Controls on the marketing of food and non-alcoholic beverages to children in Thailand: legislative options and regulatory design
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Acronyms
HFSS  High in fat, sugar and salt
NCD  Non-communicable disease
UNCRC  United Nations Convention on the Rights of the Child
UNICEF  United Nations Children’s Fund
WHO  World Health Organisation
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Executive summary

The purpose of this report is to provide background evidence to the Government of Thailand as it considers the introduction of stronger controls on the marketing of food and non-alcoholic beverages to children. The report sets out i) the rationale for strengthening legislation ii) the required scope of legislation and iii) the mechanisms for legislation monitoring, evaluation and enforcement.

Rationale for strengthening legislation

The Government of Thailand has committed to a ban on inappropriate marketing of foods and non-alcoholic beverages1 high in saturated fats, trans-fatty acids, free sugar and salt (HFSS) (1). This is in response to rapidly rising rates of overweight and obesity2, particularly among Thai children. Excess weight is linked to reduced educational achievements, increased risk of non-communicable diseases (NCDs) and negative impacts on quality of life (2-4). The alarming increase in overweight violates Thailand’s commitment to the United Nations Convention on the Rights of the Child (UNCRC), ratified by Thailand in 1992, which states that parties should act appropriately to combat disease and malnutrition, of which overweight is one form.

The rise in childhood overweight is associated with changes in diet (5). Thailand now ranks highest among 54 low and middle income countries for adolescent fast food intake (6) and Thai sales of ultra-processed foods are rapidly increasing (7). Strong evidence shows that children who are exposed to HFSS food marketing are more likely to desire, request and eat those foods and thereby increase their total daily energy intake (8-10), leading to excess weight gain and overweight over time. Children are exposed to high volumes of HFSS food marketing every day as they go about their daily lives, through various settings, including schools, sports, supermarkets, television and the internet. The amount of

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1 Food and non-alcoholic beverage food marketing will be referred to as ‘HFSS food marketing’ from herein.
2 Overweight defined as a Body Mass Index (BMI) between 23.0 and 24.9kg/m² and obesity of BMI ≥25.0 kg/m² will be collectively referred to as overweight.
television advertisements for HFSS foods across 22 countries was found to be highest for Thailand (11). In the online environment, marketing by the most popular Thai food and beverage brands (across confectionery, soft drinks, and chain-restaurant foods) have been found to contravene Government regulations and industry’s self-regulatory codes of practice (12).

Thailand is a leader in global health (13) with progressive legislation restricting the marketing of tobacco and breast milk substitutes and a tiered tax on sugar-sweetened beverages. Progress has been made to restrict food marketing in schools and improve the marketing on food labels. However, to adequately protect all children from HFSS food marketing and to uphold commitments to the UN Interagency Taskforce for NCDs in Thailand, controls on HFSS food marketing must be strengthened.

Recommendations for strengthening legislation

The report makes the following recommendations for strengthening legislation to control the marketing of HFSS foods and non-alcoholic beverages:

1. **Adopt mandatory government legislation**
   Mandatory government legislation is more effective than government-led voluntary regulation or industry-led codes as shown by strong and consistent independent evaluations assessing the effectiveness of marketing restrictions globally (14-25).

2. **Assign the Ministry of Public Health as the lead government agency**
   The Ministry of Public Health has a strong mandate from the United Nations Interagency Taskforce on NCDs to lead a steering group of other relevant government agencies on the design, implementation and monitoring of the legislation. This aligns with international examples where the Ministry of Health has been the main implementing government body, along with other associated health regulatory bodies (26).

3. **Set reduction in children’s exposure to HFSS food marketing as the overarching objective**
   Setting clear and specific objectives that can be realistically achieved and monitored will help protect the legislation from legal challenge. It will also help the government to evaluate the effectiveness of the law against the objectives. Reducing children’s exposure to HFSS food marketing should be the overarching objective with other outcomes such as reducing purchases of HFSS food and reducing childhood overweight as secondary outcomes. Once the objectives are defined, the reach, goal and scope of the legislation can be drafted.

4. **Protect all children up to 18 years of age**
   Children up to 18 years old must be protected from HFSS food marketing in line with the UNCRC. Younger and older children are exposed to large volumes of HFSS food marketing, which has shown to increase preference and consumption of targeted products among all children up to 18 years of age (8, 9). Younger children do not have the cognitive ability to interpret the persuasive intent of marketing (27) and older children are particularly vulnerable to marketing that promotes products that provide immediate gratification (28, 29).
5. Include all marketing of HFSS foods regardless of target audience

Legislation should cover all marketing that children are exposed to, regardless of the intended audience or whether it is ‘directed to’ children or not. Children and adults share many of the same physical spaces, communication platforms and exposure times (11, 30-32). Legislation that is narrowly focused on marketing that is ‘directed to children’ will not adequately protect children from all HFSS marketing to which they are exposed (33).

6. Implement comprehensive legislation covering all settings, times and media channels when children are exposed to marketing of HFSS food and beverages

All marketing strategies including advertising, sponsorship, direct marketing (e.g. mail, text), product placement and branding, and product packaging should be covered by the legislation. This can be achieved by applying a settings-based, time-based or media-based approach to legislation. Evidence from tobacco and breast milk substitute marketing controls shows that when limited settings or channels are subject to legislation, companies shift their marketing practices from regulated to unregulated media, which undermines the legislation’s impact (34).

7. Restrict HFSS food marketing in all settings where children are present

These settings-based restrictions should include:

a) Child-centred settings

Child-centred settings include, but are not limited to, schools, early childhood settings, playgrounds, family and child services, children’s sports sponsorship and cultural activities. Thailand’s Ministry of Education recently (11 June 2020) announced a Notification to ban marketing of all types for foods and beverages in educational institutions. It will be important that this is implemented in full and that regulations are extended to cover the environment around schools and in other settings where children gather.

b) Public spaces, public transport and public events

Marketing in public spaces, on public transport or at public events (e.g. sponsorship or advertising at sporting and cultural events) is highly visible to children as they go about their daily lives and, in most instances, cannot be avoided. Urban areas of Thailand have large volumes of traffic, supporting a strong outdoor advertising sector. Banning the marketing of HFSS foods in these spaces will require action on publicly-owned and privately-owned advertising space.

c) Retail environments

Retail marketing strategies influence children’s consumption through ‘pester power’ which describes children’s relentless requests to parents for marketed food items, and by attracting the attention of older children and adults thereby increasing unplanned or impulse purchases (35-37). Key marketing strategies include product displays in prominent locations (e.g. end-of-aisle, checkout or free-standing displays) and messaging on product packages (36), in addition to price promotions and free tastings.
8. Restrict HFSS food marketing across all broadcast media between the hours of 6am and 12am (midnight)

A time-based restriction on the marketing of HFSS foods during the hours that children are viewing broadcast media, including television, cinema and radio, is important to capture the full exposure of children to such marketing.

9. Ban HFSS food marketing across non-digital and digital platforms

A whole-of-medium based restriction to HFSS food marketing should be applied to all non-digital and non-broadcast mediums and all digital media when there are mixed-use audiences. Marketing through digital media channels needs to include on-line marketing, which involves a large network of stakeholders (30, 38) and rapid spread of information. Existing mechanisms to protect children (e.g. on-line age verification) are inherently weak and largely ineffective (39). This is particularly important as internet usage is increasing year-on-year among Thai children and youth (40).

10. Categorise food and drink as ‘permitted’ or ‘not permitted’ for marketing based on a robust classification system

The legislation should be underpinned by an objective and easy-to-use system that classifies foods and beverages as ‘permitted’ (healthy) or ‘not-permitted’ (unhealthy) to be marketed. The Thai nutrient profile model (41) can be used as a starting point as it has been developed based on recommendations from the WHO and tested against other international systems. Marketing using master brand logos, without food items or alongside healthier foods, for brands primarily associated with HFSS foods (e.g. fast food restaurants) should also be banned as evidence shows this type of marketing increases HFSS food consumption (42, 43).

11. Monitor and evaluate the legislation using an independent government agency and robust enforcement mechanisms

Once legislation is implemented, it should be regularly monitored to ensure compliance and to evaluate its effectiveness against the stated objectives. Monitoring, evaluation and enforcement, should be coordinated by an independent government agency with other agencies that are free of conflicts of interest given powers to carry out monitoring and enforcement on that agency’s behalf. Agencies may include government departments, regional departments for local monitoring or civil society groups. Strong enforcement mechanisms, such as fines and prohibitions should be used to ensure compliance.
Part 1: Rationale for strengthening legislation on food and non-alcoholic beverage marketing in Thailand

Overview
Part 1 of this report outlines the rationale for protecting children from the harmful impacts of HFSS food marketing in Thailand. Part 1 is divided into six sections:

1.1 Existing commitments
1.2 NCDs and overweight
1.3 Dietary factors and overweight
1.4 Influence of HFSS marketing
1.5 Evidence for HFSS food marketing
1.6 Existing food and marketing regulation and legislation in Thailand

1.1 Government of Thailand commitments for supporting controls on marketing of food and non-alcoholic beverages

Thailand’s commitment to banning the inappropriate marketing of HFSS foods is evidenced in the Government of Thailand’s Framework for Co-operation developed to implement the recommendations arising from the United Nations Interagency Taskforce on NCDs visit in 2018 (1). Recommendation 4.4 states:
‘Ban inappropriate marketing of unhealthy food and beverages to children and implement the Act on Control of Marketing of Infant and Young Child Food’

To implement recommendation 4.4, the framework states:
‘Draft regulation to ban inappropriate marketing of unhealthy food and beverages to children be developed.’

This is in addition to many other international resolutions and frameworks that Thailand has signed up to, which call for marketing restrictions (Appendix 1). These commitments reflect the alarming increases in overweight and non-communicable diseases (NCDs) in Thailand over the past 10-20 years (44) and the recognition that HFSS food marketing influences children’s diets in a negative way, leading to excess weight gain and life-long ill-health (2-4).

Definitions of marketing, HFSS foods, and marketing exposure and power

**Marketing:** The WHO defines marketing as ‘any form of commercial communication of messages that are designed to, or have the effect of, increasing the recognition, appeal and/or consumption of particular products and services - it comprises anything that acts to advertise or otherwise promote a product or service’ (45). This broad definition of marketing is intended to cover the wide breadth of marketing strategies, including, but not limited to, advertising, sponsorship, direct marketing (e.g. mail, text), product placement and branding and product packaging. Although it is not explicitly stated in the WHO Set of Recommendations on the Marketing of Foods and Non-alcoholic Beverages to Children (46), marketing also encompasses the promotion of brands (usually the only marketing element for sponsorship), as brand loyalty awareness is one of the mechanisms through which marketing increases HFSS food consumption.

