrated marketing campaign which also runs across TV and poster advertising.
Figure 2: Promotion of Snickers product and brand on advertiser-owned website and Facebook

Snickers website (getsomenuts.tv) asking visitor to enter their date of birth

Snickers website after age has been verified

Online games offered on the Snickers website

Snickers fan is encouraged to provide mobile phone numbers of his or her friends

Snickers’ Facebook site with posts from fans saying ‘I just had one and love them’
Use of celebrity endorsements on advertiser-owned websites

**Primary research findings**

Many advertiser-owned websites use celebrity endorsement which often crosses over to TV ads (see column Celebrity endorsement column in Grid 1, in Appendix 4). The kind of celebrity endorsement ranges from featuring photos, films or direct quotes of support of the celebrity (former England football team players for Mars bar, or athlete Usain Bolt for Gatorade) to direct interactive engagement between the website visitor and celebrities (e.g. Mr T on the Snickers site or Holly Valance on the PepsiMax site).

**Age verification on websites**

One way in which companies seek to target websites to older children or adults – and away from younger children – is by requiring age-verification before a site can be entered. The robustness of the mechanisms in place is questionable. Age-restriction non-compliance for social networking sites has been identified as a matter of concern by both Ofcom and Mintel:

- ‘The minimum age for registering with social networking sites such as Facebook, Bebo or MySpace is thirteen. However, one in five children aged 8-12 that use the internet at home say they have a page or profile on Facebook (19%), one in ten (11%) on Bebo and one in twenty (four per cent) on MySpace. At an overall level, one in four (25%) home internet users aged 8-12 have a profile on at least one of these three sites, an increase from 15% in 2008.’

- ‘The proportion of under 16s using all three of the leading sites [Facebook, Bebo and MySpace] suggests that (non-) compliance with age restrictions is potentially as big an issue as online watchdogs have suggested.’

**Primary research findings**

There are different mechanisms for age-verification currently being used on advertiser-owned websites (see the Age restriction to access website column in Grid 1, in Appendix 4):

- Most of the advertiser-owned websites do not restrict access to their website, but a minimum age is required to register for prize winning competitions or loyalty rewards schemes, or to join membership clubs (e.g. Burger King, Haribo, McDonald’s, Milka, KitKat, Pepsi).

- Mars restricts access to its 11 product-related websites. Visitors are required to enter their date of birth before being able to navigate throughout the website. The age required to enter is stated on the website. (You must be aged 12 or over to enter this site.)

- On the Cokezone website (Coca-Cola) only access to its reward scheme is restricted to children who are 12 years of age or older. It does not state the required age on the website, but does state it on the labels of its Coca-Cola drink cans and bottles.

- Neither mechanism used by Mars and Coca-Cola prevents younger children accessing their websites if the visitor simply enters a false age.
In-school marketing including participation schemes and commercial partnerships

In-school marketing can include sponsored resources (e.g. teaching packs and materials), sponsored activities (e.g. competitions and projects), and collector schemes (e.g. wrappers for books).

It is difficult to gain an accurate picture of the extent to which in-school marketing is being used to promote food and drinks to children in UK schools without conducting a formal survey, which was beyond the remit of this project.

However, a report by the alliance for better food and farming, Sustain, highlighted this as an area of concern.19 The report identified examples of food and drink companies promoting their products in material provided as part of commercial curriculum packs. There is no specific regulation governing this type of marketing activity, although voluntary guidelines have been developed for schools in England and in Scotland (see section 1.3.2).

Primary research findings

Sponsored resources

The Cadbury website provides Cadbury’s 2010 Educational Brochures for teachers teaching Key stages 1 and 2 and 3 to 5 and for those who are preparing for a school group visit to Cadbury World in Birmingham. In addition, the website provides:

- workbooks for Key stages 1 and 2 (5-11 year old) students which are branded with the Cadbury logo (brand identifier)
- the possibility to book educational talks provided by Cadbury staff at Cadbury World, and
- a free preview visit for teachers, to help them prepare for the visit. (See Figure 3.)

Collector schemes.

Nestlé runs a collector scheme which offers free educational books from Dorling Kindersley in exchange for tokens found on Nestlé cereal box tops. Almost 400,000 books have been given away since 2005. A minimum of 10 tokens is needed for one book. (See Figure 4.)

Figure 3: Educational materials on Cadbury’s advertiser-owned website

www.cadburyworld.co.uk
Product packaging

Product packaging is used universally by food and drink companies to convey marketing messages. For examples of marketing techniques on product packaging, see section 1.2.8.

Point of sale

‘Point of sale’ describes the location, usually within a retail outlet, where the customer decides to make a purchase. Examples of marketing techniques used at point of sale (other than packaging) are described in section 1.2.8.

Sponsorship (other than broadcast sponsorship)

Sports sponsorship

Sports sponsorship by food and beverage brands is widespread and is often part of a company’s positioning as a health or well-being brand. In some cases the apparent contradiction between an ‘unhealthy’ product and a sponsored sporting event has attracted criticism.

- ‘With sedentary lifestyles also contributing to obesity, the promotion of sport is a popular theme within marketing campaigns. The controversy surrounding Cadbury’s wrappers for sports promotion in 2003 highlights the sensitivity of HFSS brands utilising this. However, this has not stopped brands from venturing into this area.’ 20
Primary research findings

The following examples of sports sponsorship were found while accessing the 63 websites analysed:

- Maoam (Haribo Dunhills) sponsors ‘Move It 2010’ and has sponsored the Skate Jam Competition 2009 as well as ‘Move It 2009’.
- Haribo sponsored the ‘Haribo Starmix Superbike Racing Team’ in 2009.
- Kellogg’s & Swimming sponsors the Kellogg’s ASA Awards Scheme, the Kellogg’s Swim Active project, Kellogg’s Swimtastic awards, and Team Kellogg’s for elite athletes.
- Mars has sponsored the England Football team for five years.
- McDonald’s funds grassroots football through the FA (Football Association) Community Shield 2009, as official presenting partner. McDonald’s is also the FA’s official community partner helping to create volunteer football coaches, ultimately coaching up to 1 million children in the UK.
- Nestlé runs a website where customers can redeem ‘Go Free’ vouchers from cereal packets and confectionery wrappers for free physical activity sessions. The website provides information about where customers can go to do one free session of their chosen physical activity.
- The Ferrero Group’s ‘Kinder + Sport’ is an official partner of the International School Sport Federation.

Other types of sponsorship found during this mapping exercise were:

- General Mills UK runs a childhood literacy programme with Hillingdon Council in the UK (Hillingdon Book of the Year scheme).
- Haribo sponsors the Kids Club of the City Sightseeing tour bus company with 150,000 free Kids Club packs containing a small bag of Haribo Starmix, felt pens and an activity passport with games and puzzles for the children.
- Yum! brand Pizza Hut was a Gold sponsor of the National Family Week in June 2010.

1.2.7 Marketing techniques used to promote food to children

Children are exposed to a wide range of marketing techniques used to advertise and promote food and beverages – often integrated across different media.

- Children’s media environment is increasingly characterised by ‘integrated marketing’ across a range of platforms.6

- Contemporary marketers are using a widening range of techniques. These approaches are often more personalised and more participatory. They include product placement, viral marketing, advergaming, social networking, sponsorship, peer-to-peer marketing and user-generated content.5

- Techniques are often deceptive or ‘stealthy’ insofar as their persuasive intentions are not clearly identifiable because they embed commercial messaging within games or information, blurring the distinctions between marketing messages and other content.5

- Marketing techniques are often about branding – creating a set of values or emotions associated with the brand – rather than marketing of specific products.16

- Themes of fun and fantasy, or taste, are used to promote food and drinks to children.16
Product and brand integration in digital media including games and mobile messaging
Embedding references to products and brands into games and mobile messages is an immersive technique whose impact is likely to operate at a subconscious level, especially among children.

- In the US, online games were the predominant promotion strategy used by food companies to promote brand loyalty among children.\textsuperscript{21}

- Brand integration in computer games can go even further, such as the console games specially produced for Burger King in the US starring equity-brand characters (BK King and his friends). The console games were available to buy at Burger King retail outlets in the US. This raised sales at Burger King restaurants by 40%.\textsuperscript{22}

- New mobile marketing services are being developed. One example is a new service by mobile-phone provider Orange called ‘Orange Shots’. As part of this service, Orange is offering to send some of its pay-as-you-go customers text messages containing information about benefits and brands relevant to them. The customers have to opt in to receive this service, which was trialled with brands such as Snickers.\textsuperscript{23}

Primary research findings

- Nearly all advertiser-owned websites visited during this project use some form of gaming ranging from simple quiz games to specially created computer games. It was found that many advertiser-owned websites provide child-appealing features such as free downloads, online games and music. Downloads include PC screensavers, PC wallpapers, chat icons, ringtones and other mobile phone downloads (see Grid 1, in Appendix 4).

- The range of advergaming or in-game advertising on advertiser-owned websites found was extensive, with online games showing at least one brand identifier such as the logo or the equity-brand character. In most cases, equity-brand characters explain how to play the game – such as Quicky the Nesquik rabbit,\textsuperscript{24} the Kinder Egg character,\textsuperscript{25} and the Knitting Nannas from Shreddies.\textsuperscript{26} (See also Grid 1, in Appendix 4.)

- Other online games offered on advertiser-owned websites seem to provide more educational content – such as Kellogg’s Zookeeper game which did not feature any Kellogg’s products except the red Kellogg’s logo (brand identifier).

- The Coke Happiness Factory games\textsuperscript{27} feature the factory workers of an imaginary Coca-Cola factory, with regular-strength Coca-Cola bottles appearing throughout the different stages of the games.

Equity-brand characters
Equity-brand characters are those animated characters which are developed and owned by the advertiser and which have no separate identity. Well-known examples are Coco the Monkey (Kellogg’s Coco Pops) and Quicky the Nesquik rabbit (Nestlé). Both in the UK and elsewhere, equity-brand characters are exempted from advertising rules which restrict the use of characters or cartoons to promote food and drink to children (see sections 1.3.4 and 1.5.2).

- A report in 2007 by Which?, the consumer organisation, showed a range of examples where food companies use company-owned characters (or equity-brand characters) like Tony the Tiger, Coco the Monkey (Kellogg’s), and Moo the Dairylea cow (Kraft) on the packaging of their products to promote their product to children.\textsuperscript{4}

- In a follow-up report, Which? found that the same companies also used some of their equity-brand characters to promote healthier products from their product range to children. However,
none of the 19 characters they looked at were being used exclusively on ‘healthier’ products as defined by the Food Standards Agency’s nutrient profiling model.28

Primary research findings

• Equity-brand characters are widely used in food and drink marketing activities to children on advertiser-owned websites.

• Several examples were found on UK advertiser-owned websites where equity-brand characters appear in online games and are used to explain the games (the Kinder Egg character and Quicky, the Nesquik rabbit, see Grid 1, in Appendix 4), or to guide visitors through the virtual world on the product website (Fido Dido, the Peperami animals and the M&M characters), or feature in downloads such as chat icons, wallpapers for PCs, or colouring-in books (Coke Happiness Factory workers and the Milkybar Kid).

• Some equity-brand characters are themselves the product (Kinder Egg character, M&M characters and the Peperami animal).

Licensed characters

Licensing the use of characters – particularly film or TV characters – to promote food and drink products is commonplace and involves all major media companies (see section 1.5.3 for a discussion of company policies). Under the CAP Code there are restrictions on the use of licensed characters to promote food to children (see section 1.3.1).

Evidence from the US suggests that character licensing, or licensed cross-promotions, represent a significant marketing expenditure for food companies, but mainly for HFSS products. Analysis by the Federal Trade Commission showed that expenditure on child and teen marketing using cross-promotions annually was $74.4 million for quick-service restaurants, $56.2 million for breakfast cereals, and just $4 million for fruit and vegetables (Federal Trade Commission, 2008).11

Primary research findings

Licensed characters did not appear widely in the websites visited during the period of research for this project. Just two were noted: Burger King featured the film Hoodwinked Too! and Magic-Kinder featured Ice Age 3.

Celebrity endorsement

There are restrictions on the use of celebrities to promote food to children under the CAP Code (see section 1.3.1)

In the US, the Federal Trade Commission found that approximately 1.7% ($26.8 million) of youth-directed marketing spend was accounted for in fees paid to celebrities for product endorsements.11 This represented a substantially smaller spend than character licences or other cross promotions.

Another US report suggests that celebrity endorsement is not as popular with food advertisers as with other advertisers and that around 10% of food ads make use of celebrities to promote their products.29

The UK consumer organisation, Which?, found that celebrity endorsements were ‘a staple of marketing and advertising’20 and cited the use of singer Beyoncé Knowles as a Pepsi spokesperson.

Primary research findings

Three examples of celebrity endorsements were found on the websites visited during the period of research for this project: Donald Trump (Oreos), the England football team (Mars), and Loose Women (Maltesers).
Premiums and give-aways
Some products are promoted to children through the inclusion of free gifts, prizes or give-aways. Premiums are anything offered free or at a reduced price when a food and drink product is purchased. The purchase of the product is conditional to access the premium.

Primary research findings
- Coca-Cola’s Gimmecredit campaign is giving away free mobile phone credit with the purchase of promotional cans and 500ml bottles of Sprite, Fanta or Dr Pepper. The cans or bottles display a promotional code which enables the consumers to claim a 50p mobile phone credit. Claims can be made either by sending a text message or online.31
- Free toys are included in Burger King’s meal deal for children. As the film Hoodwinked 2 is promoted on the meal bags, children can choose one of six film characters as a give-away.

Figure 5: Coca-Cola’s Gimmecredit website

Figure 6: Free toys in Burger King UK’s children’s meal
Promotions at point of sale
Marketing techniques used at point of sale include: sales promotions via shelf ticketing, product display, positioning in store (checkouts, kiosks, in-store banners or ads), promotional bins and product sampling.

Point-of-sale promotions are universally used in UK supermarkets. Promotions are used to drive footfall through a store, to raise the profile of a particular product, and to encourage impulse purchases. Some retailers accept that sweets at checkouts are particularly appealing to children, and have adopted policies to remove them (see section 1.5.4 for retailer policies). Similarly, floor level displays, which are in easy reach of small children, may be targeted more to children than adults (for example, see Figures 8 and 10).

Detailed primary research into point-of-sale promotions was not possible within the constraints of this project. Information was gathered from industry and NGO reports (British Retail Consortium [BRC] and National Consumer Council) and personal communication from the Co-op and the BRC. Where studies or reports of company practices have not been found, illustrative in-store observations are included.

Primary research findings
Sainsbury’s – It was observed that no snacks or confectionery were displayed at the checkout lines in larger Sainsbury’s supermarkets, but that at the checkout kiosks especially in smaller, local supermarkets some confectionery, mainly sweets, was displayed.

The Co-operative Group – It is understood that The Co-operative Group has removed all HFSS foods and drinks from checkout lines or kiosk stands. However, the Co-op allows HFSS foods which are not child-targeted* in promotional bins at the front of some checkout lines.

Morrisons – It was noted that Morrisons allows the display of snacks and confectionery at both checkout lines and checkout kiosks.

Tesco – In larger Tesco supermarkets it was observed that sweets and snacks can be found at checkout kiosks, but not at the checkout lines, whereas at local Tesco supermarkets some checkout kiosks are free from snacks and confectionery and others are not. It was observed that in the same supermarket some checkout kiosks display snacks and confectionery and some do not.

ASDA – During this mapping exercise, the same mixed approach as at Tesco’s was noted at ASDA supermarkets where some fixtures at the checkout lines as well as at the checkout kiosks were free of snacks, confectionery and drinks.

Marks & Spencer – It was observed that at Marks & Spencer supermarkets some checkout lines and checkout kiosks are free from snacks and confectionery and some are not.

Waitrose – Waitrose supermarkets were found not to display any confectionery at their checkouts.

* The Co-operative Group defines ‘child targeted’ as follows: Child targeted products use cartoon characters/illustrations on the packaging, or have a relatively low price point.
Figure 7: Sainsbury’s product display for Pringles crisps during the football World Cup (2010)

![Figure 7: Sainsbury’s product display for Pringles crisps during the football World Cup (2010)](image)

Figure 8: Examples of kiosk checkouts and checkout lines at Co-op supermarkets

<table>
<thead>
<tr>
<th>Kiosk checkouts at the Co-op</th>
<th>Checkout lines with HFSS products ‘not targeted at children’ (see section 1.5.4 for definitions)</th>
</tr>
</thead>
</table>

Figure 9: Example of checkout line at Morrisons

![Figure 9: Example of checkout line at Morrisons](image)

Checkout line at Morrisons supermarket
Brand promotion
Brand promotion is a marketing technique that is being successfully used to raise brand awareness among children and young people.

Detailed primary research into the use of brand promotions was not possible within the constraints of this project. Commercial research published during the project offers a useful ‘snapshot’ of children’s brand awareness. The findings shown in Figure 11 are from qualitative research conducted by Discovery Research in 2010 and published in *Marketing Week* magazine.33 (Details of the research methodology are given on page 24.) This study suggests that brand awareness among the young is very high, that ‘cool’ brands are important, and that adult brands may be more aspirational than child-oriented brands.
‘Food and drinks brands have the highest awareness among children, with more than 90% matching the correct logos to Coca-Cola, Pepsi, Tropicana, Ribena, Sprite, Fanta, Robinsons and Capri Sun in the soft drinks sector.

When ranking brands by “coolness”, it is notable that food names such as Frosties, Cheerios, Coco Pops, Petits Filous, Munch Bunch and Babybel are ranked considerably cooler among six-to-eight-year-olds than nine-to-eleven-year-olds.

There is a sense among children of supermarket own brands ‘not being the real thing’.

From the age of around ten, it seems that there is less of a desire among children to receive overt marketing in a childish tone.

Adulthood in general seems popular with today’s children.

89% of children believe that appearing on TV implies something is cool being even more important than recommendations from friends and family (87%). Films and shows also generate a cool factor from 86%, while 84% say something is cool ‘if everyone at school has one’.

A famous face fronting a brand or product would influence 80% of children.

Girls appear more influenced by celebrity culture than boys.

96% of children admit to nagging their parents or guardians to buy them things.

