



**Australian Government  
Department of Communications**

**Submission in response to  
*Discussion Paper - Enhancing  
Online Safety for Children***

**March 2014**

## Summary

The Obesity Policy Coalition ('OPC') is a partnership between Cancer Council Victoria, Diabetes Australia – Vic, and the World Health Organization Collaborating Centre for Obesity Prevention at Deakin University, with funding from VicHealth. We advocate for evidence-based regulatory and policy measures to address Australia's high rates of overweight and obesity, especially in children.

The OPC is pleased to provide comment on the Australian Government Department of Communications (Department) discussion paper "Enhancing Online Safety for Children, January 2014" (Discussion Paper).

The Government's Policy to Enhance Online Safety for Children, September 2013 (Policy), anticipated the issues raised in the Discussion Paper, noting that many parents and schools feel ill-equipped to protect children from online harms, and that more must be done to protect children from age-inappropriate content, through an effective system to control harmful material. The Government noted it would improve the coordination of online safety activities and require greater corporate social responsibility from large social media sites, and increase the support provided to parents and teachers to equip them to manage the online activity of children in their care. Our submission provides an overview of evidence and policy options that may advance these aims, in the context of unhealthy food and beverage advertising to children online and in new media.

Although the Discussion Paper's primary focus is the improvement of legal mechanisms to reduce the impacts of online bullying of children, we emphasise that issues around children's online safety are not limited to this type of overtly sinister behaviour, and other harmful impacts on health should also be considered. In particular, we draw to the Department's attention to the increasing uptake of online advertising techniques by food and beverage companies to promote unhealthy products. Unrestrained advertising of unhealthy foods to children, particularly through sophisticated and engaging techniques such as advergames, apps and social media sharing can have a powerful impact on the brand attitudes, food preferences and diets of Australian children. In recognising the impact of advertising, the World Health Organisation (WHO) has called on governments to take active steps to reduce children's exposure to this type of marketing, as it is a risk factor for overweight and obesity.

We therefore ask the Department to consider, in the course of its review of children's online safety, broadening the scope of action to include measures to control the online advertising environment as it impacts children's online safety, privacy, diets and health. Our submission illustrates the harms that can flow from unregulated online advertising of unhealthy food and beverages to children. In particular, we ask the Department to consider:

1. The changing online marketing environment and emerging techniques targeting children including advergames, apps, social and new media advertising;
2. The need for improved controls on viral ('peer-to-peer') marketing and protection of children's privacy in the context of food advertising;
3. The inadequacy of existing broadcast, privacy and spam laws to protect children.

# 1. Background

Australians experience high rates of overweight and obesity, with more than 60% of adults and 25% of children currently overweight or obese. The prevalence of overweight and obesity among Australian children and adolescents has increased significantly in recent decades. In 2011-2012, around one quarter of all children aged 5-17 years (25% of boys and 27% of girls) were either overweight or obese.<sup>1</sup> Since 1995, the proportion of obese boys in the 5-12 year age group increased significantly by three percentage points to 7%. For girls, there was a significant increase in the 13-17 year age group classified as overweight (up 6 percentage points to 18%).<sup>2</sup> These statistics are reflected in the poor dietary profile of Australian children, with a large proportion failing to meet recommended intakes of fruits and vegetables, while consuming significant amounts of fat and sugar.<sup>3</sup>

These high rates of childhood obesity are of huge concern, as childhood obesity is linked to a range of negative health consequences in children.<sup>4</sup> Obese children have a 25–50% chance of becoming obese adults, and this chance increases to 78% for older obese adolescents.<sup>5</sup> Overweight and obesity are leading risk factors for non-communicable diseases (NCD), meaning that a large proportion of the population faces increased risk of diabetes, heart disease and some cancers.<sup>6</sup> The factors shaping the diets of Australians, particularly children, are therefore potentially very important policy levers.

The WHO has emphasised that addressing high levels of obesity will require an integrated, cross-sectoral approach, and we submit that interventions to change children's diets by reducing exposure to online advertising of unhealthy foods must be prioritised in the work of the Department. In the present instance, we consider the Department has excellent opportunity to improve children's online environments to protect against hugely powerful commercial influences on their food preferences, brand awareness and diets.

