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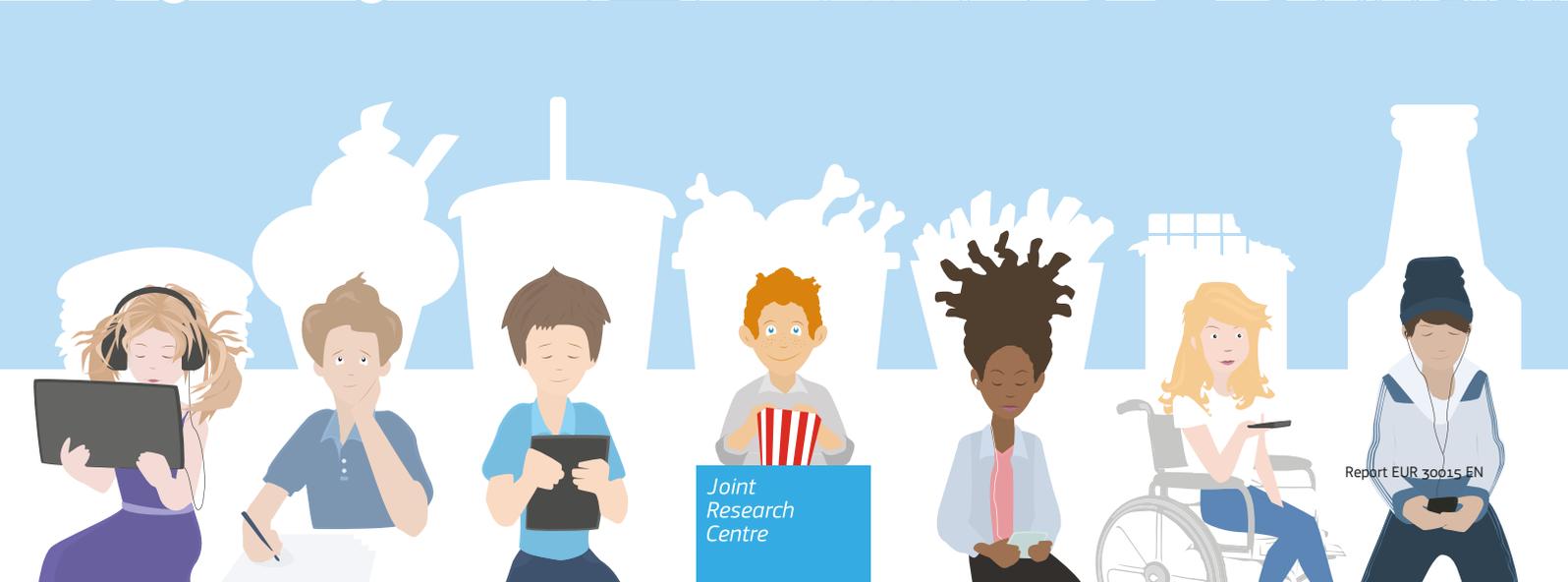
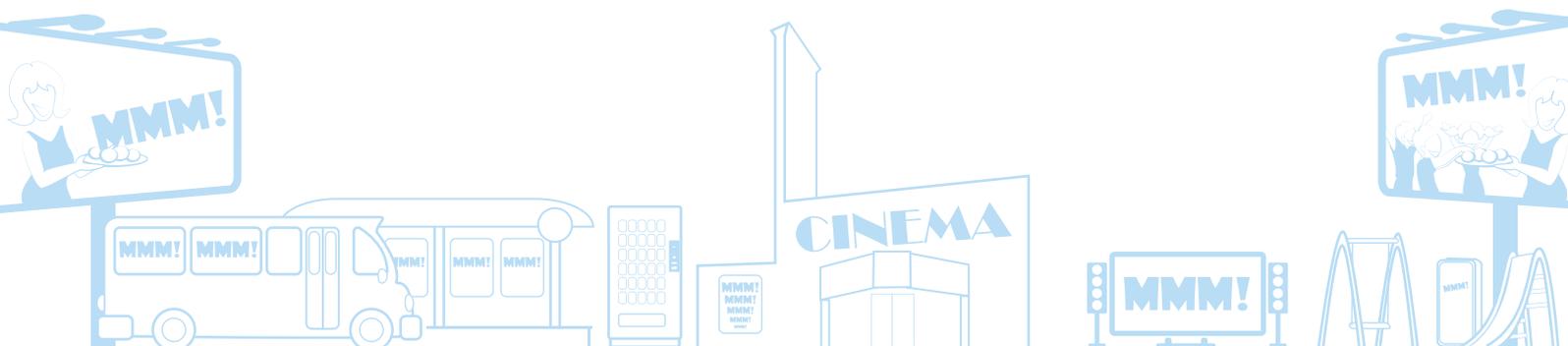
J R C T E C H N I C A L R E P O R T

Marketing of food, non-alcoholic, and alcoholic beverages

*A toolkit to support the development
and update of codes of conduct*

Evangelia Grammatikaki, Ana Sarasa-Renedo,
Petros Maragkoudakis, Jan Wollgast,
Sandra Caldeira

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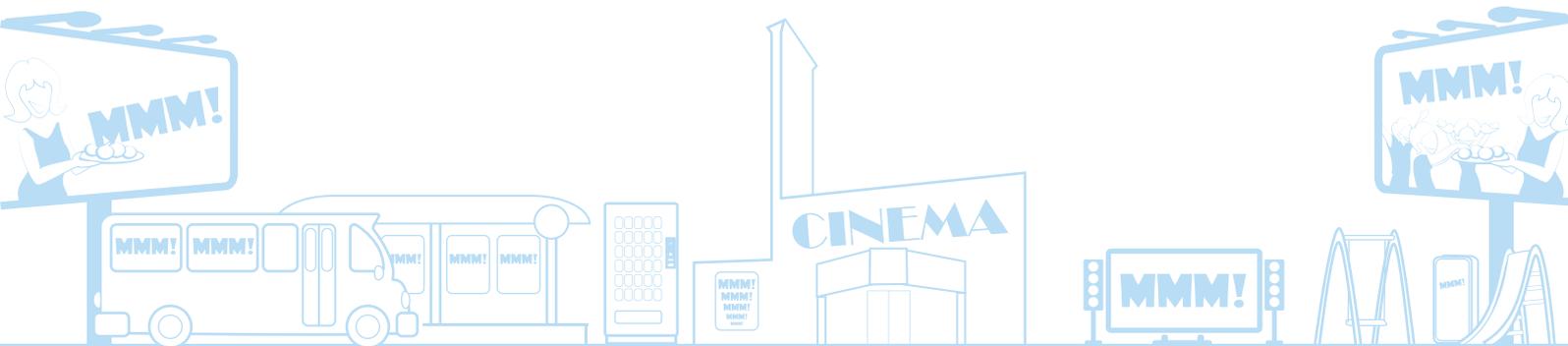


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What is this document and how to use it?

- This document is a toolkit to support EU Member States in developing and updating their food, non-alcoholic, and alcoholic beverages marketing-related policies, also in the context of the transposition of the revised Audiovisual Media Services Directive (AVMSD) into national legislation.
- It is intended as a practical tool for regulators to reduce the exposure of children to audiovisual commercial communications of 'foods and beverages that are high in salt, sugars, fat, saturated fats or *trans* fatty acids' (HFSS foods) or 'that otherwise do not fit national or international nutritional guidelines', and of 'alcoholic beverages' as stated in the revised AVMSD.
- The toolkit provides a) a possible structure for a code of conduct on such marketing, b) a checklist and c) practical guidance. Guidance is given in the form of concrete examples extracted from existing codes implemented in Europe and beyond.
- The toolkit includes a range of examples and considerations that each EU Member State may wish to use, adapt, discuss and reflect on, in respect of subsidiarity and national needs and contexts.
- EU Member States have reported difficulties and common challenges including on digital marketing. This toolkit also offers some insights on potential ways to address them.
- This document is to be viewed and kept as a living text; regular updates are planned to ensure that its usefulness is safeguarded and improved. EU Member States and other stakeholders are therefore encouraged to assess how this document is used and with what results, and provide feedback on how it can be improved.



Preface



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The food environment—including the digital one—in which we live, eat and interact does not always make it easy for individuals to make healthy choices. This difficulty has led, in part, to the large burden that non-communicable diseases such as cardiovascular disease, cancer or obesity inflict on our societies. There is well established evidence that a large proportion of this burden can be reduced by working on the environments that surround us and influence what people eat and drink—a challenge we can only overcome if we all work on together.

The marketing of food, non-alcoholic, and alcoholic beverages, for example, uses techniques that can appeal to children and may also hamper their parents', teachers' and health authorities' efforts to support healthy choices. This renders children even more vulnerable to the effects of marketing and raises the point for broader societal commitments and actions that protect children.

Member States and the European Commission's work on this area is well grounded. Already in 2014, both the Action Plan on Childhood Obesity and the Action Plan on Youth Drinking and on Heavy Episodic Drinking (Binge Drinking) called for restrictions on marketing and advertising of foods high in saturated fats, *trans* fatty acids, added sugars or salt, and alcohol, respectively. Since then, four different EU presidencies (Greece, Malta, Estonia and Bulgaria) have prioritised this issue and the Council of the European Union has repeatedly expressed the need to

reduce exposure of children and youth to marketing of foods high in saturated fats, *trans* fatty acids, added sugars or salt, and of alcohol, including cross-border advertising. In particular, under the Maltese presidency, the Council called upon the European Commission to support the drafting of EU codes of conduct in the area of marketing of foods. Under the Bulgarian presidency, the Council suggested to use evidence-based nutritional criteria, to extend protection to cover all children and minors and all forms of marketing, and to monitor the compliance of existing voluntary initiatives. In 2018, the Steering Group on Health Promotion and Disease Prevention decided to upscale the implementation by Member States of best practices on reducing the marketing and advertising of unhealthy food, particularly to children, using Commission funding from the EU Public Health Programme. Cooperation among EU Member States may maximise effectiveness in particular regarding cross-border and digital marketing.

The European Commission has used the opportunity given by the revision of the Audiovisual Media Services Directive to respond to these calls and address the need to reduce the exposure of children and minors to marketing of foods and beverages high in saturated fats, *trans* fatty acids, added sugars or salt, and of alcoholic beverages. Our services have now joined efforts to provide EU Member States with a practical tool: a template structure for a possible code of conduct, a checklist and a multitude of concrete examples of actions. These have the potential to reduce the exposure of children and minors to marketing of foods and beverages high in saturated fats, *trans* fatty acids, added sugars or salt, and alcohol.

We are confident that this tool will contribute to the Member States' efforts to reach the UN Sustainable Development Goals, particularly SDG 3.4, and the related WHO voluntary targets in the context of non-communicable diseases. We hope that EU Member States may use this opportunity and profit from this tool – ultimately to better protect the health of our children and of our society.

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SUMMARY

Public health policy makers have identified the restriction of marketing of foods, non-alcoholic, and/or alcoholic beverages that promote unhealthy diets and practices to children and adolescents as an area of urgent action. This is backed by international reference organisations such as the World Health Organization, the Organisation for Economic Co-operation and Development, and UNICEF. Marketing codes, either generic marketing codes or specific to foods, non-alcoholic, and/or alcoholic beverages, are normally used to address such practices.

At EU level, the Audiovisual Media Services Directive (AVMSD) has recently been revised; the Directive applies to all services with audiovisual content and it governs EU-wide coordination of national legislation on several areas, including commercial communications and protection of minors. The AVMSD calls for effectively reducing the exposure of children to audiovisual commercial communications of foods and beverages that are high in salt, sugars, fat, saturated fats or *trans* fatty acids or that otherwise do not fit national or international nutritional guidelines. Similarly, it calls for effectively reducing the exposure of children and minors to audiovisual commercial communications of alcoholic beverages. EU Member States should attain such reductions, using tools that work, including codes of conduct. Furthermore, the AVMSD protects consumers and especially minors regarding the processing of their personal data, stating that such personal data should not be used for commercial purposes. For both these major reasons, its transposition at national level is seen as an opportunity to expand, re-inforce or introduce effective measures to reduce food, non-alcoholic, and alcoholic beverages marketing pressure to children and adolescents.

This toolkit aims to contribute to strengthening the expertise of EU Member States in this area. It is based on a thorough analysis of statutory, co- and self-regulatory marketing codes that are in place in the EU and beyond. The following aspects were examined: general characteristics, scope, target population groups, addressed marketing techniques, marketing restrictions, as well as information on implementation, monitoring and evaluation. The development of the toolkit has benefited from valuable comments of national experts from EU Member States on nutrition, physical activity, and alcohol, as well as thoughtful discussion and

feedback from a group of top international experts in the area of marketing consulted during a dedicated workshop organised by the JRC in May 2018.

The toolkit comprises a checklist of the main aspects that a marketing code should include. This will be useful both when initiating the policy-making process and when updating existing codes. Practical guidance is then provided for each of the aspects incorporated in the checklist. This guidance is given in the form of an inventory of specific actions extracted from existing marketing codes for food and beverages, including alcoholic beverages, and that can inspire future codes. The toolkit also addresses current challenges with regard to digital marketing and offers some insights on potential solutions. The EU Member States can use the checklist and the practical guidance to update their codes for restricting marketing of food, non-alcoholic, and alcoholic beverages or introduce new ones. This toolkit ultimately aims to protect consumers, especially children and minors, in the EU from the effects of the marketing of such products.