The concept of marketing to children could be over for a lot of brands, as adult brands become more appealing and aspirational to children.’

For research methodology see page 24.

Brand placements in films
The placement of branded goods in films is widespread and used extensively to promote a wide range of products and services including cars, electronic gadgets, airlines and household goods.

A recent US study showed that food, beverage and retail establishment brands are frequently portrayed in films, including films rated suitable for children, and most of the brand placements are for energy-dense, nutrient-poor foods or product lines. The study concluded that films provide an avenue through which companies are marketing nutrient-poor and energy-dense foods to consumers including children and adolescents.34

Primary research findings
Although the constraints of this project meant it was not possible to conduct detailed primary research into the use of brand placements on films, an example of product placement noted in a film was Dr Pepper soda in Iron Man 2.35 The film is rated 12A for audiences in the UK.

Peer-to-peer marketing
Peer-to-peer marketing, or word-of-mouth marketing, relies on consumers talking to one another about brands and products. Marketers use various techniques to encourage and incentivise people to talk about their products to friends, either face to face or online. In the ‘social ad’ system ‘fans’ and ‘followers’ on social network websites like Facebook can link a product advertisement to an individual’s name and photo, alerting that person’s friends to their food and drinks preferences. Given the high brand awareness and sensitivity among children and young people, it is no surprise
that peer-to-peer marketing is successful. According to industry commentators it plays a significant role in brand promotions.

- ‘[It is] one of the most effective ways for brands to reach younger consumers who are likely to be influenced by their friends.’

- ‘P2P [peer-to-peer] techniques seem to be one of the most effective ways that brands can reach this often inaccessible audience [children].’

- According to an analysis by *Marketing Week* there are some youth research and marketing agencies in the UK who use P2P marketing techniques with children such as Dubit or In4merz, a P2P site for 11-24 year olds.

**Primary research findings**

In4Merz is a dedicated web-based business linking brands and young consumers. Analysis of the In4Merz website (for 11-24 year olds) shows:

- The In4merz site has more than 12,000 members who can collect points for activities such as promoting a musician’s album on Facebook.

- These points can then be redeemed in the In4merz shop for merchandise, or people can bid their points for the chance to win a face-to-face meeting with a pop star (see Figure 12).

- In4merz advertises on children’s social networking sites such as Habbo Hotel (see Figure 12).

- In4merz encourages its customers to talk to their friends via this social networking site, and advertises its brand there, as a form of integrated marketing.

**Figure 12: In4Merz web presence**
**User-generated marketing**

User-generated marketing is not formally defined but is described as ‘marketing communications, including advertisements generated by third parties, often in response to competitions run by brand owners, and which are communicated by the brand owners and/or via social networks’. (See the taxonomy of marketing terms on page 117). The creation of user-generated content on sites such as YouTube is clearly popular with young people, and this sense of fun and engagement is likely to drive youth interest in user-generated marketing too.

‘The involvement technique as typified by Skittles/Bebo ‘Create your own ad’ campaign, which centres on the burgeoning popularity of user-generated content has become recognised as a highly effective method of stimulating consumer interest in the brand in addition to fostering an emotional link which under current ASA guidelines might otherwise be difficult to foster.’ 20

Other recent examples of this technique listed in the report20 include:

- Mars-owned sweet brand Revels which ran a series of ‘Eviction’ in 2008, which asked the public to vote for the variety they wanted to see banished from the pack.
- The Walkers Crisps ‘Do us a flavour’ competition which consisted of an on-pack and online promotion inviting consumers to submit their flavour ideas, along with a picture of what inspired them.

**Primary research findings**

It was observed that 24 out of the 63 websites visited in February 2010 featured user-generated marketing ranging from the encouragement to upload photos (Kellogg’s Crunchy Nut, PepsiMax) or create short film clips (Natural Confectionery Company), to competitions inviting consumers to create the next advertising short film for a product (Doritos King of Ads competition 2010). (See Grid 1, in Appendix 4.)

**Figure 13:** Doritos (PepsiCo) website featuring the King of Ads competition

[Image: kingofads.doritos.co.uk, launched in February 2010]
1.2.8 An example of an integrated marketing campaign across different media

**Primary research findings**

None of the examples of marketing analysed in our research are isolated techniques, but are integrated into multimedia campaigns by food and drink advertisers. To illustrate this integration with just one product, marketing for Coca-Cola was traced across different media and techniques.

**Figure 14:** Example of an integrated marketing campaign by Coca-Cola Great Britain

- Coca-Cola’s Cokezone is advertised on the labels of Coca-Cola bottles and cans, encouraging consumers to ‘get into Cokezone – you could be just one code away from a dream experience’.
- The consumer can register online at cokezone.co.uk by entering the promotional code displayed on the labels. Once registered the consumer can earn points and claim Cokezone rewards such as key rings, wallpapers, ringtones or entry to prize winning competitions.

Marketing communication on the label encourages consumers to register at Cokezone.co.uk

Registering with Cokezone is rewarded with 2 bonus points. If additional personal information is provided, another 5 points can be earned.
Without needing to register, the visitor can click on the ‘Free and fun’ tab on the Cokezone website. This redirects the visitor to the Coke Happiness factory website (http://hf3.coca-cola.com/) which offers games featuring the Happiness factory worker characters.
At the Coke Happiness Factory, free downloads such as wallpapers, chat icons and ringtones are available.
1.3 Mapping area 2: Current statutory and self-regulatory regimes and voluntary codes applicable in the UK

1.3.1 The regulatory landscape in the UK

The regulatory landscape that applies to marketing to children is complex. According to a report by the consumer body Consumer Focus, there are at least 20 different statutory and self-regulatory codes relating to marketing and advertising techniques and practices, data protection, research, privacy and parental involvement. Statutory regulation and some self-regulation are set at the EU as well as the national level. Some marketing communications to children are regulated in one form or another by enactments of EU Directives governing data protection, privacy and electronic communications and unfair commercial practices. Other spheres of regulation that apply to food marketing, but do not specifically regulate food marketing to children, include General Food Law Regulations. These have provisions for product packaging and point-of-sale marketing.

The regulatory and self-regulatory regimes which are relevant to food and drink marketing to children are shown in Grid 2a (see Appendix 4) and are summarised below.

Regulations reviewed in Grid 2a
- Ofcom Broadcasting Code
- The UK Code of Broadcast Advertising (BCAP Code)
- The UK Code on Non-broadcast Advertising, Sales Promotion and Direct Marketing (CAP Code)
- PhonepayPlus Code of Practice
- School Food Trust standards for school food
- General Food Law Regulation (EC) 178/2002

Types of regulation – broadcast
Broadcast advertising in the UK is governed by a combination of statutory and co-regulatory rules. TV and radio advertising is co-regulated by Ofcom (the broadcast regulator) and the Advertising Standards Authority (ASA) administers the industry-owned BCAP Code. Statutory rules apply to programme sponsorship and to product placement. Co-regulatory rules apply to scheduling and content (BCAP Code) with backstop powers held by Ofcom.
TV

TV food and drink advertising (and sponsorship) to children is specifically regulated by the BCAP Code. New rules for HFSS advertising were introduced in 2007 (see Figure 15). The rules apply to terrestrial, cable and satellite commercial TV companies licensed by Ofcom.

Product placement on British TV is regulated by the EU Audiovisual Media Services Directive (2007/65/EC) (the AVMS Directive) and national regulations. Under the AVMS Directive, product placement is prohibited in certain programme genres including children’s programmes. The Ofcom Broadcasting Code further prohibits product placement for products or services in six categories including HFSS food and drink.

Figure 15: BCAP Code rules applicable to food and drink advertising to children – a summary

- Advertisements aimed at children (under 16) must not condone or encourage poor nutritional habits or disparage good dietary practice.
- Advertisements aimed at children (under 16) must not encourage ‘pestering’.
- Advertisements aimed at children (under 16) must not use hard-sell or high-pressure techniques.
- Nutrition and health claims must not mislead and must comply with EC regulation 1924/2006.*
- No high fat, sugar or salt (HFSS)** advertisements in children’s programmes. (Implemented in 2007.)*
- No HFSS advertisements in programmes of particular appeal to children under age 16. (Implemented in 2008.)*
- No HFSS advertisements on dedicated children’s channels. (Implemented in 2009.)*
- No celebrities or licensed characters to be used in advertisements for HFSS products aimed at primary-aged children (under 12). (Implemented in 2007.)*
- No promotional offers (give-aways) in HFSS advertisements aimed at primary-aged children. (Implemented in 2007.)*
  * TV only. Radio rules restrict the use of claims, characters and promotional offers in all food and drink advertisements aimed at pre-school or primary-aged children, except those for fruit and vegetables.
  ** As identified by the Food Standards Agency’s Nutrient Profiling Model (see 1.3.4 for details).

Brand advertising on TV

BCAP provides guidance on differentiating an HFSS product advertisement from an HFSS brand advertisement. It is intended to prevent advertisers getting around the HFSS advertising restrictions by showing the brand but not the product. BCAP would determine that a brand advertisement was ‘synonymous with’ or ‘very strongly associated with’ a specific HFSS product, if the advertisement:

- refers to or prominently features an identifiable HFSS product
- refers to or features a brand name that is strongly associated with a specific HFSS product
- refers to or prominently features a food or drink product but does not provide enough information for the audience to identify the product variant in the advertiser’s mainly HFSS range of that type of product, or
- refers to or features content, such as a strapline, celebrity, licensed character or brand-generated character, that is strongly associated with a specific HFSS product.
Radio
The BCAP rules are applied differently to commercial radio broadcasting. Unlike the rules for TV, they do not specify HFSS foods, but apply to all foods except fresh fruit and vegetables. Product placement is prohibited on commercial radio (under section 10 of the Ofcom Broadcasting Code).  

On-demand audiovisual media services
Media service providers of on-demand, or non-linear media services, regulated by the Authority for Television On Demand (ATVOD), are subject to content rules under the CAP Code. The application of rules to the media service provider, not the advertiser, derives from the AVMS Directive which requires that ‘each Member State shall ensure that all audiovisual media services transmitted by media service providers under its jurisdiction comply with all the rules of the system of law applicable ... in the Member State.’ (Article 2 (1) AVMS Directive). The application of CAP rules, not BCAP/Ofcom rules, means that on-demand services are not subject to scheduling restrictions on HFSS advertising.

Types of regulation – non-broadcast
Marketing and promotions in all paid-for space in media other than TV and radio are self-regulated under the CAP Code. This includes non-paid-for digital space (i.e. promotional company-owned websites and social media) from March 2011. The CAP Code is an industry-owned Code created, revised and enforced by the Committee of Advertising Practice. The rules are administered by the Advertising Standards Authority. The ASA is an independent body responsible for investigating and adjudicating on complaints about advertisements, sales promotions and direct marketing.

**Figure 16:** CAP Code rules applicable to food and drink marketing to children – a summary

- No promotional offers, licensed characters or celebrities allowed in food and drink advertisements (except for fruit and vegetables) aimed at pre-school or primary-aged children
- Advertisements must not condone or encourage poor nutritional habits or disparage good dietary practice (children under 16).
- Advertisements must not encourage ‘pestering’ (children under 16).
- Advertisements must not use hard-sell or high-pressure techniques (children under 16).
- Nutrition and health claims must not mislead and must comply with EC Regulation 1924/2006 (children under 16).

Advertiser-owned websites and social networking sites
Paid-for and non-paid-for advertising on advertiser-owned websites and social networking sites is regulated under the CAP Code. Advertising in non-paid-for space is defined as ‘advertisements or marketing communications ... that are directly connected with the supply or transfer of goods, services, opportunities and gifts, or which consist of direct solicitations of donations as part of their own fund-raising activities.’  

Because most social network sites can be accessed in the US, they are also subject to the Children’s Online Privacy Protection Act (COPPA) under US federal law which applies protections to children aged under 13 regarding personally identifiable information.

Advergames
The same rules and definitions apply under the CAP Code as for social networking sites (see above).

Mobile phone
Mobile marketing (via all premium-rate services accessed in the UK) is subject to self-regulation under a code of practice administered by PhonepayPlus. The code does not have specific provision for food and drink marketing to children. Advertising sent to mobile phones is subject to the CAP Code and regulated by the ASA.

Food sold in schools
Mandatory nutritional standards apply to school meals in England (but not in Wales or Northern Ireland). Different mandatory standards apply in Scotland. Regulations also apply to food other than lunch sold in schools, including vending in schools (see Figure 17 in section 1.3.5). The standards in England are subject to inspection by Ofsted, and by trading standards or environmental health officers. Exceptions to the mandatory standards are private and academy schools, which are not legally required to implement them. The content of vending machines is controlled by the standards, but branding of vending machines is not.

1.3.2 Guidance and best practice codes

There are a number of international- and national-level codes of practice, guidelines and best practice guidance which apply in the UK market. Some are owned by advertising and marketing trade bodies, others by food industry trade bodies, and a minority are the product of joint working between industry, government and NGOs.

Some codes specifically address a particular issue, such as digital marketing, data collection and parental consent and direct marketing.

In addition to these codes, there are individual food company and licensing company pledges and policies which operate at various levels and in different geographical regions. Some of these policies and pledges will be applicable in the UK. For ease of analysis, these pledges and policies are considered separately in section 1.5.

International industry codes reviewed in Grid 2b
- ICC Framework for Responsible Food and Beverage Marketing Communication
- Confederation of the Food and Drink Industries of the EU (CIAA) – Principles on Food and Beverage Marketing Communications (2005)
- CIAA Principles of Food and Beverage Product Advertising (2004)
- The EU Pledge Programme (supported by the World Federation of Advertisers)
- European Advertising Standards Alliance – EASA Digital Marketing Communications Best Practice (2008)
- Responsible Advertising and Children Programme
- International Food and Beverage Alliance – IFBA Global Policy on Marketing and Advertising to Children
- UNESDA (Union of European Soft Drinks Associations) Pledge – Contribution by UNESDA and its corporate members to the EU Platform for Action on Diet, Physical Activity and Health.

National industry codes reviewed in Grid 2b
- ISBA Online Promotion of Food to Children (2007)
1.3.3 Intergovernmental guidance

Non-binding recommendations made by the World Health Organization apply to the UK, as elsewhere. The UK government also participates in a European Network set up in the WHO European region to work towards reducing the marketing pressure on children for energy-dense, micronutrient-poor foods to children (the European Network on Reducing Marketing Pressure on Children). The WHO recommendations address all WHO Member States. The European Network addresses Members States in the Euro region only.

Both the WHO recommendations and the European Network specify that they are minimum standards only and do not preclude more robust measures by individual governments.

Intergovernmental proposals reviewed in Grid 2c
- WHO Recommendations on the marketing of foods and non-alcoholic beverages to children
- WHO European Network on Reducing Marketing Pressure on Children
1.3.4 Comparative analysis of regulations, codes and recommendations

Communications channels covered
- Statutory regulation and self-regulation cover TV, radio and advertising in paid-for space in non-broadcast media. (A full list of media covered under the CAP Code is shown in Grid 2a.) Communications channels that are not covered by any specific regulation or self-regulation on food marketing to children are:
  - in-school marketing including collection schemes and commercial partnerships
  - product packaging
  - point of sale (other than sales promotions under the CAP Code)
  - sponsorship (other than broadcast sponsorship).
- Some industry codes apply to ‘all forms of marketing communication’ (ICC, RAC, UNESDA), while others apply to ‘advertising’ (EU Pledge, EACA, IFBA, FDF).
- Five of the guidance and best practice codes cover in-school marketing (EU Pledge, EACA, UNESDA, DCSF/ISBA and CFS 2009).
- One best practice code covers sponsorship in public sector settings other than schools (CFS 2008).
- Both sets of intergovernmental recommendations (WHO and European Network) specify that settings ‘where children gather’ should be covered, including nurseries, playgrounds, sporting and cultural activities.

Marketing techniques covered
Self-regulatory rules are specific about marketing techniques that are covered. These are:
- advertising
- teleshopping
- programme sponsorship
- product placement
- sales and price promotions
- advertorials
- use of marketing databases.

Marketing techniques that are not covered are:
- product and brand integration in digital media including games and mobile-phone messaging
- labelling, advertising and presentation on food packaging (including use of celebrities and cartoon characters)
- use of equity-brand characters
- formulation and presentation of the product (including colours, flavours or shapes)
- premiums and give-aways
- some forms of promotions at point of sale (including shelf ticketing, product display, positioning in store, dump bins and in-store sampling).

Both the WHO and European Network recommendations cover ‘all forms of food and drink marketing and promotion’.

Age definitions
There is no consistent definition of the age of a child in marketing regulations or codes applied in the UK. They vary between 11 and 18 years.
- A child is defined by Ofcom and by CAP as anyone under the age of 16. Some of the co-regulatory code rules apply a younger age when determining the age at which marketing communications may be directed at children. For example, in some instances the BCAP and CAP
Codes (normally applied to under 16s) apply protections for pre-school and primary-aged children only (see Figures 15 and 16). Trade body codes for marketing and advertising mostly set the age of the child at 12, with the exception of the ISBA code on online promotion of food to children (16) and the Internet Advertising Bureau: Good Practice Principles for Online Behavioural Advertising (13). Codes relating to market research set a range of ages according to different activities such as interviewing (14, 16 and 18).

- The restriction on vending in schools, under the nutritional standards, effectively applies to all school-age children (up to 18 years). Government or NGO-led codes on in-school marketing cover, or are assumed to cover, all school-age children (18).
- WHO and the European Network propose that age definitions should be set by national governments (but not less than 16, according to the European Network).

Audience definitions
The ways in which a media audience is defined as comprising a significant proportion of children also vary between regulations and codes. Where defined, most apply a percentage calculation, although the calculation varies.

- The BCAP Code applies the HFSS restriction to all ‘children’s programming plus programmes of particular interest to children’. TV programmes ‘of particular interest to children’ are those with a disproportionately high number of children in the audience compared to the general population. BCAP uses an audience index of 120 where the proportion of viewers aged under 16 is 20% higher than the proportion of under 16s in the general population.*
- In non-broadcast media, the ASA assesses audience targeting on the basis of the media used, the content and the context of the ad.
- The EU Pledge and the UNESDA code are both applied to advertising to media audiences with a minimum of 50% of children under 12 years.
- The IFBA Global Policy defines advertising to children as meaning advertising to media audiences with a majority of children under 12 years.
- Neither the WHO nor the European Network set percentage values for defining a child audience.
- The European Network code includes additional requirements that adults should not be targeted with marketing for HFSS food and drink products as being suitable for children (Article 5.3).