**HFSS foods and non-alcoholic beverages:** Foods and non-alcoholic beverages considered to be harmful to health due to the high content of saturated fat, trans-fatty acids, free sugars or salt (often referred to as ‘unhealthy’ foods and beverages). These are the target foods and beverages for food marketing policies and, throughout this document, are collectively referred to as HFSS foods.

**Marketing exposure and power:** The impact of marketing is a function of exposure and power (45). *Exposure* refers to the reach (how many people are exposed to given marketing message or campaign over a specified period) and frequency (how many times people are exposed). *Power* refers to the content, design and execution of the marketing message (e.g. using techniques of cartoon characters or celebrities, use of competitions or games).
1.2 Non-communicable diseases and childhood overweight in Thailand

Overweight and NCDs are rising at alarming rates in Thailand. This is leading to increased early deaths, illness and is having a profound impact on the economy. NCDs account for 74% of all deaths in Thailand, with most deaths caused by cardiovascular diseases, cancers, chronic respiratory disease and diabetes (44). Overweight, a key risk factor driving Thailand’s rapidly rising burden of NCDs, increased sharply for school-aged children (6-14 years) from 4.9% in 2009 to 13.9% in 2014. Similar increases were observed for pre-school aged children (1-5 years) rising from 5.6% in 2009 to 11.4% in 2014 (Figure 1)(7).


Childhood overweight is associated with reduced educational achievements and negative impacts on quality of life (2-4). In 2016, conservative estimates of the costs of obesity (BMI≥25m2) in Thailand were US$0.8-2 billion (0.20-0.37% of Thailand’s Gross Domestic Product) (46). Children who are overweight are more likely to become overweight adults (47), with lifelong health and economic consequences. This alarming increase in overweight violates Thailand’s commitment to the UNCRC (ratified by Thailand in 1992), which states that parties should act appropriately to combat disease and malnutrition, of which overweight is one form.
NCDs and obesity as risk factors for COVID-19

Increasing evidence demonstrates that obesity is associated with a higher risk of COVID-19 complications and hospital admission (48), intensive care surveillance (48) and a need for invasive mechanical ventilation (49). Building resilient populations to the ongoing threat of COVID-19 and other future pandemics will require prioritisation and implementation of strong comprehensive policies to reduce population levels of obesity and NCDs.

1.3 Dietary factors and the increase of childhood overweight in Thailand

Strong evidence indicates that poor diets are the major cause of overweight among children (50). Excess consumption of HFSS foods combined with inadequate consumption of fruit, vegetables and whole grains, contribute to one in five deaths globally (51). Dietary risk factors drive excess weight gain, leading to overweight and obesity and increased risk of NCDs (52). For example, a strong relationship exists between consumption of a poor diet and premature death (53, 54), diabetes (53-56), cardiovascular disease (53-56), cancer (53, 54, 56-58), in addition to excess weight gain (53, 56, 59, 60).

Data from Thailand demonstrates a positive relationship between HFSS food consumption and children’s body weight. A cross-sectional study of 263 children aged 10–12 years from Bangkok Metropolitan Region found that overweight or obese children were more likely to consume greater quantities of flavoured milk, sugary drinks, street-side snacks (e.g. light meals, local mixed dishes, or local/Western fast food sold by street-side vendors and road-side shop) and confectionary compared to normal weight Thai children (5).

Thailand has undergone a significant nutritional transition over the past 30 years, which has seen a shift from the consumption of traditional diets with high fibre and low fat content towards Western diets characterised by HFSS content and convenience (61). Sales of highly processed HFSS foods and beverages have increased with per capita sales volume of soft (sweet) drinks, savoury and sweet snacks and breakfast cereals increasing steadily between 2013 and 2019 and are projected to continue to rise in the near future (7). In 2019, the Thai population purchased an average of 166 litres of soft drinks (approximately 3 litres, per person, per week including bottled water which is classified as a soft drink by Euromonitor International) (7). Thailand now ranks among the highest Asian countries with regard to consumption of processed convenience foods and reliance on ‘ready meals’ (7). Similarly, a 2020 study ranked Thailand highest among 54 low and middle income countries for adolescent fast food intake, with an estimated 43% of Thai adolescents consuming fast food 4-7 days per week with a mean frequency of 4 times per week (6) (Figure 2).

Rapidly changing diets and the steep increase in childhood overweight in Thailand warrants urgent action. Whilst many factors have contributed to changes in the diet of the Thai population, the high levels of marketing of HFSS food are a key concern (19).
Figure 2: Frequency of fast-food consumption among adolescents 12-15 years. Source: Li et al, 2020 (6).
1.4 Influence of food and non-alcoholic beverage marketing on children’s health

Marketing of HFSS foods increases children’s consumption of these products and total energy intake. HFSS food marketing is ubiquitous around the world (62, 63). Children are constantly exposed to HFSS food marketing as they go about their daily lives, through various settings, including schools, sports, supermarkets, television, the internet and many other settings. Sophisticated marketing techniques, the many and varied communication channels through which marketing is disseminated and the rise of personalised and targeted marketing through digital platforms means the marketing of HFSS foods has never been so prominent and influential.

Research evidence consistently demonstrates that exposure to, and the power of, HFSS food marketing increases consumption of HFSS foods and beverages (8). This occurs by influencing children’s awareness and preferences for products (9, 10), increasing brand loyalty (28, 30), reinforcing the normalisation of HFSS food consumption (9, 64, 65) and by undermining food literacy (66). This in turn increases purchasing of HFSS foods among youth who have independent purchasing power and encourages younger children to relentlessly request the marketed foods (pester power), which undermines parent’s desires and intentions to provide their children with healthy nutritious food (67). Evidence also shows that the increase in HFSS foods that occur shortly after exposure to HFSS marketing (8) is not compensated for later in the day, which means total daily energy intake is also increased (28). This is important as excess energy intake ultimately leads to excess weight gain and overweight (58). As demand for HFSS food increases, market competition increases, and thus the marketing ecosystem is intensified (Figure 3).

**Figure 3:** Pathway of effects between HFSS food marketing and weight gain and diet-related disease. Blue boxes are supported by direct evidence, green boxes by indirect evidence. All stages of the pathway contradict the UNCRC (ratified by Thailand in 1992) that all children have the right to enjoy the highest attainable standard of health and that parties should act appropriately to combat disease and malnutrition.
1.5 Evidence for HFSS food marketing in Thailand

Evidence from Thailand demonstrates high volumes of HFSS food marketing on television and through online social media platforms.

A 2014 nationwide audit of food advertising on Free TV including channels 3, 5, 7, MCOT, and Digital TV including 3 Family, LOCA and MCOT Family, in Thailand found that the majority of food items advertised were classified as non-core, meaning HFSS foods (11). On average, Free TV aired 2.9 non-core food advertisements per hour, per channel, with sugary drinks the most commonly advertised food product (11). For Digital TV, non-core food advertisements were aired on average once per hour, per channel. The rate of non-core food advertising was higher during weekends compared to weekdays (11). A later international benchmarking study found that, across 22 countries, there was on average four times more TV advertisements for HFSS foods or beverages per hour (‘not permitted’ according to the WHO nutrient profiling system) compared to healthier (‘permitted’) items, and that this rate was highest for Thailand with 58 advertisements for HFSS foods and beverages for each single advertisement for a healthier item (63). The most frequently advertised foods in Thailand were beverages (carbonated soft drinks, mineral water, and flavoured waters), ready-made foods and dishes, chocolate and confectionary and yoghurts or sour milks.

Although TV has traditionally been the primary means by which children are exposed to food marketing, increasingly marketing is being complemented by digital mediums. A recent study assessed the marketing of the most popular food brands with young people in Thailand (covering confectionery, soft drinks, and chain-restaurant foods) on Facebook. The study found that none of the food and beverage Facebook brand pages complied with Government of Thailand’s regulations or industry’s self-regulatory codes of practice (12).
1.6 Existing food and marketing regulation and legislation in Thailand

While progress has been made in some areas of HFSS food regulation in Thailand and there is legislation to control the marketing of other harmful commodities, such as tobacco and breast milk substitutes, existing policies do not adequately protect all children from HFSS food marketing.

The current legislative environment in Thailand protects younger children and parents from the marketing of breast milk substitutes, including regulating specific marketing techniques, such as using children under three in an advertisement. Food marketing in the school setting has also been addressed in the latest Notification from the Ministry of Education announced in June 2020. Broadcasting is regulated in some areas, including controls on the frequency and timing of television advertisements, but there is no specific focus on HFSS food marketing. Product packaging regulations require a Guideline Daily Amount label to be displayed and warning messages must be present on certain food labels and television advertisements to inform consumers (e.g. certain foods must display the message "consume little and exercise for good health"). Foods that contain false claims on their labels or advertisements are also regulated. Appendix 2 outlines the current regulations in place in Thailand that relate to advertising laws, restrictions on marketing in school settings, food labels and marketing of breast milk substitutes and tobacco.

New comprehensive legislation is required to regulate all types of HFSS foods in the same way, covering all of the relevant marketing media, settings and times - not just schools, labels or television advertisements featuring children - and to protect children up to 18 years old (see section 2.4 for further discussion).

The Government of Thailand now has an opportunity to make further investments in the future of their children’s health and well-being and to uphold their commitments to protect children from the harmful impacts of HFSS food marketing. The following two sections of this report outlines what a comprehensive legislative response would look like and how to implement one to remedy the gaps in the current regulatory environment. All recommendations are supported by good practice legislative examples from the East Asian and Pacific region, which are supplemented with broader international examples, where regional examples are lacking.
Part 2:
Required scope of legislation to protect children from the harmful impacts of HFSS food marketing

Overview

Part 2 of this report sets out the key points and recommendations for effective legislation to protect children from the harmful impact of HFSS food marketing in Thailand. The evidence underpinning each recommendation are presented together with global examples. Part 2 is divided into four sections:

2.1 Regulatory approach
2.2 Governance
2.3 Objectives
2.4 Key provisions

2.1 Regulatory approach

Recommendation 1: Adopt mandatory government legislation

A mandatory approach, using a government-led legislative response, is required. This will be much more effective than self-regulatory and government-led voluntary approaches, which have been shown to be largely ineffective at reducing the exposure of HFSS food marketing to children (48-59).
Definitions of regulatory mechanisms

To date, governments internationally have used a variety of regulatory mechanisms to restrict HFSS food marketing to children. They fall into three categories:

**Self-regulatory approach:** A collection of food and beverage companies commit themselves to restrict marketing of unhealthy products to children by setting their own guidelines or targets, independent of government.

