

Ministry of Health
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Public Health and Regulation of Food Publicity

World Overview

The economic, social, and demographic changes of recent decades owing to modernization and increasing urbanization have altered our population's nutritional standards, entailing an increase in overweight and obesity as well as a decline in malnutrition, thereby introducing a nutrition transitional period.¹

The World Health Organization-WHO estimates that in the next ten years obesity will be the main cause of preventable death worldwide, exceeding the number of deaths caused by smoking.² The prevention and control of non-transmissible chronic diseases-NTCD and their risk factors are essential for stemming the epidemic development of the disease and its consequences for life quality and the health systems.

Child obesity is increasing at an alarming pace, posing a threat to children's health and development. This is all the more troubling because the sedentary life style of younger people, coupled with a diet rich in calories, fats, sugar, and sodium, places their future under jeopardy.³

The Global Strategy on diet, physical activity, and health-GS⁴ points to the need to promote social and environmental changes at the community level, leading to healthy individual choices, so as to reverse this steadily worsening NTCD picture. Shared responsibility by society, the productive sector, and the government will lead to

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the establishment of life styles whose key objectives are health promotion and disease prevention.

Publicity and Human Rights

Human Rights encompass respect, equality, dignity, and valorization and include respect for all individuals' opportunity to achieve their full potential. Inequalities in the area of health often reflect discrimination or underlying exploitation. Obesity and related diseases are not evenly distributed and both socioeconomic and ethnic factors come into play. The trend toward higher rates among poorer, socially underprivileged groups in developed countries now seems to be noticed in developing countries as well, particularly in urban areas, including slums (Engesveen, 2005).

A State Party to a convention on human rights is legally bound to implement measures to ensure the enjoyment of these rights, including the right to adequate food and to the highest attainable standard of health, as called for under the Convention on the Rights of the Child (Art. 24) and the International Covenant on the Economic, Social and Cultural Rights (Arts. 11 and 12) (Engesveen, 2005).

The States' obligations generally fall into one of three categories: respect, protection, and compliance, the latter obligation encompassing facilitation, provision, and promotion. In connection with marketing, the obligation to protect is particularly important, as governments are unable to invest as much time and resources on the promotion of healthy diets as the food industry invests on the advertising of products that are harmful to health. Protection measures include the regulation of the activities of third parties to prevent their interference with everyone's right to food and health (Engesveen, 2005).

An argument raised against stricter marketing regulation is that nutritional health is an individual's choice and responsibility. As this depends on available, accessible options, the State is responsible for creating the proper environment, thereby complying with its obligation to facilitate the realization of the right to food and health (Engesveen, 2005).

Human rights require that the making of decisions and their implementation abide by certain principles, such as equality and nondiscrimination, participation and inclusion, transparency and accountability, and the Right of Law. Accordingly, parents, consumer groups, and other concerned parties, whose resources cannot compare with those of the multinationals, must have a voice and exert their influence. In this respect, the right to information is essential to decision-making.

Publicity targeted at children

Children are the most vulnerable to promotional appeals, and advertising, publicity, and food promotion influence their food choices. The many forms of environmental influence on eating habits come from the media under its various guises and are the ones that are most rapidly assuming a key role in children's and youth's socialization.³ As the variety and form of the media's penetration increase, there is a similar heightened promotion of industrialized foods and beverages on supermarket shelves, which exerts a negative influence on children's diet and health conditions.

Publicity and advertisement are techniques widely used by companies to encourage the consumption of their products. In the last twelve months in particular, food publicity and advertisement have been the topic of international debate, especially as they target children. Industries invest heavily on the advertising of fast food rich in calories, carbonated beverages, sugared breakfast cereals and snacks—food items that tend to be rich in fats, sugar, and salt as well as poor in nutrients.⁵ In view of the steadily rising global rates of obesity and non-transmissible chronic diseases, many experts have suggested that the advertisement and publicity of these foodstuffs contribute to an “obeseogenic” environment that makes healthy choices more difficult, especially for children.⁶

Aggressive marketing practices by a large segment of the entrepreneurial sector, particularly those aimed at school-age children and at an ever more strictly controlled retail chain are actively militating against young people's right to food that is adequate and conducive to their nutritional health and well-being (SCN, 2006).

A systematic review by the Committee on Food Marketing and the Diets of Children and Youth, of the U.S. Institute of Medicine of the National Academies, points to strong evidence that TV advertisement influences the preferences, purchase requests, and opinions on food and beverages on the part of children aged two to eleven. There is also strong evidence that TV ads, within a short span of time, influence children's weekly and even daily consumption, leading them to prefer and ask for food items and beverages with high caloric content and low nutritional value. The study also found strong evidence of a statistical co-relation between exposure to TV advertisement and overweight in children and youth.⁷

Many case studies suggest that governments can encourage better choices for people's health through regulation of certain products that are harmful to health. Accordingly, government interventions to help people to control behavior that put their own health at risk cannot be understood as restrictions to an individual's freedom of choice. Advanced scientific knowledge about health risks have expanded the debate on measures and initiatives that impact on public health worldwide.¹⁵

It is important that governments and nongovernmental actors recognize their common responsibility for the realization of everyone's and particularly of youth's right to adequate food and to the highest attainable health standard⁸(SCN, 2006).