Categorisation of foods
Regulations and codes applicable in the UK market differ in whether and how they differentiate between healthier and less healthy foods and drinks.

- Most industry-owned codes apply to all foods and drinks and do not differentiate at all (ICC, RAC, ICC/ESOMAR, MRS, UNESDA, ISBA, DMA and IAB).
- Those industry-owned codes that do differentiate, state broadly that products must ‘fulfil specific nutrition criteria based on accepted scientific evidence and/or applicable national and international guidelines’ (EU Pledge and IFBA). It should be noted that the actual nutritional criteria vary because each pledge company has developed its own nutritional guidelines ‘to reflect the diversity of [their] product portfolios’.51
- Co- and self-regulatory codes simply exempt fresh fruit and vegetables from some specific rules on advertising to children (CAP, BCAP for radio only).
- The Ofcom and BCAP rules for TV differentiate between healthier and less healthy food and drinks across the board. The rules define high fat, sugar and/or salt foods (HFSS) according to the Food Standards Agency’s Nutrient Profiling Model (NPM). The NPM scores foods and drinks

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* According to Office for National Statistics population estimates (mid-2008), 20% of the UK population is under 16. On this basis, approximately 18% of a given programme audience would need to be under 16 to trigger the Ofcom restrictions.
against a range of ‘positive’ and ‘negative’ nutrients and sets a pass/fail threshold, so that products which score high in fat, sugars and/or salt may not be advertised during children’s TV airtime. The Food Standards Agency NPM has been independently validated. The rules apply to scheduling restrictions and to some content restrictions.

- As well as being subject to the scheduling restrictions, HFSS products (assessed by the NPM) are subject to content rules under BCAP (see Figure 15).
- Foods that may be sold via vending machines in schools are subject to food-based nutritional standards for food in schools52 (see Figure 17).
- The WHO recommendations specifically refer to ‘foods high in saturated fat, trans-fatty acids, free sugars, or salt’.
- The European Network specifies that categorisation should be based on established dietary guidelines and determined using a nutrient profiling approach.

Figure 17: Standards for food provided in schools at times other than lunch (School Food Trust)

More of these healthier items:
- Fruit and vegetables must be provided in all school food outlets. These can include fresh, dried, frozen, canned and juiced varieties.
- Free, fresh drinking water should be provided at all times.
- Only healthier drinks are permitted throughout the school day.

Restricted or no longer allowed:
- Confectionery such as chocolate bars, chocolate-coated or flavoured biscuits, sweets and cereal bars must not be provided.
- Salt must not be provided at tables or service counters.
- Condiments such as ketchup and mayonnaise must only be available in sachets or individual portions of not more than 10g or 1 teaspoonful.
- Snacks such as crisps must not be provided. Nuts, seeds, vegetables and fruits with no added salt, sugar or fat are permitted.
- Cakes and biscuits must not be provided at times other than lunch.
- No more than two deep-fried food items such as chips and batter-coated products can be provided in a single week across the school day.
- Starchy food cooked in fat or oil must not be provided more than three times a week across the school day.
- Meat products (manufactured or homemade) are divided into four groups. A meat product from each of the four groups may be provided no more than once per fortnight across the school day.

Compliance and monitoring

Statutory and self-regulation

- **Broadcast** – Prior to broadcast, compliance with broadcast advertising rules is supported by pre-clearance via Clearcast (TV) and RACC (radio).

- **Non-broadcast** – Pre-publication copy advice is available for non-broadcast advertisement in paid-for space subject to the CAP Code. Pre-clearance of cinema advertising is required through the Cinema Advertising Association.

- **Post broadcast or publication**, advertisements are subject to complaints-based regulation. Complaints about scheduling, sponsorship, product placement or teleshopping are handled by
Ofcom and if upheld may result in warnings, fines or suspension of a broadcaster’s licence. Complaints about the content of broadcast advertisements and non-broadcast advertisements in paid-for space (breaches of the BCAP or CAP codes) are handled by the ASA. If upheld, the ASA will require amendment or suspension of an advertisement. Repeated breaches from advertisers may be referred to the Office of Fair Trading. Non-compliant marketing communications on advertiser-owned websites or social networking sites are subject to specific sanctions which include:

- providing details of an advertiser and the non-compliant marketing communication on a special part of the ASA website
- removal of paid-for search advertising – ads that link to the page hosting the non-compliant marketing communication may be removed with the agreement of the search engines, and
- ASA paid-for search advertisements – the ASA could place advertisements online highlighting an advertiser’s continued non-compliance.

**Compliance monitoring** for TV advertising is undertaken and reported by Ofcom (the statutory regulator) and the ASA (self-regulatory organisation). Ofcom has monitored the impact of the new food and drink advertising rules. In 2008 and 2010, it reviewed changes in the amount of HFSS advertising seen by children on TV, changes in the food and drink advertising techniques, and impacts on broadcasters. The ASA has not undertaken equivalent monitoring of the impact of CAP and BCAP rules. Instead it conducts surveys in specific industry sectors to assess compliance rates. The Food and Soft Drink Advertising Survey (2007\(^53\) and 2009\(^54\)) looks at a sample of advertisements across broadcast and non-broadcast media.

**Mobile marketing** (via all premium-rate services accessed in the UK) is subject to self-regulation under a code of practice administered by PhonepayPlus. Compliance is backed up with possible reprimands, fines or suspension of service for breaches by service providers. Advertising sent to mobile phones is subject to the CAP Code and regulated by the ASA.

**Market research**, under the MRS Code is also subject to complaints-based regulation, with disciplinary powers held by the MRS Council to deal with breaches.

**Codes and best practice**

- Compliance monitoring is undertaken by World Federation of Advertisers for the EU Pledge and by IFBA for its own Global Policy. UNESDA proposes that independent third parties should define key performance indicators against the UNESDA commitments, but it is not clear whether this has been done or monitored.

- The DMA and IAB both require self-certification of compliance.

- The Codes of Practice applied to marketing in schools (DSCF/ISBA and the Consumer Focus Scotland guidelines) do not specify how compliance should be ensured. The Consumer Focus Scotland guidelines recommend that schools and sponsors have a written agreement which must be evaluated.

**Intergovernmental recommendations**

- Both WHO and the European Network identify national governments as having main responsibility for code setting, implementation and compliance.
Both nominate that existing regulatory bodies should implement and enforce compliance with controls on food and drink marketing to children, or establish systems where they are absent (WHO).

Effective monitoring of compliance and effectiveness of controls is specified by both WHO and the European Network. The European Network identifies a role for traders to monitor their own marketing practices and for NGOs to draw attention to activities incompatible with the Code.

1.3.5 Gaps and potential weaknesses analysis of co- and self-regulatory systems in the UK

In the consultations with commercial stakeholders, it was suggested that a ‘gaps’ analysis of the existing co- and self-regulatory systems in the UK would be useful in order to illustrate the status quo and identify what currently falls through the regulatory net.

Figure 18 summarises the gaps and potential weaknesses identified in the regulatory regimes (from Grid 2a in Appendix 4). The third column indicates whether and to what extent these gaps are addressed by voluntary codes applicable in the UK (from Grid 2b). The fourth column indicates whether and to what extent the intergovernmental recommendations could address these gaps (from Grid 2c). Some limitations as to how fully the voluntary codes/ best practice and intergovernmental recommendations address the regulatory gaps are explained below.

Figure 18: Analysis of gaps and potential weaknesses in the regulatory regimes and the extent to which these may be addressed by voluntary codes

<table>
<thead>
<tr>
<th>Communication channel</th>
<th>Gaps (shaded) and potential weaknesses (unshaded) in UK regulatory regimes</th>
<th>Addressed by other code/best practice? Yes/No</th>
<th>Addressed by WHO/ European Network? Yes/No</th>
</tr>
</thead>
<tbody>
<tr>
<td>TV advertising scheduling rules (Ofcom) do not catch programmes watched by the largest numbers of children (because of the way that child audiences are calculated).</td>
<td>No</td>
<td>Potentially, if popular TV programmes are considered within a definition of cultural events where children gather.</td>
<td></td>
</tr>
<tr>
<td>TV advertising content rules (BCAP) for food and drink do not all apply up to age 16. Some apply to pre-school and primary aged children. Scheduling rules (Ofcom) apply up to 16.</td>
<td>No</td>
<td>Potentially. Age definitions should be set by national governments (16 in UK).</td>
<td></td>
</tr>
<tr>
<td>TV product placement rules (Ofcom) do not cover programmes or films made outside the UK.</td>
<td>No</td>
<td>No, but recommendations are for all WHO Member States.</td>
<td></td>
</tr>
<tr>
<td>On-demand services are not subject to scheduling restrictions on HFSS advertising (unlike the Ofcom TV rules).</td>
<td>No</td>
<td>Potentially, if on-demand programmes popular with children are considered within a definition of cultural events where children gather.</td>
<td></td>
</tr>
<tr>
<td>Radio advertising content rules (BCAP) for food and drink do not all apply up to age 16. Some apply to pre-school and primary aged</td>
<td>No</td>
<td>Potentially. Age definitions should be set by national governments (16 in UK).</td>
<td></td>
</tr>
<tr>
<td>Gaps (shaded) and potential weaknesses (unshaded) in UK regulatory regimes</td>
<td>Addressed by other code/best practice?</td>
<td>Addressed by WHO/European Network?</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td></td>
</tr>
<tr>
<td>children. Radio advertising is not subject to scheduling restrictions on HFSS advertising (unlike the Ofcom TV rules).</td>
<td>Yes/No</td>
<td>Yes/No</td>
<td></td>
</tr>
<tr>
<td>Mobile marketing is not covered by food and drink rules unless the commercial messaging is defined as ‘advertising’ (CAP).</td>
<td>No</td>
<td>Yes, if governments include it within definitions (WHO). Yes (EN).</td>
<td></td>
</tr>
<tr>
<td>Vending is controlled in schools but not in other places where children may gather. Branding on vending machines is not covered by school food regulations.</td>
<td>No</td>
<td>Yes, covered by definition of ‘settings where children gather’. Yes, if governments include it within definitions (WHO). Yes (EN).</td>
<td></td>
</tr>
<tr>
<td>In-school marketing such as voucher collection schemes, sampling, branded school equipment (excluding sales promotions which are covered by CAP rules).</td>
<td>Yes, to some extent. Secondary schools not covered. Schools in Wales not covered. Private and academy schools may fall outside codes. Primary schools only covered by industry codes ‘if specifically requested by school authorities’.</td>
<td>Yes, covered by definition of ‘settings where children gather’.</td>
<td></td>
</tr>
<tr>
<td>Product packaging (with the exception of on-pack advertising for another product or sales promotion)</td>
<td>No</td>
<td>Yes, if governments include it within definitions (WHO). Yes (EN).</td>
<td></td>
</tr>
<tr>
<td>Point of sale (in-store communications which are not defined as advertising or sales promotions under CAP Code)</td>
<td>No</td>
<td>Yes, if governments include it within definitions (WHO). Yes (EN).</td>
<td></td>
</tr>
<tr>
<td>Sponsorship (other than programme sponsorship in broadcast media which is covered by BCAP rules, and specific sales promotions which form part of a sponsorship arrangement which falls under CAP rules)</td>
<td>Yes, to some extent. Schools and public sector only. No codes cover sporting or cultural events.</td>
<td>Yes, if governments include it within definitions (WHO). Yes (EN).</td>
<td></td>
</tr>
<tr>
<td>Marketing technique</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Product and brand integration in digital media (e.g. product or brand placement in advergames)</td>
<td>No (assumed)</td>
<td>Yes, if governments include it within definitions (WHO). Yes (EN).</td>
<td></td>
</tr>
<tr>
<td>Digital advertising rules (CAP) are applicable to marketing communications ‘that are directly</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Gaps (shaded) and potential weaknesses (unshaded) in UK regulatory regimes</th>
<th>Addressed by other code/best practice? Yes/No</th>
<th>Addressed by WHO/European Network? Yes/No</th>
</tr>
</thead>
<tbody>
<tr>
<td>connected with the supply or transfer of goods, services, opportunities or gifts ... There is no provision under the CAP Code to regulate the use of brand advertising, equivalent to rules on HFSS brand advertising on TV under the BCAP Code.</td>
<td>No</td>
<td>Yes, if governments include these within definitions (WHO). Yes (EN).</td>
</tr>
<tr>
<td>Labelling, advertising and presentation on food packaging (including claims, cartoons and licensed characters)</td>
<td>No</td>
<td>Yes, if governments include it within definitions (WHO). Yes (EN).</td>
</tr>
<tr>
<td>Use of equity-brand characters</td>
<td>No</td>
<td>Yes, if governments include it within definitions (WHO). Yes (EN).</td>
</tr>
<tr>
<td>Formulation and presentation of food products (including colours, flavours, shapes)</td>
<td>No</td>
<td>Yes, if governments include this within definitions (WHO). Yes (EN).</td>
</tr>
<tr>
<td>Premiums and give-aways (including toys with children’s meals)</td>
<td>No</td>
<td>Yes, if governments include them within definitions (WHO). Yes (EN).</td>
</tr>
<tr>
<td>Promotions at point of sale (including shelf ticketing, product display, positioning in store, dump bins and in-store sampling) are not generally covered unless defined as ‘advertising’ or ‘sales promotions’ under the CAP Code.</td>
<td>No</td>
<td>Yes, if governments include them within definitions (WHO). Yes (EN).</td>
</tr>
</tbody>
</table>

**Analysis of potential weaknesses**

*In school marketing:*
- Three European-wide codes cover marketing in schools (EU Pledge, EACA, UNESDA). The EACA code applies only to ‘advertising’ in schools, which would be covered under the CAP Code.
- The EU Pledge and UNESDA Pledge are similar. Neither pledge applies to secondary schools. Both pledges promise not to undertake direct commercial activity in primary schools without the permission of the school authorities.
- Two codes in Grid 2b (in Appendix 4) apply to secondary as well as primary schools (DSCF/ISBA, CFS).
- The DCSF/ISBA principles apply to schools in England only. They do not disallow any practices but encourage schools to ensure that sponsorship arrangements and commercial partnerships are ‘consistent with mandatory nutritional standards for school food’. It is assumed that the principles do not apply to schools which are not required to implement the nutritional standards (e.g. private and academy schools) and have chosen not to.
- The Consumer Focus Scotland guidelines apply only to schools in Scotland. Schools are encouraged to enter into written agreements with sponsors so that sponsorships do not lead to advertising or promotion of alcohol to under 18s or of high fat, sugar or salt foods to under 16s.
Gaps: No industry codes apply to secondary schools. No codes of any type apply to secondary schools in Wales or private and academy secondary schools in England.

Limitations: Industry codes do allow marketing in primary schools if ‘specifically requested by the school authorities’.

**Sponsorship**
- Three codes address sponsorship (DSCF/ISBA principles and two guidelines by CFS). Two apply to sponsorships in schools and one to sponsorships in the public sector.

Gaps: No codes cover sponsorships in sectors other than schools or the public sector, such as sporting or cultural events. No codes cover sponsorships in the public sector in England and Wales.

**Other channels and techniques:**
- The codes which apply to ‘all forms of marketing communications’ (ICC, RAC) seek to interpret or reinforce existing self-regulation so it is assumed that they are limited to definitions within national SRO (self-regulatory organisation) codes and do not exceed them. In the UK, it is assumed these two voluntary codes reinforce the CAP and BCAP codes. Under ICC and RAC codes, advergames – as a channel for product or brand integration – may be covered, but only if they amount to ‘marketing communications that are directly connected with the supply of goods, services etc.’
- Many of the ways in which products are displayed in the retail environment will not fall under the definition of ‘advertising’ (using paid-for media) or a ‘sales promotion’ (the use of added direct or indirect benefits). Nevertheless these techniques will have a promotional effect.
1.4  
Mapping area 3:  
Statutory and self-regulatory regimes in other countries

1.4.1 Introduction to source information

The analysis in this section is principally informed by findings of the PolMark Project. Funded by the European Commission’s public health executive agency, the PolMark (POLicies on MARketing food and beverages to children) included a work package to review regulatory policies and practices in EU Member States. This was extended to include available material from countries around the world. Policies have been gathered and analysed in 59 countries around the world. The analysis presented below does not reflect changes made since December 2009, when the review was completed. Summary reports are available at www.polmarkproject.net

The PolMark regulatory review findings are summarised in Grids 3a and 3b in Appendix 4.

1.4.2 Analysis

Types of regulation

- There were policies or planned policies in two-thirds (40) of the countries analysed.

- Some countries had regulations which were proposed but were not yet fully implemented (Brazil, New Zealand, South Africa).

- Within the EU, statutory regulations applied in Sweden, France, Ireland and the UK, and were proposed in Greece and Italy. Elsewhere, statutory rules applied in Australia, Norway, South Korea and Thailand. Government rules had also been published in Malaysia, but had not been implemented. In Finland, government guidelines had been developed and applied. Proposals for statutory rules existed in Brazil and Chile.

- Elsewhere, where policies existed, approved self-regulation was the most common mechanism. This was reinforced in some instances with the threat of regulation (Denmark, Finland, Netherlands, and Spain).

- Some country rules applied generally to all communications channels (Iceland), while others specified the communications channels covered (Denmark). Some specified the marketing/advertising techniques covered – and these ranged from ‘all marketing techniques’ (Finland) to a limited range of techniques (Ireland). Some countries specified both channels and techniques in their rules (Netherlands, UK).
In Sweden and Quebec Province, Canada, children were protected from a wide range of commercial marketing messages, including, but not limited to, food and drink marketing.

**Communications channels covered**

- TV advertising remained the dominant focus of regulations both implemented and planned. In the UK the use of TV sponsorship was also restricted (because it is viewed as a form of advertising).

- In many countries, the rules applied to ‘all media with advertising’ (Netherlands, Portugal, Spain, and Sweden). In the case of Spain this carried a specific exemption for labelling and packaging.