**Government-approved voluntary approach:** Government provides guidelines on how companies can regulate their marketing practices and companies decide whether to comply with guidelines or not.

**Mandatory approach:** Legislation is passed by government to establish the general legal framework of principles to which the relevant stakeholders are required to adhere to, including regulations. A robust legal framework would also include enforcement mechanisms to ensure compliance.

Effectiveness of different regulatory mechanisms

Strong and consistent independent evaluations assessing the effectiveness of HFSS marketing restrictions globally have shown that mandatory approaches are more effective than government-led voluntary or industry-led regulation (14-25). For example, research in Australia found that the frequency of food advertising and children’s exposure to HFSS food marketing remained unchanged despite the implementation of industry self-regulatory pledges (20, 68). Similar results were found in Canada (22), Germany (18), Spain (14), and the US (19). This contrasts with countries that have implemented mandatory restrictions, such as South Korea and Chile. Research from South Korea found that the volume of HFSS food advertising reduced after the introduction of the Special Act on Safety Management of Children's Dietary Life (69). Research from Chile shows that a comprehensive mandatory marketing restriction can reduce the exposure of HFSS food marketing to children, with significant decreases found in exposure to HFSS food advertising on TV and a reduction in child-directed marketing strategies on breakfast cereal packages post implementation of the statutory marketing regulation (33, 70).

A mandatory approach, using a government-led legislative response, is also required for a number of reasons. The Government of Thailand is accountable for upholding international and human rights law (such as the UN Convention on the Rights of the Child) and is required to implement national laws to uphold these international legal obligations. Therefore, it is the Government, not the private sector, that must design and implement marketing restrictions, as industry stakeholders are not accountable under international and human rights law (30, 71, 72).

Mandatory marketing restrictions can be accompanied with enforcement provisions such as fines. Voluntary regulation or self-regulation do not have the same level of enforcement and are therefore much less of a deterrent. Where there is little or no risk of (financial) sanction, a business may decide it is in its interests not to follow the self-regulation (72).
Mandatory regulation creates a level playing field for businesses, where compliance is not left to the voluntary commitment of industry. This removes any possibility of a company attempting to gain market advantage through non-compliance (an option under voluntary or self-regulation) (30, 72).

Internationally, self-regulatory measures and industry pledges are not aligned with the WHO Set of Recommendations (they do not cover the breadth of marketing practices or adequately limit the exposure and power of HFSS advertising). Government-led mandatory mechanisms are more likely, if designed comprehensively, to ensure that the WHO Set of Recommendations are implemented (72).

### 2.2 Governance

**Recommendation 2:**
Assign the Ministry of Public Health as the lead government agency

In Thailand, there is a strong mandate for the Ministry of Public Health to carry out the recommendations of the United Nations Interagency Taskforce on NCDs and fulfil the commitments made in the Framework for Co-operation. From the wording of Recommendation 4.4 in the Framework for Co-operation, a ban on inappropriate marketing of HFSS food and beverages to children must be introduced. This is a strong starting point to consider what legislative framing is needed and what legislative objectives will fulfil this recommendation.

In other countries, the Ministry responsible for health has primarily been the main implementing government body, along with other associated health regulatory bodies, because the policy objectives have been health related. When other government departments have led policy development and implementation, these regulations have narrowed in scope. For example, broadcast legislation is often led by broadcast authorities, but this does not cover the full range of marketing of HFSS foods. A wider legislative framing is needed, which requires an implementing body that can cover the full breadth of marketing restrictions. This needs to cover retail settings, online media, brand advertising, outdoor advertising and sponsorship as part of the law, not just the traditional broadcast channels.

Table 1 outlines country examples of the legislative framing used, the lead government agencies, and legislative objectives.
Table 1: Country examples of legislation titles, lead government agencies and legislative objectives

<table>
<thead>
<tr>
<th>Country</th>
<th>Legislation titles, lead government agencies and legislative objectives</th>
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| Chile   | **Law of Nutritional Composition of Food and its Advertising (Ley 20.606) (Food Labelling and Advertising Law)** (89)  
Ministry of Health  
1. Child protection  
2. Promoting informed selection of food  
3. Decreasing food consumption with excessive amounts of critical nutrients |
| Ireland | **The Children’s Commercial Communications Code**  
**Non-Broadcast Media Advertising and Marketing of Food and Non-Alcoholic Beverages, including Sponsorship and Retail Product Placement: Voluntary Codes of Practice**  
Broadcasting Authority of Ireland  
Department of Health  
1. To offer protection for children from inappropriate and/or harmful commercial communications  
2. To acknowledge the special susceptibilities of children and ensure that commercial communications do not exploit these susceptibilities  
3. To ensure that commercial communications are fair and present the product or service promoted in a way that is easily interpreted by children and does not raise unrealistic expectations of the capabilities or characteristics of the product or service being promoted  
4. To provide unambiguous guidelines to broadcasters, advertisers, parents, guardians and children on the standards they can expect from commercial communications on Irish broadcasting services |
| UK      | **Advertising restrictions on TV and online for products high in fat, sugar and salt (HFSS) (proposed legislation)**  
**Restricting promotions of food and drink that is high in fat, sugar and salt (proposed legislation)**  
Department of Health and Social Care and Department for Digital, Culture, Media and Sports  
Department of Health and Social Care  
1. Reducing children’s exposure to HFSS advertising, to reduce children’s overconsumption of these products  
2. Drive reformulation of products by brands  
3. Restrictions would be proportionate and targeted to the products of most concern to childhood obesity, and limit the advertising children see  
4. Easily understood by parents, so that they can be supported in making healthy choices for their families |
| South Korea | **The Special Act on the Safety Management of Children’s Dietary Life**  
Minister of Food and Drug Safety, Republic of Korea  
To promote children’s health by prescribing matters necessary for supplying safe and nutritionally balanced foods to equip children with healthy eating habits |
| Taiwan  | **Regulations Governing Advertisement and Promotion of Food Products Not Suitable for Long-term Consumption by Children**  
Ministry of Health and Welfare  
Taiwan Food and Drug Administration  
Aims to protect children from unhealthy food and carry out balanced diets for them |
The Thailand Framework of Co-operation addressing the United Nations Interagency Taskforce recommendations identified the Ministry of Public Health supported by the Ministry of the Interior, the Office of the National Broadcasting and Telecommunications Commission and the Ministry of Digital Economy and Society as the responsible Government agencies for drafting the marketing regulations related to HFSS foods and non-alcoholic beverages.

**Table 2: Government agencies and areas of responsibility in Thailand**

<table>
<thead>
<tr>
<th>Government agency</th>
<th>Area of responsibility</th>
</tr>
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| Food and Drug Administration | • Food labelling and packaging  
• Food marketing (age limit of presenter)  
• Retail advertising |
| Department of Health, Ministry of Public health | • Nutrient or food classification |
| Office of The National Broadcasting and Telecommunications Commission | • Broadcast media (time and content) |
| Ministry of Education | • Marketing in schools |
| Ministry of Social Development and Human Security | • Child Rights |
| Office of the Consumer Protection Board | • Consumer affairs/Consumer protection |
| Ministry of Interior | • Local Government  
• Town and City Planning  
• Settings where children gather (public parks, playgrounds, etc.)  
• Control of food marketing of contests or sweepstakes |
| Ministry of Transport | • Transport (including public transport) |
| Ministry of Finance | • Taxation (SSB, Salt) |
| Ministry of Commerce | • Trade  
• Price |
| Ministry of Digital Economy and Society | • Digital marketing (including brand advertising) |
| Ministry of Tourism and Sports | • Sport sponsorship |
| National NCD Steering Committees | • Establish policy and implementation framework for the 5-year national NCD prevention and control 2017-2021 |

Note: Areas of responsibility in italic letters means that this area of regulation does not yet exist in Thailand but should be under the responsibility of the selected government agency.

While the Department of Health, Ministry of Public Health, can lead the legislative process, a steering group of relevant government agencies should be set up to guide the design, implementation and monitoring of the regulation, where relevant.
Other potential government agencies may include:

- Office of Consumer Protection Board
- Food and Drug Administration
- Ministry of Social Development and Human Security
- Ministry of Education
- Department of Children and Youth
- Department of Health Services Support
- Department of Local Administration
- National Health Commission of Thailand

To aid the decision of which government agencies need to be involved in the working group it would be useful to consider what government agency is responsible for the following areas that are relevant to the comprehensive legislative response outlined in this report (73):

Ensuring the relevant government departments are engaged with the legislative design will ensure the most effective legislative approach is developed and will also increase political buy in and increase the chances of successful implementation. See Appendix 3 for an example of the types of multi-sectoral steering groups that have been set up by the Government of Thailand in relation to the control of tobacco and breast milk substitutes.

Other countries have created agreements between Ministries or agencies who need to partner on implementation and enforcement – such as broadcast agencies and the Ministries of Education. See Table 3 for a case example from Chile outlining which Government departments and agencies were involved throughout the legislative process for the Chilean Food Labelling and Advertising Law.

**Table 3: Chile Case Study: who was in charge of different aspects of the legislative process**

<table>
<thead>
<tr>
<th>Steps</th>
<th>Chile</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scientific evidence gathering</td>
<td>Nutrition Department of the Ministry of Health with an academic institution and experts</td>
</tr>
<tr>
<td>Draft legislation</td>
<td>Nutrition Department of the Ministry of Health</td>
</tr>
<tr>
<td>Consultation with stakeholders</td>
<td>Nutrition Department of the Ministry of Health</td>
</tr>
<tr>
<td>Implementation</td>
<td>Nutrition Department of the Ministry of Health and Regional Ministry of Health Offices</td>
</tr>
<tr>
<td>Monitor</td>
<td>Ministry of Health regional departments and inter-sectoral network formed of representative from government, academia, NGOs, consumer associations, food marketing institutions and consumers’ rights organisations. <strong>School settings</strong>: Ministry of Health entered into an agreement with Ministry of Education by asking inspectors of the Superintendents of Education to monitor food offered within schools when carrying out their usual tasks <strong>Broadcast</strong>: Ministry of Health entered into an agreement with Television National Council to monitor broadcast</td>
</tr>
<tr>
<td>Enforcement</td>
<td>Ministry of Health and Regional Ministry of Health Offices</td>
</tr>
</tbody>
</table>
Managing external stakeholders

When designing legislation, the government needs to consider the principles of inclusiveness and participation (two core principles of good governance) by consulting with the public and impacted third party stakeholders. It is also important to include mechanisms to shield this process from commercial interests that conflict with the legislation's purpose – for example, the food and beverage industry who will be financially negatively impacted by such regulations. In other countries, those industries with conflicts of interest have challenged proposed marketing restrictions to prevent their businesses from being regulated by arguing the law is not necessary, or that self-regulation is effective, or that there is not enough evidence to support the legislation, amongst other things (71). Such conflicts of interest may cause delay or undermine the legislation's impact, especially its scope and potential effectiveness.

