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**SUBMISSION ON ADVERTISING STANDARDS AUTHORITY CONSULTATION ON THE  
REVIEW OF THE CODE FOR ADVERTISING TO CHILDREN AND THE CHILDREN'S  
CODE FOR ADVERTISING FOOD**

**To:** Codes Review Panel  
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**Introduction**

Southern District Health Board (Southern DHB) presents this submission through its public health service, Public Health South. This Service is the principal source of expert advice within Southern DHB regarding matters concerning Public Health. Southern DHB has responsibility under the New Zealand Public Health and Disability Act 2000 to improve, promote and protect the health of people and communities. Additionally there is a responsibility to promote the reduction of adverse social and environmental effects on the health of people and communities. With 4,250 staff, we are located in the lower South Island (South of the Waitaki River) and deliver health services to a population of 306,500.

Public health services are offered to populations rather than individuals and are considered a "public good". They fall into two broad categories – health protection and health promotion. They aim to create or advocate for healthy social, physical and cultural environments.

This submission is intended to provide general and specific commentary to the Advertising Standards Authority (ASA) regarding the consultation on the review of the Code for Advertising to Children and the Children's Code for Advertising Food.

## **General Comments**

Childhood overweight and obesity have reached epidemic proportions in New Zealand. One in three children aged 2–14 years (33%) are overweight or obese.<sup>1</sup> Overweight and obesity disproportionately impact Māori and Pacific children and those living in socioeconomically deprived areas, with 41% of Māori children, 62% of Pacific children and 47% of children in socioeconomically deprived areas being obese.<sup>2</sup>

Obesity has serious health consequences for children. They are at higher risk for health problems such as type 2 diabetes, high blood pressure, high cholesterol, asthma and sleep apnoea.<sup>3</sup> In addition, studies show that children who are obese are more likely to be obese adults, which means they may face long-term health problems alongside those above including stroke, heart disease, cancer and arthritis.<sup>4</sup>

In an effort to prevent and manage obesity in children and young people up to 18 years of age the New Zealand Government developed the Childhood Obesity Plan.<sup>5</sup> The Plan outlines 22 interventions to address childhood obesity. Marketing and advertising to children is initiative number nine.

Research indicates that food and beverage marketing influences children's eating behaviour and that a significant proportion of the marketing directed at children is for products high in salt, sugar and fat.<sup>6,7</sup> Consequently children's food and beverage marketing is considered an important factor in the development of childhood obesity and has also been associated with poor health outcomes.<sup>8,9</sup>

## **Specific Questions**

### **1 What are the strengths and weaknesses of the two current children's codes?**

While the current system of voluntary self-regulation for marketing foods and beverages to children, including the ASA children's codes, provides some form of protection to children this protection is not adequate as they are still exposed to advertising for unhealthy foods.

The New Zealand Medical Association highlighted a number of weaknesses of the current voluntary self-regulation system in their *Tackling Obesity* paper.<sup>10</sup> These include the fact that the current codes do not address control of marketing content, the volume of marketing,

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<sup>1</sup> Ministry of Health. 2014/15 New Zealand Health Survey. Child data tables: Health status, health behaviours and risk factors. 2015. Ministry of Health, Wellington. Downloaded from <http://www.health.govt.nz/publication/annual-update-key-results-2014-15-new-zealand-health-survey> (Accessed 7 April 2016).

<sup>2</sup> Ibid

<sup>3</sup> Thompson, J. Childhood Obesity. *JAMA*. 2015, 314(8), 850. Downloaded from: <https://jama.jamanetwork.com/issue.aspx?journalid=67&issueid=934323> (Accessed 26 August 2015).

<sup>4</sup> Ibid

<sup>5</sup> Ministry of Health. Childhood Obesity Plan. 2016. Downloaded from <http://www.health.govt.nz/our-work/diseases-and-conditions/obesity/childhood-obesity-plan> (Accessed 30 March 2016).

<sup>6</sup> Agencies for Nutrition Action. Food and Beverage Marketing to Children. Evidence Snapshot 2013. Downloaded from <http://www.healthyaucklandtogether.org.nz/assets/Uploads/foodandbeveragemarketing.pdf> (Accessed 14 March 2016).