Glossary

This section provides definitions of some terms that are frequently used throughout the text to improve clarity and comprehension.

Adherence represents, for the purposes of this toolkit, the coverage of the code in terms of number and percentage of stakeholders abiding to its rules; for example, the affected sector in case of statutory codes, or the active signatories committing to adopt a voluntary code.

Advertising can be defined as ‘paid public presentation and promotion of ideas, goods, or services by a sponsor that is intended to bring a product to the attention of consumers through a variety of media channels such as broadcast and cable television (TV), radio, print, billboards, the Internet, or personal contact’ [1]. Therefore, advertising is only one of the many forms of marketing.

Alcoholic beverages are drinkable liquids containing alcohol (ethanol). They vary in their alcohol content, usually indicated in alcohol percentage by volume (% v/v). Alcohol for human consumption can be produced and marketed in other forms; other alcoholic products include powdered alcohol or vaporised alcohol. In this report, ‘alcoholic beverages’ refer to any product containing alcohol intended for human consumption.

A **child** is ‘every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier’ [2].

Compliance is, for the purposes of this toolkit, the degree to which a stakeholder abides to the rules set in a code.

Digital marketing has been defined as a ‘promotional activity, delivered through a digital medium, that seeks to maximize impact through creative and/or analytical methods’ and includes ‘creative methods to activate implicit emotional persuasion, such as building engagement in social networks (e-Word-of-Mouth); using immersive narratives or social, entertainment- and humour-based approaches; using *influencers* [popular with children], such as YouTube *vloggers* (video bloggers); using augmented reality, online games and virtual environments; or’ ‘analysis of emotions, responses, preferences, behaviour and location to target specific groups, individuals and particular moments of vulnerability or to maximize the impact of creative methods’ [3].

HFSS foods refers to the general concept of foods high in total fat, saturated fats, *trans* fatty acids, salt and/or sugars. The term is most frequently used as such in different national or international documents or guidelines; specific thresholds to assign a food in this category may vary depending on the existing recommendations or legislation.

Linear audiovisual media services refer to television and radio broadcasting, provided for simultaneous viewing of programmes on the basis of a programme schedule. **Non-linear audiovisual media services** refer to on-demand media, for the viewing of programmes chosen by the user at the moment, on individual request, and on the basis of a catalogue of programmes selected by the media service provider [4]. For the purpose of this toolkit, **linear advertising** refers to television broadcasting, while **non-linear advertising** refers to on-demand media.

Marketing is ‘any form of commercial communication or message that is designed to, or has 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’ [5].

A **marketing code** or a **code** is, for the purpose of this toolkit, any set of comprehensive actions addressing marketing techniques, from national governments or industry associations, be it self-regulation, co-regulation or statutory legislation. This is for the sake of simplification, even if initial findings suggest that the terms ‘marketing code’ or just ‘code’ are mainly used to describe self-regulatory initiatives.

A **minor** is a person under a certain age, usually the age of majority. The age of majority is the age at which a child becomes an adult and acquires full legal capacity.¹ Note however that the term minor may, in some cases, refer to a person under an age limit different from the age of majority, such as the drinking age (which is *e.g.* 20 years of age in Lithuania, even if the age of majority is 18 in the country).

1. The age of majority is 18 years in all EU Member States except for Scotland, where children are considered to have full legal capacity from the age of 16 years (European Union Agency for Fundamental Rights, <https://fra.europa.eu/en/publication/2017/mapping-minimum-age-requirements/age-majority>).

1. Introduction

Marketing of foods high in fat, sugars and salt, including non-alcoholic beverages, can influence the food preferences, diets and health of children and adolescents. Unhealthy diets are associated with overweight and obesity in children, and children with overweight and obesity are more likely to become adults with obesity and are also at increased risk of developing non-communicable diseases (NCDs) (reviewed in [6]).

On the other hand, marketing of alcoholic beverages can influence attitudes and intentions towards drinking and initiation of alcohol drinking among adolescents, and it can increase consumption among drinkers [7, 8]. Alcohol consumption is a well-known risk factor for different health conditions, both due to its acute intoxicating effects, and to its long-term use which may result in disease and dependence (reviewed in [9]).

Limiting marketing of foods and beverages, including alcoholic beverages, to children has hence been identified as a key area of action in public health policy. In addition, children are also often exposed to marketing that does not necessarily target them. For example, marketing targeted at older children can also be appealing to younger children, and it may be difficult to protect adolescents from marketing targeting young adults [5].

There have been several recent calls for action on aggressive marketing to children; both at European and global level (see *Table 1*). These are cushioned within a broader child-protecting framework, including the United Nations Convention on the Rights of the Child (UNCRC) [2]. Actions in this area can also support three specific targets of the Sustainable Development Goals (SDGs) [10]: targets 2.2 (end all forms of malnutrition by 2030), 3.4 (reduce by one third premature mortality from NCDs) and 3.5 (strengthen the prevention and treatment of substance abuse, including harmful use of alcohol). The European Commission established in 2018 the Steering Group on Health Promotion, Disease Prevention and Management of Non-Communicable Diseases (SGPP) to support countries

in their efforts to attain the health targets of the SDGs. The SGPP advises the Commission in the selection of best practices and in the transfer and scaling up of research results at the national and European level (<https://webgate.ec.europa.eu/dyna/bp-portal>).

Countries and stakeholders worldwide have adopted different measures to limit the effects of marketing of foods and beverages including alcoholic beverages, to children (based, for example, on the set of recommendations published by the World Health Organization (WHO) [11]). These measures vary from legally binding obligations to co- and self-regulatory solutions² with varying degrees of specificity (generic regulations such as legislation or marketing codes; specific regulations such as legislation or marketing codes specific to certain foods and beverages, including alcoholic beverages). Few European countries have implemented complete bans on alcohol marketing across different types of media; most EU Member States apply partial bans or content restrictions in different media [13]. An overview of those related to marketing of foods and non-alcoholic beverages, and those related to marketing of alcoholic beverages is provided in <https://data.jrc.ec.europa.eu/collection/id-00244>.

Table 1. *Recent calls for action relevant for marketing of foods and beverages, including alcoholic beverages.*

Actor	Year	Call for Action	Content
Calls for action addressing marketing			
EUROPE	EU	2018	Council conclusions – Healthy Nutrition for Children: The Healthy Future of Europe [14].
			Under the Bulgarian presidency of the EU, the Council invited EU Member States and the Commission to reduce the exposure of children and adolescents to marketing of HFSS foods in any media , including online platforms, social media, and other forms of sponsorship or promotion. Other suggestions were monitoring the compliance of existing voluntary initiatives aimed at reducing the impact .../...

2. Co-regulation is the mechanism by which a 'legislative act entrusts the attainment of the objectives defined by the legislative authority to parties which are recognised in the field, (such as economic operators, social partners, non-governmental organisations or associations)'. Self-regulation is the possibility for those stakeholders 'to adopt amongst themselves and for themselves common guidelines', such as codes of practice or sectoral agreements (definitions adapted from [12]).

Table 1. (cont.)

	Actor	Year	Call for Action	Content
	Calls for action addressing marketing			
EUROPE	EU (cont.)	2018		.../... of HFSS food marketing, and strengthening current pledges by using evidence-based nutritional criteria, extending to cover all children and minors, or including all forms of marketing. Particular attention was paid to reducing the exposure of children to cross-border marketing of HFSS foods.
		2017	Council conclusions on cross-border aspects in alcohol policy – tackling the harmful use of alcohol [15].	Under the Estonian presidency of the EU, the Council stated the importance of protecting children and young people from exposure to cross-border alcohol advertising , as well as the need to evaluate the volume, content and impact of alcohol marketing to children and young people in new media.
		2017	Council conclusions to contribute towards halting the rise in Childhood Overweight and Obesity [16].	Under the Maltese presidency of the EU, the Council invited EU Member States to increase concerted efforts to reduce the overall amount and persuasive power of food marketing communications targeted at children and adolescents, and to introduce measures or encourage the development of codes of conduct, so commercial communications targeted at children and adolescents do not promote HFSS foods, and that industry’s marketing/advertising efforts are increasingly consistent. The Council called upon the Commission to support the drafting of EU codes of conduct in the area of marketing of foods .
		2014	EU Action Plan on Childhood Obesity 2014-2020 [17].	Calls for restricting marketing and advertising of HFSS foods to children and young people, including all marketing elements (e.g. TV, in-store environments, promotional actions, social media).
		2014	Action Plan on Youth Drinking and on Heavy Episodic Drinking (Binge Drinking) (2014-2020) [18].	One of the six areas for action of the Action Plan is to ‘Reduce exposure of youth to alcohol marketing and advertising ’, calling both for effective enforcement and self-regulatory measures.
		2014	Council conclusions on nutrition and physical activity [19].	Under the Greek presidency of the EU, the Council invited EU Member States to promote action to reduce the exposure of children to advertising, marketing and promotion of foods high in saturated fats, trans fatty acids, added sugars or salt .

Table 1. (cont.)

	Actor	Year	Call for Action	Content
Calls for action addressing marketing				
EUROPE	WHO Europe	2019	Monitoring and restricting digital marketing of unhealthy products to children and adolescents [20].	This report aims to support Member States in monitoring digital marketing of unhealthy products to children. It proposes a tool, the CLICK monitoring framework . The report also describes current digital marketing strategies, the challenges arising from current practices, and some policy options to tackle digital marketing to children and adolescents.
		2015	European Food and Nutrition Action Plan 2015-2020 [21].	WHO Europe calls for the adoption of strong measures that reduce the overall impact on children of all forms of marketing of foods high in energy, saturated fats, trans fats, sugar or salt .
		2012	European action plan to reduce the harmful use of alcohol 2012-2020 [22].	WHO invites European countries to have systems in place that prevent inappropriate and irresponsible alcohol advertising and marketing targeting children and young people.
GLOBAL	UNICEF	2018	A child rights-based approach to food marketing: a guide for policy makers [23].	The report analyses the extent to which marketing of HFSS foods negatively affects children's rights , outlining the tasks for relevant stakeholders (governments, industry) to respond to the possible health risks and prevent NCDs.
	WHO	2017	Tackling NCDs: 'best buys' and other recommended interventions for the prevention and control of noncommunicable diseases [24].	Enacting and enforcing bans or comprehensive restrictions on exposure to alcohol advertising (across multiple types of media) is considered a 'best buy' to reduce the harmful use of alcohol. Implementing the WHO recommendations on the marketing of foods and non-alcoholic beverages to children is presented as an overarching/enabling action to reduce unhealthy diets.
		2013	Global Action Plan for the prevention and control of non-communicable diseases 2013-2020 [25].	The Action Plan includes policy options to attain the nine voluntary global targets focusing on four types of NCDs (cardiovascular diseases, cancer, chronic respiratory diseases and diabetes) and on four shared behavioural risk factors (tobacco use, unhealthy diet, physical inactivity and harmful use of alcohol). Two of the recommended policy options are the implementation of WHO's set of recommendations on the marketing of foods and non-alcoholic, beverages to children, including mechanisms for monitoring; and the restriction or ban of alcohol advertising and promotions .

Table 1. (cont.)

	Actor	Year	Call for Action	Content
Calls for action addressing marketing				
GLOBAL	WHO (cont.)	2012	A framework for implementing the set of recommendations on the marketing of foods and non-alcoholic beverages to children [5].	The document intends to assist WHO Member States in implementing the recommendations on the marketing of foods and non-alcoholic beverages to children by providing guidance in specific areas.
		2010	Set of recommendations on the marketing of foods and non-alcoholic beverages to children [11].	The set of recommendations calls for national and international action to reduce the impact on children of marketing of foods and non-alcoholic beverages high in saturated fats, trans fatty acids, free sugars, or salt .
Other relevant calls for action				
GLOBAL	UN	2015	SDGs [10].	The 17 SDGs of the UN 2030 Agenda for Sustainable Development were adopted in 2015, and ultimately aim to end all forms of poverty while protecting social needs and the planet. Protecting children from the impact of marketing of HFSS products and regulating the marketing of alcoholic beverages can support three specific targets of the SDGs 2 (zero hunger) and 3 (Good health and well-being): targets 2.2 (end all forms of malnutrition by 2030), 3.4 (reduce by one third premature mortality from NCDs) and 3.5 (strengthen the prevention and treatment of substance abuse, including harmful use of alcohol).
	UNICEF	1989	UNCRC [2].	The UNCRC is an international treaty recognising the human rights of children, defined as persons up to the age of 18 years. It establishes that children are the subjects of their own rights, including the right to the enjoyment of the highest attainable standard of health, the right to be protected from economic exploitation, or the right to the protection against interference with their privacy. These and other children's rights can potentially be affected by the marketing of foods and beverages, including alcoholic beverages .

EU, European Union; **HFSS**, high in total fat, saturated fats, *trans* fatty acids, salt and/or sugars; **NCDs**, non-communicable diseases; **SDGs**, Sustainable Development Goals; **UN**, United Nations; **UNCRC**, United Nations Convention on the Rights of the Child; **UNICEF**, United Nations Children's Fund; **WHO**, World Health Organization.