Existing tools to help protect policymaking from commercial interference or conflicts of interest are available from the WHO (74). This includes a recommendation for an initial mapping of stakeholders and interests in the policy area, followed by a clear and transparent guidance on who can participate in the policy development process, mechanisms for disclosing interactions with an actual, perceived, or potential conflict of interest, and methods for managing these conflicts of interest. For example, during the development of its marketing restrictions, Canada adopted an openness and transparency policy, which meant that a copy of all communications received or meeting minutes held with external parties about the policy were published online (75).

2.3 Objectives

Recommendation 3: Set reduction in children’s exposure to HFSS food marketing as the overarching objective

Effective implementation starts with setting clear objectives about what the marketing restrictions will achieve and how the restriction will operate. The WHO advises that an effective marketing regulation should have a stated objective of reducing children’s exposure to, and the persuasive power of, marketing of HFSS food to provide an important standard to measure the performance of the system (76-78). Regulatory systems are weaker if underpinned by vague objectives that are not aligned with reducing exposure and power of marketing practices (76).

Other objectives should be chosen from the short-term and intermediate outcomes on the pathway of effects between HFSS food marketing and human health (Figure 3). For example, another strong objective would be to reduce the purchase or consumption of HFSS foods. Because a strong international evidence base underpins this pathway of effect, the Government of Thailand can rely on this evidence base to demonstrate the need for the legislation. This will help protect the legislation against industry challenge, who typically argue that marketing restrictions are more restrictive than necessary or that there is not enough evidence to support the introduction of regulation and self-regulation is effective enough (71).

Longer term objectives can be identified by the Government of Thailand (for example, ‘to prevent NCDs’), but only if short- and/or medium-term outcomes have been defined. This is because it is difficult, and takes longer, to show how the legislation will meet long-term objectives without addressing the short and intermediate effects the policy will have. Once the objectives are defined, the reach, goal and scope of the legislation can be drawn up based on existing recommendations and evidence.
2.4 Key provisions

Recommendation 4 of the WHO’s Set of Recommendations states that clear definitions for key terms and conditions are essential for successful and uniform policy implementation (45). This section sets out these terms and conditions, with evidence to support each recommendation. In summary, a robust regulatory system that effectively restricts exposure and power of marketing to children would address the following key components:

- Use a definition of children that protects children up to 18 years.
- Accurately capture the full extent of marketing that children are exposed to, regardless of the intended audience, in the scope of the regulation by using time-setting- and medium-based restrictions on HFSS food marketing (without defining a prescriptive list that could be interpreted as exhaustive).
- Use a robust, objective and easy-to-use system to define which food and beverages are permitted and not permitted under the regulatory framework (ensuring that brand marketing is also considered).

**Definition of children**

**Recommendation 4:** Protect all children up to 18 years of age.

The definition of children should align with the UNCRC where a child is defined as every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier (79). In Ireland, South Korea and the UK the definition of children under marketing regulations are up to 18 years. This definition aligns with scientific evidence. HFSS food marketing increases preference and consumption of targeted products and brands among younger and older children (up to 18 years) (9). Young children (<13 years of age) do not have the cognitive ability to interpret the persuasive intent of marketing (27). Adolescents (aged 13-18 years) are reward driven, impulsive, strongly influenced by their peers and are particularly vulnerable to marketing that promotes products that provide immediate gratification (28, 29). Adolescents of this age have their own purchasing power and purchase and consume high volumes of HFSS foods and drinks (80, 81).

**Definition of marketing to children**

**Recommendation 5:** Include all marketing of HFSS foods regardless of target audience

Regulatory scope should cover all marketing that children are exposed to, regardless of the intended audience and/or whether it is ‘directed to’ children or not.

Children and adults share many of the same physical spaces, communication platforms and exposure times (11, 30-32). As the age of children increases up to 18 years, audiences become increasingly mixed with adults and marketing that is ‘directed to children’ becomes increasingly difficult to define.

Legislation that is narrowly focused on marketing that is ‘directed to children’ can be difficult to enforce and is therefore less effective due to the complexities with different interpretations of the intended audience. For example, in 2016 Chile implemented the Food Labelling and Advertising Law, which
Controls on the marketing of food and non-alcoholic beverages to children in Thailand: legislative options and regulatory design

included a ban on advertising for foods and beverages high in sugars, fats and sodium on television programs considered to be i) ‘child-targeted’, ii) where >20% of the audience consists of children aged <14 years and iii) where advertising appeals to children by including characters, toys or other strategies considered to be ‘directed to children’ (82). Analysis of the impact of this law on television advertising revealed that, whilst the legislation resulted in a significant reduction in children’s exposure to television advertising for foods and beverages high in sugars, fats and sodium, it did not eliminate it (33). The legislation was updated in June 2018 to a time-based restriction, where all HFSS food advertising is banned on television programs between the hours of 6am and 10pm. Similar deviations of industry interpretation of ‘child-directed’ marketing with intended regulatory definitions has been noted across marketing mediums and countries (83, 84).

Legislation that focuses on children’s exposure to HFSS food marketing, rather than marketing that is ‘directed to children’, circumvents potential legal challenges by the food industry contesting what is and what is not ‘directed to children’.

Children’s exposure to HFSS food marketing consists of the communication mediums, settings and times whereby a large number of children are exposed.

**Country examples of regulation that cover children’s exposure to unhealthy food marketing**

- **Chile (2018 update):** Time-based restriction on television programming aired between 6am and 10pm. Outside of these hours child-directed marketing of HFSS food is prohibited.
- **United Kingdom (Proposed):** Television and internet 9pm watershed.

**Definition of child-directed marketing**

When the requirement arises, marketing that is directed to children, should include any marketing technique that has appeal to children, including through the use of images, sounds or language designed to appeal to children such as characters or celebrities (licensed or unlicensed), children actors or voices, references to school or play, toys or book give-aways, competitions or promotional giveaways or other child-directed appeals. This definition should be upheld even if the intended audience is adults and/or if the content also appeals to adults. Marketing that occurs in settings where children gather (e.g. schools, sports etc) and that is given or sent directly to a child (e.g. through email, sms, app notification) is also considered to be directed to children. ‘Child-directed’ marketing prohibitions should be used outside of time-based, settings-based and medium-based restrictions and for food and beverage package marketing, where the content of the marketing is specifically directed to children.
Settings, times and media covered by marketing regulation

Recommendation 6: Implement comprehensive legislation covering all settings, times and media channels where children are exposed to marketing of HFSS food and beverages

The WHO Set of Recommendations state that a comprehensive approach to regulation is required to adequately reduce the power and exposure of HFSS food marketing to children. International evidence shows that HFSS food marketing is highly prevalent and found across a wide range of settings and communications channels (85), which influences food choice and consumption across the life-course (9). In addition, evidence from tobacco and breast milk substitute marketing controls shows that when limited settings or channels are considered in HFSS food marketing restrictions, industry shifts their marketing spend from regulated to unregulated mediums (34).

Whilst Thailand has some marketing regulations in place, these do not adequately cover the full range of settings and communication channels required to protect children from the harmful impacts of HFSS food marketing (see section 1.5). It is recommended that the Government of Thailand develop overarching governing legislation that sets the policy objectives and covers the full range of settings and communication channels such as in the Chile Food Labelling and Advertising Law.

To adequately and effectively capture the full range of communication channels and settings, different types of design approaches are required within the regulation. These design approaches can be categorised into settings-based, time-based or medium-based restrictions. The box below defines each design approach and gives examples of the different types of marketing communication channels that fall under each. The report then goes on to detail these design approaches for all these settings and communication channels listed. A secondary, broad-based ban on all ‘child-directed’ HFSS food marketing across all marketing platforms should also be included to cover all marketing communication channels that do not easily fall into one of these three design approaches.

### Definitions for settings-based, time-based and medium-based restrictions

**Settings-based restrictions:** total ban on HFSS marketing in specific venues and locations
- Child-centred settings (schools, child services, playgrounds, children’s sports, etc)
- Public spaces, public transport and public events
- Retail environments

**Time-based restrictions:** total ban on HFSS marketing between pre-specified times
- All broadcast media including television, cinemas and radio

**Medium-based restrictions:** total ban on HFSS marketing disseminated through specified mediums
- Non-digital, non-broadcast media with mixed-use audiences
- Digital media including online environments
Regulation should be comprehensive in that it should cover a wide range of marketing types and mediums, but it should have some flexibility in the legislation drafting to allow for additional marketing techniques to be covered (86). For example, regulatory frameworks should account for marketing drift – the changing and evolving nature of marketing practices over time – to ensure the capture of new technologies, techniques and communication channels through which children are exposed to HFSS food marketing.

If a stepped-approach is required (i.e. the broad range of marketing types and mediums cannot be legislated all at once), it is recommended that the initial focus be on settings where children gather, such as in schools and during sports, and broadcast channels (building on existing legislation and notifications) (77). Plans should be put in place to broaden the legislative scope soon after. However, it should be recognised that a stepwise approach will create gaps in the regulation and, in countries where this approach has been used, industry has been found to refocus their marketing spend on non-regulated areas, with an overall increase in marketing activity (73, 86). The broad scope of legislation in Chile has been cited as a key enabler to regulatory progress (87).

**Country examples of comprehensive coverage of marketing regulation**

**Chile (2016):** HFSS food marketing restrictions cover the use of child-directed marketing techniques across any communication channel and the advertisement of these products on children’s television programs and websites which includes time-based broadcast restrictions.

**Quebec, Canada (1980, updated 2012):** Under the Consumer Protection Act, it is prohibited to market any commercial product, not only foods, that is intended to appeal directly to children, to attract children’s attention and/or where the placement or timing are such that >15% of the audience is made up of children.