<sup>7</sup> Mehta, K.; Phillips, C.; Ward, P.; Coveney, J.; Handsley, E.; Carter, P. Marketing foods to children through product packaging: prolific, unhealthy and misleading. *Public Health Nutrition*. 2012, 15(9), 1763-1770.

<sup>8</sup> World Health Organisation. Report of the Commission on Ending Childhood Obesity. 2016. WHO Document Production Services, Geneva, Switzerland. Downloaded from <http://www.who.int/end-childhood-obesity/news/launch-final-report/en/> (Accessed 21 March 2016)

<sup>9</sup> Agencies for Nutrition Action. Food and Beverage Marketing to Children. Evidence Snapshot 2013.

<sup>10</sup> New Zealand Medical Association. Tackling Obesity. 2014. New Zealand Medical Association, Wellington.

repetitiveness, placement, use of persuasive techniques, coordination across different media as well as sponsorship and product packaging.

Research from the New Zealand Broadcasting Standards Authority, presented in Figure 1, shows that a significant number of children are watching television between 4pm and 8.30pm every day.<sup>11</sup> This is outside of the current voluntary agreement limiting food advertising and highlights that children will still be exposed to harmful marketing.<sup>12</sup> Including a restriction in the children's codes on all unhealthy food and beverage advertising before 8.30pm will significantly reduce the number of children viewing these advertisements.

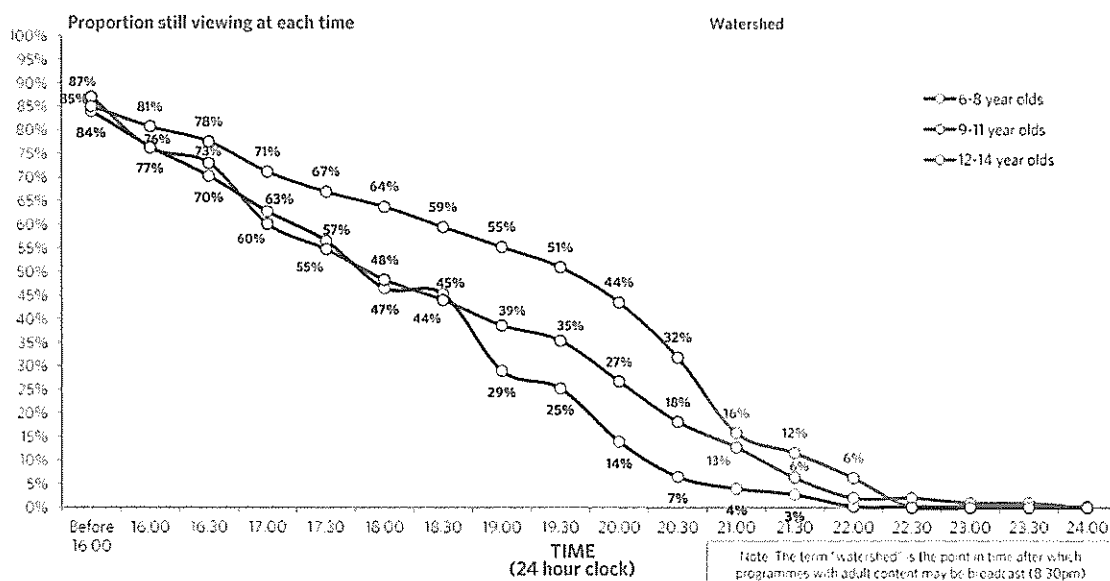


Figure 1. Proportion of children watching television at various times during the evening in age groups 6-8 years, 9-11 years and 12-14 years.<sup>13</sup>

Public Health South is also concerned that while the current ASA Children's Code for Advertising Food covers a range of advertising, it does not include advertising through food packaging.<sup>14</sup> The current code needs to extend to packaging as this is a significant marketing method used at the point of sale.<sup>15</sup> As stated by Mehta and colleagues "children are considered to be the demographic most influenced by product packaging".<sup>16</sup>

#### Recommendations:

*Include a time restriction in the children's codes which stops all unhealthy food and beverage advertising on television until after 8:30pm.*

*The two current children's codes are strengthened by restricting all forms of unhealthy food and beverage advertising to children, including advertising on food packaging.*

<sup>11</sup> Broadcasting Standards Authority. Children's Media Use Study: How are children engage with media today. 2015.