In the European Union, the Audiovisual Media Services Directive (AVMSD) has recently been revised [4]; the directive applies to all services with audiovisual content and it governs EU-wide coordination of national legislation on several areas, including commercial communications and protection of minors. The AVMSD calls for effectively reducing the exposure of children to audiovisual commercial communications of foods and beverages that are high in salt, sugars, fat, saturated fats or *trans* fatty acids or that otherwise do not fit national or international nutritional guidelines. Similarly, it calls for effectively reducing the exposure of children and minors to audiovisual commercial communications of alcoholic beverages. EU Member States should thus be encouraged to attain such reductions, for example using self- and co-regulation, including codes of conduct. Furthermore, the AVMSD protects consumers and especially minors regarding the processing of their personal data, stating that such personal data should not be used for commercial purposes. The AVMSD transposition at national level is also an opportunity to introduce, update, expand, or re-inforce existing measures to address marketing to children of such foods and beverages not fitting dietary guidelines as well as of alcoholic beverages.

In this context, the European Commission's Joint Research Centre (JRC) and Directorate-General for Health and Food Safety (DG SANTE) have developed the present toolkit to support the development and update of codes of conduct for marketing of food and beverages, including alcoholic beverages. Significant contributions were provided by national experts from EU Member States on nutrition, physical activity and alcohol, by participants in the WHO European Action Network on reducing marketing pressure on children, and by public health experts and marketing experts from academia and regulatory bodies.

The toolkit will support EU Member States when developing or updating their national marketing-related policies on food and beverages, including alcoholic beverages.³ Its scope has been broadened beyond linear (television broadcasts)

3. The toolkit was thought to support voluntary or statutory codes of conduct drafted by public institutions such as ministries of health or others. It may be useful to self-regulatory efforts by advertisers as well, but these are not among its primary targets.

and non-linear (on demand) audiovisual media services, so it can be used for the development of more comprehensive legislation or codes, also responding to digital challenges. More specifically, the toolkit consists of three parts:

- **CODE STRUCTURE:** a schematic overview of the sections that should be included in a marketing code.
- **CODE CHECKLIST:** a detailed list of the main aspects that a marketing code should include. These should be considered when initiating the policy-making process or updating existing codes.
- **PRACTICAL GUIDANCE:** an inventory of specific actions for each of the aspects of the checklist; these are included in existing marketing codes for food and beverages, including alcoholic beverages, and can inspire future codes. Current challenges with regard to digital marketing (see *Box* below) and some insights on potential solutions are also provided where relevant.

In addition, EU Member States can make use of the analysis of the statutory and self-regulatory marketing codes that are in place in the EU and beyond (described in <https://data.jrc.ec.europa.eu/collection/id-00244>).

A special focus on digital marketing

Global advertising expenditure (ad spend) for digital marketing now surpasses that for TV, according to the World Federation of Advertisers (WFA) [26]. Digital applications can give access to a large number of customers with relatively less monetary investment [27]. Children interact increasingly with social media, including platforms that are not child-specific, and are thus increasingly exposed to marketing [3, 28]. A 2015 study in Organisation for Economic Co-operation and Development (OECD) countries [29] found that 15-year-olds spent almost two and a half hours online outside of school on a typical weekday, and more than three hours on a typical weekend. On average across OECD countries, around 1/5 of students in 2015 accessed the internet before reaching six years of age [3]. They are also more likely to go online via personal digital devices such as mobile phones and laptops with a recent study showing that on average 80% of children access the Internet via a smartphone or tablet [30].

Until recently, most digital advertising was not targeted at individual users. Agencies bought large-scale audiences who were chosen by the content they were consuming; all ‘consumers of the same content’ would get the same advertisement at the same time. With the advance of digital marketing, agencies buy specific user profiles based on desired individual characteristics, who then get personalised ads at any point of content delivery [20].

These advances in digital marketing also mean that individualised and more personalised ads are possible; characteristics and emotional state or vulnerabilities of individuals can be targeted [20]. Companies have used such methods to measure and inform marketers about the level and nature of attention that viewers give to an ad, combined with extensive demographic and activity data on users derived from their game-console activity [3]. In addition, access to such data is limited to a select few, and is often restricted to the providers themselves [3]. Platforms such as Google, Facebook and Amazon are in a much better position to track advertisements, because they use ad tech within their own platforms; they are also both publisher (website owner) and technology provider, and they own their own datasets (this has been defined as ‘walled gardens’; see more details in [20]). The need for an authority supervising data-intensive activities, thus protecting consumer rights and competitive markets, has been recently identified [31]. Marketing of food, non-alcoholic, and alcoholic beverages could be added to the growing list of digital activities in need of more transparency, supervision and regulation.

As time spent online shifts increasingly to social media and mobile devices, where personalised and targeted advertising predominates, the marketing power and the exposure of children to it may increase. Online marketing can influence children’s brand awareness and their short-term food preferences. There are indications that advergames can make children more likely to choose an advertised unhealthy snack over a healthier alternative directly after playing a game. Interestingly, similar studies with advergames for healthy eating provided inconclusive results [32, 33].

Given that the digital ecosystem has not evolved with the protection of children in mind and nor has the advertising market in digital platforms, it is currently very difficult to ensure that an advertisement will not be received by a child, and any solution in the digital world must go beyond advertising that is specifically ‘targeted at children’ to include all marketing children are exposed to [23, 34]. In addition, other ‘traditional’ measures such as the use of time-bound restrictions (*i.e.* online watershed) cannot be easily implemented for digital marketing as content can also be accessible outside the permitted timeframe.

2 . How was the toolkit developed

2.1. Mapping of existing codes on the marketing of food and beverages, including alcoholic beverages

A number of actions have been implemented in the EU Member States and in other countries to reduce the exposure of specific populations (especially children and adolescents) to the marketing of food and beverages, including alcoholic beverages.

The development of the present toolkit included a first step where such actions were mapped and analysed in a comprehensive manner. A web-based search was conducted to identify regulation and codes implemented by governments, industry associations or other relevant stakeholders, in the EU and beyond, addressing all kinds of marketing techniques used to advertise any food and beverages, including alcoholic beverages, to any population group.

Statutory and industry self-regulatory marketing codes on food and non-alcoholic beverages were obtained from the EC Health Promotion and Disease Prevention Knowledge Gateway [6] and the World Cancer Research Fund NOURISHING database (<https://www.wcrf.org/int/policy/nourishing-database>). Additional voluntary pledges (e.g. Swiss, Portuguese and Belgian Pledges) and codes were identified through the EU Pledge website (<https://eu-pledge.eu/>) and the European Advertising Standards Alliance (<http://www.easa-alliance.org>), respectively.

The EU co-funded ‘ELSA-Enforcement of national Laws and Self-regulation on advertising and marketing of Alcohol’ project (<https://www.stap.nl/elsa>), the ‘EU-CAM-European Centre for Monitoring Alcohol Marketing’ (<http://eucam.info>), and the Swiss Ministry of Health database on alcohol policy regulation in Europe (<https://www.suchtschweiz.ch/index.php?id=808>) were also used to identify legal acts and other codes relative to marketing restrictions of alcoholic beverages.

National experts from EU Member States on nutrition, physical activity, and alcohol also provided input to ensure a comprehensive coverage.

The lists of all codes on marketing identified in this manner are presented separately for food and non-alcoholic beverages, and for alcoholic beverages in <https://data.jrc.ec.europa.eu/collection/id-00244>. A single entry was created for each code in a Microsoft Access 2010 database, and the information for each entry was structured in the following manner: 1) general characteristics of the code, 2) scope of the code, 3) target population groups of the code 4) marketing techniques covered by the code, 5) restrictions included in the code, as well as 6) information on implementation, monitoring and evaluation of the code. Three independent researchers entered a first set of codes, identified potential sources of ambiguity and refined the database fields accordingly. A consensus working guideline was prepared to facilitate data extraction from the codes.

As of 28/11/2019, the database includes 88 codes, of which 61 address food and beverages, 53 address alcoholic beverages, and 29 address both. The database is publicly available in the JRC data catalogue (<https://data.jrc.ec.europa.eu/>). While not all codes identified are included in the database yet, geographical representativeness has been ensured, with at least one code per area (food or non-alcoholic beverages, and alcoholic beverages) and per EU Member State. The coloured boxes in the PRACTICAL GUIDANCE section of the present toolkit include lists of options extracted and adapted from existing marketing codes for food and beverages, including alcoholic beverages.

2.2. Expert workshop

The JRC also convened an expert workshop to:

- discuss the preliminary findings of the mapping exercise of codes (see 2.1);
- discuss a possible template for a code of conduct;
- select and analyse key aspects or characteristics of a code;
- detail digital marketing challenges and discuss potential solutions.

The workshop took place on 15-16 May, 2018. The participants, academics and representatives from public health institutions and ministries, marketing-relevant authorities/regulatory bodies, international organisations, were selected for their expertise in various aspects of marketing of foods, non-alcoholic, and alcoholic

beverages, such as public health nutrition and alcohol policies, marketing techniques to promote foods, non-alcoholic, and alcoholic beverages, marketing regulation and legal aspects, including children's rights. The discussions during the workshop fed the development of the different sections of the toolkit, in particular those highlighted by the symbol . Similarly, the outcome of the workshop discussions on the challenges related to digital marketing and proposals for specific measures to tackle them fed the content of the boxes with a 'Focus on digital marketing', indicated by the symbol .

2.3. Development of the toolkit

Based on the analysis of the codes of conduct in the database and the expert discussions (see 2.1), the JRC drafted a checklist for the development of a code of conduct, including all relevant aspects and characteristics that the analysed marketing codes cover. The inventory of actions, presented in the coloured boxes, was constructed in a similar manner.

National experts from EU Member States on nutrition, physical activity, and alcohol have provided feedback at both the initial and intermediate stages of the development of the toolkit, including on the mapping of statutory and voluntary marketing codes on food and alcoholic beverages across Europe. The work of the WHO European Action Network on reducing marketing pressure on children (<https://whomarketingnetwork.dgs.pt/>) was also considered. In addition, several national experts from EU Member States have participated in the expert workshop held in May 2018 and reviewed the draft toolkit before its publication.

3 Toolkit to develop a code of conduct to restrict marketing of food and beverages, including alcoholic beverages

This toolkit is based on the analysis of existing codes and expert discussions as described in *Chapter 2*. An overview of the statutory and self-regulatory marketing codes that are in place in the EU and beyond, and that were the basis for the development of the checklist and the relevant practical guidance, is provided in <https://data.jrc.ec.europa.eu/collection/id-00244>.

More specifically, the toolkit consists of three parts:

- **CODE STRUCTURE:** a schematic overview of the three sections that should be included in a code of conduct:
 - A. General information of a code.
 - B. Marketing restrictions.
 - C. Monitoring and evaluation.
- **CODE CHECKLIST:** a detailed list of the main aspects that a marketing code should include and that should be considered when initiating a policy-making process or updating existing codes.
- **PRACTICAL GUIDANCE:** an inventory of specific actions, matching the aforementioned checklist, that are currently included in existing marketing codes for food and beverages, including alcoholic beverages, and that can inspire future codes. The coloured boxes include lists of options extracted and adapted from existing marketing codes.



Boxes with this symbol invite an in-depth reflection on selected topics.



Boxes with this symbol discuss challenges related to digital marketing and offer some insights on potential solutions.



CODE STRUCTURE: Overview of the suggested sections in a code

A. General information of a code

- A.1. Type of code
- A.2. Designer/owner of the code
- A.3. Goals and objectives of the code
- A.4. Scope of the code
- A.5. Products exempted
- A.6. Target population groups
- A.7. Geographical coverage

B. Marketing restrictions

- B.1. Marketing techniques
- B.2. Audience
- B.3. Settings
- B.4. Time
- B.5. Content
- B.6. Nutritional or compositional criteria
- B.7. Brand marketing
- B.8. Corporate Social Responsibility (CSR)

C. Monitoring and evaluation

- C.1 Implementation and evaluation of the code
- C.2 Enforcement of the code



CODE CHECKLIST: Main aspects of the suggested sections in a code

A. General information of a code

Consider the following aspects...	<input checked="" type="checkbox"/> When drafting the code...
A.1. Type of code	<input type="checkbox"/> Clearly define if the code is a voluntary regulation, co-regulation or statutory regulation.
A.2. Designer/owner of the code	<input type="checkbox"/> State clearly: <ul style="list-style-type: none">• who develops and updates the code;• who implements and evaluates the code (further addressed in C.1);• who enforces the code (further addressed in C.2).
A.3. Goals and objectives of the code	<input type="checkbox"/> State a clear goal and set specific objectives to achieve this goal.
A.4. Scope of the code	<input type="checkbox"/> Clearly state the scope, in particular regarding product categories and communication channels that the code addresses.
A.5. Products exempted	<input type="checkbox"/> Should these exist, list the exempted products. Include a justification for making these exemptions.
A.6. Target population groups	<input type="checkbox"/> Specify the population group it intends to protect, including a justification if certain age groups are excluded. <input type="checkbox"/> Define child-directed marketing.
A.7. Geographical coverage	<input type="checkbox"/> Specify the geographical coverage of the code, addressing cross-border marketing.