**Settings-based regulation**

**Recommendation 7:** Restrict all HFSS food marketing in all settings where children are present (child-centred settings, public spaces and retail environments)

A settings-based regulatory approach should be used in all child-centred settings, public places and retail environments

**a) Child-centred settings**

Recommendation 5 of the WHO’s Set of Recommendations states that settings where children gather should be free from all forms of HFSS food marketing (45). Further, in the 2016 WHO Report of the Commission on Ending Childhood Obesity, it was stated that “settings where children and adolescents gather and the screen-based offerings they watch, should be free of marketing of unhealthy foods and sugar-sweetened beverages” (78).
Children’s settings include, but are not limited to, schools, early childhood settings, playgrounds, family and child services, children’s sports including through sponsorship and through cultural activities. Thailand’s Ministry of Education recently (11 June 2020) announced a Notification to ban promotion activities for all foods and beverages in educational institutions. It will be important that this is implemented in full and that regulations are extended to cover the environment around schools and in other settings where children gather.

**Country example of regulations in settings where children gather**

**India (2020):** Foods and beverages high in saturated fat or trans-fat or added sugar or sodium cannot be marketed on a school campus or to school children in an area within 50 meters from the school gate in any direction.

**Ireland (2018):** Generally, for the voluntary code of practice, locations primarily used by children should be free from all forms of marketing communication for foods high in fat, salt and sugar. Examples of such settings include registered crèches, pre-schools, nurseries, family and child clinics, paediatric services, schools, dedicated school transport, playgrounds and youth centres.

**Hungary (2008):** All advertising (not just food related) directed at children (<18 years) is prohibited in child welfare and child protection institutions, kindergartens, elementary schools and their dormitories.

**b) Public spaces, public transport and public events**

Urban areas of Thailand have large volumes of traffic, supporting a strong outdoor advertising sector. This includes billboards reaching up to 100m in length in static or digital formats. Across Thailand, advertising is also considered a key revenue generator for public transport operators and mass transit system stations are often flooded with advertisements. Marketing in public spaces, at public events (e.g. sporting sponsorship or sponsorship and advertising at cultural events) and on public transport is highly visible to children as they go about their daily lives and, in most instances, cannot be avoided.

Whilst much of the HFSS advertising in Thailand is on privately owned property, HFSS food advertising on publicly owned land or assets is under the control of the Government of Thailand and its presence undermines the public and preventive health priorities of the Government. London and Brazil are two jurisdictions that have implemented a ban specifically on publicly owned assets. Outdoor HFSS food advertising restrictions are also inherently captured in other broad-based laws, including the Chilean Labelling and Advertising Law and as part of the consumer protection legislation that several countries have in place, but these are limited to restrictions on food advertising that is considered to be child-directed, and do not cover the full extent of HFSS food marketing that children are exposed to in these settings.
Country examples of regulation in outdoor spaces or on public assets

**London (2019):** Advertising that promotes (directly or indirectly) food or non-alcoholic drink which is high in fat, salt and/or sugar (‘HFSS’ products) is banned on all publicly owned advertising estate, including on the underground, rail, buses, overground, light railway and roads. Brands can only be included if the advertisement promotes healthy products as the basis of the advertisement.

**Brazil (2016):** Advertisements and sales promotions of ultra-processed food products are banned on the premises of the Ministry of Health and its entities.

c) Retail environments

Food retail outlets, formal and informal, are the settings where food is obtained for consumption immediately or for storage and later consumption. Children are exposed to these settings whilst shopping with a carer or when purchasing food for themselves.

The key retail marketing strategies that have been found to influence children include product displays in prominent locations (e.g. end-of-aisle, check-out or free-standing displays) and messaging on product packages (36), in addition to price promotions and free tastings. Numerous studies indicate that these retail marketing strategies can influence children's consumption through ‘pester power’ which is defined as children’s relentless requests to parents or carers for marketed food items, and by attracting the attention of older children or adults, and increasing unplanned or impulse purchases (35-37). It is therefore recommended that in retail settings, a ban should be placed on the placement or authorisation of placement of HFSS food products below a height of 1 metre from the floor (e.g. young children's eye level), within 2 metres from the point of sale (e.g. at check-outs) or in any other manner that is likely to appeal to children. The advertising of HFSS food products and brands should also be prohibited in these areas.

Product packaging for HFSS food products should also be free from any form of marketing that is directed to children (see above for definition of ‘directed to children’). Product packaging can be defined as the wrapping or box that foods and beverages are contained within for retail sale. Because purchasing decisions at point-of-sale are made fast and without a great deal of cognitive processing, the appeal of product packaging has been shown to influence purchases, particularly when the product is purchased for children (88, 89). For example, the presence of a character on food packaging has been shown to significantly increase requests for that item and results in more favourable taste and snack preferences (90, 91).
Country examples of regulating food packaging

Chile (2016): Tony the Tiger, a significant Kellogg’s brand identity, was removed by Chilean marketing restrictions that ban techniques and incentives that could attract the attention of children, such as cartoons, animations and toys.

UK (proposed): The UK government has committed to legislative ban on unhealthy food price promotions. Specifically, this includes a restriction on multi-buys (buy-one-get-one-free), sale of unhealthy foods at check-outs and at shop entrances and on the sale of unlimited refills of unhealthy foods and beverages in places where they are sold to the public.

Time-based regulations

As large numbers of Thai children are watching television at times outside of hours when ‘children’s programs’ are aired (92), a ban on all HFSS food advertising between the hours of 6am and 12am midnight is recommended to adequately protect Thai children from exposure to HFSS food marketing on television. This time-based recommendation should be extended to all broadcast media (cinema and radio) for consistency. This watershed approach has been implemented in Chile and is currently proposed in the UK (see country example).

According to the 2008 Thai Mass Media Survey (92), approximately 3.4 million (41%) Thai children aged 6-14 years watched television on weekdays between 8pm-12am midnight and almost 1.7 million (20%) Thai children watched television on weekend evenings between 8pm-12am midnight (Figure 4). These data should be updated to better understand children’s TV consumption between the hours of 8pm and 12am midnight to better inform the upper time limit of the regulation. Children are exposed to television from a young age. Results from the Prospective Cohort Study of Thai Children (260 children and parents recruited between 2000 and 2002), revealed that almost all Thai children watched television at the age of 6 months (98.0%), 12 months (95.3%) and 2 years (96.7%) (93).
Free-to-air and digital television are key platforms through which HFSS food marketing is disseminated. A 2014 nationwide audit of HFSS food advertising on Free TV (channels 3, 5, 7, MCOT between 6-10am and 3-8pm on weekends and 3-8pm on weekdays) and Digital TV (3 Family, LOCA and MCOT Family) in Thailand found that the majority of food items advertised were non-core HFSS items (11). On average, Free TV aired 2.9 non-core food advertisements per hour, per channel, with sugary drinks the most commonly advertised food product (11). For Digital TV, non-core food advertisements were aired on average once per hour, per channel. The rate of non-core food advertising was higher during weekends compared to weekdays (11).
Country examples for regulation restricting HFSS food marketing on broadcast mediums

UK (proposed): Statutory ban on all foods and beverages considered to be high in fat, salt or sugar between the hours of 5.30am and 9pm.

Chile (2018 update): Statutory ban on all HFSS food advertising on television between 6am and 10pm. Outside of these hours, HFSS food advertising is not permitted on devoted children’s channels, during programs targeting children, or when children make up >20% of the audience.

Taiwan: Statutory ban on television advertising of foods high in sodium (per serving) and high in calories from fats, saturated fats or free sugar (%) on children’s channels from 5pm and 9pm.

South Korea: Statutory ban on advertising foods high in calories, total sugar, saturated fat and sodium of children’s preferred foods (thresholds defined by Korean Food and Drug Administration) before, during and after programs aired 5pm-7pm and during children’s programming.

Medium-based regulations

Recommendation 9:
Ban HFSS food marketing across non-digital and digital platforms

A medium-based restriction for HFSS food marketing should be applied to any non-digital, non-broadcast mediums, including print publications, direct mail and unsolicited documents, if it is a mixed-use medium, and to all digital media channels. For non-mixed-use media (i.e. a medium used almost exclusively by adults) then all HFSS marketing that is directed to children or designed to appeal to children should be banned.

Focused attention is now being given to HFSS food marketing on digital mediums. Restriction of digital marketing will ensure that all marketing to which children are exposed is captured within the regulation. This includes exposure on internet sites, social media platforms, apps and other digital communication channels that children use, regardless of whether they are the intended audience or not (see country example for a comprehensive digital media ban on alcohol advertising in Finland).
Online marketing differs from traditional marketing – it is more targeted and personalised, highly engaging and can be virally spread, exposing large volumes of children to marketing content in a very short period. The mechanisms by which online marketing is produced and disseminated is extremely complex, involving a large network of stakeholders (including users) (30, 38). The audience across online platforms are highly mixed with regard to age, and online age verification by companies and platforms are inherently weak and largely ineffective (39). Regulations must reflect this unique online marketing environment. Internet and social media use is prevalent across all age groups in Thailand (Figure 5 and 6).

Internet usage is high and increasing year-on-year among Thai children. Approximately 80% of Thai children aged 6-19 years used the internet in 2018 (40). The majority of young people in Thailand used the internet 5-7 days per week (58.5% of children aged 6-14 years and 87.4% youth aged 15-24 years). Among the population aged 6 and over, 39.7% use the internet for approximately 2-4 hours per day with 30.5% using it for 1-2 hours per day (40). In 2018, 18% of children aged 6-9-years and 65% of 10-14-years reported engaging with social media platforms in Thailand (Figure 6), despite an age verification of 13 years required for most social media platforms. Social media use increases to 92% for those aged 15-19-years.
Controls on the marketing of food and non-alcoholic beverages to children in Thailand: legislative options and regulatory design

Figure 6: Proportion of Thai population that engaged with social media platforms during 2018, by age group. Source: Data derived from 'The 2018 household survey on the use of information and communication technology report (Quarter 1)'.

At the same time, online platforms are increasingly being used to market HFSS foods and beverages as part of a combined marketing approach. Research findings from Thailand demonstrates extensive use of social media platforms to market HFSS foods and beverages (12). Because food marketing through digital platforms is more targeted, personalized and engaging than traditional marketing channels, the adverse influence on children’s health is amplified (30). European data shows that combining online marketing with marketing on television and in cinemas can increase returns on investment by approximately 70% (94). Social media platforms claim that marketing through their platforms increase target audience reach, ad memorability, brand linkage and likeability (95).