Broadcasting Standards Authority, Wellington.

[https://bsa.govt.nz/images/assets/Research/Childrens\\_Media\\_Report\\_2015\\_FINAL\\_for\\_publishing\\_2.pdf](https://bsa.govt.nz/images/assets/Research/Childrens_Media_Report_2015_FINAL_for_publishing_2.pdf) (Accessed 23 March 2016).

<sup>12</sup> Ibid

<sup>13</sup> Ibid

<sup>14</sup> Gorton, D. Background Paper: Advertising Food to Children. 2011. Heart Foundation, New Zealand. Downloaded from [http://www.heartfoundation.org.nz/uploads/Advertising%20to%20children\\_Background%20paper\\_Feb%202011\(4\).pdf](http://www.heartfoundation.org.nz/uploads/Advertising%20to%20children_Background%20paper_Feb%202011(4).pdf) (Accessed 29 March 2016).

<sup>15</sup> Mehta, K.; Phillips, C.; Ward, P.; Coveney, J.; Handsley, E.; Carter, P. Marketing foods to children through product packaging: prolific, unhealthy and misleading. *Public Health Nutrition*. 2012,15(9), 1763-1770.

<sup>16</sup> Ibid

## 2 What are the strengths and weaknesses of the current complaints process?

Public Health South contends that the current complaints system is inadequate as it is dependent on individuals making a complaint and this only occurs after the advertisements have been aired or published.

Making a complaint is dependent on people being aware of the Codes and the process around making a complaint. The New Zealand Medical Association has noted in its paper *Tackling Obesity* that parents may not be aware that the ASA Codes exist or how to make a complaint.<sup>17</sup> This lack of awareness may be preventing people from complaining making the whole system ineffective.

Public Health South also views the fact that a complaint only occurs after the advertisements have been published or aired as a further weakness in the complaints process. This current process means children can be exposed to inappropriate advertisements prior to a complaint being made and while it is being considered by the Advertising Standards Authority Complaints Board. It is noted that the average time to deal with a complaint is 13 days and only after the complaint is upheld is there a request to have the advertisement removed.<sup>18</sup>

*Recommendation: Publicise the complaints process widely so that the procedure for making complaints is well known and after a complaint is made if there is a clear breach withdraw the advertisement while the Advertising Standards Authority Complaints Board is considering it.*

## 3 What changes, if any, are necessary to protect the rights of children and their health/wellbeing?

Children are vulnerable and susceptible to marketing.<sup>19</sup> There are psychological differences between adults and children which make children more vulnerable to marketing messages. Adults are more likely to critically evaluate marketing claims where as children (especially those younger than 12 years) are more likely to accept marketing messages as truthful, accurate and unbiased.<sup>20</sup> As discussed in question 1 the introduction of a restriction on advertising of unhealthy foods on television until after 8.30pm and extension of the codes to product packaging will provide stronger protection to the rights of children and their health and wellbeing.

The current system of voluntary self-regulation of marketing of food to children is not adequate to protect children's right to health. There is evidence that voluntary codes may not adequately protect children against advertising of unhealthy foods and children's exposure to advertising<sup>21,22</sup> and the World Health Organisation (WHO) states that despite the increasing number of voluntary efforts by industry, exposure to the marketing of unhealthy foods remains a major issue.<sup>23</sup> There is however some evidence that statutory regulation may reduce

<sup>17</sup> New Zealand Medical Association. *Tackling Obesity*. 2014. New Zealand Medical Association, Wellington.

<sup>18</sup> Advertising Standards Authority. *Consultation on the Review of the Code for Advertising to Children and the Children's Code for Advertising Food*. 2016. ASA, Wellington.

<sup>19</sup> New Zealand Medical Association. *Tackling Obesity*. 2014. New Zealand Medical Association: Wellington.

<sup>20</sup> Agencies for Nutrition Action. *Food and beverage marketing to children. Evidence snapshot*. 2013. Downloaded from <http://www.healthyaucklandtogether.org.nz/assets/Uploads/foodandbeveragemarketing.pdf> (Accessed 14 March 2016).