Importantly, reducing children's exposure to marketing for unhealthy foods, including online and new media techniques, has become a key priority of Governments around the world (including Australia), following endorsement of the WHO Global Action Plan for the Prevention and Control of Noncommunicable Diseases 2013-2020 ('GAP'). The GAP stresses the importance of regulatory measures to reduce children's exposure to unhealthy food advertising and to protect food policy from undue influence of vested interests.<sup>7</sup> The GAP builds upon the Political Declaration adopted by Australia and the 192 Member States of the UN at the General Assembly's landmark High-Level Meeting on NCDs.<sup>8</sup>

## 2. Children's engagement with online advertising material

New media advertising techniques such as Apps and Advergames, which blend advertising messages with interactive games, are increasingly popular methods of reaching children online, with growing uptake by food advertisers. Online and interactive marketing is advantageous for advertisers over traditional forms of marketing such as television and print media, because it: -

1. can achieve repetitive and sustained engagement of children, who may play a game for as long as they like, whenever they like (often without parental supervision):<sup>9</sup>
2. is interactive and involves children in branded communication, playing games, entering competitions and interacting on social networking sites,<sup>10</sup> and
3. may engage children in powerful peer-to-peer viral marketing, involving "sharing" with friends;<sup>11</sup>
4. is cost effective and able to be widely disseminated in global, integrated and online campaigns.

The Policy notes that Facebook and smart phone technologies have been taken up by large numbers of high school children in Australia, but it is important to recognise that younger children now also spend a lot of time in social media and app-based activities, often unsupervised. A 2013 New Generations study of 1,800 Australian children and parents commissioned by cable TV station Cartoon Network found that the use of apps by children aged 4-14 had doubled to 69% in the preceding 18 months, with children using an average of seven apps in the month leading up to the study.<sup>12</sup> Use of social media sites has increased significantly among children in recent years. Since its advent in 2004, Facebook has been taken up by huge numbers of Australian children, including many aged under 13, despite Facebook's requirement that users be aged over 13 years. In May 2013 it was reported that a survey conducted by tech company McAfee found that a quarter of Australian children aged 8-12 use Facebook, despite the minimum age for a user being 13.<sup>13</sup> It was also found children were spending up to 1.5 hours on internet-enabled devices each day.<sup>14</sup>

The opportunity presented to advertisers by children's growing engagement with devices and online activities has led to the proliferation of targeted interactive games, competitions, apps and social media activities, which are actively promoted by food and beverage advertisers. Current examples promoted to Australian children include the Cottee's Cordial website ([www.cottees.com.au](http://www.cottees.com.au)), which contains games, competitions and a 'mix it tool', where site users can 'mix up' a music video using different musical versions of the Cottee's jingle. Another particularly sophisticated and enticing site is the Unilever Paddle Pop website (<http://www.paddlepop.com.au/>), which uses a dinosaur theme, and contains an array of animated characters, videos and games. For older children, the Coca Cola "Ahh Giver" Facebook App (<https://apps.facebook.com/ahh-giver/>) suggests they "give the gift of a Coke" by using the App to send a personalized Facebook message to a friend, including a personalized coke advertisement. For primary age children, the Mamee Monster Snack website (<http://www.mamee.com.au/>) contains coloring competitions for young children and basic computer games where a furry purple monster undertakes quests, controlled by the

arrow keys. The Wizz Fizz website <http://www.wizzfizz.com.au/> includes the “wizz muncher” game where a cartoon monster consume as many Wizz Fizz products as he can, and the Donut King ‘kids’ corner’ <http://www.donutking.com.au/index.php/kids-corner/> promotes donuts and hot dogs through colouring activities and simple word puzzles.

Apps promoting unhealthy food that are hugely appealing to children include the KFC “snack the face” where pop-corn chicken pieces are catapulted into the mouth of the KFC Colonel try to defeat the evil “Professor Snackbot”, winning prizes of unhealthy snacks which may be collected at stores.<sup>15</sup> The Nesquik “bunnifyer” App, involves applying cartoon bunny ears to photos of friends and family on smart phones.<sup>16</sup> Many more food and beverage brands have social media pages, which may be ‘liked’ and ‘shared’ between children, enhancing the powerful nature of the communication through peer-to-peer endorsement.