The mechanisms for delivering paid HFSS food advertisements are extremely complex and lack transparency with neither the brand, media agency, nor publisher fully understand which advertisements have been served to whom. This, in combination with other practical challenges, makes it currently impossible to block all paid-for HFSS food advertisements to children and youth on digital platforms (62). Exposure to user-generated content (content created by members of the general public - paid or unpaid - or content that is spread through sharing, following and commenting) is also impossible to regulate once the marketing material is available in the digital ecosystem.

Because of the rapid (real-time) and wide-spread generation and spread of digital marketing, it is essential that regulatory terms and conditions are unambiguous to minimise subjective interpretations and potential challenges with enforcement. The time taken to deal with such interpretation and enforcement challenges will by far surpass the time required for the marketing campaign in question to reach and impact large numbers of children and youth.
It is important that all marketing techniques and digital platforms are included in regulatory design, otherwise online marketing (and marketing innovation) is likely to shift from regulated to unregulated digital mechanisms (34, 38). There is little precedent for regulating HFSS food marketing in digital mediums, however, and the need for regulation is globally recognised (62) and technical guidance is becoming increasingly available.

**Country examples of regulation of digital marketing**

South Korea (2010): Internet advertising, not limited to, but includes, unhealthy food, that includes “gratuitous” incentives to purchase (e.g. free toys) is prohibited.

UK (2020 proposed): To harmonise regulation of both broadcast and non-broadcast media (media neutrality) the UK has proposed to ban online unhealthy food advertising, including banner and video advertising, between 5.30am and 9pm. It is proposed that brands and marketers may be responsible for compliance and complaints for potential breach to be referred to the Advertising Standards Authority.

Finland (2015): Law prohibits use of advertising, indirect advertising or sales promotion for alcohol using online games and apps, online competitions, requests of users to share content from brand-controlled sites and social media accounts and for content intended to be virally shared. Banner and pop-up advertising is permitted if it is not aimed at children, does not contain high alcohol content and does not contain irresponsible messages. User-generated content is permitted but there must be no financial ties with the alcohol industry. Marketers cannot opt-out users to participate in the marketing process. The National Supervisory Authority for Welfare and Health is tasked with enforcement of regulations, with breaches of compliance largely indicated through a third-party complaints system.

**Classification of ‘permitted’ foods**

**Recommendation 10:** Categorise food and drink as ‘permitted’ or ‘not permitted’ for marketing based on a robust classification system

A key aspect of any regulatory framework is that marketing restrictions target foods and non-alcoholic beverages that have been shown to be harmful to health. The Government of Thailand should adopt a government-led and evidence based food classification system. Systems that have been developed by industry have been less strict and shown to be less effective. Food classification systems fall into two broad types: Nutrient profiling and foods-based classifications.

*Nutrient profiling:* The WHO South-East Asian region has developed a nutrient profile model (96) to implement the WHO Set of Recommendations on the marketing of foods and non-alcoholic beverages to children. This evidence based nutrient profile model provides an objective method of categorizing foods that are more likely to be constituents of a healthy diet from those that are less likely to be constituents of a healthy diet. The model was developed through three key steps: 1) pilot testing of the draft model in five Member States (India, Indonesia, Maldives, Myanmar and Sri Lanka) by comparing
it to a range of foods commonly consumed by children in each country, through stakeholder discussion on the applicability, feasibility, strengths and weaknesses of the draft model in each country and alignment of the model with country’s food based dietary guidelines; 2) a technical workshop to review and finalise the model and 3) consolidation and consideration of WHO South-East Asian Member States input into the model.

The model includes nutrient thresholds for different food and non-alcoholic beverage categories as well as several food categories where all marketing, regardless of nutrient thresholds, is ‘not permitted’ (chocolate and sugar confectionery, energy bars, and sweet toppings and desserts; cakes, sweet biscuits and pastries; other sweet bakery wares, and dry mixes for making such; juices; energy drinks; edible ices). Similarly, there are categories where all items are ‘permitted’ (fresh and frozen meat, poultry, fish and similar; fresh and frozen fruit, vegetables and legumes). The WHO nutrient profile models have been found to be stricter in which foods and beverages are classified as ‘not permitted’ compared to other nutrient profile models so would permit fewer products to be marketed to children (97), than systems developed by industry (31). It is recommended that this model is used as a guide and adapted and tested to reflect the Thai country context.

The Thai nutrient profile model (41) has been developed to align with the WHO nutrient profile model and can be used as a starting point for classification of foods and non-alcoholic beverages under food marketing legislation. When tested against other international systems, the Thai nutrient profile model performed well (41), but must be tested with a larger number, and broader range, of foods and non-alcoholic beverages for alignment with the WHO South-East Asian model. It will also be important to update the model to reflect the WHO food and beverage categories where nutrient thresholds are not applicable and blanket bans are applied. The Government of Thailand may also consider extending the non-nutrient threshold categories to sweetened beverages as evidence suggests that non-nutritive sweeteners are also likely to increase the risk of adverse health outcomes (98). These updates to the Thai nutrient profile model will be important to ensure the system adequately protects children from the marketing of all foods and non-alcoholic beverages considered to be harmful to health.

Food-based classification: The evidence for food-based classification systems (e.g. food-based dietary guidelines or level of processing) is increasing as an alternative classification system to the nutrient profile models. In fact, the WHO nutrient profile model is in effect a combination of nutrient profiling and food-based classification as there are whole category bans for some food categories. Classifying foods according to the level of processing is associated with poorer diet quality and adverse health outcomes (99), regardless of the nutrient content of foods and beverages. This is important as emerging evidence shows that in countries where a nutrient profile model has been used to classify foods and beverages, there has been an increase in the use of artificial sweeteners and other artificial ingredients so that products can fall under nutrient thresholds and can then be marketed (100).

Inclusion of brands: Classification of what is ‘not permitted’ under marketing restrictions should also include Master brands that are primarily associated with HFSS food products (regardless of whether a food and/or beverage product is marketed alongside the brand). Brand marketing for brands that are strongly associated with HFSS foods (e.g. for quick service restaurants or confectionary) has been shown to increase reward pathways in the brain and to increase selection and consumption of HFSS products (42, 43). Brands can be classified as ‘permitted’ or ‘not permitted’ by assessing the top five selling items by market share against the food classification system – if the majority of these products are classified as ‘not permitted’, then the master brand should also be prohibited from marketing.
Part 3:
Monitoring, evaluation and enforcement of legislation

Overview

Part 3 of this report outlines the steps required for a robust monitoring system to ensure compliance with the regulation and to evaluate the effectiveness of the regulation over time. Part 3 is divided into three sections:

2.1 Monitoring overview
2.2 Monitoring for compliance with the regulation
2.3 Monitoring intended impact of regulation on objectives

3.1 Monitoring overview

Recommendation 11: Monitor and evaluate the legislation using an independent government agency and robust enforcement mechanisms.

Monitoring marketing restrictions after policy implementation is important for two reasons. Firstly, to ensure companies are complying with the legislation and being penalised for breaching the law. Secondly to ensure the regulation is effective at meeting its objectives, having the intended impact and to review any loopholes in the legislation.

The Government of Thailand should forecast and allocate an appropriate budget to support ongoing monitoring, which should be reviewed periodically so that monitoring can be sustained over time.

Table 5 summarises the types of data to be collected, the frequency that data should be collected, the agencies responsible and the actions to be taken after analysis of monitoring data.
### Table 5: Summary of monitoring for compliance and evaluation

<table>
<thead>
<tr>
<th>Monitoring intent</th>
<th>Type of data collected</th>
<th>Frequency of data collection</th>
<th>Agencies responsible</th>
<th>Actions from monitoring</th>
</tr>
</thead>
</table>
| **Compliance with regulation**    | Audit of marketing practices of advertisers across all mediums/settings covered by legislation:  
• Inspections of schools, sports and other settings regulated (ensure diverse representation across urban and regional locations and areas of high and low socioeconomic status)  
• Monitoring of broadcast media  
• Monitoring of social media and other digital forms  
• Monitoring of retail practices | Ongoing  
Informed by annual monitoring of policy objectives | Independent complaints agency  
Varying government departments (education, broadcasting etc)  
Regional departments for local monitoring  
Civil society groups & NGOs | Sanctions for breaches of regulations  
Identification and rectification of loopholes in regulations |
| **Intended impact of regulation on the policy objectives** | Audit of marketing practices across all mediums/settings (regardless of what is covered by legislation to monitor shifts in marketing to unregulated mediums):  
• Inspections of schools, sports and other settings regulated (including analysis of sub-group differences, e.g. by level of socioeconomic disadvantage)  
• Monitoring of broadcast media  
• Monitoring of social media and other digital forms  
National dietary intake surveys for changes in HFSS food intake  
Household sales data for changes in HFSS purchasing  
Marketing spend of major food brands and companies (can be obtained through mandatory reporting as part of legislation)  
Cross-border marketing practices | Prior to policy implementation (for baseline data)  
Academic collaborators commissioned by lead agency | Identification and rectification of any regulatory loopholes to improve intended impact  
Communicate regulatory effectiveness to stakeholders and public |
3.2 Monitoring for compliance with regulation

In keeping with recommendation 10 of the WHO Set of Recommendations, marketing restrictions should include a monitoring system to ensure compliance with the legislation, using clearly defined indicators (45). Recommendation 9 of the WHO Set of Recommendations, notes that the regulation should specify enforcement mechanisms and establish systems for their implementation (45). This should include clear definitions of sanctions for violations of the legislation and a system for monitoring compliance. The administrative body in charge of enforcement should possess a wide range of enforcement sanctions and the full mandate to carry out the enforcement function. It is important that monitoring and enforcement is independent, transparent and free from any commercial influence (101).

When monitoring for compliance, the Government of Thailand can take the following steps:

**Step 1:** Develop standards and indicators for compliance with the legislation and ensure these are readily available for industry bodies.

**Step 2:** Identify responsible agencies.

**Step 3:** Define penalties for non-compliance and mechanisms for enforcement.

**Step 4:** Develop methods for communicating findings to stakeholders and the public.

**Standards and indicators**

Standards and indicators should align with definitions derived from the regulatory terms and conditions so that 'permitted' and 'not permitted' marketing practices are clearly understood. Doing so will increase the effectiveness of the monitoring and auditing process. Standardised data collection templates should be developed to ensure consistency across media, settings and data collectors.