- Some government restrictions referred to schools (Finland, Norway, Brazil [proposed]) as did some of the self-regulatory codes (Bulgaria, Czech Republic, Denmark, Hungary, Netherlands, Romania, Bosnia and Herzegovina, and Iceland).

- The South African draft legislation prohibited ‘advertising of food and beverages that do not represent healthy dietary choices’ in schools or in close proximity to schools.

- In South Korea, the distribution of fast foods and soft drinks was banned on school grounds.

- General law restricted advertising on school books in the Russian Federation.

- Israel had proposals for ‘warnings on foods not healthy for children’.

- Advertising in new media – principally internet – was covered by Denmark, France, Germany, Netherlands, Portugal, Spain, Sweden, Iceland and the UK.

- Cell phone advertising was specifically mentioned in Denmark and Germany. In other countries a more general provision of ‘all media carrying advertising’ was specified.

- Finnish rules acknowledged that vending machines can themselves act as advertising.

- Many communications channels and marketing techniques were not referred to. Packaging and non-broadcast sponsorship were two key areas omitted from statutory or self-regulatory codes or, in the case of Spain, were specifically exempted.

**Marketing techniques covered**

- Marketing communications other than advertising were generally not included.

- Sales promotions involving gifts, competitions, games and other items attractive to children were not permitted under the rules in Chile.

- Different regulations included different types of marketing techniques, such as premium offers, the use of characters and celebrities popular with children, product placement and sponsorship. For example, South Korea prohibited the offering of free toys with fast food products advertised on radio and internet as well as on TV. Self-regulation in Spain (PAOS Code) explicitly stated that celebrities cannot be used by commercial companies to promote food and drink, unless used to ‘promote healthy eating habits’ (or physical exercise) among children. In addition, no product should appear as a substitute for any of the three main daily meals.
- Ireland’s rules prohibited children’s advertising from portraying or referring to celebrities or sports stars to promote food or drink products.

- The draft regulation in Brazil was unusual in restricting most forms of marketing: no advertising on TV, no marketing in the electronic media, no sales promotions, no sponsorship of educational activities, no marketing in schools or anywhere where children receive care, including any reference to these foods in educational materials. (Since the completion of the PolMark review, the Brazilian government decided against publishing the regulation, and instead included a messaging component only.)

**Age definitions**
- Virtually all national regulations applied to children under a given age but there was no consistency in the age of the child covered by restrictions. The range was between 9 years and 18 years of age.

- Malaysia’s regulation (not implemented) concerned only children aged 4-9 years. Brazil, Spain and Thailand had selected age 12 years, the approved self-regulations in Denmark and the Netherlands age 13 years, the draft law in Chile under 14 years, while in Ireland the restriction on the use of celebrities applied to advertising to children under the age of 15 years, and in South Africa and the UK the proposed and implemented controls applied to children under the age of 16. Less restrictive approaches may extend to older age groups. The guidelines in Finland applied to all minors according to the national definition of under 18 years.

- Messaging provisions (warnings or nutritional messages applied to advertising) in place in France – and in the draft regulation in Brazil – affected all advertising, whether targeted at children or not.

**Audience definitions**
- The regulation in Malaysia covered programmes with a TVR (television rating) of 4% for children aged 4-9 years.

- In Spain, the definition called for a case-by-case assessment based on the type of food product being promoted, the design of the advertisement, and the circumstances in which the diffusion of the advertisement was carried out.

**Categorisation of foods**
- Some policies covered all foods, some only groups of foods, and others applied only to foods with specific nutrient profiles.

- Brazil, South Africa, South Korea and the UK had developed nutrient criteria to define the foods covered and not covered, as had food companies in their pledges. The criteria were very different. For example, the regulation in Brazil would restrict the advertising of any product with more than 15g sugar per 100g, whereas in South Korea it was 17g per serving size and only for snacks. (Both countries also had additional criteria.)

- South Africa’s draft proposal took the approach of mixing a food list with nutrient criteria. They had a long list of foods ‘not basic to the diet’, some of which were accompanied by additional nutrient criteria. (South Africa is currently developing a nutrient profiling model which may replace this list.)

- The regulation in Malaysia covered only ‘fast foods’.
Australia (in their policy document) and Chile referred to ‘energy-dense, nutrient-poor foods’ and ‘foods with excessive fats, sugars and salt’.

In Norway, caution was required around sales promotions for energy-dense, nutrient-poor foods, and efforts were required to promote the sale of healthier products.

**Compliance and monitoring**

- In most EU countries, compliance and enforcement was administered by statutory regulators or self-regulatory organisations (SROs). Exceptions to this general pattern included France (with rules administered by the Ministry of Finance), and Sweden (a government-appointed ombudsman.) A system of co-regulation operated in the UK. In all cases, the SROs operated a complaints-based system of regulation.

- Outside the EU, the mechanisms of compliance and enforcement were largely either unknown or absent.

- Monitoring and evaluation had been reported in France, Ireland and the UK (see section 1.3.2). Plans in Portugal to monitor self-regulatory initiatives were delayed until 2011 and may be included under the EU Pledge monitoring.

- Independent compliance evaluation was reported in Spain. A study published in *Public Health Nutrition* (in 2010) evaluated the level of compliance with the PAOS Code (Publicidad, Actividad, Obesidad y Salud). The PAOS Code establishes standards for self-regulation of food marketing aimed at minors in TV advertising by food and beverage companies that have agreed to the Code. The study (which looked at 80 hours of programming by four Spanish networks) found that non-compliance with the Code was very high and similar for companies which were and were not signed up to the Code (49.3% for signatories, compared to 50.8% for non-signatories).

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**Do national regulations apply to cross-border marketing and advertising?**

Most countries had no specific controls on cross-border marketing. Where these did apply, they related to broadcast advertising. All countries where the SRO was a member of EASA (the European Advertising Standards Alliance), and others including Brazil, India, Australia, New Zealand and Canada, accepted cross-border complaints.

Non-broadcast advertising was handled by these SROs under a ‘country of publication’ rule, meaning that, usually, complaints about advertising in a publication published abroad would be referred to the SRO with jurisdiction.

The ASA would take what action it could against non-compliant marketing communications that appeared on non-UK-registered websites that targeted UK consumers, if no cross-border complaint system operated in the country of origin.
1.5 Mapping area 4: Voluntary commitments, policies and pledges of manufacturers, retailers, trade groups and media owners

This section considers policies and pledges by food and drink companies, advertising bodies and licensing companies.

In response to feedback from commercial stakeholders to this project, licensing companies are considered separately in 1.5.3.

No retail sector guidance was identified, but a summary of individual retailer policies (in the UK) is included in 1.5.4.

1.5.1 Introduction to source information

The findings presented here are largely based on primary research by Dr Corinna Hawkes conducted between April 2009 and December 2009, searching websites of international, regional and national trade associations for food manufacturers, retailers and the advertising industry, and of leading food companies. Supplementary information was requested from industry groups and companies by Dr Hawkes.

The information captured in Grids 4a to 4j in Appendix 4 is as follows:

- Membership and sectoral coverage of pledges (Grids 4a and 4b)
- Minimum requirements of pledges (Grid 4c)
- Communications channels (Grid 4d)
- Audience definitions (Grid 4e)
- Marketing techniques (Grid 4f)
- Comparison of individual and multi-company pledges (Grid 4g)
- Nutrition criteria (Grids 4h and 4j)
**Figure 19**: Food and drink company pledges included in the review

<table>
<thead>
<tr>
<th>Name of pledge</th>
<th>Abbreviation used in this report</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Beverages Council Ltd Commitment Addressing Obesity and Other Health and Wellness Issues</td>
<td>Australian Soft Drinks Pledge</td>
</tr>
<tr>
<td>Australian Food and Grocery Council’s Responsible Children’s Marketing Initiative</td>
<td>Australian Food and Grocery Council Pledge</td>
</tr>
<tr>
<td>Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children</td>
<td>Australian Quick Service Restaurant Pledge</td>
</tr>
<tr>
<td>Brazil Public Commitment on Food and Beverage Advertising to Children, of the Associação Brasileira das Indústrias de Alimentação (Food and Drink Association of Brazil) and Associação Brasileira de Anunciantes (Association of Brazilian Advertisers)</td>
<td>Brazil Pledge</td>
</tr>
<tr>
<td>Canadian Children’s Food and Beverage Advertising Initiative</td>
<td>Canada Pledge</td>
</tr>
<tr>
<td>Russia Pledge (managed by Russian Advertisers Association)</td>
<td>Russia Pledge</td>
</tr>
<tr>
<td>The South African Pledge on Marketing to Children, hosted by the Consumer Goods Council of South Africa</td>
<td>South African Pledge</td>
</tr>
<tr>
<td>Thailand Children’s Food and Beverage Advertising Initiative</td>
<td>Thai Pledge</td>
</tr>
<tr>
<td>Children’s Food and Beverage Advertising Initiative Guidance of the Council for Better Business Bureaus (CBBB)</td>
<td>US Pledge</td>
</tr>
<tr>
<td>EU Pledge (secretariat at Landmark Europe)</td>
<td>EU Pledge</td>
</tr>
<tr>
<td>UNESDA Commitment to the EU Platform on Diet, Physical Activity and Health</td>
<td>Europe Soft Drinks Pledge</td>
</tr>
<tr>
<td>International Council of Beverages Associations Guidelines on Marketing to Children</td>
<td>ICBA Pledge</td>
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<tr>
<td>International Food and Beverage Alliance Global Policy on Marketing and Advertising to Children</td>
<td>IFBA Pledge</td>
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<tr>
<td>Coca-Cola Company Advertising and Marketing to Children Policy</td>
<td></td>
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<tr>
<td>General Mills responsible advertising standards</td>
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<tr>
<td>Kellogg Company Worldwide Marketing and Communication Guidelines</td>
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<tr>
<td>Kraft Foods communications policy</td>
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<tr>
<td>Mars marketing commitments</td>
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<tr>
<td>Nestlé Consumer Communication Principles</td>
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<tr>
<td>PepsiCo Policy on Responsible Advertising and Marketing to Children</td>
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<tr>
<td>Unilever Global Principles for Food and Beverage Marketing</td>
<td></td>
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<tr>
<td>Cadbury Marketing Code of Practice</td>
<td></td>
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<tr>
<td>Campbell Soup Company Global Commitment to Responsible Advertising</td>
<td></td>
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<tr>
<td>Hershey’s Global Marketing Principles</td>
<td></td>
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</tbody>
</table>
1.5.2 Analysis

Coverage of pledges and policies

As of December 2009 a total of 24 pledges were identified, including:

13 multi-company pledges:
- 9 national (the World Federation of Advertisers say that pledges will also be rolled out in Mexico, Peru, Chile, Switzerland, Turkey, UAE, India and the Philippines)
- 2 regional (Europe)
- 2 international

11 global company-specific pledges
- 8 are by companies who are members of the International Food and Beverage Alliance (IFBA) pledge
- Three are by companies which have published global guidelines that do not attain the IFBA standard.60

Notable findings of the analysis of the pledges include:

- Company signatories of multi-company pledges tend to be among the largest in their national markets. Notable companies which advertise to children but are not signed up to any pledge include Dr Pepper Snapple Group, Procter and Gamble (Pringles crisps) and Wendy’s.

- According to the secretariats of the pledges, the companies which participate in the pledges are responsible for the majority of the advertising in that national or regional market. The Australian Quick Service Restaurant Pledge is reported to cover the ‘majority’ of fast food advertising in Australia; the CBBB (US) pledge is reported to have covered over 66% of children’s food and beverage advertising expenditures in 2004; the EU Pledge is estimated to have covered 50% of food and drink ad spend in 2004, and IFBA companies are estimated to be responsible for 83% to 92% of global food and beverage manufacturers’ advertising expenditure.

- Independent franchisees are not necessarily bound by a company’s pledge.11 61

Communication channels covered

- Twenty of the pledges specifically identify the communications channels affected by the restrictions (i.e. the media through which the marketing is conducted, as distinct from the technique used on that media). Some do not include definitions. One of the pledges (Unilever) simply states that all marketing channels are covered (with some exceptions), while the remaining three (Campbell, Kraft and Nestlé) give no definition at all.

- Combined, the communication channels referred to in the 20 pledges with definitions comprise TV, radio, print, third-party internet, cinema/video/DVD, cell phones, schools, and, on occasion, company-owned internet, point of sale and viral marketing.

- TV is the communication channel most frequently subject to restrictions, with 19 of the pledges having definitions including TV. The exception is Hershey’s global pledge which only provides general guidance on TV advertising rather than imposing any restriction.
Eighteen of the pledges with definitions also included third-party internet (i.e. advertising on the internet excluding company-owned websites) and print. The other most commonly included communication channels are radio and schools (15 each). Six pledges (mainly global company pledges) refer to cell phones or phones, and four refer to the cinema. Of the multi-company pledges, the pledge that covers the highest number of communication channels is the US Pledge, which in December 2009 extended its original coverage of TV, radio, print and third-party internet, to include company-owned internet, video, computer games (rated Early Childhood), DVDs, cell phones and word of mouth (i.e. viral). The EU Pledge is relatively limited in that it includes just TV, print and third-party internet. Since the adoption of the EU Pledge, some other countries have applied the pledge provisions to more media – the most extensive being the Brazil Pledge (TV, radio, print, third-party internet and schools) – and some countries have applied them to a more limited range of media, such as the South African Pledge (only TV and schools).

None of the pledges include restrictions on any entire communication channel, but identify the marketing techniques on those channels that are covered.

Marketing techniques covered

- Advertising dominates the marketing techniques covered. It is included in all the pledges, and is the only technique referred to in 12 of the 24 pledges, including the IFBA and EU and associated pledges, and seven of the global company pledges.

- The second most referred to marketing technique is product placement, which is included in eight of the pledges. The US Pledge and possibly others do not limit ‘free’ or unsolicited placements.

- The third most referred to technique is the use of licensed characters in advertising, referred to in eight of the pledges. Along with licensed characters, two pledges also include ‘popular personalities’ in advertising and a further four include ‘celebrity spokespeople.’

- The fourth most included technique is interactive games, which is included in five of the pledges.

- Some other marketing techniques are also included in one or two pledges, including the advertising of premium offers (Australian Food and Grocery Council Pledge and Australian Quick Service Restaurant Pledge), advertising and other forms of marketing on company-owned websites, marketing through cell phones (e.g. ringtones, text messages), sponsorship of events, product-branded toys (not including generic company toys), advertorials and sweepstakes.

Marketing techniques generally not covered

- **Formulation, packaging and presentation:** None of the pledges include any restrictions on marketing through formulation, packaging and presentation. The three pledges that take the ‘all communications channels but …’ approach all specifically state that packaging (and labelling) are excluded. The South African Pledge also specifically states that the prohibition on the use of licensed characters does not apply to the use of these characters on packaging.

- **Point-of-sale promotions:** Three global pledges – made by Cadbury, Mars and General Mills – refer to point-of-sale promotions. Mars states that the pledge covers ‘sweepstakes, contests and similar promotions for our food and snack food products.’ No other pledges refer to point-of-sale promotions, and the Australian Quick Service Restaurant Pledge specifically identifies point-of-sale promotions as an exception to the communications channels covered.
• **Schools:** Although 15 of the 24 pledges state that advertising will not be conducted in primary schools, they all include the exception ‘unless specifically requested by the school authorities.’ The second important exception here is that the multi-company pledges only cover direct advertising. The US Pledge, for example, does not apply to: displays of food and beverage products offered for sale; charitable fundraising activities; public service messaging, or items provided to school administrators, including company-provided curricula materials. The global pledges may go beyond just advertising, but also have important exceptions. Three of the global company pledges specifically state that philanthropic and/or educational activities in schools are not covered (Mars, Coca-Cola, Kellogg’s). Hershey states that, while they do not license their brands for use on educational materials or materials intended for use primarily in elementary or secondary schools, they continue to sponsor the Hershey’s Track and Field Games in schools in the US and Canada, and allow displays in schools. The Kellogg’s pledge excludes ‘equity characters appearing on packaging on foods sold in schools, and the use of the Kellogg’s logo on displays used to hold the products and for fundraising.’ General Mills states that it will not ‘conduct giveaways, product promotions, contests or any other advertising activity primarily directed to students in elementary schools’ but continues with its ‘Box Tops for Education’ programme on the basis that it is ‘specifically and primarily directed to parents and gatekeepers’.

• **Viral marketing:** Forms of viral marketing are included in just two pledges: the US Pledge and the Kellogg’s global pledge.

• **Sponsorship:** Sponsorship of TV programmes, other media emissions and events is usually excluded. Two companies do include some limited restrictions: Kellogg’s global pledge and the EU Pledge, which include sponsorship of events, but only if parents are not expected to accompany their children to the event, and of ‘kids’ clubs and other children’s commitments.’ Mars include sponsorship of children’s sporting events.

• **Internet:** The multi-company pledges that include the internet cover third-party internet only, i.e. not including advertising on websites owned by the company, with one exception: the US added company-websites as part of their ‘enhanced core principles’ in December 2009. (The companies have yet to update their own pledges to reflect this.) Only two companies include company-owned websites in their specific commitments: Kellogg’s and Mars. However, Kellogg’s includes an exception to this: they state that products integrated into the online activity will only be those of non-restricted foods ‘unless they are food forms, such as Eggo Waffle Man.’

• **Outdoor advertising:** This is excluded from all the pledges except the Australian Quick Service Restaurant Pledge.

• **Cell phones:** Just three pledges refer to marketing though cell phones or phones: Cadbury, Kellogg’s and General Mills. Notably, the General Mills pledge specifically states an exception, that ‘limited secondary involvement of mobile devices (e.g. ringtones) may be approved by the General Mills Child Marketing Review Council.’

• **Use of characters popular with children:** Advertising using third-party licensed characters is included in several of the pledges, i.e. characters ‘borrowed’ from TV programmes, films etc., rather than those developed and owned by the company itself. (For example, Spider Man would be a licensed character whereas Frosties’ Tony the Tiger is a equity-brand character.)

• **Equity-brand characters:** These are always excluded from the restricted marketing techniques.
• **Brands:** Pledges do not generally contain any provision about restricting the marketing of the brand (in the absence of any product).

**Age definitions**
• The majority of the multi-company pledges set the age restrictions at ‘under 12 years’. An exception is the Australian Quick Service Restaurant Pledge which is ‘under 14 years’.