### **3. Impacts of online food advertising on children - ethical concerns**

Systematic reviews of the evidence conclude that food promotion influences the types of food children prefer, demand and consume, and is likely to contribute to poor diets, negative health outcomes, weight gain and obesity in children.<sup>17</sup> This evidence underpins the WHO *Set of recommendations on the marketing of food and non-alcoholic beverages to children* (Recommendations),<sup>18</sup> which urge governments take steps to keep children’s settings free of unhealthy food promotions and branding. Emerging research suggests that recognisable characters like the Paddle Pop Lion, Nesquik Bunny and the KFC Colonel in advertising unhealthy food to children can have very long-lasting impacts.<sup>19</sup> Childhood advertising exposure leads to positive feelings for the characters, which in turn leads to favorable evaluations of the healthy qualities of the brand years later.<sup>20</sup>

Targeted advertising to children for products that are poor dietary choices is particularly concerning because children are vulnerable consumers and may have reduced capacity to understand the commercial and persuasive intent behind advertising messages.<sup>21</sup> Further, the immersive and embedded nature of commercial messages in advergames and activities means they may not be recognisable to children, particularly as these activities are often not punctuated by breaks or cues to interrupt a child’s participation, or to alert a child to the persuasive intent.<sup>22</sup> Children’s abilities to understand and critically view advertising develop over time, with cognitive growth and intellectual development.<sup>23</sup> We consider this type of food advertising material should be strictly controlled as the commercial intent cannot be readily understood by the target audience. Children cannot make informed choices where beguiling advertising is directed at their sense of fun or adventure, or if they believe promotional material is simply information or entertainment, and this means uncontrolled online environments undermine the efforts of parents and schools to promote healthy diets and lifestyles.

The OPC therefore considers that protecting children from advertising unhealthy foods and beverages, in light of their particular vulnerability, should be a key concern of the Department when considering children’s online safety.

## 4. Inadequacy of current controls

Despite the consensus among peak public health agencies that children should be protected from advertising for unhealthy products, there remains a notable lack of regulation designed to limit children's exposure to unhealthy food and drink marketing online and through new media in Australia. Presently, controls on advertising to children are overwhelmingly left to industry self-regulation, overseen by the Advertising Standards Board (ASB).<sup>24</sup> Though the industry codes (the Responsible Children's Marketing Initiative and Quick Service Initiative) purport to represent undertakings by advertisers to engage only in responsible, health-promoting advertising activities, the following examples illustrate the lack of impact the voluntary industry codes have in restricting the number and nature of communications directed at children.

For example, the KFC "Snack the Face" App is a free, animated game for smart phone, premised on a quest to help save the Popcorn Chicken characters that have been stolen from KFC by the villainous character, Professor Snackbot, and lead them to their saviour, the Colonel. A complaint that the app breached the QSRI by marketing high-fat snacks to children was dismissed because, although the ASB accepted it would be *attractive* to children, it was not directed *primarily* to them, as they would not meet the very high audience threshold of 50%, to attract controls under the self-regulatory system.<sup>25</sup> The exposure of very large numbers of children to this material is not adequate to trigger any protections. The limited application of the codes is illustrated by a recent complaint to the Advertising Standards Board about the Nesquik Bunnifyer App (above), which was summarily dismissed (that is, the nature of the message and its appeal to children were not even considered) because the relevant code does not apply to Apps. As described above, the Unilever Paddle Pop website contains games, videos and activities to attract young children in activities branded with the Paddle Pop Lion. This is permissible under the present codes, however, because although Paddle Pop ice-creams contain around 21% sugar by weight, or 11g sugar per serve,<sup>26</sup> they are considered a "healthier choice". This means the Paddle Pop website is unrestrained in the techniques it may use to forge positive brand associations with very young children. The codes also fail to capture apps and games by interpreting the forbidden class of activities (those "directed primarily at children") very narrowly. In short, the self-regulatory codes do little to protect children from advertising of unhealthy food and beverages, and are particularly ill-equipped to control online and new media advertising. Further, many advertisers, including those promoting Donut King and Wizz Fizz products (described above) are not signatories to the voluntary codes. As in the case of online bullying, more effective measures, backed by legislation or improved co-regulation, are urgently required to reduce children's exposure.

## 5. Online Spam and privacy concerns – viral and unsolicited marketing

It is also of great concern that children's online privacy is at risk under the present application of privacy and spam laws in Australia. Provisions of the *Spam Act 2003* (Cth) have been demonstrated to be unable to protect children from unsolicited marketing material sent to online inboxes.