<sup>21</sup> Bowers, S.; Signal, L.; Jenkin, G. Does current industry self-regulation of food marketing in New Zealand protect children from exposure to unhealthy food advertising? 2012. Report prepared for the Cancer Society of New Zealand by The Health Promotion and Policy Research Unit, University of Otago, Wellington. Downloaded from <http://www.otago.ac.nz/wellington/otago036971.pdf> (Accessed 29 March 2016).

<sup>22</sup> Cancer Council Australia. *Position Statement – Food Marketing to Children*. 2014. Downloaded from [http://wiki.cancer.org.au/policy/Position\\_statement\\_-\\_Food\\_Marketing\\_to\\_children](http://wiki.cancer.org.au/policy/Position_statement_-_Food_Marketing_to_children) (Accessed 12 March 2016).

<sup>23</sup> World Health Organisation. *Report of the Commission on Ending Childhood Obesity*. 2016. WHO Document Production Services, Geneva, Switzerland. Downloaded from <http://www.who.int/end-childhood-obesity/news/launch-final-report/en/> (Accessed 21 March 2016).

exposure to marketing.<sup>24</sup> Thus Public Health South contends that food marketing, advertising and promotion should be subject to government regulation in New Zealand. WHO has identified statutory regulation as having the greatest potential to reduce children's exposure to unhealthy food and beverage marketing.<sup>25</sup>

Public Health South would like to see a strong pre-approval process put in place for children's food and beverage advertisements so that advertisements are well vetted before they are published. Public Health South understands that there is a current pre-approval process but it is only for advertisements screened on television and it is unclear how rigorous the process is.<sup>26</sup> To properly protect children's rights the process needs to be strengthened.

*Recommendations:*

*Adopt statutory regulation of food and beverage marketing to children.*

*Strengthen the advertisement pre-approval process by including all children's food advertisements in the process not just television advertisements.*

**4 Please comment on any concerns you have with different media formats in relation to advertising to children (for example: magazines, television, social media, and websites).**

In the recent report *Ending Childhood Obesity*, WHO stated that the screen-based offerings children watch or participate in, should be free of marketing of unhealthy foods and sugar-sweetened beverages.<sup>27</sup> As illustrated in the Broadcasting Standards Authority research, children's media format consumption is broadening with increasing access to online domains and Youtube is currently the most viewed media format daily.<sup>28</sup> PHS is concerned about how advertising through these various media formats is monitored. A rigorous and robust pre-approval process for all food advertising, as discussed in question 3, would help eliminate unhealthy food and beverage advertising and reduce the need for a reactive monitoring system.

**5 If the content of the advertisements is a concern, can you please give examples and/or supporting evidence? A product name and ad description would be helpful so we can source the advertisements.**

Public Health South contends that all advertising of unhealthy food to children is a concern.

**6 If the placement of advertisements is a concern, can you please give examples and/or supporting evidence? For broadcast media it would be helpful to have the time/date/channel or programme, for other media, a link/ publication title/ outdoor location would be appreciated.**

Placement of unhealthy food advertising anywhere in which children are exposed to the advertising is a concern.

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<sup>24</sup> Galbraith-emami, S.; Lobstein, T. The impact of initiatives to limit the advertising of food and beverage products to children: a systematic review. *Obes. Rev.* 2013, 14, 960-74. doi: 10.1111/obr.12060. Epub 2013 Jul 12.

<sup>25</sup> World Health Organization. A framework for implementing the set of recommendations on the marketing of foods and non-alcoholic beverages to children. 2012. World Health Organization, Geneva.

<sup>26</sup> Gorton, D. Background Paper: Advertising Food to Children. 2011. Heart Foundation, New Zealand. Downloaded from [http://www.heartfoundation.org.nz/uploads/Advertising%20to%20children\\_Background%20paper\\_Feb%202011\(4\).pdf](http://www.heartfoundation.org.nz/uploads/Advertising%20to%20children_Background%20paper_Feb%202011(4).pdf) Accessed 29 March 2016).

<sup>27</sup> World Health Organisation. Report of the Commission on Ending Childhood Obesity. 2016. WHO, Geneva

<sup>28</sup> Broadcasting Standards Authority. Children's Media Use Study: How are children engage with media today. 2015. Broadcasting Standards Authority, Wellington.