• The Danish voluntary code is set at 13 years.

• There are two company-specific pledges which set a lower age restriction: Cadbury’s is ‘under 8 years’ and Campbell is ‘under 6 years’.

• Five of the eight global pledges set different criteria for two age ranges: under 6 years, or ‘pre-school’ and 6-12 years.

• Although food companies have the option to apply a different age limit in their company-specific commitments, none of the commitments noted exceed the age specified in the multi-company pledges.

**Audience definition**
• Under all the pledges, restrictions are applied to ‘child targeted’ advertising only. In the majority of pledges this is defined as an advertising audience where a minimum percentage of the audience are children (according to the age restriction of the pledge, e.g. under 12 years).

• Most of the pledges set the threshold at ‘50% or more of children’ or where audiences are ‘predominantly children’. Some company pledges set the threshold at 30% (Hershey), 35% (Kraft, Parmalat, Post Foods) or 25% (Mars).

• Companies signed up to more than one pledge are not always consistent in the age definition signed up to.

• Other companies apply an audience composition index (Campbell) which states that a ‘child audience’ is one where there are roughly twice as many children viewing as a proportion of the audience compared to the proportion of children in the population.

• Some pledges (Unilever) focus on the intended audience for a specific medium (e.g. whether a TV ad appears during or after a programme generally understood to be children’s programming, or is designed to appeal primarily to children).

• The US Pledge specifies that video and computer games are covered if they are age-graded on the label as being primarily child-directed.

• As a general observation there is a lack of clarity and agreement in definitions of what constitutes advertising ‘directed to children’. 11

**Categorisation of foods**
• The picture is quite mixed; there are strong similarities between the international pledges but more differences between the company pledges. Criteria vary both between companies, and within companies between categories or products. Some companies sign up to different criteria across different pledges (see Grid 4h).
International codes and policies generally do not specify in the core pledge the categories of foods to which restrictions apply (ICC, UNESDA), in which case it is assumed that all foods and drinks are covered.

A number of multi-company pledges state that criteria should be set by each company, provided that foods meet ‘nutritional criteria based on accepted scientific evidence and/or applicable standards’ (EU Pledge).

Some national multi-company pledges also specify that nutritional criteria should be ‘in line with government standards’ (Australian Food and Grocery Council Pledge). It is not always the case that relevant national government standards exist.

Many company criteria include thresholds for key nutrients or considerations – calories, fats, sugars, sodium and portion size (Kraft, Nestlé). Many include requirements for ‘positive’ nutrients or foods, but there is a good deal of variation. Where specific nutrient criteria are set, these share the following characteristics:

— a threshold, rather than a scoring approach is used (except Danone), and
— a category-specific, rather than an ‘across-the-board’ approach is used.

Some companies specify exemptions of whole product lines or categories. For example, PepsiCo has seven groups of exemptions to its global criteria. (For example, nut butters are not required to meet fat limits, and calorie limits apply only to snacks, not to all foods.) As a result of these differences, there are a total of 29 different sets of nutrient criteria among all the pledge programmes.

Compliance and monitoring

Pledges are hosted and managed by a secretariat based at some form of trade group (trade associations, SROs, advertising associations or communications agencies).

Compliance monitoring and reporting has been conducted by both the pledge owners themselves (CBBB for the US pledge) and by external companies (Price Waterhouse for UNESDA, Accenture for both the EU Pledge and IFBA member commitments). Some SROs also undertake regular compliance monitoring (Advertising Standards Canada for the Canadian Children’s Food and Beverage Advertising Initiative, EASA for pan-European application of the ICC code).

The EU Pledge monitoring report recorded advertising by pledge members on TV, print and internet. It also surveyed primary schools in four EU countries against six key performance indicators. Results were fed back to pledge members and shared with the EU Platform for Action on Diet, Physical Activity and Health. Monitoring will be repeated in 2011 for existing and new Pledge signatories.

The IFBA compliance and monitoring report recorded advertising by pledge companies on TV, print (12 markets each) and internet (six markets). It monitored markets not covered by the EU Pledge monitoring.

The ICBA compliance and monitoring report followed the same methodology as the IFBA monitoring report.

The CBBB report on compliance and implementation of the Children’s Food and Beverage Advertising Initiative (CFBAI) monitored advertising ‘primarily directed to children under 12’ in
TV, radio, print, third-party websites and company-owned websites. It looked at advertising of both CFBAI participants and non-participants to enable comparison and assess the impact of the CFBAI over time.

**Figure 20: Case study: the Children’s Food and Beverage Advertising Initiative (US Pledge)**

This multi-company pledge has been independently monitored by both the Federal Trade Commission and Children Now (a children’s interest organisation in the US).

The noteworthy findings of the Children Now study were:

- From a comparative perspective, companies participating in the Children’s Food and Beverage Advertising Initiative (CFBAI) tend to devote more of their marketing efforts to foods of better nutritional quality than non-participating companies.
- Differences observed in marketing practices are almost entirely accounted for by shifting advertising to ‘better for you’ products. The overall nutritional value of these products remains low so that the majority of foods advertised are not genuinely healthy for children.
- The overwhelming majority of advertising from companies participating in the CFBAI do not meet the best standards shared by their peers in children’s meals and breakfast cereals (indicator products).
- There is a lack of consistency in the standards employed to define healthier products across the range of participating companies. (Roughly nine out of 10 products which meet the standards for one company would violate the standards for one or more of their competitors.)
- Almost one in six of all food ads from participating companies included a licensed character in 2009 (a significant increase since 2005), but none of the advertisements that featured licensed characters promoted a healthy product (as defined by the US Department of Health and Human Services).

The report concludes that ‘the pledge has been completely ineffective in shifting the landscape of food marketing. With self-regulation fully implemented, nearly three-quarters (72.5%) of all food advertising to children continues to promote low-nutrient, high-density products that are classified in the poorest nutritional category by government standards.’

The Federal Trade Commission made the following recommendations for strengthening the CFBAI pledge:

- Expand the scope of ‘advertising to children’ beyond advertising on TV and radio, in print media, and on the internet, to encompass all advertising and promotional techniques, including but not limited to: product packaging and labelling; advertising preceding a movie shown in a movie theatre or placed on a video (DVD or VHS) or within a video game; promotional content transmitted to personal computers and other digital or mobile devices; advertising displays and promotions at retail site; specialty or premium items distributed in connection with the sale of a product; promotion or sponsorship of public entertainment events; product placements; character licensing, toy co-branding and cross-promotions; sponsorship of sports teams or individual athletes; word-of-mouth and viral marketing; celebrity endorsements; and in-school marketing.
- Require that 100% of food advertising directed at children under 12 promotes healthy dietary choices.
– In cases where a product line contains some product varieties that meet a company’s nutrition criteria for a ‘healthy dietary choice’ and others that do not, the company should strictly limit all components of a promotion or advertising campaign directed to children under 12 to those varieties that meet the criteria.

- Work toward standardising the nutrition criteria for ‘healthy dietary choices’ that may be marketed to children, such as by product category (e.g. for beverages, cereals, snacks, soups, canned pastas and frozen entrées).
  – In applicable cases, companies should re-examine whether the fact that a product has ‘less’ of, or is ‘reduced’ in, calories or certain nutrients is, by itself, a sufficient basis for qualifying as a ‘healthy dietary choice’.

- Work toward developing meaningful, standardised definitions for what constitutes advertising ‘directed to children under 12’. In considering how to define ‘directed to children’, the CBBB and participating companies should consider, where relevant to the advertising medium, factors such as the percentage of the audience under 12; the total number of children reached; the time of day and venue in which the advertising appears; and whether the advertising features characters, performers, or celebrities who are popular with children, or contains themes, language, or other attributes designed to appeal to children.

- Require companies not to engage in, approve, or allow product placement of their product in media directed to children under 12.

- Require participating companies to ensure that their franchisees are bound by the companies’ pledge commitments, such as by incorporating the pledge commitments into any franchisee contracts.

The Federal Trade Commission is currently working with other government agencies to agree nutrition standards and parameters for voluntary food marketing standards for children aged two to 17. A final report of the Interagency Working Group is due in mid 2011.
1.5.3 Licensing companies and media owners

It was raised in discussions with commercial stakeholders (18 March 2010) that the licensing/merchandising industry and the food manufacturers faced different issues and had different agendas. It was recommended that some separate discussions with licensing companies would be useful. A meeting with The Walt Disney Company in London and phone conversations with LIMA (International Licensing Industry Merchandisers’ Association) supplemented the desk research undertaken.

- Few licensing companies have a policy or code in place. The industry trade body (LIMA) currently has no agreed policy but is in discussion with UK government officials.68

- Some companies are still moving towards healthier licensing in the absence of any formal code (Nickelodeon).

- Companies have demonstrated that licensing characters to healthy foods has boosted sales of those products (Nickelodeon, Disney).

- Where codes have been developed, it has been important to apply empirical standards (Disney, BBC).

- Global standards may need to be adaptable to cultural biases in nutritional recommendations in different regions (Disney).

- Reported compliance by Disney is relatively low in non-US regions (52%). This may reflect a lag in implementation outside the US.

- The exemption of ‘treat foods’ from guidelines means that characters do appear on a substantial volume of HFSS products, particularly confectionery (Disney, Warner).

Figure 21: Case study: The Walt Disney Company and food69

The Walt Disney Company recognises the power of its brand and characters, and according to CEO Robert Iger, this places the company ‘in a unique position to market foods that kids will want and parents will feel good about giving them.’

Maintaining the trust of families in the Disney brand underpins the company’s commitments to health and nutrition.

In 2006, The Walt Disney Company announced a formalised commitment to children’s health and nutrition. As part of that commitment, the company introduced new Nutritional Guidelines.

Age definitions
The Disney commitment is to take special care towards children under 13.

Audience definitions
Disney does not segment its audiences.
Communications channels and marketing techniques covered

The guidelines apply to all brands, properties and networks and the activities covered (with some differences) are: licensing businesses, promotional activity, kids’ media business and parks and resorts (see below).

Categorisation of foods

The operating guidelines are constructed to:
- control calories, fat, saturated fat, sugar, sodium and caffeine
- eliminate added trans fat and partially hydrogenated oils
- encourage consumption of whole/ minimally processed foods and nutritionally important elements
- allow for some special occasion sweets, but limited to 15% of licensed food portfolio.

The guidelines were developed with nutritional expert input from Professors Wim Saris (Dutch Food Safety Authority) and Arne Astrup (University of Copenhagen) and in the UK, the process was taken forward in consultation with Which? (the consumer group) and the UK government. The guidelines are based on specific nutritional profiles for children’s eating occasions (see below).
The differences in the way the guidelines are applied by different business areas appear to be for pragmatic reasons, and because The Walt Disney Company assumes different customer expectations in different settings (e.g. that visits to a theme park are a treat occasion).

The key differences are:
- Licensing guidelines are more detailed and include limits expressed as ranges (as Disney is formulating recipes across many items).
- Promotional guidelines are a simplified version of licensing guidelines with a stricter stance on special occasion sweets.
- In-park guidelines emphasise choice within a broad food portfolio.

**Compliance and monitoring**

In 2009, Disney reported that:
- the Nutritional Guidelines are being implemented by all Disney operating units internationally
- the majority of Disney’s promotions and sponsorships now meet the Nutritional Guidelines (the exceptions are generally the result of pre-existing contractual obligations)
- the use of trans fat in Disney licensed food products and food service operations has been eliminated in all regions where comparable substitute products exist in the marketplace
- in 2009, 86% of Disney-licensed food products were everyday foods that met the Nutritional Guidelines
- in other regions, Disney reported 52% compliance in 2009
- Disney Consumer Products’ licensed food portfolio now includes close to 90 varieties of fruits and vegetables.70

In the UK, Disney characters appear on a range of Tesco products aimed at children, including fresh fruit, fruit juice, cheese, cereals and ready meals. (A search of my.supermarket.com also identifies Disney
character branded cake mix products by Fiddes Payne.)

When asked to comment on the challenges to arrive at the nutritional guidelines, Disney point to: a) cultural biases in the nutritional recommendations from different countries or regions which make global standards hard to achieve; and b) communicating across the company the reasoning for applying the guidelines.

Disney point to the importance of empirical standards which are clearly understood, are more easily implemented and are measurable.

Disney’s concept of ‘special occasion sweets’ includes everyday treats. This means that the 15% of total confectionery portfolio which carry Disney characters is not limited to birthday- or Christmas-branded treats, for example. Disney does require that confectionery carrying licensed characters is the best offering in category assessed by fat and sugar content and portion size. Confectionery carrying licensed characters appears on shelf, but is not allowed to be marketed.

**BBC Worldwide**
In 2003, BBC Worldwide decided to review its food licensing policy in light of concerns over child obesity and nutritional balance in children’s diets. It uses the Ofcom Nutrient Profiling Model developed by the Food Standards Agency (FSA) to introduce a policy under which:
- BBC Worldwide has committed not to license its children’s properties for everyday treat foods like cakes and confectionery
- not to promote its properties with fast food companies
- to develop with its licensees a range of nutritionally balanced foods
- to lower maximum levels for salt, sugar and fats in line with FSA recommendations.

The policy also does not permit any of the additives listed by the Hyperactive Children’s Support Group.

In addition, BBC Children’s Magazines will only accept advertisements and commercial promotions that are consistent with the company’s food licensing policy.71

**Warner Brothers**
According to a report by Which?, Warner Brothers licenses ‘non-treat’ products that meet the Ofcom Nutrient Profiling Model. ‘Treat’ products are effectively exempt, but licensees do not advertise these products on TV and in many cases include portion control messages on the packaging.4

**Twentieth Century Fox**
According to the Which? research, Fox does not apply any specific criteria but works with licensees ‘to develop products that are as healthy as they can be to give parents more choice.’

**Nickelodeon**
The entertainment brand does not appear to have a formal policy, but in 2006 it licensed its characters Spongebob Squarepants and Dora the Explorer to a range of fruits. The association is reported to have boosted sales of grocery store sales of the products by 30%.72

**International Licensing Industry Merchandisers’ Association (LIMA)**
LIMA does not have an operational policy in place. It has undertaken some preliminary work to review existing guidelines and policies from other companies and in other settings with a view to developing a standard set of criteria for healthier character merchandising. It is understood that proposals were discussed with the Food Standards Agency in 2009, but the work has not been progressed. LIMA is awaiting developments from the Department of Health before proceeding further.  

1.5.4 Retailer policies in the UK

Sources of information
The former National Consumer Council (now Consumer Focus) surveyed the major UK retailers against a number of criteria or ‘health indicators’. These included the types of foods typically featured in in-store promotions, and company policy about sweets and ‘less healthy products’ at the checkout. Company CSR reports were checked for information on relevant policies. Supplementary information about The Co-operative Group’s policies were supplied via personal communication.

Summary
The picture among UK retailers is mixed. Only the Co-op has a specific policy on marketing to children. Others have positions on taking sweets (or children’s sweets) off checkouts some, if not all of the time. Only the Co-op has a policy limiting in-store promotions for HFSS foods and not using cartoon characters on HFSS product packaging. Sainsbury’s has a policy relating to its collection scheme in schools.

Company positions

**Sainsbury’s**
- Sainsbury’s has a policy not to have any sweets at the checkouts apart from at Easter and Christmas.  
- Sainsbury’s token collection schemes in schools award double points for fruit and vegetables.

**The Co-operative Group**
The Co-op has a policy on marketing to children under which the company is committed to avoiding direct marketing and advertising of HFSS products to children and reducing levels of ‘pestering’. The Co-op uses the Ofcom Nutrient Profiling Model to determine HFSS foods. The company implements its policy in four ways:
- **In-store promotions:** on average at least 30% of promotions must be for non-HFSS products.
- **Packaging:** No cartoon characters on Co-op own-brand products for children (except on some seasonal occasion products such as Easter and Christmas products).
- **Checkouts:** No HFSS foods and drinks on checkout lines or kiosk stands.
- **Promotional bins:** No HFSS products for children in promotional bins. However, the Co-op allows HFSS foods which are not child-targeted in promotional bins at the front of some checkout lines.

**Morrison**
Morrison does not appear to have any relevant policies.

**Tesco**
Tesco’s policy ‘is not to have confectionery products at checkouts in larger format Tesco superstores and Extras.’

**ASDA**
ASDA does not appear to have any relevant policies, but in 2005 was conducting trials of sweet-free checkouts to inform any possible policy in the future. According to Paul Kelly, CEO of ASDA, sweets on checkouts "has reduced to probably one in three, one in four in the larger stores."77

**Marks & Spencer**
Marks & Spencer’s policy states that it aims to remove children’s sweets from checkouts by 2010. In its progress report, it states that it removed all confectionery (not just children’s sweets) from 50% of their belted till points in 2009 and that it will remove all confectionery from all belted till points by the end of 2011.78

**Waitrose**
No policy on the issue was found for Waitrose supermarkets. However, in 2005 Waitrose supermarkets were found not to display any confectionery at their checkouts.73
1.6
Mapping area 5: Proposals and recommendations by consumer and health non-governmental organisations (NGOs)

1.6.1 Introduction to source information

This section looks at published recommendations and proposed codes from non-commercial sources, both in the UK and internationally.

Grid 5 (in Appendix 4) compares relevant proposals from health and consumer NGOs operating globally, and in the UK, US, Australia and Europe. It does not include the many campaigns and calls for statutory restrictions on food marketing to children from NGOs worldwide.

Figure 22: Non-governmental organisation proposals mapped for this project

- Recommendations for an International Code on Marketing of Food and Non-alcoholic Beverages to Children: Consumers International and the International Obesity Task Force (CI/IOTF)
- Protecting Children from Unhealthy Food Marketing: Children’s Food Campaign and British Heart Foundation (CFC/BHF)
- Guidelines for Responsible Food Marketing to Children: Centre for Science in the Public Interest (CSPI)
- Healthy Schools Program Framework: American Heart Association (AHA)
- The Marketing of Unhealthy Food to Children: European Heart Network (EHN)
- Children’s Health or Corporate Wealth? Coalition on Food Advertising to Children (CFAC)
- Marketing of Low-Nutrition Food and Beverages in Schools (CSPI)
- Through the Back Door: Children’s Food Campaign (CFC)
1.6.2 Analysis

Scope and coverage
- The NGO proposals are intended to inform national, pan-European or global policy-making. The AHA Program is intended to encourage best practice.
- The CI/IOTF codes all specify that they are minimum standards only and do not preclude more robust measures by individual governments.