**Responsible agencies**

Two forms of monitoring should be put in place: government-led monitoring and a public complaint’s system. Adequate resources should be allocated to establish and maintain the monitoring system and ensure resources are sufficient to carry out ongoing monitoring. It is important that a complaints system is not the only mechanism to monitor compliance because the onus should not be placed on the public to enforce government legislation by carrying out the monitoring function. Moreover, the process from complaint to judgement to action can take considerable time, at which point the marketing message has already had its intended effect which is particularly relevant for digital media.

**Government led monitoring**

A mandatory ban on marketing of HFSS food to children requires the government to carry out its own compliance monitoring to ensure that industries are complying with the law. This requires ongoing auditing of marketing practices across all media and settings covered by the legislation. Monitoring compliance of comprehensive legislation will be extensive, and it is recommended that monitoring responsibilities are devolved to regional departments and agencies in coordination with civil society groups, when appropriate (e.g. schools, sports, retail) and integrated into existing systems (e.g. with food safety audits of schools). For broadcast and digital media, periodic random audits should be conducted of broadcast media during the regulated hours and an audit of a cross section of digital media to check for breaches of the regulation. The Government of Thailand could also introduce legal mechanisms to compel regulated industries to disclose data on their marketing spend on brands or products that fall under the regulation and their related marketing practices. This would increase industry accountability and reduce the resources required by the Government to monitor marketing practices.
Public complaints system

Most countries that have restrictions on marketing of HFSS foods have a complaints system in place where the public can identify examples of marketing that potentially breach the regulation in place and file a complaint with a designated complaints-handling body. The complaints-handling bodies manage the complaints process by taking the decision to a Complaints Board or an advisory panel who make a decision on whether the complaint will be upheld and the industry body responsible penalised.

A complaints-handling scheme should be independent and credible so that the public feel confident using it and so that any amendments can be made to improve the system. Publishing the decisions on each complaint ensures the system is transparent and that a series of precedents can be developed to help understand the regulatory schemes’ terms and conditions.

Case examples of monitoring for compliance

**Chile:** In Chile, regional departments of the Ministry of Health are tasked with monitoring the implementation of the regulations co-ordinating with an inter-sectoral network including government agencies, academia, civil society, consumer associations, food marketing and consumers’ rights organisations. Recent reports state that 3,000 inspections had been made of food distribution companies, supermarkets, food processors, schools, cinemas, and different media such as TV, internet, radio, street advertising, magazines and newspapers. The government found that 70% of the inspections made complied with the regulations. In relation to broadcast media monitoring, the Ministry of Health and the Television National Council have entered into an agreement, where the Television National Council provide the Ministry of Health with the following information: all content broadcast between 6am and 12am for all open and paid TV channels targeting at a young audience; information specifically aimed at identifying audiences under 14 years old; information about the advertising offered on channels split by block time, day of the week, type of product and hours of advertising.

**Canada:** Health Canada is considering putting in place reporting obligations that would compel industry to provide data on advertising practices on a scheduled basis.

**United Kingdom:** The Advertising Standards Authority has primary responsibility for ensuring compliance with the restrictions on food advertising to children contained in the 253 codes within the Committee of Advertising Codes and the UK Code of Broadcast Advertising. The Advertising Standards Authority undertakes spot checks on advertising in all media and conducts surveys of advertisements published by sectors where there is unsatisfactory compliance with the codes.

**International:** An international toolkit (102) has been developed to monitor continued inappropriate promotion of breast milk substitutes in violation of the International Code of Marketing of Breast-milk Substitutes. It is used by 10 countries including Thailand (Brazil, Chile, Dominican Republic, Ecuador, Mexico, Nigeria, Panama, Sri Lanka, Thailand and Uruguay).
Penalties for non-compliance

A range of enforcement mechanisms including incentives to encourage compliance and strict measures such as fines should be used to increase compliance (76). Penalties can take the following formats and must be expressly stated and defined in the governing legislation (103):

- Name and shame the offending company in media and on public websites.
- Requiring the offending company to modify or withdraw their marketing campaign.
- Make any offending company pass a pre-clearance of further advertisements before using them.
- Prohibit an offending company from using a particular communication channel, like broadcast television, for a specific time period.
- Prohibit an offending company from marketing or selling a product for a specific time period.
- Suspend or revoke the license of the broadcaster.
- Prosecution – criminal or civil charges for company officers or company directors.
- Impose monetary fines for infringement, with different levels of severity graded for seriousness of breach or repetition of non-compliance, so that they are effective and dissuasive. The size of the fine could be proportionate to the global turnover of the entity or corporate group that has violated the restrictions, or as above could be applied to individuals for corporate offences.
- Criminal liability including imprisonment.

Case examples of penalties for non-compliance

Chile: enforcement provisions for the Food Labelling and Advertising Law include penalties for violation, reprimands, fines, and prohibition from selling the advertised product, and, in the UK, persistent violators can be fined or have their broadcasting license withdrawn for non-compliance with broadcast regulations.

South Korea: advertisers who breach the regulations are liable to fines up to ten million won (270,000 Baht)

Communication of monitoring and compliance

It will be important that the Government of Thailand fund and implement a system to communicate the complaints system and its mechanics, including educational materials on how to use the complaints system, to community groups and organisations. Communication of violations to the law to stakeholders and the public will be important for ongoing engagement and to encourage continued ownership of the issue.
3.3 Monitoring intended impact of regulation on objectives

Recommendation 11 of the WHO Set of Recommendations states that policy frameworks should include a system to evaluate the impact and effectiveness of the legislation to meet the overall policy objectives, using clearly defined indicators (45). This is important to understand if the legislation is having its intended effects, to identify and amend any regulatory loopholes and to communicate findings back to stakeholders and the public. The following steps can be taken by the Government of Thailand and partners to ensure a robust and comprehensive evaluation of the legislation.

**Step 1:** Identify an independent institution for evaluation that is free from conflict of interest.

**Step 2:** Evaluation institution to work with the Government of Thailand to identify data sources and to develop new methods of data collection.

**Step 3:** Develop a timeline for data collection and undertake data collection.

**Step 4:** Develop methods for communicating findings to stakeholders and the public.

**Identification of institution for evaluation of legislation**

The Ministry of Public Health, who has oversight of the legislation, should be responsible for ensuring that it is evaluated, but the task of evaluation should be commissioned to an independent academic institution or similar body. The appointed institution for evaluation should be free from any actual, perceived or potential conflict of interest. The Ministry of Public Health (and other relevant government departments) should work with the appointed institution to identify data sources and assist with data procurement, but should not be involved with evaluation design, analysis or interpretation of findings.

**Country examples of independent policy evaluation**

**Mexico:** The National Institute of Public Health Mexico, along with other academic institutions, civil society and the Ministry of Health are currently monitoring and evaluating the effect of the sugar sweetened beverage taxes on prices, consumption and the use of fiscal revenues for obesity-related programs.

**Chapel Hill:** The Global Food Research Programme based at the University of North Carolina is working in partnership with the Institute of Nutrition and Food Science at the University of Chile to evaluate the short and long term outcomes of the Food Labelling and Advertising Law.
Data collection types and timelines

The appointed institution should work with government bodies to identify specific, quantitative, measurable and reliable indicators for the evaluation. Data may be pre-existing (e.g. household purchase data, national dietary surveys), newly reported (e.g. the legislation may stipulate mandatory reporting of marketing spend and activities by all food companies on a scheduled basis (62) or newly collected (audit of marketing practices using standardized tools and protocols (104)). The incorporation of mandatory reporting requirements of marketing spend and practices by the food industry will substantially reduce the resources required for monitoring and will provide a mechanism for industry accountability. Regardless of the regulatory scope, monitoring and evaluation should capture a wide breadth of marketing mediums, settings and times to monitor shifts from regulated to unregulated mediums, settings and times.

Baseline data, prior to evaluation, should be collected as soon as possible after the legislation is announced, with repeated data collection at 12, 24 and 36 months, using the same tools and indicators to enable comparable data. Indicators for the evaluation should be chosen along the policy pathway of effect (Figure 3) and should capture the stated objective of the legislation. It is not appropriate to solely evaluate the effectiveness of the legislation based on overweight rates, as this is a long-term outcome in the pathway of effect. If the evaluation includes analysis of outcomes at the long-term end of the policy pathway (e.g. prevalence of overweight) it is important to allow sufficient lag time for impacts to occur (3+ years) and to recognise that the mechanisms causing overweight are highly complex with many drivers and therefore impact is likely to be small. This has been illustrated by tobacco control regulation, where a comprehensive approach, covering many different drivers, has been essential to the decline in smoking rates and improvements in heart and lung disease over time (105).

Monitoring of the legislation should also consider cross-border marketing (as per WHO recommendation 8) and ensure the effectiveness of the legislation is not compromised by food marketing in bordering nations (45).

Country examples of amending regulatory loopholes after policy evaluation

Hungary: Public health experts from the Ministry of Health, National Institute for Health Development, National Institute for Food and Nutrition Science, the Ministry of Finance, and WHO worked together to design a sugar sweetened beverage tax policy and together saw it through several revisions after implementation. The refinements of the policy ensured the tax was having optimal impacts on product reformulation after it was identified that superficial modifications were being made for tax evasion.

Chile: In the initial 2016 Labelling and Advertising Law only TV advertising considered to be ‘child-directed’ was restricted. This was updated in 2018 to time-based restriction of all HFSS food marketing between 5.30am and 10pm.
**Communication of the evaluation**

The Government of Thailand should communicate all evaluation results to stakeholders and the public to maintain ongoing support for the policy and to provide explanation of any regulatory refinement that may occur to remedy any inconsistencies or inefficiencies in the legislation.