In Australia, the list of food and beverage advertisers employing viral or 'peer-to-peer' marketing online, including to children, is growing. Examples include the Cottee's Cordial kids' website (above), where visitors to the site are invited to save their creation and share it with friends using a variety of social media methods, including Facebook and email. Similarly, child users of the Paddle Pop website are invited to sign up for an 'adventurer's account' providing age, gender and email information. Participants must tick a box stating that they have their parent's permission and agreeing to the terms and conditions, though there is no requirement of parents to check a box and no minimum age requirement. The Paddle Pop animated computer games can be shared with friends on Facebook, including by posting on your own wall, on someone else's timeline or sent in a private message. The Chupa Chup "Chup Chucker" app (<https://apps.facebook.com/chupachucker/>) allows players to play the animated game where you "chuck" cartoon Chupa Chups, and to invite friends to play on Facebook. The site prompts visitors to "invite more" after playing the game, when the player has previously sent "invitations" to their Facebook friends.

Although the *Spam Act* prohibits a person from sending or causing the sending of a commercial electronic message,<sup>27</sup> unless the relevant account holder consented to the sending of the message, the Australian Communications and Media Authority (ACMA) has not applied the Act to social media messaging, even in the context of private messaging, which arguably meets the class of messaging contemplated by the Act. Therefore, although the ACMA has employed anti-spam laws to curtail the activities of the McDonald's Happy Meal website's "send to a friend" children's email promotion in 2012,<sup>28</sup> the same protections don't apply to the examples of viral marketing on social media set out above. Therefore, there are no controls on the proliferation of peer-to-peer marketing material to children through social media, which is extremely concerning and should be addressed as an important element of any policy reform to improve children's online safety.

## 6. The need for monitoring and data collection

The prevalence of marketing of food and beverage marketing to children online, its impacts and legal and policy implications for Australia are presently under-explored in the relevant research undertakings referred to in the Discussion Paper, including the ACMA's research into Young Australians' experiences of social media,<sup>29</sup> privacy online<sup>30</sup> and use of Apps on smart phones.<sup>31</sup> The Policy recognises the need to conduct further research into the use of the internet by children and young people, and proposes to fund and support Australian-based research into internet use and online safety.



We ask the Department to consider further monitoring and research into commercial messaging and advertising material to children through online platforms, social media, apps, advergames and devices, as a core tenet of any move to increase protections for children from harmful environments online. Such research should explore the extent of the influence of food and beverage advertising online, considering both:

1. the volume of exposure (amount of uptake of types of advertising activities in different age groups and demographics); and
2. the nature of the advertising material (noting persuasive techniques including childish themes, animals, cartoons, characters, prizes, viral-marketing capability and sharing).

These results will provide invaluable insights into the current extent, nature and influence of food and beverage marketing through new media, and will be critical in tailoring policy and regulatory interventions to protect children, in line with international best practice pursuant to the WHO Recommendations.

We ask that the Department's review of children's online safety provide for investigation and monitoring of the online advertising environment as it impacts children's safety, privacy and health, and consider measures to reduce children's exposure to harmful advertising online.



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<sup>2</sup> Ibid.

<sup>3</sup> Australian Bureau of Statistics, 4364.0 – National Health Survey: Summary of Results, 2007-2008; see also S J Zhou et al, 'Nutrient intakes and status of preschool children in Adelaide, South Australia' (2012) 196(11) *Medical Journal of Australia* 696; see also Flavia Fayet, Andrea Mortensen and Katrine Baghurst, 'Energy distribution patterns in Australia and its relationship to age, gender and body mass index among children and adults' (2012) 69 *Nutrition and Dietetics* 102.

<sup>4</sup> A Must and R Strauss (1999) "Risks and consequences of childhood and adolescent obesity" 23(Supp2) *International Journal of Obesity Related Metabolic Disorder* 1999 S2-11.

<sup>5</sup> Ibid.

<sup>6</sup> World Health Organization Obesity: preventing and managing the global epidemic, Report of a WHO consultation. technical Report Series 894. WHO: Geneva, 2000.