Communications channels covered
- Three of the NGO documents specifically address marketing in schools (CSPI, AHA and CFC). One focuses on non-broadcast marketing (CFC/BHF). The remainder do not exclude any communication channels, but may specifically include channels that are often excluded in company codes or pledges, such as schools and retail stores.
- The CI/IOTF proposals specify that settings ‘where children gather’ should be covered, including nurseries and playgrounds, and sporting and cultural activities.

Marketing techniques covered
- With the exception of the Children’s Food Campaign proposals which focus solely on schools resources, all the NGO proposals cover all forms of food and drink marketing and promotion. The AHA specifies ‘product and brand placement and promotion’.

Age definitions
- The majority of NGO proposals define children as under 16. None set the age lower. CSPI sets it at under 18 for the US.

Audience definitions
- None of the NGO recommendations set percentage values for defining a child audience.
- The CFC/BHF recommendations propose mechanisms for defining ‘content and promotion mechanisms deemed to be targeted at children’ according to defined criteria for techniques and channels used.
- CSPI and CI/IOTF proposals both include additional requirements that adults should not be targeted with inappropriate marketing techniques for specified foods and drinks.

Categorisation of foods
- The NGO proposals categorise foods high in fat, sugars and/or salt as ‘less healthy’.
- Some specify that categorisation should be based on established dietary guidelines (CSPI, CI/IOTF, CFC/BHF).
- Some additionally specify that categorisation should be based on a nutrient-profiling approach (CFC/BHF, CI/IOTF, AHA).
- The European Heart Network (EHN) calls for a common EU definition of an unhealthy food to be determined.

Compliance and monitoring
- With the exception of the two CSPI guidelines for the US, all of the NGO proposals identify national governments as having main responsibility for code setting, implementation and compliance.
All recommendations and codes nominate that existing regulatory bodies should implement and enforce compliance with controls on food and drink marketing to children, or establish systems where they are absent (EHN). In addition, some call on commercial operators to honour restrictions (CI/IOTF).

Effective monitoring of compliance and effectiveness of controls is specified by the majority of recommendations and codes. Where specified, responsibility for monitoring is given to Member States (through the competent authorities), NGOs and commercial operators (CI/IOTF).
1.7
Mapping area 6: Methods for categorising foods and beverages (including nutrient profiling) that are being used in the UK and in other countries

1.7.1 Introduction to source information

This mapping area drew on a literature review for the Food Standards Agency (2004 and 2007) by the British Heart Foundation Health Promotion Research Group on nutrient profiles used in relation to food promotion and children’s diets. Information was also drawn from an unpublished international review, prepared for Health Canada in 2009 by Dr Corinna Hawkes, which looked at examples of parameters in use for defining ‘healthy’ and ‘unhealthy’ foods. Supplementary information was gathered from company and government websites and personal communications.

1.7.2 Analysis

Uses of nutrient profiling of food categorisation
Nutrient profiling models (defined as systems for categorising foods according to their nutrient composition) are being used around the world for a variety of purposes including promotion of foods to children, front-of-pack certification schemes, food guidance schemes and regulation of nutrition and health claims.

This mapping exercise looks only at those examples that have been developed in relation to food promotion to children. The relevant examples include:

- controls on TV advertising to children (by governments in the UK, New Zealand, Malaysia and South Korea)
- all forms of marketing to children (by the government in Brazil [proposed], NGO in US)
- food in schools (by governments in many countries including England, Scotland, US and some European countries)
- co-sponsorship arrangements (government-funded agency in Western Australia)
• character licensing (by both licensing and food companies)
• other food promotions and provision of food in theme parks (licensing companies).

Features of different nutrient profiling models
Different models have different features (see Grid 6 in Appendix 4). In the literature review mentioned above, Stockley et al note that: ‘some of these features seem related to the purpose of the model and some to the assumptions of those responsible for the model. Since very few models have been developed systematically, it is often difficult to say whether the features of a model are appropriate to its purpose.’

The mapping exercise noted the following features:
• whether a model is ‘across the board’ or ‘category-specific’
• which nutrients or food components were included
• what measurement base is used: per 100g, per 100kcal or per serving
• whether the model involves a ‘threshold’ or ‘scoring’ system, or a combination of both.

Type of criteria
The majority of models found are ‘category-specific’ (i.e. comparing between food categories or within food categories), but the number and nature of categories are varied and there is no consensus on how categories are defined or how foods are allocated. The number of categories range between 1 and 35.

Nutrients included
The nutrients included within each model also vary. Some specify a short list of nutrients, others a long list, and some include foods as well as nutrients.

Most include ‘negative’ nutrients of energy/calories, saturated fat, sugar and sodium, some also include total fat, and some specify trans fat. A few mention cholesterol.

Some models, such as those based on the FSA/Ofcom model, include ‘positive’ nutrients such as protein, fibre, fruit, vegetables and nuts. The Kraft Sensible Solution model also includes minerals and vitamins, as does the US Department of Agriculture (USDA) criteria for food in schools.

Measurement base
The measurement base also varies between models. Some use per 100g, others per 100kcal, and a few use per serving. With the exception of the US, serving sizes are not generally standardised. Some models allow for more than one base to be applied (e.g. per serving or per 100g).

Type of model – threshold or scoring
Most of the models apply a threshold approach to categorising products. For example, foods may be served or advertised only if they pass a certain threshold for fat, sugar or salt. Scoring models ‘score’ points for ‘negative’ and/or ‘positive’ nutrients or foods. The score is usually then applied to a pass/fail threshold to define a particular product (e.g. as one which may or may not be advertised). A nutrient-by-nutrient threshold approach supports simple category-specific models, and scoring systems generally support more complex across-the-board models.

External validation
The mixed picture of models and their parameters deserves careful consideration. It does not make the case that ‘one size fits all’ since different models are aiming to meet different objectives. On the other hand, it is important that models are developed using a systematic process. Stockley et al observe that relatively few models are developed using a transparent and systematic approach. If
commercial companies develop a ‘patented’ or ‘copyrighted’ approach to nutrient profiling, this
difficulty may increase.

Stockley et al also observe that very few models are subject to external or independent validation. Of those examined in this exercise, only one (the FSA/Ofcom model) is known to have been validated by comparing the way the model scores foods and drink products with assessments of those products by a panel of nutrition experts.
Section 2
Engagement with stakeholders

A summary of this section is given in the Executive summary, on page 19.
2.1 Corporate stakeholder consultation

2.1.1 Methodology

The International Business Leaders Forum (IBLF) organised two stakeholder consultation sessions to give an opportunity for corporate stakeholders to review and feed into the first phase of this project – mapping of the current position on national and international food marketing to children, including policies, codes, nutrient profiling, regulations and company pledges. The consultation sessions took place on 18 March 2010 at IBLF’s offices in central London and were facilitated by IBLF under Chatham House rules.

2.1.2 Participants

Stakeholders from the retail sector, food and drink industry, licensing and merchandising industry and trade associations were invited to provide their views and opinions on the first phase of the project. See Appendix 1 for the detailed attendance list.

2.1.3 Stakeholder feedback

The following stakeholder feedback was provided during the two half-day sessions:

- Stakeholders felt that the purpose of the project and the project’s desired outcomes were not clear. They believed that, as there was a lack of evidence for this initiative, the need for clear aims and success factors was vital for its success.

- Stakeholders suggested that the mapping exercise should include a gap analysis indicating what kind of marketing is covered by the existing self-regulatory system in the UK and what is not. This would be helpful for all stakeholders involved, showing the status quo and what the actual size of the perceived problem is. It was mentioned that the Council of the Advertising Association had proposed that the current CAP Code be extended to cover areas of non-paid-for space online, such as advertisers’ own websites and in social media. (The digital remit extension to the CAP Code came into force in March 2011.)

- Stakeholders commented that definitions of the terms used were needed for this project.

- Stakeholders mentioned that companies might be constrained in their ability to sign up to collective voluntary principles because of competition law.

- Stakeholders explained that some brands/companies have set their own marketing principles addressing corporate behaviour and reflecting corporate values. These internal marketing guidelines are more principle- than issue-related in order to guarantee consistency and continuity across markets. These marketing guidelines are also given to third-party marketing agencies to provide a framework of reference to which advertising activity needs to adhere.
It was mentioned that, in addition to these internal marketing principles, some companies have marketing codes on marketing to children, or are signatories of marketing pledges such as the EU pledge. It was explained that the reason for companies to sign up to codes or pledges is to set a standard in order to have an impact. However, it was discussed that the information on how companies are measuring such impact and monitoring the progress of any pledges is not publicly available. Therefore, it was asked if an independent monitoring system would be needed to guarantee transparency and accountability. Stakeholders proposed that the consortium takes into account the independent analyses of such pledges which are published by WHO.
2.2 Consultation with children, young people and parents

2.2.1 Methodology

Between March and May 2010, the National Children’s Bureau (NCB) conducted initial consultations with children, young people and parents, exploring their awareness of different types of non-broadcast food marketing techniques, and their influence on children’s food and drink choices.

This consultation process was intentionally conducted on a limited scale. It included two one-hour participatory workshops for groups of primary school children, two one-hour participatory workshops for groups of secondary school students (young people) and three parent focus groups, as well as a self-completion survey for children and young people and a self-completion survey for parents. The methods used would be replicable to a larger, more representative sample if required.

In total, 104 children aged between nine and 14 years and 36 parents from two geographical areas in England took part in participatory consultation activities, which were further supported by 372 completed surveys.

A preparatory piece of work was completed to map the current nature and extent of food marketing techniques used to promote food and drinks to children and young people (see section 1). Initial findings from this work were used to inform the development of the consultation tools. (For details of the consultation tools, see Appendix 2.)

A core list of 14 established marketing techniques was used in each of the parent group consultation tools. This list was reduced for the school consultations, and in the survey to control the length and complexity of the survey. The purpose of this core list was to provide a structure and some initial definitions of the areas of interest.

The following marketing techniques were considered. (Only those highlighted by asterisks were included in both the survey and school consultations, to control length and complexity.)

- Competitions advertised on the package*
- Free gifts in the package*
- In-store displays that are easy to spot*
- Money off or ‘buy one get one free’ offers
- Information at school on posters, workbooks or vending machines*
- Information about products from friends*
- Competitions or free gifts on the product website*
- Adverts on TV
- Adverts on bus stops or billboards
- Adverts and information on websites where the child talks to their friends
- Packaging and wrappers that are fun colours or shapes*
- Packaging and wrappers with famous film or TV characters on them*
Information on wrappers or adverts from famous sports celebrities*
Information on wrappers or adverts from music and fashion celebrities*.

For further details on methodology, see page 27 in Methodology.

2.2.2 Key findings

The following key themes emerged from this initial consultation with children, young people and parents.

Awareness of marketing
- Children and young people demonstrated a high awareness of different marketing techniques used to promote food products. The most common types of marketing techniques listed by the children were those relating to the types of packaging including ‘wow words’, ‘nice colours’, ‘jokes’, the ‘shape’ of the packaging and ‘eye-catching titles’. Other frequently recognised techniques included free gifts, competitions, links to celebrities and TV characters. Several children mentioned the importance of price, and listed features such as discounts and ‘buy one get one free’ offers. They were able to distinguish between a variety of techniques and provided specific examples of their use.

- Several of the children raised the issue of the brand name of the product being important, which was not one of the explicit marketing techniques from the core list produced at the start of the project, but appears to have significance to the children.

- Parents confirmed that their children had awareness of different marketing techniques. While they recognised that their older children were aware of a wider range of techniques, they gave examples of very young children from the age of two years old being aware of and responsive to some of the techniques.

- The findings from the surveys revealed that children and young people were most aware of packaging, including packaging and wrappers with colours and shapes (64%) and free gifts included in packets (62%) when deciding which meals, snacks, sweets or drinks to have. Young people in secondary school seemed to be more aware of colourful and shapely packaging than primary school children (75% and 60% for secondary and primary children, respectively). Children and young people were least aware of information at school (42%), competitions on websites (46%) and competitions on packets (47%).

Perceptions of influences on eating choices
- Children and young people reported that their choices were influenced by food marketing techniques but not to the exclusion of other factors. The most common marketing influences were free gifts and promotion by celebrities. However, the secondary school age young people in particular were also able to take a critical view of some of the techniques, and distance themselves from some of the claims and associations being made by the techniques.

- Parents felt that marketing techniques can have a strong influence on the types of food their children choose. Packaging, tempting displays and associations with cartoon characters had the most influence on their children under five years old.

- Some children and young people identified that the brand name or title of the food product is an important marketing technique in itself.
• Both the children and young people and the parents tended to associate the various food marketing techniques with food they regarded as the less healthy options. However, the parents in particular were able to provide some limited examples of the marketing techniques being applied successfully to food they viewed as more healthy options, such as small packages of fruit and certain cereals.

Views on how to encourage healthier eating choices
• Children, young people and parents felt that food marketing techniques could be used to promote healthier choices. All groups believed there are opportunities to make more healthy options attractive and interesting to children and young people. Parents were keen to have the support of the food industry to enable them to promote healthy choices with their children.

• There were calls from parents, children and young people to restrict the use of marketing techniques on foods they considered to be the less healthy options.
Section 3
How principles are developed – learning from a case study

A summary of this section is given in the Executive summary, on page 20.
3.1 Introduction

A case study of the Marine Stewardship Council (MSC) development of principles and criteria for a sustainable fisheries certification scheme was prepared as background information for the development of responsible and accountable food marketing to children practices, by the Institute for Social Marketing at the University of Stirling. The case study report is given in Appendix 3.

A review of the MSC case study and potentially transferable learning from the MSC to an initiative to develop and establish voluntary principles for responsible and accountable practices in food marketing impacting children is presented below.

The limitations of the project allowed for only one case study to be examined in depth – although it would have been desirable to carry out more than one. Other potential case studies with useful parallels to explore in future might be the Forest Stewardship Council management and certification scheme (established in 1993), and the process of standards setting by the International Organization for Standardization (ISO).

The ISO involves 160 countries and engages both private and public sectors. Many of its members are part of the governmental structure. ISO standards are intended to provide the technological and scientific bases underpinning health, safety and environmental legislation and to address consumer need for global consistency and compatibility of technologies and for good practice. There are many potential strengths to exploring the concept of third-party verified standards for food marketing in a further piece of work. The ISO process involves science-based standards that are consensus-driven and measured against defined objectives, performance levels and indicators. Standards developed in this way are an influential non-statutory policy lever as established incentives become essential or qualifying attributes for trading relationships and for business sustainability. The standards are also applicable to a wide range of products and services and they address trans-border issues.

The MSC example was chosen because it had its origins in a joint initiative between an NGO (WWF – World Wide Fund for Nature) and a commercial food company (Unilever) and subsequently involved a wide range of actors from different sectors. It was also chosen because it has been extensively reviewed and critiqued.
3.2 Transferable learning and principles of good practice

3.2.1 The process of consultation and collaboration of the MSC scheme

The early vision for the MSC was to create a universal framework of assessment and incentives in support of a worldwide standard for sustainable fisheries and fisheries practices by linking scientific, objectively verifiable standards to markets and marketing practice.79

Start-up was championed by the non-profit organisation, the WWF, and Unilever, an international company selling frozen foods. Early transfer of responsibilities was expedited in response to concerns over control and influence of an independent scheme. An extensive consultation process involving eight international workshops, two expert drafting sessions, and over 300 organisations was held over a two-year period. This involved fisheries, scientists, environmentalists and many other stakeholders. The United Nations Food and Agriculture Organization’s (FAO) Code of Conduct for Responsible Fisheries formed the nucleus of early discussions. Both codes (MSC and FAO) have evolved, exchanged critique and evidence, and subsequently acted as benchmark reference points for one another.80

It is noteworthy that the Aquaculture Stewardship Council (ASC), which will cover farmed fish (excluded from the MSC scheme) and which is expected to launch in 2011, has similarly conducted a very extensive round of consultation and collaboration in framing scope, standards and operational strategy.

The two-year consultation process generated the MSC Principles and Criteria for Sustainable Fishing. The principles were informed and shaped by the scientific evidence base and an international strategy which was contested more on detail, than conceptually or ideologically.81 79 The principles provide an overarching framework for fisheries’ sustainability. These are used to shape case-specific, but nevertheless objectively verifiable, indicators of compliance.

Transparent demonstration of consistency in their interpretation and application, and adjustment when inconsistency does occur, has been built in through monitoring and analysis of the assessment and accreditation process.

The core principles are described as ‘live’ and are subject to review and refinement. However, they have remained largely unchanged, reflecting very careful, evidence-based and strategic goal definition from the beginning.80

Transferable learning for the development of food marketing principles

- Core principles must be at the heart of the initiative. Core principles spearhead and communicate strategic, shared intent. Core principles are therefore most effective if sufficiently robust to ensure credibility, viability and relevance across a range of operational practices and indicators of compliance.

- Building broad (albeit, unlikely to be universal) consensus on core goals early helps to create community and common purpose.

- Champions in the early stages of the process act as visionaries and catalysts and generate momentum, but in the longer term may not generate broad-based support or trust among multiple stakeholders.
• Broad stakeholder engagement is resource-intensive, iterative and without proactive measures is likely to be self-selecting and therefore not fully inclusive. Considerable investment in time and other resources is essential.

• Over time, more focused problem-solving review of interpretation and application is very likely to be needed. This may be sequentially and flexibly responsive to unanticipated concerns and consequences as they arise. Refinement should not undermine core principles, to ensure clarity of purpose remains paramount.

3.2.2 How parameters were agreed for the MSC scheme

In response to public concerns about some aspects of fisheries, such as the inadvertent capture of dolphins, turtles and tuna, a number of single-species eco-labels and seafood ranking guides had been developed and launched. However, there was recognition among the stakeholder community that concentrating on a single aspect (e.g. individual threatened species) of a much larger issue (e.g. environmental degradation and loss of biodiversity) was ineffective and perhaps also counter-productive – for example, creating delays and hurdles to more sector-wide approaches.82 81

Hernes and Mikalsen83 also describe how simultaneous shifts in the goals and practices of key stakeholders created conditions more conducive to multi-stakeholder cooperation. They describe a trend towards (limited) convergence of values and concepts of various parties which facilitated dialogue and stimulated engagement. Visible indicators of this were the emergence of common language, perspectives and objectives in an historically separate interest and activity forum and an increased pragmatism in goal-setting and goal parameters.