The results of the evaluation can also be included in the Government of Thailand’s reporting to the Committee of the Rights of the Child in each UN Convention of the Rights of the Child reporting cycle.
## Appendix 1: Thai commitments for supporting action on HFSS food marketing

<table>
<thead>
<tr>
<th>Name and date of commitment</th>
<th>Details of commitment</th>
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<tbody>
<tr>
<td><strong>1992 (ratified by Thailand)</strong>&lt;br&gt;UN Convention on the Rights of the Child ([38, 39])</td>
<td>The UN Convention on the Rights of the Child is the most ratified human rights treaty in the world (ratified by all but two UN Member States). States that have ratified the Convention have the legal obligation to fulfil the right of the child to enjoy the highest attainable standard of health and that parties should act appropriately to combat disease and malnutrition. &lt;br&gt;Article 24 of the Convention states that: &lt;br&gt;“all children have the right to enjoy the highest attainable standard of health. States should combat disease and malnutrition and provide access to adequate and nutritious foods and clean drinking water.”&lt;br&gt;It also requires that all parents and children: &lt;br&gt;“have access to education and are supported in the use of basic knowledge of child health and nutrition…”&lt;br&gt;and that: &lt;br&gt;“state parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.”</td>
</tr>
<tr>
<td><strong>2010 (adopted by Thailand)</strong>&lt;br&gt;World Health Organization (WHO) Set of Recommendations on the Marketing of Food and Beverages to Children</td>
<td>In May 2010, Member States (including Thailand) of the World Health Assembly unanimously endorsed the World Health Organization (WHO) Set of Recommendations on the Marketing of Food and Beverages to Children (WHA63.14) ([30]).&lt;br&gt;In the 2017 ‘Best Buys’ list, implementing the WHO Set of Recommendations on unhealthy food marketing is recommended as an overarching/enabling action.</td>
</tr>
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<td><strong>2013 (adopted by Thailand)</strong>&lt;br&gt;WHO Global Action Plan for the Prevention and Control of NCDs 2013-2020 ([40])</td>
<td>Includes a commitment to halt the rise of obesity by 2025.</td>
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<td><strong>2017</strong>&lt;br&gt;WHO published the ‘Best Buys’ outlining the recommended interventions for meeting the Global Action Plan ([41]).</td>
<td>In the 2017 ‘Best Buys’ list, implementing the WHO Set of Recommendations on unhealthy food marketing is recommended as an overarching/enabling action.</td>
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</table>
### Name and date of commitment

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<tr>
<th>Name and date of commitment</th>
<th>Details of commitment</th>
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<tr>
<td><strong>2014 (endorsed by Thailand)</strong></td>
<td>Rome Declaration - UN Decade of Action on Nutrition and Framework for Action to guide the Declaration’s implementation at the Second International Conference on Nutrition ICN2 (42). In 2014, Member States endorsed the Rome Declaration for the UN Decade of Action on Nutrition which states that improvements in diet and nutrition require relevant legislative frameworks for avoiding inappropriate marketing and publicity of foods and non-alcoholic beverages to children. It states governments should protect consumers, especially children, from inappropriate marketing and publicity of food. Recommendation 40 of the Framework for Action states: Regulate the marketing of food and non-alcoholic beverages to children in accordance with WHO Set of Recommendations.</td>
</tr>
<tr>
<td><strong>2015 (adopted by Thailand)</strong></td>
<td>Sustainable Development Goals (43, 44) The Sustainable Development Goals (SDGs) are an important international measure that governments must work towards achieving. The goals include targets on ending malnutrition in all its forms (which includes obesity as well as undernutrition) in SDG 2.2 and reducing premature death from diet related NCDs in SDG 3.4. Heads of State and governments, including Thailand, have committed to developing national responses to the overall implementation of the SDGs, and restricting the marketing of foods is an important policy option to meet the SDGs.</td>
</tr>
<tr>
<td><strong>2016 (adopted by Thailand)</strong></td>
<td>Strategic Action Plan to reduce the double burden of Malnutrition in South-East Asia Region 2016–2025 (SEA/RC69/R5) (45). In September 2016, Member States of the Regional Committee, including Thailand, endorsed a resolution on the Strategic Action Plan to reduce the double burden of Malnutrition in South-East Asia 2016–2025 (SEA/RC69/R5). Aligned with the timeframe for the WHO Global Action Plan and the UN Decade of Action on Nutrition, the resolution provides guidance to enact legislation/regulations and implement actions to promote nutritious foods to reduce undernutrition and overweight and obesity among women and children and to implement the WHO Set of Recommendations.</td>
</tr>
<tr>
<td><strong>2016</strong></td>
<td>WHO Commission on Ending Childhood Obesity (ECHO) (46) In 2016, the WHO released its final report from its Commission on Ending Childhood Obesity (ECHO). Recognising the complex nature of obesity, the ECHO report outlined a comprehensive, integrated package of recommendations to address childhood obesity across six areas. On the topic of food marketing to children the report stated: ‘Any attempt to tackle childhood obesity should…include a reduction in exposure of children to, and the power of, marketing’ The Commission urged Member States to implement the WHO Set of Recommendations.</td>
</tr>
</tbody>
</table>
## Appendix 2: Existing Food and advertising restrictions in Thailand

The following table outlines the current regulations in place in Thailand that relate to advertising laws, restrictions on marketing in school settings, food labels and marketing of breast milk substitutes and tobacco. This is to understand the marketing and food landscape across different areas of concern in Thailand.

<table>
<thead>
<tr>
<th>Type</th>
<th>Name</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advertising</td>
<td>Food and Drug Administration Notification regarding Rules on Advertising Foods B.E.2551 (2008)</td>
<td>Restricts the ability to advertise false claims about foods including on food labels. The Notification states that presenters in TV advertisements, particularly for jelly, must not be medical or public health experts or children under three years old (instant jelly and jelly candy) or 12 years old for (instant jelly and jelly from glucomannan).</td>
</tr>
<tr>
<td></td>
<td>Thai Public Broadcasting and Television Business Act B.E. 2551 (2008)</td>
<td>This Act governs the duration and frequency of television advertising that is allowed per hour, per day, on both free and paid television channels. This Act does cover all food products, but there are no specific rules on the frequency of HFSS food advertisements. It states that in the case of necessity to protect children and youths, the Commission may prescribe in the Notification the broadcast time for certain categories of programmes.</td>
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<td></td>
<td>Notification on Criteria and Procedures for Chart List in Broadcasting B.E. 2558 (2013)</td>
<td>Regulates the broadcasting times for children’s, youth and family programmes, where children are defined as below 15 years old and youth as below 18 years old. This Notification does not control food and non-alcoholic beverage advertising during these programmes.</td>
</tr>
<tr>
<td>School settings</td>
<td>Notification of the Ministry of Education Re: Measures and Approaches to Enhance Knowledge and Skills Related to Oral Health Care and Selection of Dental Services (Announced on 11 June 2020)</td>
<td>Introduces a ban on marketing promotion activities of all types of foods and beverages in educational institutions. Schools are also asked to avoid selling sugary drinks with a high sugar content (more than 5%) as well as sweet and crispy snacks and avoid making them available for consumption in educational institutions, and promote understanding among retail shops right outside the school compound to gain cooperation from sellers.</td>
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<tr>
<td>Type</td>
<td>Name</td>
<td>Description</td>
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<tr>
<td>Food labels</td>
<td>Ministerial Notification (B.E. 2550) (2007) on “Labelling of Certain Pre-cooked Ready-to-eat Food”</td>
<td>States that ready-to-eat food and extruded snack advertisements must display text or voice messages including “Consume little and exercise for good health”. This regulation does not cover sugar-sweetened drinks and HFSS food products other than ready-to-eat foods and snacks. Also, advertisements of these food products on television must have a warning message with clear sound and text for at least five seconds.</td>
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<td></td>
<td>Notification of the Ministry of Public Health (No. 394) B.E.2561 (2018) (food labelling)</td>
<td>Nutrition labelling laws have been implemented in Thailand which require food products to display a Guideline Daily Amount label that provides the consumer with the information on the energy, sugar, fat and sodium content of the food. The FDA specifies that certain foods must include the text “eat moderate and exercise for health” to increase consumer awareness.</td>
</tr>
<tr>
<td>Breast Milk Substitute</td>
<td>Control of Marketing Promotion of Infant and Young Child Food Act (B.E. 2560)</td>
<td>No person (including manufacturers, producers and distributors) can advertise food for infants. This includes (but is not limited to) offering promotions, prizes, sponsorship and discounts.</td>
</tr>
</tbody>
</table>
| Tobacco              | Tobacco Products Control Act B.E. 2560 (2017)  | No person (including manufacturers, producers and distributors) can advertise or conduct marketing communications of tobacco products. This ban includes:  
  (1) television material, movie, radio broadcast, radio television, electronic media, computer network system or advertisement bill  
  (2) in theatre, movie theatre or show, game, contest, competition, service provision or any other activity in the same nature  
  (3) in any other media or location used for advertisement or marketing communications as prescribed and announced by the Minister upon recommendation of the Committee.  
This includes sponsorship and retail displays. |
## Appendix 3: Thailand’s multi-sectoral working groups for tobacco and breast milk substitute control

The following table outlines the different multi-sectoral working groups that are established in the legislation for the Government of Thailand’s control of tobacco and breast milk substitutes.

<table>
<thead>
<tr>
<th>Breast Milk Substitutes</th>
<th>Tobacco</th>
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<tbody>
<tr>
<td>• Director-General of the Department of Children and Youth,</td>
<td>• Permanent Secretary of the Ministry of Finance,</td>
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<tr>
<td>• Director-General of the Department of Health,</td>
<td>• Permanent Secretary of the Ministry of Social Development and Human Security,</td>
</tr>
<tr>
<td>• Director-General of the Department of Health Services Support,</td>
<td>• Permanent Secretary of the Ministry of Tourism and Sports,</td>
</tr>
<tr>
<td>• Director-General of the Department of Local Administration,</td>
<td>• Permanent Secretary of the Ministry of Agriculture and Cooperatives,</td>
</tr>
<tr>
<td>• Secretary General of the Consumer Protection Board,</td>
<td>• Permanent Secretary of the Ministry of Commerce,</td>
</tr>
<tr>
<td>• Secretary General of Food and Drug Administration,</td>
<td>• Permanent Secretary of the Ministry of Interior,</td>
</tr>
<tr>
<td>• Secretary General of the National Broadcasting and Telecommunications Commission,</td>
<td>• Permanent Secretary of the Ministry of Justice,</td>
</tr>
<tr>
<td>• Secretary General of National Health Commission of Thailand, and</td>
<td>• Permanent Secretary of the Ministry of Labour,</td>
</tr>
<tr>
<td>• Permanent Secretary of the Bangkok Metropolitan Administration.</td>
<td>• Permanent Secretary of the Ministry of Education,</td>
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<tr>
<td></td>
<td>• Commissioner General of the Royal Thai Police,</td>
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<tr>
<td></td>
<td>• Secretary General of the National Health Security Office; and</td>
</tr>
<tr>
<td></td>
<td>• Manager of the Thai Health Promotion Foundation.</td>
</tr>
</tbody>
</table>
References

Controls on the marketing of food and non-alcoholic beverages to children in Thailand: legislative options and regulatory design

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