CODE CHECKLIST: Main aspects of the suggested sections in a code

B. Marketing restrictions

Consider the following aspects...	<input checked="" type="checkbox"/> When drafting the code...
B.1. Marketing techniques*	<input type="checkbox"/> • List and define all the marketing techniques and practices that are covered by the code. <input type="checkbox"/> • Define exceptions (if any) and when/where such exceptions apply.
B.2. Audience	<input type="checkbox"/> Specify age groups (in accordance to A.3 and A.6) for which the measures apply.
B.3. Settings	<input type="checkbox"/> Specify settings at which the measures apply.
B.4. Time	<input type="checkbox"/> Specify timeframe when the measures apply.
B.5. Content	<input type="checkbox"/> • Define restrictions on the content of marketing communications. OR <input type="checkbox"/> • List what is authorised/permitted (versus what is banned). <hr/> <input type="checkbox"/> Include warning messages (either positive/encouraging messages, <i>e.g.</i> eat fruits and vegetables, or negative/discouraging ones, <i>e.g.</i> don't drink and drive).
B.6. Nutritional or compositional criteria	<input type="checkbox"/> Define the nutritional or compositional criteria used to (dis)qualify foods or beverages for marketing purposes, for example nutrient profile models or alcohol by volume in alcoholic beverages.
B.7. Brand marketing	<input type="checkbox"/> Clearly state if, further to specific products, brand/company marketing is covered.
B.8. Corporate Social Responsibility (CSR) initiatives	<input type="checkbox"/> Clearly state if CSR initiatives are considered as any other form of marketing. Otherwise, ensure that products, brands or integrated marketing campaigns covered by the code are not promoted in association with CSR initiatives.

*. Ideally, a code would cover all forms of marketing in a comprehensive and coherent manner to anticipate the development and use of new marketing techniques. A way to achieve this is to list only what is permitted for commercial communications instead of what is *not* permitted.



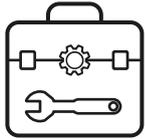


CODE CHECKLIST: Main aspects of the suggested sections in a code

C. Monitoring and evaluation

Consider the following aspects...	<input checked="" type="checkbox"/> When drafting the code...
C.1. Implementation and evaluation of the code	<input type="checkbox"/> Define an implementation strategy to ensure the uptake of the code, including relevant indicators.
	<input type="checkbox"/> Define an evaluation strategy for the code. Include details on type of evaluation, funding sources and reporting.
C.2. Enforcement of the code	<input type="checkbox"/> Define a strategy for the enforcement of the code. Disclose funding and potential sources of conflict of interest in the monitoring process.
	<input type="checkbox"/> Develop mechanism(s) to detect potential infringements to the rules.
	<input type="checkbox"/> Develop mechanism(s) to discourage new or further infringements.





PRACTICAL GUIDANCE: **Inventory of actions for each aspect in a code**

A. General information of a code

A.1. Type of code

- Clearly define if the code is a voluntary regulation, co-regulation or statutory regulation.

Member States of the EU may choose different policy options when developing a code or updating an existing one. From a public health perspective, the aim is to achieve as much comprehensiveness and adherence as possible.

Statutory regulation refers to a public body legislating and enforcing those rules (for the purpose of the present toolkit, regulation only refers to marketing and advertising standards, and not sales, for example). Co-regulation is the cooperation of the State and the private sector in joint institutions to ensure adherence to certain standards. In this case, a legislative act defines objectives and criteria and entrusts the attainment to other (private) parties. Voluntary regulation (or self-regulation) implies the members of an industry or other economic operators adopt among themselves and for themselves common guidelines, such as codes of practice or sectoral agreements, and monitor their own adherence to certain standards.

Statutory regulations tend to involve more sectors and have the potential to be more comprehensive across marketing channels and media, and to be more sustainable both in terms of implementation and monitoring. A well-designed self- or co-regulatory code however can also be effective. In the case of co- or self-regulation where adherence is not universal, the number or percentage of signatory parties that participate in the code should be reported.

A.2. Designer/owner of the code

- ☑ State clearly
 - who develops and updates the code;
 - who implements and evaluates the code (further addressed in *C.1*);
 - who enforces the code (further addressed in *C.2*).

This toolkit is developed to support EU Member States in developing or updating codes and assumes therefore that public bodies remain the key stakeholders in the development of the food marketing policy [11]. Cooperation of governments with civil society and private stakeholders is welcome, especially when discussing the implementation of the code [11], but it is important to ensure potential conflicts of interest are addressed [35]. Governments should also understand the potential risk of conferring their legitimacy to private-sector-led actions [36].

There should be a dedicated body (or bodies) responsible for developing and updating the code, for implementing and evaluating the code, and for enforcing the code. Different government and non-government bodies, depending on their competences can take over different roles. Examples of entities responsible for these tasks in the codes implemented worldwide are public authorities such as the Ministry of Health or of Agriculture, National Institutes of Public Health or monitoring bodies designated by the Minister for Health, Universities and academic institutions, Broadcasting Authorities, Consumer Ombudsman or associations, independent advertising regulators or market research companies and in some cases (as in self-regulatory and self-monitored codes) advertisers or their representatives as well as the food/drink/alcoholic beverages industries or services (or their representatives). Other examples are Ethics Juries or Committees made up of members of different relevant entities and stakeholders.

For example, in Portugal, Law No. 30/2019 [37] indicates that Directorate-General for Consumer Affairs is responsible for monitoring; Directorate-General for Health, on the other hand, was responsible for defining the nutritional criteria used for the implementation of the code.

A.3. Goals and objectives of the code

- ☑ State a clear goal and set specific objectives to achieve this goal.

Table 1 provides a pool of calls for action either at a European or global level that could guide the formulation of a clear goal. Further to those, the national context, priority framework and policy environment can lead the goal setting, to ultimately protect children and other vulnerable population groups from exposure to, and power and extent of marketing. From a public health perspective, addressing dietary and other lifestyle risk factors through marketing restrictions may reduce the impact of NCDs in the population.

In the case of codes developed to limit marketing of **specific foods and beverages**, the goal of the code can be:

- To contribute towards tackling (child) obesity in {country}.
- To protect the health of the population under {years} years of age, by regulating and limiting the advertising of {all or specific types of} food and beverages.
- To offer protection for children from inappropriate and/or harmful commercial communications.
- To regulate (HFSS) food and beverages marketing to children.
- To ensure that children are not exposed to marketing communication for HFSS foods and beverages.
- To promote and support healthy dietary choices and healthy lifestyles to children.
- To reduce exposure of the population to marketing initiatives relating to HFSS foods.

In the case of codes developed to limit marketing of **alcoholic beverages**, the goal of the code can be:

- To contribute to the reduction of alcohol-related harm.
- To combat alcohol abuse.
- To reduce the exposure of young people to advertising and marketing of alcoholic beverages.
- To reduce the general consumption of alcohol, its availability, especially to minors, alcohol abuse, the damage caused by it to health and the economy.

- To reduce excessive patterns of alcohol consumption and resultant social, economic and health harms.
- To reduce the consumption of alcoholic beverages to prevent the damaging effects of alcohol on consumers, other persons and society in general.
- To regulate the advertising of {all or selected alcoholic beverages}.
- To regulate the advertising of alcoholic beverages with regard to the protection of children and young people.
- To ensure that {alcohol or selected alcoholic beverage} is promoted only to adults and that advertisements promote only responsible consumption.

Extracted and adapted from the following codes: [37-54].

Translating these general goals into SMART (specific, measurable, achievable, relevant and time-bound) objectives during the design phase makes it possible to monitor progress and to evaluate effectiveness of the code. The periodic evaluation and re-assessment of the code should also be based on such objectives (see *C.1*). The implementing actors are held accountable based on these objectives and their degree of achievement.

Examples of SMART objectives are:

- Reduce by {year} the exposure of children of {age in years or specific subgroups} to television broadcast marketing of HFSS foods and beverages, defined using {selected nutrient profile model or other criteria} from current baseline {% of viewing rates and/or impacts, etc.} by {points}, measured using {audience share data or other relevant data}.
- Eliminate by {year} any sponsorship or other partnership of sports teams, athletes, sports events and programmes, professional or amateur, by (HFSS) food and beverages/alcoholic beverages brands, manufacturers and companies.

Depending on the goal and objectives of the code set in the design phase, a code may target some or all of the actors involved in the marketing process, such as the food and beverage industries and representative bodies, marketing and communication companies, media, and content/access/service providers.

A.4. Scope of the code

- ☑ Clearly state the scope, in particular regarding product categories and communication channels that the code addresses.

The scope refers to those product categories the code intends to regulate. Within those categories, some products may qualify to be marketed based on specific criteria. See B.6 for more details on such criteria. The scope should specify whether it covers foodstuffs, non-alcoholic beverages, and/or alcoholic beverages, defining what falls under each category. It can be expanded to cover not only product categories but also brands, product manufacturers or their representatives.

The code should furthermore specify the communication channels it addresses (*e.g.* broadcast advertising, non-broadcast advertising, digital marketing, etc.) and clearly mention them in the scope. Ideally the code should regulate the marketing of the selected product categories across all communication channels.

For example, the Finnish Alcohol Act [51] prohibits the use of gamification and social influence advertising for alcoholic beverages, irrespective of the media/channels in which these are used. In this way, the use of games, lotteries or contests to advertise alcoholic beverages, or the use of user-generated content or peer-to-peer sharing, are banned whether in broadcast or digital media.

In the case of codes developed to limit marketing of **specific foods and beverages**:

- For food products, the code can refer to all food products or make a special reference to specific food categories such as processed or packaged foods, HFSS foods or baby food.
- For non-alcoholic beverages, the code can refer to all non-alcoholic beverages or to specific ones such as energy drinks, drinks with added sugar or sweeteners, flavoured and/or enhanced waters, ready to drink teas and coffees.
- Food products and non-alcoholic beverages covered by the code can be defined with the use of national dietary guidelines, nutrient profile models, guidelines issued by scientific bodies or by choosing specific categories that have been shown to have a detrimental effect on health (*e.g.* HFSS foods or sugar-sweetened beverages).

In the case of codes developed to limit marketing of **alcoholic beverages**:

- For alcoholic beverages and products, the code can refer to all alcoholic beverages or specify a selected alcoholic beverage such as beer, spirits, ready-to-drink alcoholic products, alcopops.
- A code may cover all drinks above a certain % of alcohol by volume as well as those drinks below that % of alcohol by volume sharing the same brand or branding, or when they are a variant of a drink that is subject to the code.
- Alcoholic beverages or products covered by the code should be defined based on national guidelines, guidelines issued by scientific bodies or by choosing specific product categories. In all cases, the level of alcohol by volume should be clearly defined. This also applies in the case of use of terms such as alcohol-free or low-alcohol; these should again be clearly defined by their level of alcohol by volume.

Extracted and adapted from the following codes: [37-115].

A.5. Products exempted

- Should these exist, list the exempted products.
Include a justification for making these exemptions.

Please note that if a code permits the marketing of a product (whether applying certain restrictions to the commercial communications or not), it could either be because the product qualifies for marketing or because it is exempted from marketing restrictions.

In the case of food and non-alcoholic beverages, for example, products that **qualify** for marketing are those that are both covered by the code (under the Scope, see *A.4*) and that fulfil the criteria defined within the code (see *B.6*). For example, in Portugal, the criteria [116] adopted by Law No. 30/2019 [37] lay the food categories for which specific thresholds apply, above which marketing is restricted; in the case of breakfast cereals, these may not exceed 1.5 g of saturated fats per 100 g, 15 g of total sugars per 100 g, or 1 g of salt per 100 g. Breakfast cereals that have values for these nutrients below the established thresholds qualify for marketing.

Products that are **exempted** are those that the code specifically indicates as not subject to marketing restrictions even though they belong to a product category otherwise covered by the code. For example, in Ireland, the Children’s Commercial Communications Code [43] allows advertisements and other commercial communications for cheese. These, upon the recommendation of the Department of Health, are exempted from the Nutrient Profiling Model. This exemption applies to cheese products only and not to products where cheese is an ingredient, *e.g.* pizza.

In the case of codes developed to limit marketing of **specific foods and beverages**:

- Specific food products and non-alcoholic beverages could be exempted from the code based on national dietary guidelines (*e.g.* plain milk or plain bottled water), guidelines issued by scientific bodies or by choosing specific categories that have been shown to have a positive effect on health (*e.g.* fruit and vegetable products without added sugar).

In the case of codes developed to limit marketing of **alcoholic beverages**:

- Specific alcoholic products could be exempted from the code, for example alcoholic substances which are medicines or pharmaceutical preparations.

Extracted and adapted from the following codes: [38, 43, 51, 54, 55, 70, 72, 80, 102, 103, 110, 115].

A.6. Target population groups

- Specify the population group it intends to protect, including a justification if certain age groups are excluded.

There are codes applying to certain or all types of marketing without indicating a specific target group, aiming to protect the whole population [40, 42, 44, 47, 50, 51, 56-58, 60, 63, 68, 74-78, 85-87, 89, 90, 92, 94, 96, 100, 104]. Different restrictions may then be defined for the different audiences within the population (see B.2).

In the case of codes developed to limit marketing of **specific foods and non-alcoholic beverages**:

- The majority of currently existing advertising restrictions use a cut-off age of 12-14 years [38, 41, 47, 54, 55, 61, 64, 71, 77, 81, 93-95, 98, 102-104, 107-111, 114, 115]. Nonetheless, recent studies show that adolescents are also greatly impacted by food marketing [106] and there is thus the scientific basis to increase the age cut-off between 15-16 years [37, 67, 101, 106, 107], or even, 18 years [43, 44, 87, 88, 106]).
- Other vulnerable population groups may need to be defined. For example, in the case of energy drinks, pregnant and breastfeeding women [79] or minors [89].
- In other cases, the code may use a specific setting often frequented by the target population group, for example pupils attending compulsory schooling [59].