For example, environmental groups began to look at working with established institutions and management systems in addition to existing strategies of social mobilisation and highly public confrontation, with which they were more traditionally associated. Government and industry adopted new approaches to engagement, with greater emphasis on consultation and participatory decision-making, largely driven by a desire to integrate two previously separately managed policy areas, namely food policy and environmental policy. This was given further impetus by the emergence of international initiatives promoting the stewardship of globally owned natural resources.

A series of policy dialogue and scientific events, such as the North Sea Conferences (a round of meetings of national environment ministers), and a pre-existing international code of conduct, the FAO Code of Conduct for Responsible Fisheries, formed the foundations for an extensive consultation process on purpose and scope of a multi-stakeholder community and a market-oriented code of good practice.

The three universal principles of the FAO code of conduct formed the nucleus of the MSC principles. These were concerned with: sustainability of the fishery in question; the impact of the fishery on the marine environment; and the robustness of the management systems that are intended to ensure regulatory and good practice standards are supported and monitored. These principles were used as the basis to develop a set of performance indicators and scoring benchmarks specific to each case undergoing assessment. Some testing of the principles was undertaken to assess their universality/fitness for purpose. Testing highlighted many limitations to the applicability of parameters and criteria. (For example, ‘data-deficient’ fisheries in low-income countries cannot provide sufficient information to be assessed.) Such limitations were openly recognised and many remain ongoing or future objectives for the scheme to tackle.
As principles and indicators were developed in the initial stages, there was some discussion on breadth of scope. Specifically there was considerable discussion about whether parameters should be restricted to fishing and environmental concerns, or if aquaculture and its impact on the aquatic environment – as well as social and development parameters – should also be included. The MSC decided to restrict parameters to original core objectives, perhaps recognising the complexity of these and the need to channel all resources into the operationalisation of these in the first instance.

Transferable learning for the development of food marketing principles

- Opportunities for new working relationships and goals may arise as a result of socio-economic and/or cultural environmental shifts. Linking to these brings momentum and access to an international body and interpretation of evidence.
- Parameters that incorporate the ambition of the initiative, the most salient scientific evidence, and a pragmatic appraisal of what can be achieved provide strategic direction and pace.
- Supporting criteria and guidance on the interpretation of principles may act as adaptive parameters as new evidence, practices, technologies, and socio-economic conditions emerge. Core principles and the parameters for the underlying intent of those principles provide continuity of strategic goals.

3.2.3 How consensus was and is developed, and how conflicts of interest are handled

At the launch of MSC scheme, Unilever committed to buying fish only from sustainable sources by 2005. However, an alliance between Unilever and WWF represented only a very small part of the global fisheries industry. For the scheme to work, the support of many other stakeholders was essential.

The fishing industries of Norway, UK and the US were initially sceptical of the MSC, citing concerns over bureaucracy, cost and a lack of trust in those driving the process. Opposition was also apparent from many other sources. Ponte describes criticism voiced by the International Collective in Support of Fishworkers, including accusations of bias in favour of industrial fisheries, lack of consultation with fishers, as well as perceptions of developing countries that their lack of scientific knowledge on, and governance capacity in, sustainability of fisheries would result in barriers to trade. Within Unilever and WWF many remained unconvinced, but others saw the initiative as an example of the way forward – promoting solutions that are positive for both business and the environment.

In the following years, there was an extensive consultation process. In 1999, both Unilever and WWF withdrew from management of the MSC and it became an independently run non-profit organization.

In response to concerns that the governance structure of the MSC was not inclusive enough, a number of additional governance structures were formed. A Technical Advisory Board was created in 2000. Membership consists mainly of fisheries scientists and provides advice on technical, scientific and quasi-judicial issues. A Stakeholder Council, ensuring representation of specific interests, was also created in 2000. Its membership includes retailers, environmental groups, food processors, academics and other stakeholders. Its role is to provide advice, interpretation and recommendations to the Board of Trustees. The Board of Trustees is the ultimate decision-making
authority, and is supported in this by the various sub-groups and the international Secretariat office.\textsuperscript{79}

In the early years, the MSC was mainly funded by grants from Unilever, WWF and other donors, but had very few certified fisheries. It had to build critical mass from within a sceptical fisheries industry. Some critics suggested that the organisation has certified fisheries that are not truly sustainable, to satisfy sponsors and ensure that the MSC project continued.\textsuperscript{82}

MSC was criticised for the lack of transparency in its scoring process. In response to this, in 2002, a requirement for fishery assessment reports to reveal scores and weightings was added.\textsuperscript{82} Criticism of inconsistent scoring between certifiers led to the development of a Quality and Consistency Project under the Technical Advisory Board.

Guidance materials have been developed to support engagement in an inevitably complex and information-dense process of assessment and certification. These materials provide guidance on best practice in assessment. Perhaps even more critically, the MSC developed guidance on good practice on consultation methods. Neither of these resources was originally envisaged as necessary, but do further illustrate an approach that aimed to be responsive to the needs and circumstances of stakeholders, while maintaining clarity on science-based methodology, objectives and vision.\textsuperscript{79}

The MSC adjusted its assessment model after the development of FAO Guidelines for the Eco-labelling of Fish and Fishery Products.\textsuperscript{86} This ensured continuing alignment with international standards and goals. The MSC conducts regular audits to ensure that it continues to comply with these guidelines. More recently it has been conducting trials on a risk-based assessment model which would make it easier to assess ‘data deficient’ (usually developing country) fisheries.\textsuperscript{87}

Greenpeace has stated its view that the MSC and market-based incentives for sustainability can make a useful contribution to the sustainability of marine environments and fishery stocks. Greenpeace, however, withdrew its support for the MSC in the early stages of its formation, citing concerns over weak criteria for fisheries recovery plans and sustainability, as well as control of the organisation by big business. These concerns about the MSC were recently re-stated.\textsuperscript{88} Greenpeace also advocates for social impacts to be included in the principles and criteria used for assessment. To date, the MSC has elected not to include social impact criteria in the assessment process.

There are continued concerns over the inclusiveness of the current MSC financial model. High entry costs do appear to be a barrier to participation for fisheries in developing economies, for smaller fisheries and for fisheries with little status data. This is an issue currently under review and consultation, led by the FAO.

Leadbitter et al (2006)\textsuperscript{89} suggest that eco-labelling and third-party certification can facilitate international trade by providing common standards and a framework for transnational cooperation, based on agreed parameters. The MSC programme has throughout its development explicitly sought to comply with World Trade Organization (WTO) rules, and thus pre-emptively ensured certification does not act as a trade barrier.

Clearly, universal consensus and full participation of all stakeholders are unlikely. Exactly what level of critical mass is required for a voluntary scheme to become viable and achieve real impact is unclear. The scheme has become established — currently 8% of the world’s edible wild caught fish is engaged in the scheme\textsuperscript{80} — and in March 2006 there were 332 MSC-labelled products available in 25 countries and 50 fisheries either certified or undergoing certification. However, its long-term viability and impact are not yet assured.
The MSC has invested considerable resources into developing and demonstrating an open, inclusive and transparent constituency of stakeholders. Owens\textsuperscript{82} suggests that this responsiveness to criticism and the flexibility of the organisation has boosted the credibility of the MSC.

### Transferable learning for the development of food marketing principles

- Stakeholders have multiple motivations. Each brings and advocates for a unique package of objectives. A key challenge is to find mechanisms that assess the impact of stakeholders’ objectives on core objectives, and accommodate as many as possible which are benign, or which enhance the core objectives.
- Stakeholders’ perceptions of risk associated with engaging in the process are similarly likely to be varied. For example, both corporate and non-commercial stakeholders may have concerns over the impact of their participation on brand image/positioning. Relationship-building and operational adjustments may help to overcome some of these barriers to participation.
- Conflicts of interests are inevitable and may be best managed openly and transparently in a process of ongoing development and refinement informed by the evidence base.
- Early in the process, scoping the breadth, purpose and balance of stakeholder representation is important for building trust, cohesion and a management system that supports open, accountable debate and decision-making.
- As a primer in building a community of stakeholders, agreement on who can and should be classed as legitimate stakeholders and the nature of their contribution will help to maintain focus on shared outcome objectives, and counter-balance tensions arising from (conflicting) sub-agendas, motivations and ideologies.
- Best-in-class/least damaging concepts may be divisive both ideologically and in scientific interpretation, unless there is substantial investment in developing the rationale, a process of dialogue and a structure for conflict resolution.
- Financial support for marginalised stakeholders may be necessary to reduce entry barriers and build inclusivity.
- Intergovernmental bodies, such as the UN (FAO, WHO) can act as brokers for international scientific evidence, cross-national interests, and cross-cultural rules and norms.
- An independent body (i.e. FAO and WTO in the case of the MSC) can provide practical support on trading, economic and governance considerations, such as compliance with international trade rules, and strategies for inclusiveness.
- Independent expertise in standard setting and measurement methodologies is critical for transparency and building consensus.
- Independent third-party involvement in assessment and verification is critical for credibility and quality assurance of the certification scheme.
3.2.4 How issues of commercial confidentiality are managed

The process of certification is carried out by independent, third-party Certification Bodies (CBs) that are deemed competent and capable by the MSC and the associated company, Accreditation Services International (ASI). Checks on assessment performance are conducted to monitor interpretation and application of scoring criteria by the CBs and ensure consistency.

The first step for a fishery considering MSC accreditation is to select a CB, to carry out a pre-assessment. This provides the client with a brief, provisional evaluation on whether the fishery will meet the standard.

Confidentiality agreements mean that this pre-assessment information is not made available in the public domain. The confidential pre-assessment enables fisheries to conduct a pre-feasibility assessment without risking commercial reputation. It also means that they can act on the recommendations of the pre-assessment and return to the process at a later date. Only one fishery has been failed after passing the pre-assessment.\(^\text{82}\) Gulbrandsen\(^\text{81}\) has reported that up to half of potential applicants withdraw at this stage.

After pre-assessment, the fisheries client undergoes a full assessment by a CB, including peer review of the CB’s findings by other fisheries scientists. Once a fishery has entered the assessment phase, a public announcement by MSC and a call from the CB for interested parties to contact them are required.

The rules governing confidentiality during the full assessment phase are:

- Only data which relate to the financial affairs of the entity or entities being assessed or which are a matter of national privacy that is subject to data protection legislation can be withheld from the assessment process.
- If a client undergoing full assessment wishes to expand the nature of information to be kept confidential, this requires prior approval of the MSC, and any withheld data cannot contribute to the assessment dossier and therefore the assessment and final decision.\(^\text{90}\)

A final report provides an assessment of the fishery against the MSC standard and includes all information that contributed to the final decision. Once certification has been granted, the chain of custody must be assessed before the MSC logo can be used. The entire process averages around 12-14 months (range 5-48 months), and is made available in the public domain, both through the process of assessment and in post-decision-making. Annual renewal is subject to limited audit and the full assessment must be repeated every five years.

Transferable learning for the development of food marketing principles

- Commercial confidentiality is balanced with an operational ethos of transparency, public interest, demonstrable impartiality, and inclusivity.
- An early stage pre-assessment offers commercially sensitive guidance, offering direction in development and improvement ‘offline’ and reducing risk to corporate reputation and performance.
- Third-party certification agents are ideally positioned, and have experience in ensuring the protection of commercially sensitive data, and the motivation to achieve this.
3.2.5 How principles are used to underpin criteria

The MSC states that the principles and criteria are at the centre of the MSC scheme.

There are three science-based principles supported by 24 (scoring) criteria. In addition, the statement on principles and criteria explicitly recognises that their interpretation and application must be compliant with national and international laws and standards, and the cultural and socio-economic interests of people dependent on fishing for food and livelihoods.

The principles represent the overarching philosophical basis for the stewardship of marine resources and form the basis of the detailed criteria used to evaluate each fishery applying for certification.

The three core MSC principles are:
1. A fishery must be conducted in a manner that does not lead to over-fishing or depletion of the exploited populations. For those populations that are already depleted, the fishery must be conducted in a manner that demonstrably leads to their recovery.
2. Fishing operations should allow for the maintenance of the structure, productivity, function and diversity of the ecosystem (including habitat and associated dependent and ecologically related species) on which the fishery depends.
3. The fishery is subject to an effective management system that respects local, national and international institutional and operational frameworks that require use of the resource to be responsible and sustainable.

Each principle has an associated statement of intent and a set of criteria that expand purpose and scope. For example, the intention of Principle 1 is ensuring that loss of future productive capacity of a fish stock is not sacrificed in favour of short-term interests. One of the three criteria for this is an assessment of fishing practice to determine if it is conducted in a manner that does not alter the age or genetic structure or sex composition and thus impair reproductive capacity. Principle 2 is underpinned by three criteria, and Principle 3 is underpinned by 17 criteria.

It is the responsibility of the expert panel to set case-specific, relevant indicators of compliance with technical criteria. It is the responsibility of the CB to identify and provide the scientific evidence that appropriate fishing practices are in place and adequately meet all three principles.

The full assessment is overseen by a panel which includes a fishery stock assessment expert, an ecosystem expert and a fishery management expert. The panel develops performance indicators that allow it to be evaluated against MSC certification criteria. The process involves collecting data on the fishery and arranging consultations with stakeholders throughout the process. In addition stakeholders are able to provide input into the process at any stage. The assessment team must demonstrate in their final report that stakeholder input has been considered.

The fishery is scored against the indicator framework, and a preliminary report is issued for peer review and public comment. Following further revision and consultation, a decision on certification is announced and stakeholders who have been involved in the assessment process have an opportunity to challenge the certifiers’ provisional decision.

If certification is awarded, it is valid for five years, subject to annual review. After this period a full-scale re-assessment is required for certification renewal.
The final stage is a chain of custody assessment. Its purpose is to trace products through the whole, often very lengthy and complex, supply chain and ensure that the integrity of origin claims is protected. This is often very challenging and time-consuming, and may involve a disproportionate cost burden for smaller operators. It is nevertheless acknowledged as absolutely essential to traceability and monitoring.81

Transferable learning for the development of food marketing principles

- Principles are science-based and supported by an extensive international evidence base.
- Principles span multiple levels – in the case of the MSC, the three principles are commodity-specific, context-specific (i.e. marine environment) and practice-specific (i.e. governance management systems). For food marketing, parallel levels might be, for example: the nutritional content of the portfolio of food product marketed (commodity-specific); impact assessment of marketing activity on children’s and families’ consumption behaviours (context); and the new product development and reformulations strategy of the company (management and governance).
- Objectively verifiable indicators are identified in the underpinning criteria. The combined principles, intent and criteria provide consistency in guidance for case-by-case assessment which is further strengthened by scientific panel oversight of the approved assessment agents.

3.2.6 How the MSC assesses the impact of its principles

Several recent reports have compared the MSC scheme with other fisheries’ eco-labelling schemes and seafood recommendation lists. The FAO Round Table Report87 states: ‘There was some agreement that the MSC Fisheries Assessment methodology and related standardised assessment tree is currently the most useful methodological tool for assessing whether a fishery is sustainably managed’. However, this and other reviews focus on the detailed workings of each scheme – relative costs, methodology for assessment/ recommendations, and acceptance by the seafood industry and retailers. The MSC accreditation process has been credited with identifying gaps in policy frameworks and resource allocations by governments which have led to real changes in the way fisheries are managed,82 81 80 but provide little or no information about whether the scheme has to date achieved its primary goal, which is improving the sustainability and environmental impact of the certified fisheries. ‘There has been little concrete evidence of the impact of eco-labelling and certification schemes on improvements in fisheries management and sustainability’.82 This is not surprising, as the MSC is a relatively recent initiative, and fisheries impacts take many years to become apparent. Furthermore, the scheme is considered by experts to be only one of the many factors affecting the sustainability and condition of target fisheries.

The MSC is perceived to have been successful in changing the behaviour of fishermen in many cases – the accreditation process has resulted in new working practices, switches to more environmentally benign fishing methods, and increased awareness of environmental impacts. There is, however, some uncertainty about whether these changes in fishing practice are a result of certification or if certification has followed changes in practice which would have been implemented irrespective of MSC accreditation. The FAO Round Table (in 2009), for example, noted: ‘There was initial speculation that the first fisheries to be certified were those that were already well managed’.87

The MSC scheme is reported to be well recognised among stakeholders in the supply chain. MSC has had a measurable impact at the fish buyer level. Most of the UK’s seafood is sold through multiples or food service companies, and buyers are crucial links in the chain between the producer and
consumer. The FAO Round Table\textsuperscript{87} commented that eco-labels demand a ‘burden of proof’ that products have been sourced ethically. It concluded that the retailers, through ‘enlightened self-interest’ are now driving demands for suppliers to be certified. Multiple retailers source uncertified product if there is a shortfall in supply against demand or stocking policy, using their own assessments of sustainability.\textsuperscript{87}

Some supply chain operators have adopted alternative, self-regulated and monitored sourcing and certification strategies.

Consumer recognition of the brand is low and the sustainability and quality assurance messages appear to have been undermined by the wide range of eco-labels (such as Young’s Seafood) and recommendation lists (such as those of the Marine Conservation Society and Greenpeace) applied to seafood.\textsuperscript{80}

Economic incentives were perceived from the outset as essential, but there is no evidence to date that the MSC scheme has resulted in price premiums. Despite little evidence of impact on consumer demand, there is evidence of market/supply-side impact – changes in commercial buyers’ practice are credited with encouraging changes in fishing practices and management of fisheries.\textsuperscript{80} The FAO recommends that ‘affordability’ should be built into the operational model.\textsuperscript{87}

<table>
<thead>
<tr>
<th>Transferable learning for the development of food marketing principles</th>
</tr>
</thead>
<tbody>
<tr>
<td>• The complexity of the issues and the supply chain requires multiple methods to evaluate impact. These should be built into the strategy, with clear rationale for indicators from the outset.</td>
</tr>
<tr>
<td>• The existence of multiple schemes and messages may benefit from MSC communications but dilute its impact. Future schemes may wish to pre-empt the undermining of the impact on consumers through a more focused and high-impact communications strategy and controls on self-regulatory, self-monitored standards and labels.</td>
</tr>
<tr>
<td>• Retail fish buying activity has accelerated adoption and has also, conversely, bypassed the scheme and therefore contributed to the proliferation of standards and criteria being promoted. Closer retail engagement might have helped to avoid this.</td>
</tr>
<tr>
<td>• Market-based incentives such as corporate reputation and positioning may be stronger drivers than price premiums. Additional costs associated with enhanced quality and/or values may need to be built or absorbed into operational structures.</td>
</tr>
</tbody>
</table>
Taxonomy of marketing terms

This section gives a taxonomy of marketing terms used in this report.