[https://bsa.govt.nz/images/assets/Research/Childrens\\_Media\\_Report\\_2015\\_FINAL\\_for\\_publishing\\_2.pdf](https://bsa.govt.nz/images/assets/Research/Childrens_Media_Report_2015_FINAL_for_publishing_2.pdf) (Accessed 23 March 2016)

**7 The Children's Codes currently define a child as under the age of 14. Do you support or oppose this definition? Why?**

Public Health South opposes the current definition and recommends that the age be increased to under 18 years as defined by the United Nations Convention on the Rights of the Child. The increased age would cover the adolescent period in a child's age. Evidence suggests that adolescents are unable to inhibit the impulsive behaviour required to resist appealing advertising for unhealthy foods even though they can understand both the content and the intent of the advertising.<sup>29,30</sup> Thus they are unable to rationally consider advertising and protect their long term health.

Increasing the age up to 18 years would also ensure that the age range in the children's advertising codes is the same as that used in the Childhood Obesity Plan.<sup>31</sup>

*Recommendation: The definition of a child under the Children's Codes is increased to under 18 years in line with the definition by the United Nations Convention on the Rights of the Child.*

**8 Is there a role for a nutrient profiling system such as the health star rating system in the Children's Codes? If yes, in what way and which system would you suggest?**

Public Health South supports the use of a nutrient profiling system in regulating food advertising to children.

Studies in New Zealand have shown that food marketing directed at children is mainly for food products high in salt, sugar and saturated fat and there is evidence that children and adolescents who watch the most television are more likely to consume the foods most commonly advertised on television.<sup>32</sup> A nutrient profiling system could be used to help regulate the marketing of these food products to children as long as it is robust enough to ensure that foods high in salt, sugar and saturated fat are not advertised.

WHO recommends that where a food classification system already exists efforts should be made to use the same classification system, or parts thereof, to classify foods for marketing purposes.<sup>33</sup> This would help avoid inconsistencies and repetition. The Food Standards Australia New Zealand nutrient profiling criteria are available in New Zealand and they have the potential to form the basis of nutrient criteria for regulating food marketing to children.<sup>34</sup>

*Recommendation: Adopt a nutrient profiling system to help regulate food advertising to children. Consider incorporating The Food Standards Australia New Zealand nutrient profiling criteria into the system.*

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<sup>29</sup> Cancer Council Australia. Position Statement – Food Marketing to Children. 2014. Downloaded from [http://wiki.cancer.org.au/policy/Position\\_statement\\_-\\_Food\\_Marketing\\_to\\_children](http://wiki.cancer.org.au/policy/Position_statement_-_Food_Marketing_to_children) (Accessed 12 March 2016).

<sup>30</sup> Harris, J; Graff, S. Protecting Young People From Junk Food Advertising: Implications of Psychological Research for First Amendment Law. *Am J Public Health*. 2012;102, 222–229. Published online 2012 February. doi: [10.2105/AJPH.2011.300328](https://doi.org/10.2105/AJPH.2011.300328)

<sup>31</sup> Ministry of Health. Childhood Obesity Plan. 2016. Downloaded from <http://www.health.govt.nz/our-work/diseases-and-conditions/obesity/childhood-obesity-plan> (Accessed 30 March 2016).

<sup>32</sup> Vandevijvere, S; Swinburn, B. Getting serious about protecting New Zealand children against unhealthy food marketing *NZMJ*. 2015, 128, 1417 Downloaded from [www.nzma.org.nz/journal/read-the-journal/all-issues/2010-2019/2015/vol-128-no-1417/6577](http://www.nzma.org.nz/journal/read-the-journal/all-issues/2010-2019/2015/vol-128-no-1417/6577) (Accessed 21 March 2016)

<sup>33</sup> World Health Organization. A framework for implementing the set of recommendations on the marketing of foods and non-alcoholic beverages to children. 2012. Downloaded from <http://www.who.int/dietphysicalactivity/MarketingFramework2012.pdf> (Accessed 21 March 2016)