In the case of codes developed to limit marketing of **alcoholic beverages**:

- When it concerns alcoholic beverages and products, marketing restrictions can be designed to protect the population as a whole, given the potential hazards derived from harmful or excessive alcohol consumption.
- When the focus is on children, the cut-off age is higher and may also include young adults. Usual cut-off ages are 16-18 [39, 40, 42, 45-47, 57, 62-65, 69, 70, 73, 76-78, 84, 85, 87-89, 92, 94, 97, 106, 107, 114, 117], 20 or 25 years or other age that is defined by national law as the legal drinking age (for example, using the definition of 'minor') [48, 51, 53, 75, 83, 101, 105, 112, 113].
- Other vulnerable population groups may need to be defined. For example, in the case of alcoholic beverages, drivers, people at work, or pregnant and breastfeeding women [69, 70]. People with alcohol use disorders or trying to reduce alcohol consumption can benefit from marketing restrictions on alcoholic beverages.

Define child-directed marketing.

A code can use different ways to define child-directed marketing. An overall assessment must be made, prior to developing the code, in which three factors in particular must be considered. Account must be taken of:

- the extent to which the marketed products have particular appeal for children (for example foods or beverages targeted at children);

- the extent to which the medium used has particular appeal for children (for example, by assessing the content and form of the programme, the actual number of child audience and the audience index for children, time of broadcast);
- the extent to which the advertising elements used have particular appeal for children (for example, the use of language in the programme, the use of techniques that are primarily or highly appealing to children⁴).

If different food and beverage categories are mentioned under Scope (A.4), a definition of child-directed marketing should be clearly stated for all. Age cut-offs used here should be in line with what is used to define target audiences/population groups (see *previous checkpoint*).

To define child-directed marketing, a code can use metrics such as percentage of audience, absolute numbers or terms like directed or appealing. The majority of the codes examined use 25-35% as a minimum percentage of child audience whereas some use 50% (thus offering lower level of protection). Some phrasing examples are shown below.

Codes may limit child-directed marketing of **specific foods and non-alcoholic beverages**, by applying restrictions when:

- media audiences have a minimum of {percentage}% audience under the age of {age in years};
- programmes have an audience of which over {percentage}% are under {age in years} years;
- programmes are directed at, or likely to appeal to, children below the age of {age in years};
- non-broadcast media are created to be used and enjoyed by children under age of {age in years} and/or when their audience or user profile consists of {percentage}% or more of this age group;
- marketing of HFSS foods is carried in printed media where adult readership is less than {percentage} %;
- media is obviously and overtly directed at children through its content (*e.g.* child-focused websites and children's magazines); other media are not directed exclusively at children but where more than {percentage}% of the audience is under {age in years}.

4. Marketing may use techniques that are primarily appealing to children (for example, those that are attractive mainly to children and not to young adults and adults such as cartoon characters) but also techniques that are highly appealing (for example, those that are very attractive to children, independent of whether or not they may also be appealing to young adults and adults such as use of popular actors or athletes). The first case refers to marketing they are targeted at versus the second case referring to marketing to which children are exposed to.

In addition, promotions, licensed characters, and celebrities popular with children may be completely banned in advertising for HFSS products, directed through its content at under-
{age in years}s.

Codes may limit child-directed marketing of **alcoholic beverages**, by:

- permitting advertisement/sponsorship, cinema, print media, digital, website, if adult audience profile is of {percentage}% or greater;
- permitting marketing on printed and audiovisual media which have a minimum of {percentage}% adult audience;
- not aiming marketing at minors (or other persons to whom according to the law, no alcoholic beverages may be sold);
- not depicting children or young adults who have not attained the age of {age in years} years in commercial communications;
- not aiming television advertising and teleshopping of alcoholic beverages specifically at minors or, in particular, not depicting minors consuming alcoholic beverages.

Extracted and adapted from the following codes: [38, 41, 43-45, 52, 54, 55, 64, 70, 79, 85, 89, 96, 97, 102, 103, 106-108, 110, 114, 115, 118].



Why restrict marketing to children up to 18 years?

Based on the UNCRC [2], children are defined as ‘every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier’. WHO defines a child as ‘a person 19 years or younger unless national law defines a person to be an adult at an earlier age’, and an adolescent as a ‘person aged 10 to 19 years inclusive’. Similarly to younger children, adolescents are also vulnerable to marketing pressure and there is indeed research showing they are heavily targeted by and affected by HFSS marketing (see [119]).

In the case of alcohol, the legal age for its consumption is 18 years in the majority of the EU Member States. There is evidence that adolescents and young adults (18-30 years) exposed to alcohol marketing, including sports sponsorship, are more familiar

with brands and have more positive implicit associations with alcohol, initiate earlier alcohol consumption, consume more alcohol, and are more likely to use alcohol harmfully (see [120]).

A.7. Geographical coverage

Codes to restrict the marketing of foods, non-alcoholic, and alcoholic beverages can be applied at different geographical or administrative levels; for example, certain measures may apply at city level while others may apply at sub-national, national or supra-national level. Nevertheless, the geographical area covered by a specific code will usually have neighbouring areas (regions, countries), which may have different restrictions in place, if at all. Therefore, cross-border marketing needs to be addressed within the code, foreseeing mechanisms of cooperation to agree on minimum standards and enforcement mechanisms.

For example, the AVMSD [4] requires the audiovisual providers to comply with the legislation of the EU Member State where they are established, even if other Member States receive their services (country of origin principle). Grounds for derogations for EU Member States are included in the AVMSD, such as serious and grave risk of prejudice to public health.



What if the marketing of food and beverage products that do not meet specific composition criteria was banned *across* the EU?

Prohibition of advertising is the basis of the EU Directive on advertising and sponsorship of tobacco products [121]. A similar approach has been discussed for food and beverages, including alcoholic beverages. Iceland, for example, has banned all advertising for products with more than 2.25% of alcohol [122].

The implementation of such a measure for food and beverages in a supra-national context however may not be as straightforward as for tobacco products.

First of all, when it comes to food and non-alcoholic beverages, not all EU Member States have established nutritional or composition criteria to limit marketing of such products. Furthermore, even among those that have, product categories and/or thresholds used are not consistent or comparable. Cultural diversity adds to the complexity of this landscape.

In the case of alcohol, cultural diversity also plays an important role but setting a common alcoholic content threshold for the total ban of marketing of alcoholic products can technically be more straightforward. Several EU Member States are already using such thresholds to regulate the marketing of alcoholic beverages.



A special focus on digital marketing – Cross border marketing and consistency

The borderless nature of the internet results in jurisdictional and regulatory challenges. For example, a marketing message may conform with the code of conduct of the country it is produced in but may also be viewed in other countries where it actually breaches the existing codes; in such cases, it is not always straightforward who is to be held accountable. Some institutions such as the Trans Atlantic Consumer Dialogue (TACD) and the WHO have proposed better coordination across countries and supra-national bodies to overcome these challenges, for example by introducing cross-border restrictions (e.g. on advertising, promotion, sponsorships), irrespectively of whether the target audience of the marketing message is in the same country as the source of the marketing message [3, 123].

For cross-border marketing, it is important for governments to address in a coordinated matter:

- the age threshold for access to content. For example, WHO suggests defining a legal age for digital HFSS marketing (e.g. minimum age of 16 years) [3];
- the ownership of age verification control;

- tagging content with brand-category flags and age flags;⁵
- the consistency of criteria used in a regional or global level and across platforms;⁶
- where the complaints should be addressed, who to complain to, and where and at which level should the ombudsman be.

5. Ideally, content tagging should be done in combination with an age verification system to effectively filter ads in devices mostly used by children. For details on implementation of such measures, see [20].

6. Some examples of criteria where there is lack of consistency in a regional or global level include: the nutritional or compositional criteria (see more on *Practical Guidance B.6*); the R-Ratings of computer games to restrict ads; the way of ‘tagging’ digital ads to specify individual product types to target with marketing restrictions; or general data protection.

B. Marketing restrictions

B.1. Marketing techniques

- ☑ List and define all the marketing techniques and practices that are covered by the code.
- ☑ Define exceptions (if any) and when/where such exceptions apply.

Broadcast advertising is only one of many different marketing techniques advertisers are using to promote products and build brand awareness. Due to the technological advances and the increase in the time children spend online, including on social media platforms, new marketing techniques emerge continuously. These can be used by advertisers alone but are also used simultaneously as part of integrated marketing strategies.

Table 2 provides a detailed list of the marketing techniques that could be covered by a code and relevant examples. Since new techniques are continuously developed, a code should leave room to include additional/new ones.

Table 2. *Marketing techniques and examples of possible commercial communications.*

Marketing technique	Examples
Advertising	<i>Broadcast</i> <ul style="list-style-type: none">• TV, TV on-demand, Radio
	<i>Non Broadcast</i> <ul style="list-style-type: none">• Printed media• Online (including search engines, social networks, blogs, media clips, etc.)• Outdoor (billboards, posters, vehicles, bus-, metro- and tram-stops, stadia)• Cinemas• Indoor public spaces, including public transportation, airports, etc.
Direct marketing	<ul style="list-style-type: none">• Promotional e-mails• Promotional telephone sales• Promotional SMS in cell phones• Home catalogues and leaflets (doorstep selling)• Vouchers• Promotional food sampling events (including in schools)

Table 2. (cont.)

Marketing technique	Examples
Product placement and branding	<ul style="list-style-type: none"> • Promotional placement in TV, radio, films, computer games, videos, vlogs, photographs • Branded books (e.g. counting books for pre-schoolers) • Branded toys (in fast food stores) • Branded computer games and games on interactive company-owned websites • Branded apps • Branding on sports teams and advertising at sports and cultural events
Viral marketing	<ul style="list-style-type: none"> • Word-of-mouth and personal recommendation by consumers, sometimes in return for payment or reward, and increasingly encouraged in social networking sites
Sponsorships	<ul style="list-style-type: none"> • Sponsorship of TV and radio programmes, music videos • Celebrity product endorsement • Sponsorship of events, including community events, schools, fairs, concerts • Educational material & equipment • Programmes/campaigns, e.g. school breakfasts/lunches • Sport activities and teams, athletes, celebrities
'Advergaming'	<ul style="list-style-type: none"> • Branding and advertising embedded in video games and interactive fantasy, virtual reality worlds, available online or for downloading
Point of sale and product promotion	<ul style="list-style-type: none"> • On-shelf displays • Displays in check-outs, paying points, end-of-aisles • Special offers and incentives • Packaging vouchers with links to discounts on videos, films, music • Packaging codes with links to online games, social networking sites or downloadable apps • Vending machines (including schools) • Vending machine codes with links to online immediate discounts • Loyalty/point schemes • Free samples, tastings
Product design and packaging	<ul style="list-style-type: none"> • Fun and attractive colourings, designs of product • Fun and attractive colourings, designs of package • Portion size related offers • On pack/in-pack vouchers, gifts, puzzles, games
Placement of online advertising	<ul style="list-style-type: none"> • On search engines • On social networking sites • On news sites, music sites and blogs • Around or in TV-on-demand

.../...

Table 2. (cont.)

Marketing technique	Examples
	<p>.../...</p> <ul style="list-style-type: none"> • Around or in films and media clips viewed online • Around or in online and downloadable games, music and other media
Integrated marketing	<ul style="list-style-type: none"> • Linking film, toy and food products and new media, such as a breakfast cereal with on-pack promotion of a brand-promoting game played on a web site, with matching Facebook page and Twitter messaging
Interactive and user-generated marketing	<ul style="list-style-type: none"> • Includes two-way marketing and market-shaping activities (for example, TV advertisements invite viewers to vote for different flavours of a product which then get produced and marketed)

Adapted from [5, 6, 27].



Regulating on principle rather than on practice

There is ample evidence on the effect of different marketing techniques on food preferences, purchases or brand awareness; this may appear fragmented because of the use of different definitions or the lack of a systematic way of classification. From the public health perspective however, such evidence can justify setting restrictions on the use of specific marketing techniques. However when something is not explicitly regulated, it may be misinterpreted as allowed.

A way to ensure comprehensiveness of the code and anticipate the development of new marketing techniques may be to list what is permitted for commercial communications instead of what is not permitted. The more comprehensive a code (or the entire policy environment), the stronger the potential to reduce the impact of marketing both on target audiences and in general.



A special focus on digital marketing – New communication channels

With the wide use of social media platforms, new figures and role models have emerged. For example, vloggers, YouTubers or Instagram influencers can play a major

role in marketing of food and beverages, including alcoholic beverages. Children appear not to consistently recognise simple static advertisements on webpages, even at 10–12 years of age [3]; in social media where advertising content is mixed with the original content and boundaries are blurry, it is increasingly difficult to distinguish between the two.