As a general rule of thumb, where marketing techniques come under a regulatory or self-regulatory regime, definitions are provided by the relevant regulatory bodies or trade associations. Other marketing techniques have been defined in some cases by civil society organisations or government bodies. Techniques, definitions – where available – and sources are shown below, based on desk research and consultation with the Advisory Group.

**Advergames**
‘Advergames are typically video games that are used to promote a product or organisation.’ 43

**Advertising**
‘The promotion of a product, service, or message by an identified sponsor using paid-for media.’ 92

**Advertorial**
‘An advertisement feature, announcement or promotion, the content of which is controlled by the marketer, not the publisher, and which is disseminated in exchange for a payment or other reciprocal arrangement.’93

**Automatic vending**
See Point-of-sale marketing.

**Buzz marketing**
‘Buzz marketing uses ‘word-of-mouth’ advertising: potential customers pass round information about a product.’ 92 (See also Word-of-mouth marketing and Peer to peer marketing.)

**Company-owned websites**
Also known as advertiser-owned websites or company-sponsored websites. Websites which are owned or sponsored by a company to promote its products and/or brands.

**Equity-brand characters**
‘Those characters which have been created by the advertisers and have no separate identity.’ 39

**Fundraising schemes**
See In-school marketing.

**Give-aways**
See Point-of-sale marketing.
Immersive marketing
Immersive marketing collapses the boundaries between content and commercial message and has been defined as ‘a cohesive and all-encompassing experience across any channel where the customer is’.

In-game advertising
‘The use of computer and video games as a medium in which to deliver advertising.’ (See also Advergames.)

In-kind sponsorship
See In-school marketing.

In-school marketing
‘Includes the use of trade names, logos, signs, displays, or other branded materials in or around school cafeterias, vending machines, or gymnasiums; at school events, youth athletic events, athletic fields or areas; and on school buses or closed-circuit television channels.’ Activities classed as in-school marketing include:

Financial sponsorship
Where ‘sponsors provide the school with cash resources to meet a stated aim. For example, schools might hold open days or school discos and ask local businesses to provide funding for the event. In exchange, the business would be able to advertise at the event, for example on a programme or banner.’

Fundraising schemes
No formal definition found. It is understood to be commercially-supported fundraising activities within schools, often involving the donation of products for sale (e.g. confectionery) by pupils to raise money for school resources.

In-kind sponsorship
This ‘might include the direct provision of resources where a company might provide educational materials, such as free software, books or posters. Prizes at events would also be classed as in-kind sponsorship, where the company is able to advertise their product or services at the event.’

Promotions and collection schemes
Loyalty schemes and reward schemes: ‘Consumers collect points; in some cases schools provide points for choosing healthy lunch options. Pupils and young people can then exchange them for goods and products that are part of the scheme.’

Voucher schemes: ‘Consumers collect vouchers by purchasing a company’s product. Schools can then exchange the vouchers for items such as books, computers or other resources.’

Tasting schemes
No formal definition found. It is understood to be arrangements between schools and food companies to run product-tasting sessions with pupils in school premises. It may involve rewards in kind to the school and/or pupils.
**Integrated marketing**
‘A planning process designed to ensure that all promotional activities, including media advertising, direct mail, sales promotion, and public relations, produce a unified, customer-focused promotion message that is relevant to a customer and consistent over time.’

**Labelling**
*See Point-of-sale marketing.*

**Licensed characters**
‘Those characters that are borrowed equities and have no historical association with the product.’
Their use includes licensing onto packaging, cross-promotions and toy co-branding.

**Loyalty schemes**
*See In-school marketing.*

**Marketing communications**
‘The term “marketing communication” includes advertising as well as other techniques, such as promotions, sponsorships, and direct marketing, and should be interpreted broadly to mean any form of communication produced directly by or on behalf of marketers intended primarily to promote products or to influence consumer behaviour.’

**MMS marketing**
*See Mobile marketing.*

**Mobile marketing**
‘The use of wireless media as an integrated content delivery and direct response vehicle within a cross media or stand-alone marketing communications programme.’

Specific techniques defined by EASA are:

- **MMS marketing**
  Stands for Multimedia Messaging Service. ‘A standard for telephony messaging systems that allows for sending messages that include multimedia objects (images, audio, video, rich text) and not just text messages as in Short Message Service (SMS). It is mainly deployed in cellular networks along with other messaging systems like SMS, Mobile Instant Messaging and Mobile E-mail.’

- **‘Quick response’ (QR) marketing tool**
  ‘QR (quick response) codes link consumers directly to mobile sites when scanned by a handset’s camera. Once consumers download the QR software onto their handsets, they can scan the QR code printed on their cans. This is sent and processed automatically to enable them to receive a range of mobile content including downloads, films and ringtones.’

- **SMS marketing**
  Short message service (SMS) is a standard for a telephony messaging system that allows for sending text messages.

**Outdoor advertising**
‘Posters and other promotional material in public places.’
This includes moving and non-moving images, on both static and mobile displays (e.g. billboards and buses).
Packaging
See Point-of-sale marketing.

Peer to peer (P2P) marketing
‘Technique of encouraging customers to promote your product to one another, particularly on the internet. An example might be a website that offers users a discount on products in return for recruiting new customers for the site.’ 92 (See also Word-of-mouth marketing and Buzz marketing.)

Point-of-sale marketing
‘Point of sale (POS): The location, usually within a retail outlet, where the customer decides whether to make a purchase.’ 92 It is understood to include: sales promotions via shelf ticketing, product display, positioning in store, bins and sampling. Also known as in-store marketing. ‘In-store marketing includes advertising displays, and promotions at a retail site, including the offering of free samples and allowances paid to facilitate shelf placement or merchandise displays.’ 96 POS marketing may include:

Automatic vending
No formal definition found. It is understood to include sales and promotion of products from automatic vending machines, including branding and messaging on the machines.

Give-aways
No formal definition found. Goods offered free with a product or service, e.g. free toys with fast food meals.

Premium offers
No formal definition found. It is understood to mean anything offered free or at a reduced price and which is conditional upon the purchase of a food or drink product.

Product packaging and labelling
No formal definition found. It is understood to mean marketing communications on the packaging of a product, including on-pack promotions and claims.

Premium offers
See Point-of-sale marketing.

Product labelling
See Point-of-sale marketing.

Product packaging
See Point-of-sale marketing.

Product placement
‘The inclusion of, or a reference to, a product or service within a programme in return for payment or other valuable consideration to the programme maker or broadcaster (or any representative or associate of either).’ 106

Promotions and collection schemes
See In-school marketing.

Quick response (QR) marketing tool
See Mobile marketing.
Reward schemes
See In-school marketing.

Sales promotions
‘An incentive for the consumer to buy by using a range of added direct or indirect benefits, usually on a temporary basis, to make the product more attractive. It includes: instant wins, ‘two for the price of one’ offers, money-off offers, text-to-win offers, instant wins, competitions and prize draws.’

SMS marketing
See Mobile marketing.

Social media
Social media in a commercial sense is ‘the creation of useful, valuable and relevant content and applications by brands, or by consumers with specific reference to brands, that can be shared online, facilitated by web 2.0 technology.’

Sponsorship
A ‘specialised form of sales promotion where a company will help fund an event or support a business venture in return for publicity.’ Sponsorship might include cultural, social, sporting or business events.

Sports sponsorship
No formal definition found. Sports sponsorship is understood to mean a form of advertising in which a company or organisation provides funds for a sports event, team, league (including youth leagues) or other sporting initiative in return for exposure to a target audience. It may involve branding of the equipment or stadia, naming rights, advertisements, or exclusive, discounted or free provision of the sponsoring company’s products.

Tasting schemes
See In-school marketing.

User-generated marketing
‘Marketing communications, including advertisements generated by third parties, often in response to competitions run by brand owners, and which are communicated by the brand owners and/or via social networks.’

Viral advertising
‘An email, text or other non-broadcast marketing communication designed to stimulate significant circulation by recipients to generate commercial or reputational benefit to the marketer. Viral advertisements are usually put into circulation (seeded) by the marketer with a request, either explicit or implicit, for the message to be forwarded to others. Sometimes they include a video clip or a link to website material or are part of a sales promotion campaign.’

Viral marketing
Any advertising that propagates itself. In a digital media context it can be defined as a marketing technique that seeks to use pre-existing social networks to produce increases in brand awareness.

Voucher schemes
See In-school marketing.
Word-of-mouth marketing
‘Word-of-mouth marketing occurs when companies provide financial or product incentives to non-employees to encourage them to promote a food or brand to other consumers.’

(See also Buzz marketing and Peer to peer marketing.)
## Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>ACMA</td>
<td>Australian Communications and Media Authority</td>
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<td>ACS</td>
<td>Aquaculture Stewardship Council</td>
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<td>AHA</td>
<td>American Heart Association</td>
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<tr>
<td>ASA</td>
<td>Advertising Standards Authority</td>
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<td>ASI</td>
<td>Accreditation Services International</td>
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<td>ATVOD</td>
<td>Authority for Television on Demand</td>
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<tr>
<td>AVMS</td>
<td>Audio Visual Media Services</td>
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<tr>
<td>BARB</td>
<td>Broadcasters’ Audience Research Board</td>
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<td>BCAP</td>
<td>Broadcast Committee of Advertising Practice</td>
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<td>BHF</td>
<td>British Heart Foundation</td>
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<td>BRC</td>
<td>British Retail Consortium</td>
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<tr>
<td>CAP</td>
<td>Committee of Advertising Practice</td>
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<tr>
<td>CB</td>
<td>Certification body</td>
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<tr>
<td>CBBB</td>
<td>Council of Better Business Bureaus (US)</td>
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<tr>
<td>CCFBAI</td>
<td>Canadian Children’s Food and Beverage Advertising Initiative</td>
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<td>CFAC</td>
<td>Coalition on Food Advertising to Children (Australia)</td>
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<tr>
<td>CFAI</td>
<td>Canadian Food Inspection Agency</td>
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<td>CFBAI</td>
<td>Children’s Food and Beverage Advertising Initiative (US)</td>
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<tr>
<td>CFC</td>
<td>Children’s Food Campaign (Sustain)</td>
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<tr>
<td>CGCSA</td>
<td>Consumer Goods Council of South Africa</td>
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<tr>
<td>CHECK</td>
<td>Children’s Ethical Communication Kit (Advertising Association)</td>
</tr>
<tr>
<td>CI</td>
<td>Consumers International</td>
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<td>CIAA</td>
<td>Confederation of the Food and Drink Industries of the EU</td>
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<tr>
<td>COPPA</td>
<td>Children’s Online Privacy Protection Act</td>
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<tr>
<td>CSPI</td>
<td>Centre for Science in the Public Interest</td>
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<tr>
<td>CSR</td>
<td>Corporate social responsibility</td>
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<tr>
<td>DCMS</td>
<td>Department for Culture, Media and Sport</td>
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<tr>
<td>DCSF</td>
<td>Department for Children, Schools and Families (now the Department for Education)</td>
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<tr>
<td>DH</td>
<td>Department of Health</td>
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<tr>
<td>DMA</td>
<td>Direct Marketing Association</td>
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<td>DV</td>
<td>Daily Value</td>
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<td>EACA</td>
<td>European Association of Communications Agencies</td>
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<td>EASA</td>
<td>European Advertising Standards Alliance</td>
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<td>Abbr.</td>
<td>Full Form</td>
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<td>EC</td>
<td>European Commission</td>
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<td>EHN</td>
<td>European Heart Network</td>
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<td>ESOMAR</td>
<td>European Society for Opinion and Marketing Research</td>
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<td>EU</td>
<td>European Union</td>
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<td>FA</td>
<td>Football Association</td>
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<td>FAO</td>
<td>Food and Agriculture Organization</td>
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<td>FDF</td>
<td>Food and Drink Federation</td>
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<td>FSA</td>
<td>Food Standards Agency</td>
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<tr>
<td>FTC</td>
<td>Federal Trade Commission (US)</td>
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<tr>
<td>HFCS</td>
<td>High-fructose corn syrup</td>
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<tr>
<td>HFSS</td>
<td>High fat, sugar and/or salt</td>
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<tr>
<td>IAB</td>
<td>Internet Advertising Bureau</td>
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<tr>
<td>IASO</td>
<td>International Association for the Study of Obesity</td>
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<tr>
<td>IBLF</td>
<td>International Business Leaders Forum</td>
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<tr>
<td>ICBA</td>
<td>International Council of Beverages Associations</td>
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<tr>
<td>ICC</td>
<td>International Chamber of Commerce</td>
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<tr>
<td>IFBA</td>
<td>International Food and Beverage Alliance</td>
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<td>IOTF</td>
<td>International Obesity Task Force</td>
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<td>ISBA</td>
<td>Incorporated Society of British Advertisers</td>
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<td>ISM</td>
<td>Institute for Social Marketing</td>
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<tr>
<td>ISO</td>
<td>International Organization for Standardization</td>
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<td>LIMA</td>
<td>International Licensing Industry Merchandisers’ Association</td>
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<td>MRS</td>
<td>Market Research Society</td>
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<td>MSC</td>
<td>Marine Stewardship Council</td>
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<tr>
<td>NCB</td>
<td>National Children’s Bureau</td>
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<tr>
<td>NCC</td>
<td>National Consumer Council</td>
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<tr>
<td>NGO</td>
<td>Non-governmental organisation</td>
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<td>NHF</td>
<td>National Heart Forum</td>
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<td>NPM</td>
<td>Nutrient Profiling Model</td>
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<td>Ofcom</td>
<td>Office of Communications</td>
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<tr>
<td>Ofsted</td>
<td>Office for Standards in Education</td>
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<td>OFT</td>
<td>Office of Fair Trading</td>
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<tr>
<td>ONS</td>
<td>Office for National Statistics</td>
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<tr>
<td>PAOS</td>
<td>Publicidad, Actividad, Obesidad y Salud (Spain)</td>
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<tr>
<td>PolMark</td>
<td>Policies on Marketing to Children Project</td>
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<tr>
<td>PSB</td>
<td>Public service broadcaster</td>
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<tr>
<td>Abbreviation</td>
<td>Full Form</td>
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<tr>
<td>RAC</td>
<td>Responsible Advertising and Children</td>
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<td>RACC</td>
<td>Radio Advertising Clearance Centre</td>
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<tr>
<td>SRO</td>
<td>Self-regulatory organisation</td>
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<tr>
<td>TVR</td>
<td>Television rating</td>
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<tr>
<td>UAE</td>
<td>United Arab Emirates</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>UNESDA</td>
<td>Union of European Soft Drinks Associations (formerly the Union of European Beverage Associations)</td>
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<tr>
<td>USDA</td>
<td>United States Department of Agriculture</td>
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<tr>
<td>WARC</td>
<td>World Advertising Research Center</td>
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<td>WFA</td>
<td>World Federation of Advertisers</td>
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<td>WHO</td>
<td>World Health Organization</td>
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<td>WTO</td>
<td>World Trade Organization</td>
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<tr>
<td>WWF</td>
<td>World Wide Fund for Nature</td>
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</table>
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http://www.gimmecredit.co.uk (Accessed 14 June 2010)

The Co-operative Group uses the Ofcom Nutrient Profiling Model to determine HFSS foods and drinks.


This information was made available at a seminar – *The Youth and Family Market Seminar – Ethical, Effective and Positive Engagement with Families*, run by the National Schools Partnership on 29 April 2010. Additional information including speakers’ presentations can be found at: http://www.schoolpartnershipmarketing.co.uk/2010/04/01/newsroom/speaker-presentations-from-the-youth-family-market-seminar/ (Accessed 31 March 2011)


http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/broadcast-code/


Available at http://apps.who.int/gb/ebwha/pdf_files/WHA63/A63_R14-en.pdf

http://www.helsedirektoratet.no/marketing

Characters which have been created by the advertisers and have no separate identity, e.g. Frosties’ Tony the Tiger.

www.schoolfoodtrust.org.uk/thestandards/the-food-based-standards/food-other-than-lunch


PolMark (2010). *Policies of Marketing Food and Beverages to Children. Review of Regulations in EU Member States*. Available at: www.polmarkproject.net

www.koreatimes.co.kr/www/news/

Personal email correspondence from Corinna Hawkes, June 2011.

Personal communications from the National Institute for Health, Portugal, May 2010 and Feb 2011.


These are the Cadbury Marketing Code of Practice, the Campbell Soup Company Global Commitment to Responsible Advertising, Heinz and Youth Guidelines, Hershey’s Global Marketing Principles and McDonald’s Children’s Marketing Global Guidelines.

Burger King does not apply the restriction in the US Pledge on interactive games and product placement ‘to local activity engaged in by independent franchisees of Burger King Corp.’

For comparison, where criteria do exist in the voluntary pledges, they are all less stringent than the UK rules. (A study of breakfast cereals conducted in the US found that, out of the 43 ‘better-for-you’ cereals surveyed that are permitted to be marketed under the US voluntary pledge, 36 (84%) would not be permitted to be advertised on children’s TV in the UK.)


www.eu-pledge.eu


Evidence from Justin King, CEO Sainsbury’s, to House of Lords Committee on Science and Technology inquiry into behaviour change, 31 January 2011.

The Co-operative Group defines ‘child targeted’ as follows: Child targeted products use cartoon characters/ illustrations on the packaging, or have a relatively low price point.
77 Evidence to House of Lords Committee on Science and Technology inquiry into behaviour change, 8 February 2011.