<sup>34</sup> Watson, W; Johnston, A; Hughes, C; Chapman, K. Determining the 'healthiness' of foods marketed to children on television using the Food Standards Australia New Zealand nutrient profiling criteria. *Nutrition & Dietetics*. 2014, 71, 178–183. Downloaded <http://onlinelibrary.wiley.com/doi/10.1111/1747-0080.12127/abstract> (Accessed 21 March 2016)

## **9 Do you support or oppose a specific guideline on sponsorship? Why?**

The sponsorship of events and organisations by food and beverage manufacturers is another area of concern.<sup>35</sup> Evidence suggests unhealthy food and beverage sponsorships may foster consumption of unhealthy food products and dilute recommendations promoting healthy eating in sports settings.<sup>36</sup> Public Health South would support a specific guide on sponsorship.

*Recommendation: A specific sponsorship guideline is developed.*

## **10 Do you support or oppose the introduction of independent monitoring and evaluation of the codes? How would this work?**

Public Health South supports the introduction of an independent monitoring system. Although the Advertising Standards Complaints Board and the Advertising Standards Complaints Appeal Board are presented as independent Public Health South recognises they are established and administered by the Advertising Standards Authority (ASA), which is funded by the advertising and media industries. All major media representatives belong to the ASA.

Public Health South contends that the advertising and media industries have a financial interest in selling food products to children and therefore face a conflict of interest when they are involved in monitoring the advertising. A 2012 study on industry self-regulation of food marketing in New Zealand reported that "there continues to be clear evidence of partial, unjustified and inconsistent decision making by the Advertising Standards Complaints Board".<sup>37</sup> The study concluded that the New Zealand self-regulatory system failed to adequately protect the rights of the child.

*Recommendation: An independent authority is created to administer, monitor and evaluate the codes.*

## **11 What is your view of the sanctions imposed by the ASA when a complaint is upheld?**

Public Health South views the current sanctions as inadequate. If an advertisement is found to be in breach of the Standards then the ASA simply request that the advertisement be removed. There is no financial sanction. This does not provide sufficient incentive to ensure advertisements comply.

*Recommendation: The sanctions should be strengthened*

## **12 Are there environments where you consider it to be inappropriate to advertise to children?**

PHS considers it inappropriate to advertise to children in any setting due to their vulnerability. Examples of such settings include at home, in early childhood education centres, schools, playgrounds, medical clinics and sports facilities. WHO has recommended that "settings where

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<sup>35</sup> Agencies for Nutrition Action. Food and beverage marketing to children. Evidence snapshot 2013. Downloaded from <http://www.healthyaucklandtogether.org.nz/assets/Uploads/foodandbeveragemarketing.pdf> (Accessed 14 March 2016).

<sup>36</sup> Carter, M.-A.; Signal, L.; Edwards, R.; Hoek, J.; Maher, A. Food, fizzy, and football: promoting unhealthy food and beverages through sport - a New Zealand case study. *BMC Public Health*. 2013, 13, 126. <http://doi.org/10.1186/1471-2458-13-126>

<sup>37</sup> Bowers, S.; Signal, L.; Jenkin, G. Does current industry self-regulation of food marketing in New Zealand protect children from exposure to unhealthy food advertising? 2012. Report prepared for the Cancer Society of New Zealand by The Health Promotion and Policy Research Unit, University of Otago, Wellington. Downloaded from <http://www.otago.ac.nz/wellington/otago036971.pdf> (Accessed 29 March 2016).

children gather should be free from all forms of marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt".<sup>38</sup>

*Recommendation: Strengthen the children's codes to ensure that settings where children congregate are free from unhealthy food and beverage marketing.*

### **Summary**

Childhood overweight and obesity have reached epidemic proportions in New Zealand and obesity has serious health consequences for children. Food and beverage marketing influences children's eating behaviour and plays a role in the rising rates of overweight and obesity. Public Health South contends that government regulation of food and beverage marketing is required and that controls on marketing food and beverages to children need to be strengthened.

We do not wish to be heard in regards to this submission.

Yours sincerely



Christine Quested  
Health Promotion Advisor

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<sup>38</sup> World Health Organisation. Set of recommendations on the marketing of foods and non-alcoholic beverages to children, 2010. Geneva, World Health Organization.