<sup>7</sup> The World Health Organization Global Action Plan for the Prevention and Control of Non-communicable Diseases 2013-2020

<sup>8</sup> United Nations General Assembly, Sixty-Sixth Session, 66.2 *Political Declaration of the High-level Meeting of the General Assembly on the Prevention and Control of Non-communicable Diseases*, 24 January 2012, (A/Res/66/2), 2012.

<sup>9</sup> See Kaye Mehta et al, 'Marketing Food and Beverages to Children, on three internet platforms: company websites, popular websites and social network sites – Children and Food Marketing Project Report to SA Health' Flinders University, April 2010.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> New Generations study of 1800 children and parents commissioned by cable TV station Cartoon Network released in 2013, as reported by the Australian, 11 April 2013, available at <http://www.theaustralian.com.au/media/children-jump-into-apps-era/story-e6frg996-1226617569555>.

<sup>13</sup> McAfee survey of 500 children aged 8-12, 2013, released as part of National Cyber Security Assessment Week as reported by ABC news, May 2013: <http://www.abc.net.au/news/2013-05-21/a-quarter-of-tweens-are-underage-facebook-users/4703510>, and as reported in the Australian, <http://www.theaustralian.com.au/australian-it/childrens-net-use-obsessive/story-e6frgaxk-1226647941355>.

<sup>14</sup> Ibid.

<sup>15</sup> Snack the Face App: <https://play.google.com/store/apps/details?id=air.au.com.kfc.snackintheace&hl=en>.

<sup>16</sup> See <http://www.ogilvy.com/News/Press-Releases/September-2013-Nestle-Nesquick-launches-Bunny-Ears.aspx>

<sup>17</sup> G Cairns, K Angus and G Hastings, 'The extent, nature and effects of food promotion to children: A review of the evidence to December 2008] Geneva: World Health Organisation, 2009; G Hastings et al. Review of the research on the effects of food promotion to children (Final report), Prepared for the Food Standards Agency, 22 September 2003.

<sup>18</sup> World Health Organization, 2010, Set of recommendations on the marketing of food and non-alcoholic beverages to children, available at [http://whqlibdoc.who.int/publications/2010/9789241500210\\_eng.pdf](http://whqlibdoc.who.int/publications/2010/9789241500210_eng.pdf).

<sup>19</sup> See reporting on research by Paul Connell, Cass Business School, City University, London, (not published at time of writing) <http://www.cass.city.ac.uk/news-and-events/news/2014/january/is-tony-the-tiger-making-you-fat>.

<sup>20</sup> Ibid.

<sup>21</sup> Kunkel D, Wilcox BL, Cantor J, Palmer E, Linn S & Dowrick P. Report of the APA Task Force on Advertising and Children. Washington DC: American Psychological Association, 2004, <<http://www.apa.org/releases/childrenads.pdf>>.

<sup>22</sup> Soontae An and Hannah Kang 'Do online ad breaks clearly tell kids that advergaming are advertisements that intend to sell things?' (2012) 32(4) *International Journal of Advertising* 655.

<sup>23</sup> Kunkel, D., Wilcox, B.L., Cantor, J., Palmer, E., Linn, S. & Dowrick, P. 'Report of the APA Task Force on Advertising and Children.' Washington, DC: American Psychological Association, February 20, 2004.

<sup>24</sup> See the OPC's Report *Exposing the Charade*<sup>24</sup> (at [www.opc.org.au](http://www.opc.org.au)) for more information.

<sup>25</sup> See Advertising Standards Board decision 0383/13, available by searching at <http://adstandards.com.au/casereports/determinations/standards>.

<sup>26</sup> Values are based on Paddle Pop Choc flavour, see nutrition information for this and other products at <http://www.paddlepop.co.nz/products/Streets-Paddle-Pop-Banana.aspx#!/products/Streets-Paddle-Pop-Caramel.aspx>.

<sup>27</sup> that has an Australian link and is not a designated commercial electronic message.

<sup>28</sup> See formal warning at <http://beta.acma.gov.au/theACMA/formal-warnings-index-page>.

<sup>29</sup> See ACMA *Like, post, share: Young Australians' experience of social media – Qualitative research report* – August 2011.

<sup>30</sup> See ACMA *Privacy and personal data – emerging issues in media and communications – Occasional paper 4* – June 2013.

<sup>31</sup> See ACMA *Mobile Apps – emerging issues in media and communications – Occasional paper 1* – May 2013.