There have been some moves made by video-sharing platforms (VSPs) (such as Instagram or YouTube) to be more transparent; however these are often misleading or confusing, especially for children, including adolescents. The Norwegian Consumer Council published recently a report [124] providing the results of a survey on digital marketing using influencers in popular platforms such as YouTube in Norway, with a special focus on adolescents, who are considered as particularly vulnerable to this type of marketing. Out of the 16 YouTubers they studied, 11 had produced content for the Norwegian food and drink industry in 2018 and a large majority of these partnerships promoted unhealthy foods (based on the existing code's nutrient profiling criteria). A recent U-report poll [125] showed that about one third of respondents under 19 years old could **always** and around 15% could **never** identify when an influencer had been paid for a social media post. 38% of the 15-19 years olds and 48% of those under 14 years old did not understand the commonly used hashtags *#ad* and *#spon*. Poll respondents suggested that for influencers to improve the way they market products they should make it easier to recognise when content is sponsored or paid (37% of the respondents) or not promote unhealthy or harmful products (55%).

Further to the verification of social media users' age (see [B.2](#)), other issues for reflection regarding influencer marketing include:

- The use of *one* visual identifier of ads or sponsored content that is easily understood across all age groups is deemed to be of crucial importance. Ideally, it would be implemented across platforms and countries (*e.g.* one harmonised scheme in terms of colour, size, placement, duration of appearance, etc.).
- *Where* the content should be regulated. Is it where the influencer is based or where the content is accessed from?
- The development of guidelines for brands to select influencers. Some brands may do 'background' checks but that is not a standard procedure, and especially not for smaller brands. In addition, there is no clarity on when the brand starts to have responsibility. Some influencers start referring to specific brands prior to having an official collaboration (sometimes in hope of establishing one).

- The accountability of third-party companies that manage accounts or sign up influencers.
- The establishment of an age threshold for children to become social media influencers. For example, food manufacturers that are part of the EU pledge have voluntarily set the age of 12 years. However, this age limit can be considered too low and could be increased (see A.6).

B.2. Audience

- Specify the age groups (in accordance to A.3 and A.6) for which the measures apply.

A code will have stated a clear goal and objectives (A.3) and also specified the population group it intends to protect (A.6). However, this does not mean that all measures included in a code will apply to all age or population sub-groups included in this population group; it might be necessary to establish different measures to offer different levels of protection. For example, Ireland's Children's Commercial Communications Code [43] states in its objective that it aims to protect children from inappropriate and/or harmful commercial communications. They define children as any person less than 18 years of age. They recognise however that children of different ages need different levels of protection and thus define the specific ages for which specific measures apply, *e.g.* oral statements of any on-screen messages should be available so children under the age of 6 years understand the message.

In the case of marketing of foods and beverages, including alcoholic beverages, a code should include measures to frame marketing communications towards specific age or population groups (for example, professional drivers or machine operators in the case of alcoholic beverages) in agreement with what has been defined in the code under target audiences/population groups and what has been defined as child-directed marketing (see A.6).

Further to this, the code should indicate that advertisements should not include any direct appeal to children to persuade their parents or other adults to buy advertised products for them.



A special focus on digital marketing – Age verification

Age verification on social media platforms is a rather complicated challenge. 'If children under 13 years lie about their age to access services for older children, which parents frequently assist them in doing, or if parents give verifiable consent for their children's data to be processed and thus to allow them to receive behavioural advertising, marketers and digital platforms are permitted to treat children under 13 years online as adults' [3]. For example, a study in the UK [126] found that about ¼ of 8 to 11-year-olds have a social media profile (on websites or apps like Facebook, Twitter, Instagram, Tumblr, Snapchat, WhatsApp and some activities on YouTube; and despite being below the minimum age set by companies like Facebook) and this rises to ¾ among 12 to 15-year-olds.

Several alternatives have been proposed to verify age online: for countries with electronic ID (e-ID) cards, use of special e-ID readers to control the age of the user; use of the so-called 'digital passport' – a card or a code are given to the individual after their age has been verified so that the password or the code can be used to access platforms or content; use of biometric data such as fingerprint.⁷

Age verification methods and/or other methods such as ad tagging can be used to gain access to content. Some of the most proposed options are:

- permission-based marketing⁸ using age verification filters;
- opt-in options⁸ with parents' permission;
- use of tags and ad blockers or opt-out⁸ options for specific ad content, or make it necessary to opt-in for ads with specific content that would otherwise be filtered out by default;
- default no-access to content unless age is verified.

7. The General Data Protection Regulation (GDPR) recently addressed the privacy issue of biometric data for EU Member States. However there are growing concerns about the risks to children's privacy imposed by biometric data. For more information on GDPR, see [127]. Articles 7 and 8 refer to children.

8. Permission-based marketing is the practice of sending marketing communications only to recipients who have given their consent to receive them. Opt-in is a procedure used in permission-based marketing whereby a user voluntarily consents to having received marketing communication. Opt-out is a procedure used in permission marketing whereby a user, who is automatically assumed to consent in receiving marketing communication, can choose to be excluded from further communication (adapted from <https://www.marketingterms.com/dictionary/>).

B.3. Settings

- ☑ Specify settings at which the measures apply.

A wide range of settings is being used to market food and beverages, including alcoholic beverages. Marketing strategies increasingly use an integrated approach to promote their products. Therefore to develop an effective policy that not only protects children from marketing targeted at them but also from marketing they are exposed to, a code should be as inclusive as possible. For example, a code should *at least* cover educational settings and other settings that children frequent often and consider any further settings that are considered relevant or important in the country context.

In the case of codes developed to limit marketing of **specific foods and beverages** to children (and adolescents), a code can cover:

- educational establishments such as nurseries, preschool, schools and after-school centres;
- family and child clinics, paediatric services, dedicated school transport, playgrounds and youth centres;
- outdoor marketing and advertising in public spaces or mobile outdoor advertising such as interiors and exteriors of bus, trains and trucks; public transport stations, platforms, stops or shelters including airports, trains and underground/metro; parks; and advertising on billboards, buildings and posters (these restrictions can also be limited to the vicinity of educational settings or other settings detailed in the first two points);
- cinemas, theatres and events including concerts, sports, charity, museums and others intended for – or frequented by – children (and adolescents) and families;
- sports arenas, stadia and related events;
- retail environment such as supermarkets.

In the case of codes developed to limit marketing of **alcoholic beverages** (or other alcohol-containing products), *further to all the settings above*, marketing restrictions can also apply to the following settings:

- workplace;
- healthcare and social welfare institutes;

- education, science and training institutions;
- police offices;
- custodial institutions;
- petrol stations and areas thereof;
- rest areas at highways.

Extracted and adapted from the following codes: [37, 38, 44-46, 48, 51, 54, 55, 57, 59, 60, 62, 64, 65, 67, 69-71, 73, 82, 84, 85, 89, 90, 94, 96-98, 101-103, 105, 107, 108, 110, 111, 113, 115, 117, 128, 129].

B.4. Time

- Specify timeframe when the measures apply.

Define any time-bound restrictions; there are several ways of introducing such restrictions when it regards broadcast advertising.

- Implement restrictions on scheduling commercial communications in or adjacent to programmes commissioned for, principally directed at (like cartoons or other children's programmes) or likely to appeal to children (such as prime-time shows, sports and athletic events, television contests, talent shows, etc.). It is possible to implement different restrictions for different age or population groups.
- Implement a watershed, *i.e.* a time in the evening after which the child audience is likely to be small, to restrict exposure of children to marketing. The choice of such a watershed will need to be informed by the nature of the broadcast programmes, cultural considerations and typical audience viewing patterns. It is possible to implement multiple watershed layers, to apply different levels of restrictions at different programme zones.
- Implement restrictions during and immediately after programmes specifically intended for children for advertisements of food and beverages when these are associated with the specific programmes.

A comprehensive, integrated approach is important as only one type of restrictions will not be enough to effectively limit exposure. For example, implementing restrictions on the schedule of commercial communications does not limit ex-

posure to marketing via programmes for mixed audiences which research has shown to have a large appeal to children [6]. Implementing an effective watershed on the other hand requires reliable data on child viewing habits. In addition, as—for example—content of online marketing can also be accessible outside the permitted time-frame, it may be challenging to apply a watershed beyond broadcast advertising.

In the case of codes developed to limit marketing of **specific foods and beverages**:

- No advertising of {all, HFSS or otherwise specified} food and beverages in or adjacent to programmes commissioned for, principally directed at or likely to appeal to children younger than {age in years} years.
- No advertising of {all, HFSS or otherwise specified} food and beverages of particular appeal to children for products covered by the regulations may be broadcast before {specific time} hours.
- An advertisement for {all, HFSS or otherwise specified} food and beverages, which are associated with a certain television programme specifically intended for children [who have not reached the age of {age in years}], shall not be broadcast in the advertising blocks during and immediately after that programme.
- No commercial communications for {all, HFSS or otherwise specified} food and beverages in television programme services and on-demand audiovisual and radio services on the {time in minutes or hours} period before and after children's programmes.
- No advertising of {all, HFSS or otherwise specified} food and beverages in cinemas in connection with films that are specifically aimed at children under {age in years} years and that start before {specific time} hours.
- Commercial communication of {all, HFSS or otherwise specified} food and beverages to children using personalities or characters of recognised popularity, including fiction, children's programmes or movies, shall not be used in the intervals immediately before, during or after the broadcasting such programmes or movies.

Apart from the above that you can adjust for age (based on A.6) and to refer to alcoholic beverages, in the case of codes developed to limit marketing of **alcoholic beverages**:

- No advertising of {all, or above a certain alcoholic strength} alcoholic beverages in or adjacent to programmes commissioned for, principally directed at or likely to appeal to minors (or audiences under {age in years} years).
- Broadcasters are not allowed to air advertisements for {all, or above a certain alcoholic strength} alcoholic beverages on television and radio between {specify time period}.

- It is not permitted to use the brand name of an alcoholic beverage for a sponsored activity between {specify time period}.
- Only one in four advertisements {or other percentage} for alcoholic beverages is allowed across the broadcast day excluding the period {insert time period}.
- Where alcohol advertising is allowed under audience profiling, advertising from all alcohol brands should account for no more than 25% {or other percentage} of total advertising minutage sold per cinema screening.

Extracted and adapted from the following codes: [37, 45, 48, 60, 62, 64-66, 69, 70, 84, 86-91, 93, 95-98, 105, 106, 108].

B.5. Content

- Define restrictions on the content of marketing communications. **OR**
List what is authorised/permitted (versus what is banned).

Regulation of the content of marketing communications can either be done by implementing restrictions on the content (*e.g.* no use of cartoons) or by listing what type of content is authorised/permitted (*e.g.* only factual information such as Protected Designation of Origin or ingredients).

Whichever method is used, it is important to first determine what is appealing to children (or other selected population groups) and then define content measures to restrict appealing content.⁴ Further to appeal however, a code should also address all content and any message a commercial communication conveys. For example, commercial communications should not use misleading (health) messages or imply a link between consumption of specific products and social success or performance.

Codes that list inappropriate advertising content relative to alcoholic beverages tend to be more difficult to enforce [130]. Codes describing what content is acceptable for commercial communications may list factual and verifiable information such as the name and price of the product, information on the geographical origin, the method of production and ingredients, and other basic information on the product as indicated in the label (*e.g.* alcohol content, volume) [131].

A code developed to limit **marketing** to children may list what content is permitted for commercial communications (for example, only factual and verifiable information regarding the product). Such an approach helps circumvent potential challenges arising from the emergence of marketing techniques or from difficulties in defining what is appealing to children and other vulnerable groups.

If the above approach is not adopted then a code developed to limit **marketing** to children should address the appeal of the content. In order to determine the appeal of specific content to children the following should be taken into consideration: message, use of language, and visual effects, whether or not children are represented. In general, marketing messages should avoid the use of language, special effects or imaginative scenes which could confuse the child or have them believe that the product or service has or confers capabilities or characteristics that it does not have in reality. The following elements can be analysed to assess whether an advertisement is of particular appeal to children:

- Whether childlike language is used.
- Whether graphic characters and/or animation are used which are particularly appealing to children.
- Whether children and adolescents (or minors) are involved in the marketing.
- Whether persons are used in the marketing that are particularly appealing to children and adolescents) or minors, such as youth actors, pop stars, super heroes, athletes or famous child hosts from TV.
- Whether toys, books, games, contests, etc. are used in the marketing which particularly appeal to children and adolescents (or minors).

Similarly, in case other target population groups are to be protected by the code (A.6), then the appropriate and relevant elements should be examined to assess the appeal of an advertisement to the specific population group (for example use of families or very young children to target pregnant women or new mothers; use of apparently successful professionals to target minors and young adults at the beginning of their careers).

In addition, the following aspects can be considered:

- Although children might be expected to exercise some preference over the food they eat or drink, advertisements must be prepared with a due sense of responsibility and should not directly advise or ask children to buy or to ask their parents or other adults to make enquiries or purchases for them.

- Advertisements must not imply that children will be inferior to others, disloyal or will have let someone down, if they or their family do not buy, consume or use a product or service.
- Advertisements must neither try to sell to children by appealing to emotions such as pity, fear, loyalty or self-confidence nor suggest that having the advertised product somehow confers superiority, for example, making a child more confident, clever, popular or successful.
- Advertisements addressed to children must not urge children to buy or persuade others to buy and must avoid high-pressure or hard-sell techniques. Neither the words used nor the tone of the advertisement should suggest that young viewers could be bullied, cajoled or otherwise put under pressure to acquire the advertised item. If an advertisement for a children's product contains a price, the price must not be minimised by the use of words such as 'only' or 'just'.
- A marketing communication should be designed and presented in such a way that it is clear that it is a marketing communication; advertorials should be clearly identified, should be distinguished from editorial matter and should comply with the code.
- Commercial communications should be prepared with a due sense of social responsibility and be based on principles of fairness and good faith; under no circumstances should they be unethical, offend against generally prevailing standards of taste and decency or otherwise impugn human dignity and integrity.