WHO's document titled *Marketing Food to Children: the Global Regulatory Environment*,⁷ reviews regulations around the world pertaining to the publicity and advertising of food, particularly targeted at children. Of the 73 countries studies, 62 have regulations on TV advertising aimed at children. Forty-six countries have statutory regulations and 51 have self-regulation codes. Thirty seven countries have both statutory regulations and self-regulation codes. Thirty-two countries have specific restrictions on TV advertising aimed at children. Here are some examples:

1. Norway and Switzerland prohibit the airing of any TV commercials aimed at children under 12;
2. Austria and Belgium prohibit commercials before and after children's programs;
3. Denmark restricts the use of characters and animals of children's programs in commercials;
4. Italy has a self-regulation code with specific restrictions, including financial penalties;
5. Australia prohibits commercials during programs aimed at pre-school children and restricts the quantity and frequency of commercials during children's programs.
6. In 10 of the 16 Asian countries there is some form of regulation;
7. Malaysia, Pakistan, and Thailand have a system of pre-evaluation and approval of commercials;
8. In Africa there are countries with statutory regulation and countries with self-regulation codes;
9. In the United States self-regulation prevails, based on a quite detailed code; and
10. In Canada, advertisement aimed at children is subject to strong regulation, with restriction on the use of subliminal and commercial techniques that directly induce children to buy a certain product. In Quebec, commercials targeted at children under 13 are prohibited.

Health and Food Marketing in Brazil

In Brazil, there are few studies on food advertising, publicity, and promotion. But as in other countries, most commercials on Brazilian television refer to foods rich in fat, sugar, and salt consumed by children and adolescents.⁹ An analysis of the commercials aired by the three major Brazilian TV broadcasters, which in 2001 captured 90 percent of the audience, showed that 44 percent of food commercials aimed at children were of foods rich in sugar and fat.¹⁰ Another study by the São Paulo University's Public Health School about food advertisement in Brazil showed that 57.8

percent of food products advertised between 1998 and 2000 were considered to be rich in fat and sugar.

Investment by the food advertising market shows this sector's power. In 2001, the world food industries' advertising budget was estimated at around 40 billion dollars.¹¹ In Brazil, about one billion reais were invested in 2005 alone.¹² For each dollar spent by WHO to promote healthy nutrition, 500 dollars are spent by the food industry on the promotion of processed foods.¹³

Non-transmissible chronic diseases are usually long-lasting and as such they demand more health initiatives, procedures, and services. According to Ministry of Health data, it is estimated that 69 percent of the Unified Health Service-SUS's health care expenditures are due to these diseases. It is also known that the main risk factors connected with them are related to behavior (poor eating habits, lack of physical activity, low fruit and vegetable consumption, and smoking) and are thus preventable. Strengthening health promotion initiatives, with emphasis on healthy food, raises the effectiveness of health and adequate nutrition investment in reversing the high occurrence of these diseases in the country.

Thus, starting from the comprehensive health concept adopted by the 1988 Federal Constitution and the purpose of health promotion, intersectoral strategies to promote health and life are being implemented, encouraging and triggering initiatives intended to lead society to make the healthy choices that are most accessible to all.

Through its National Health Promotion Policy-PNPS, the Ministry of Health reaffirms the Brazilian commitment to the Global Strategy guidelines, consistently with the National Food and Nutrition Policy-PNAN.¹⁴ Both prescribe the regulation of food advertisement and food promotion as two lines of action, particularly if they target children and adolescents. More recently, the National Food and Nutrition Security Council has considered these two lines of action as a strategic component for achieving nutrition security for the Brazilian population.

The realization of the human right to adequate human food and to the highest attainable health standard, the respect for the rights of the child and adolescent, and the scope of food and nutrition security should provide the basis for the regulation of food publicity, which must be in line with health promotion and disease prevention and incorporate the following priority criteria:

1. Adequate, accurate information on food's nutritional value, avoiding any error or misconception about food's attributes and mechanisms for convincing people of the advantages of consuming healthy foods;

2. Identification and definition of foods rich in sugar, fat, and salt;

3. Warnings after the dissemination of publicity about these foods;
4. Restrictions on the use of characters, cartoons, personalities, and illustrations in material aimed at children;
5. Restriction on airing time (9 p.m. till 6 a.m.);
6. Advertising in schools; and
7. Association with prizes, bonuses, shows.

The dialogue with food companies and the media and marketing agencies should be intensified with a view to gradually change the demand for and eliminate the promotion of food items and beverages that contribute to a diet conducive to poor health in children and youth and to premature death and/or years of incapacitating life in adulthood. Some companies have already started to change their products to make them less harmful. Such initiative is welcome and should be systematically implemented, on an ever-increasing scale and pace (SCN), 2006).

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- ⁸ The right to the 'highest attainable health standard' is the expression used in Art. 12 of the same Covenant and was subsequently interpreted by the Committee on Economic, Social, and Cultural Rights in 2004 [See [http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/E.C.12.2000.4.Ep?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/E.C.12.2000.4.Ep?OpenDocument)].
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