Further to the above, in the case of codes developed to limit marketing of **specific food and beverages** to children, content can:

- Encourage a balanced and varied diet.
- Not condone or encourage poor nutritional habits or an unhealthy lifestyle.
- Not condone or encourage excessive consumption of any food or beverage.
- Not give misleading impression of the nutrition or health benefits of the product.
- Present permitted claims⁹ clearly and without exaggeration.
- Not make comparisons between food and beverages that may discourage the selection of options such as fresh fruit, fresh vegetables or water.
- Not promote higher consumption of a food or beverage with a lower energy value than the original, higher energy value product.
- Use strong scientific evidence for all statements used.
- Not imply that infant formula is better than breastfeeding.
- Not communicate characteristics of HFSS food and beverages as beneficial to health, omitting their harmful effects due to their HFSS nature.

9. Regulation (EC) No. 1924/2006 established rules on nutrition and health claims in the EU [132]. A public EU Register of Nutrition and Health Claims lists all permitted nutrition claims and all authorised and non-authorised health claims at http://ec.europa.eu/food/safety/labelling_nutrition/claims/register/public/.

- Not highlight the absence of certain ingredients when they are anyway forbidden by regulation.
- Not associate energy drinks with sports or academic performance.
- Not link the consumption of specific products with improved performance or social success.

Finally, further to the general considerations, in the case of codes developed to limit marketing of **alcoholic beverages**, content can:

- Be limited to factual and verifiable information such as the name, price, alcohol content, geographical origin, method of production or ingredients of the beverage, accompanying a still photograph or a sketch of the product or its package.
- Include a responsibility message to not drink alcohol above what is set in low-risk drinking¹⁰ guidelines.
- Not feature, imply, condone or encourage excessive or otherwise irresponsible drinking.
- Not negatively depict abstinence or low-risk use of alcoholic beverages, not present alcoholic beverages favourably compared to any non-alcoholic beverage.
- Neither imply that alcohol can contribute to an individual's popularity or confidence nor imply that alcohol can enhance personal qualities.
- Not depict or encourage violent, aggressive, or anti-social behaviour.
- Not imply that alcohol has therapeutic qualities or that it is a stimulant, or sedative, or a means of resolving personal conflicts.
- Not imply that drinking alcohol is a key component of social success or social acceptance or that refusal is a sign of weakness.
- Not imply that the success of a social occasion depends on the presence or consumption of alcohol.
- Not link alcohol with sexual activity, sexual success or seduction or imply that alcohol can enhance attractiveness.
- Not portray alcohol as capable of changing mood, physical condition or behaviour or as a source of nourishment.
- Not imply that alcohol can improve any type of physical or mental performance.
- Not link alcohol with performance in sports and other physical activities.
- Not link alcohol with the use of potentially dangerous machinery or driving.
- Not show alcohol being drunk by anyone in their working environment.
- Not make any health claims, which include fitness or weight-control claims, but only give factual statements about product contents, origin, production process, etc.

10. Because of the potential of alcohol to cause a variety of health and social problems, authorities do not recommend the intake of alcohol, but rather recommend limiting its intake. Low-risk drinking guidelines advise adult alcohol consumers on those drinking levels and consumption patterns that entail lower risks for health (see [9] for review).

- Not imply that a drink may be preferred because of its alcohol content or intoxicating effect. There is an exception for low-alcohol drinks, which may be presented as preferable because of their lower alcoholic strength.
- Only use permitted nutrition claims such as ‘low alcohol’, ‘reduced alcohol’ and ‘reduced energy’ and any claim likely to have the same meaning for the audience.
- Not create the impression that the beverage in question is a soft drink, lemonade or other non-alcoholic beverage.
- Not portray minors, pregnant or breastfeeding women, or people operating heavy machinery consuming alcohol.

Even if these lists are not exhaustive, they give an indication of some main content aspects that should be considered. Based on each specific country context, other aspects can be addressed.

Extracted and adapted from the following codes: [39-48, 51, 52, 56-58, 60-66, 69-80, 83-101, 105-109, 112-114, 128, 129].

- Include warning messages (either encouraging/positive messages, *e.g.* eat fruits and vegetables, or discouraging/negative ones, *e.g.* don’t drink and drive).

Warning messages that inform public of negative health consequences have been successfully used in packaging of tobacco products [133] or labelling of alcoholic products (reviewed in [9]). This approach can be used also in the case of commercial communications of food and beverages, including alcoholic beverages.

For example, in France commercial communications for beverages with added sugars, salt or artificial sweeteners as well as processed food products must contain a health message. The message can be selected from the following list: ‘For your health, eat at least five portions of fruit and vegetables a day’; ‘For your health, take regular physical exercise’; ‘For your health, avoid eating too much fat, sugar and salt’; and ‘For your health, avoid snacking between meals’ [134]. With regard to alcohol advertising, the Irish Public Health (Alcohol) Bill [46] foresees the inclusion of three health warnings to inform the public of : a) the danger of alcohol consumption; b) the danger of alcohol consumption when pregnant, and c) the direct link between alcohol and fatal cancers.

B.6. Nutritional or compositional criteria

- ☑ Define the nutritional or compositional criteria used to (dis)qualify foods or beverages for marketing purposes, for example nutrient profile models or alcohol by volume in an alcoholic beverage

After defining which food and beverage products fall under the scope of a code (A.4), it is important to define specific criteria based on which the products can be allowed for commercial communication or not. The stricter the criteria, as in the case of the WHO Europe Nutrient Profile Model, the less products will be eligible for marketing, *i.e.* the higher the level of protection [135]. For a comparison between the nutrient profiling criteria developed by the EU Pledge [136] and WHO Europe [137], see [138].

Setting such criteria makes the whole procedure more objective and transparent and can also assist the industry in their reformulation efforts. Having a specific and separate section describing such criteria allows for the easier amendment of a code in case new related legislation is passed or in light of new scientific evidence.

In the case of codes developed to limit marketing of **specific foods and beverages** to children, the following criteria can be used:

- a nutrient profile model, such as the ones from WHO Europe [137], Norway [139] or Denmark [140], or an adaptation of these to national context ([116] in the case of Law No. 30/2019 in Portugal [37]);
- national or international food-based dietary guidelines (reviewed in [141]);
- specific levels of nutrient of interest such as (total, added or free) sugars, (total or saturated) fats, sodium or salt, caffeine, etc.;
- front-of-pack labelling schemes such as the Nutri-Score¹¹ or the Keyhole Symbol [143].

11. The French national assembly has recently voted to adopt a bill to improve the nutritional quality of food and encourage good eating practices which will require a display of the Nutri-Score label on adverts for food products from January 2021 [142]. For more information on Nutri-Score, visit <https://www.santepubliquefrance.fr/determinants-de-sante/nutrition-et-activite-physique/articles/nutri-score>.

In the case of codes developed to limit marketing of **alcoholic beverages**, the following criteria can be used:

- any alcoholic beverage;
- specific alcoholic beverages over a set percentage of alcohol by volume (% v/v);
- other classification of alcoholic beverages (*e.g.* strong spirits, fermented alcoholic beverages, alcopops, etc.).

Extracted and adapted from the following codes: [37, 38, 41-44, 54, 55, 58-60, 63, 66, 70, 72, 76, 84, 89, 97, 99, 102, 103, 105-108, 110, 111, 114, 128].

B.7. Brand marketing

- Clearly state if, further to specific products, brand/company marketing is covered.

A brand in the sector of food, beverage or alcoholic beverage products may be defined as a trade mark or design registered in respect of a product or product range; the name of a manufacturer of a product or product range; or the name of a product range, or any other words, designs or images, that are closely associated with a product range (adapted from [144]). The use of a brand aims at it becoming associated both with the product and with a level of credibility and quality. To achieve this, companies may resort to brand marketing; using their ‘market identity’ to increase customer loyalty in the long run.

In many of the codes there are restrictions towards the use of fun or appealing licensed characters in commercial communications. Brand equity characters are distinct from licensed characters, because they are created by food manufacturers solely for promoting a particular brand or product, having no identity beyond these associations. They are usually handled differently and in most current (self-regulatory) codes to restrict marketing, they are exempted from any restrictions. For example, the EU Pledge (self-regulation) does not cover company-owned, brand equity characters [103] and the same applies for other self-regulatory codes (for example in Denmark [41] and Ireland [43]). However, such different treatment is not based on evidence, and research has shown that the effects of brand equity characters may be carried over to products with which they are not associated normally [145].

Another aspect that can be covered here is safeguarding schools as a setting free of commercial content. This means keeping them free of any and all media that exposes children to a brand and its products, including advertisements, logos, and products that increase children’s awareness of the brand and/or the product. In the case of sponsorships for example, this could be achieved through the transparent communication of any sponsorship without however displaying the company logo (which is a commercial logo that increases children’s awareness of the brand).

In the case of alcoholic beverages, marketing of low- or zero- alcohol product versions, especially when restrictions apply to the alcohol-containing versions of the product, can well be considered brand marketing [131]. This indirect promotion of alcoholic beverages can be prevented by restricting the marketing of any goods carrying the same brand or other identifying features, as *e.g.* the Norwegian Alcohol Act [105] and the Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks [52] do.

A similar approach may be adopted to restrict the indirect marketing of HFSS products, by restricting the marketing of their ‘light’, ‘low sugar’, ‘low fat’ or otherwise alternative versions when they carry the same brand name or other identifying brand features as the original products.



Brand marketing regulation with the use of nutritional or compositional criteria

Brand marketing (without specifically referring to a product) may have similar effects to consumer behaviours (purchases, preferences, etc.) because people link the brand name or logo with the associated products. However it is not easy to regulate since nutritional- or compositional-based criteria restrictions are usually designed for application on product (categories) and not brands.

The experts at the workshop have suggested that the nutritional or compositional criteria could be applied to the whole market portfolio of the brand rather than to just specific products. This could be done through a regular certification process by

an independent agency using sales-weighted data for the brand's portfolio. There are however no examples of such official certification.

In the UK, the CAP has published a guidance document [146], that although not legally binding, sets out some scenarios and provides a view on whether the content of brand marketing described would be likely or unlikely to be regarded as a HFSS product advertisement.

Challenges foreseen are: sales data disclosure for the portfolio of the brand; resistance from the industry; resistance from many other stakeholders including national and regional authorities due to possible consequent reduction in sponsorships.

B.8. Corporate Social Responsibility (CSR) initiatives

- ☑ Clearly state if CSR initiatives are considered as any other form of marketing. Otherwise, ensure that products, brands or integrated marketing campaigns covered by the code are not promoted in association with CSR initiatives.

CSR refers to the responsibility that companies have in structuring their impacts on society; to 'fully meet their corporate social responsibility, enterprises should have in place a process to integrate social, environmental, ethical, human rights and consumer concerns into their business operations and core strategy in close collaboration with their stakeholders' [147]. CSR initiatives are not only increasingly important to the competitiveness of companies but can also meet the interest of society as a whole, for example by contributing towards the objectives of sustainable development.

It is important to ensure that products, brands or integrated marketing campaigns covered by the code are not promoted in association with CSR initiatives. For example, a company producing HFSS products or alcoholic beverages may as part of their CSR provide support towards educational or sports activities. Codes can ensure that all measures applying for the other forms of marketing (and described under *section B*) also apply to CSR initiatives.

C. Monitoring and evaluation

C.1. Implementation and evaluation of the code

- ☑ Define an implementation strategy to ensure the uptake of the code, including relevant indicators.

An implementation strategy should establish the actors, mechanisms and resources necessary to operationalise the code in a sustainable manner.

Regarding the actors, the code should indicate specific roles for the designated bodies, including implementation and evaluation of the code (see also *A.2*). Actors for each of the roles should be clearly defined. The strategy should encourage coordination and cooperation between relevant sectors such as education, child protection, health, and also economic development or agriculture to enable efficient implementation and outcome achievement. For example, the Portuguese Law No. 30/2019 of 23 April [37] foresees a periodic impact assessment every 5 years involving areas of the government responsible for health, education, consumer protection and food, in collaboration with other stakeholders (agri-food sector, communication and marketing). The Directorate-General for Consumer Affairs is responsible for the supervision of compliance, investigation processes and application of fines and sanctions, while the Directorate-General for Health (DGS) is responsible for setting the values that define foods to which marketing restrictions apply.

The implementation strategy should envisage mechanisms for: the effective application of the rules; the monitoring of this application (process indicators); the enforcement (see *C.2*); the sanctioning in the face of code infringements (see *C.2*); and the re-assessment of the code based on its evaluation (see *next checkpoint*).

Furthermore, the implementation strategy should foresee where (human and financial) resources will need to be allocated and by whom. Resource planning should cover not only implementation and enforcement, but also the evaluation of the code and its potential update.

Before entry into force, the designer of the code should provide baseline estimations for any relevant indicators, to enable evaluation of progress achieved by the code. This strategy can also include communication campaigns to raise public awareness on the societal challenges addressed by the code (see *A.3*). Subsequently, the objectives of the code are more likely to be achieved and its overall impact increased.

Process indicators should be clearly defined. Indicators of the implementation process will depend on the objectives of the code and can include:

- The date of entry into force. Likewise, the code should state whether there is a period of transition and, in that case, the relevant dates and whether special provisions apply during that period.
- Adherence, in number and percentage relative to total of relevant stakeholders that adopt the code. It is important that the adherence is monitored and is high enough for the code to effectively achieve its objective(s).
 - Adherence is likely to be less of an issue in cases of statutory regulation as all broadcasters, companies or other relevant stakeholders are to abide to the code.
 - In the case of self-regulatory codes of conduct, it is important to define the identity, number and market coverage of those broadcasters, companies or other relevant stakeholders that are (expected) to adhere to the code, including details of the potential audience share coverage, or estimations of reductions in exposure to marketing.
 - Adherence can be incentivised by communicating to the public which are the participating entities as part of the public awareness-raising activities, as well as by distributing information/educational materials clearly explaining the rules within the code and the consequences of not complying with such rules.
- The existence of an independent system to monitor compliance and the number of infringements.
- The existence of a mechanism to impose sanctions and, if needed, compensate victims.
- The proportion of breaches in participating and non-participating stakeholders.
- The foreseen re-assessment of the code based on its evaluation.

Extracted and adapted from the following codes: [38, 43, 44, 48, 52, 54, 55, 61, 64, 65, 68, 76, 84, 96, 102, 103, 105-107, 110].

- ☑ Define an evaluation strategy for the code. Include details on type of evaluation, funding sources and reporting.

The code may be evaluated by the implementing entity, by a third party, or independently. The nature and funding of this evaluation should be stated as part of the design of the code. Naturally, the independence and potential sources of conflicts of interest of the entity(ies) performing the evaluation must be carefully considered and stated within the code. It is important to note that third party evaluators established and controlled by self-regulated industry parties cannot be considered independent.

The enforcement or application of the code needs to be monitored, ideally resulting in a periodic publicly available report which includes details regarding the implementation process (see *previous checkpoint*), and depending on the code and its goal and objectives (see *A.3*) may also include changes in the frequency of specific marketing practices, exposure of target population groups to such marketing practices, changes in sales/consumption. Based on this periodic evaluation, the code can be re-assessed and updated, and this should be foreseen in its provisions.

Along these lines, in the context of the AVMSD [4], every three years the Commission shall submit to the European Parliament, to the Council and to the European Economic and Social Committee a report on the application of this Directive and, if necessary, make further proposals to adapt it to developments in the field of audiovisual media services, in particular in the light of recent technological developments, the competitiveness of the sector and levels of media literacy in all EU Member States.



How to measure effectiveness of codes restricting marketing of foods, beverages and alcoholic beverages to children?

There are different indicators that can be used to measure the effectiveness of a code, which will always depend on its goal and objective(s).

Statistics related to the monitoring of commercial communications are part of this evaluation. Below are some examples of relevant indicators:

Marketing-related indicators (output indicators)

- Total and relative ad spend on products and brands covered by the code.
- Total number of commercial communications in a certain period of time.
- Percentage of compliant/non-compliant commercial communications by sector/company/marketing channel.
- Number of non-compliant commercial communications for food, non-alcoholic, and alcoholic beverages (or other infringements) per time slot/channel/programme relative to baseline.
- Exposure to commercial communications of the target population group (for example, the absolute or relative number of times an advertising spot has been seen).
- Total and relative number of parties a) fully complying with the code, b) partially complying with the code (*e.g.* differentially across products/media/programmes/ time slots).
- If inclusion of health warnings/messages is foreseen in commercial communications, total and relative number of such messages; assessment of whether the content is factual and evidence-based.
- Number and proportion of product reformulation events attributable to the code; *e.g.* when a nutrient profile model is in place to determine which products may be marketed to a certain population group, companies may reformulate to reclassify a specific product, by reducing its salt, sugar or fat content.

Outcome indicators

- Sales/purchases of relevant products (periodic assessment and comparison with baseline values).
- Consumption (quantity and frequency of consumption) of food and non-alcoholic beverages covered by the code or relevant nutrient intakes by age group (periodic assessment and comparison with baseline values).
- Consumption (quantity and frequency of consumption) of the alcoholic beverages covered by the code by age group, also recording underage consumption (periodic assessment and comparison with baseline values).
- Prevalence of relevant lifestyle factors such as screen time, physical activity/ sedentarism.

- Frequency of engagement in risky behaviours (*e.g.* drinking and driving (driving under the influence – DUI), drinking while pregnant).
- Alcohol-related emergency-room admissions, by age, with specified diagnostic ICD-10 codes.
- Consumer awareness of commercial communication messages.
- Consumer awareness of brands/products (*e.g.* proportion of surveyed children recognising a specific brand or a specific food, beverage or alcoholic beverage product).

Possible sources of information for the above indicators

- Key figures from advertising/marketing companies; *e.g.* expenditure, audience targeting by age, audience estimates by age in number and share.
- Content analysis of commercial communications, vlogger posts, etc. This can potentially be done through collaboration with academic institutions.
- Commercial data on product sales and market share (including confidential ones, if possible).
- Surveys; health-related surveys, market studies, consumer surveys.
- Food composition data.
- National morbidity/mortality data or hospital discharge data.
- National/regional statistics on road safety; other information systems collecting alcohol-related harm.
- Crowdsourcing (citizen-based data collection) of exposure to marketing of certain products.



A special focus on digital marketing – Reliable exposure data

There is lack of reliable data on exposure of children to marketing. Challenges arise in defining ‘marketing to children’, as the internet locations most visited by children are often those providing access to a wide range of content (for example, through VSPs or social media in general) [3] and not necessarily those ‘directed at’ or ‘targeting’ them.

Exposure data can be obtained using estimates; the accuracy and comprehensiveness of these estimates will determine how reliable the final data will be. For example, the official UK impact assessment study [148] used digital marketing spend which, in the absence of other data, can be considered as a proxy for children's exposure. However, a recent analysis by Parker and Tatlow-Golden [149] indicated a gross underestimation of children's exposure to marketing in that impact assessment due to the underestimates of digital marketing spend at every stage of the process and the fact that only conventional forms of online marketing were covered (excluding, for example, social channels, influencers and advergaming).

C.2. Enforcement of the code

- ☑ Define a strategy for the enforcement of the code. Disclose funding and potential sources of conflict of interest in the monitoring process.

A crucial part of the implementation of a code is its effective enforcement. To achieve this, a detailed strategy should be drafted and relevant mechanisms should be in place. The strategy should include mechanisms:

- to detect potential infringements to the rules (such as pre-screening of commercial communications, the possibility to submit complaints or regular/continuous assessment of the commercial communications by the designated body);
- to discourage new or further infringements (such as laying down consequences for non-compliance or breaching the code).

In general, enforcement mechanisms vary considerably among codes. Enforcement can be carried out through government agencies, self-regulatory bodies or a combination of them depending on whether the code is implemented through legislation or self-regulation. In any case, for all mechanisms described in the strategy, funding should be disclosed and any potential sources of conflict of interest should be clearly identified.

- ☑ Develop mechanism(s) to detect potential infringements to the rules.

A system that detects potential infringements is central to the enforcement of a code. There are different mechanisms that could be considered such as pre-screening of commercial communications, the possibility to submit complaints or regular/continuous assessment of the commercial communications by the designated body. Such mechanisms should ideally be combined and implemented in a comprehensive manner.

Pre-screening can be performed in different ways:

- Set up a service that pre-screens and clears or advises on the compliance of yet unpublished marketing communications.
- Set up a Copy Advice service which provides pre-publication advice to advertisers, agencies and the media.
- Perform pre-screening in case of communications originating from previously offending companies/advertising agencies.
- Perform pre-screening for campaigns to be run at school or educational settings.

If a system to submit complaints is to be included in the code, then it should be specified:

- who will review the complaints (ideally a committee including consumer or parent organisations, public health bodies, etc.);
- who can submit complaints (for example, consumers, consumer associations or other civil society bodies, public agencies, competitors of the food or beverages companies or media service providers [5]);
- what is the procedure for submitting a complaint, including explicit and widely-communicated contact details, specific forms to submit complaints in writing, etc.;
- what is the procedure for evaluating a complaint;
- what measures are taken to safeguard transparency of the procedure, including publication of the rulings.

Regular/continuous assessment of the commercial communications can be assigned to a designated body that can:

- identify commercial communications that are not in compliance with the code, in terms of content, scheduling, etc.;

- audit commitments in the case of a self-regulatory code;
- request documentation to verify the authenticity of any fact contained in a commercial communication;
- publish reports on compliance and progress.

Extracted and adapted from the following codes [42-45, 47, 52, 54, 57, 61, 64, 65, 68, 70, 71, 76, 77, 85, 92, 93, 96, 97, 106-108, 113, 114, 117].

Develop mechanism(s) to discourage new or further infringements.

Following the *previous checkpoint*, it is important to set specific sanctions for any infringements to the rules. These could include warning notices, legal measures, monetary fines, withdrawal, etc. The level and type of the suggested sanction will depend on the degree and frequency of violation or the marketing medium. Progressively more severe fines can be imposed in case of repetitive breaches of the code.

Examples of sanctions to breaches of a marketing code can be to:

- Modify or withdraw the commercial communication (potentially with a reasonable time-frame for compliance).
- Impose pre-clearance of further advertisements by an offending party.
- Prohibit the offending party from broadcasting advertisements for a period of {number of} days.
- In case of self-regulation, expulsion of repetitive offenders by the relevant federation.
- In case of relapse, prohibit sales of products for a specific period of time.
- Suspend or revoke the license of the broadcaster.
- Impose (progressively more severe) monetary fines for minor, serious and very serious infringements.
- Impose as a complementary sanction the suppression, cancellation or suspension of any type of financial aid or subsidies that the individual or the infringing entity may have obtained or requested from the {government body}.

Extracted and adapted from the following codes: [37-40, 42-45, 47, 48, 51, 62, 64-70, 72, 76, 77, 84, 96, 99, 102-104, 106-108, 111, 113, 114, 118].



A special focus on digital marketing – Monitoring of digital marketing

A recent study by ASA monitored over 100000 online ads and found 1000 breaches of the current UK marketing regulations during a 2 weeks' period [150]. This highlights the difficulty in monitoring digital marketing, especially given how challenging it is for sole governments to regulate the big international social media companies. For example, the Finnish experience showed that Facebook can adjust to national guidelines, but regulations do not affect to a large degree user-generated content advertisement. [151].

Some potential solutions with regard to monitoring:

- The establishment of a national or supranational body for reporting cases of digital marketing rules violations or to submit complaints.
- Pre-vetting of ads vs. complaint mechanism (EU-wide to ensure consistency of standards). In the UK advertisers have to send a description of their adverts or their adverts to the relevant body;¹² this could be implemented also for digital marketing.

WHO recently published a tool, CLICK, on monitoring and restricting digital marketing of unhealthy products to children and adolescents [20]. It consists of five achievable steps (Comprehend the digital ecosystem; Landscape of campaigns; Investigate exposure; Capture on screen; Knowledge sharing) designed to gather data on children's and young people's exposure to digital marketing of HFSS, tobacco and alcoholic products.

12. Advertisers, advertising agencies or independent producers should seek pre-transmission guidance on scripted advertisements from Clearcast (for TV advertisements), Radiocentre (for radio advertisements) or from the broadcaster whose service they intend to use to advertise [106].

4 . Final remarks

The AVMSD transposition at national level is an opportunity to introduce, update, expand, or re-inforce existing measures to address marketing to children of foods, non-alcoholic, and alcoholic beverages. The present toolkit aims to support EU Member States when developing or updating their national marketing-related policies in this area. The toolkit's scope has been broadened beyond linear (television broadcasts) and non-linear (on demand) audiovisual media services, so it can be used for the development of more comprehensive legislation or codes, also responding to digital challenges.

The toolkit consists of a **checklist** of the main aspects that a marketing code should include and offers **practical guidance** in the form of an inventory of specific actions addressing all these aspects.

Several points stood out during the development of the toolkit—either from the discussion with experts or from the analysis of existing codes. These are summarised below for further reflection by those developing codes on marketing of foods, beverages and alcoholic beverages.

Protect children of all ages

A child rights-based approach can be helpful when developing codes of conduct for food, non-alcoholic, and alcoholic beverages marketing. Following such an approach as well as using the UNCRC definition of a child as any person up to the age of 18 years, can ensure that adolescents are also protected.

Solutions that go beyond advertising that is specifically 'targeted at children', and rather include any marketing to which children are or can be exposed, are likely to be more effective

in limiting exposure of children of all ages. This is highly pertinent in the case of digital marketing, where challenges arise in defining ‘marketing to children’, as the internet locations most visited by children are often those providing access to a wide range of content (for example, through VSPs or social media in general) and not necessarily those ‘directed at’ or ‘targeting’ them.

from all forms of marketing

Ideally, a code would cover all forms of marketing in a comprehensive and coherent manner. Most of the codes analysed tend to restrict specific aspects listing what is not to be included in a commercial communication. An alternative approach has been used in certain statutory codes to restrict marketing of alcoholic beverages; these codes list what content is permitted for commercial communications (for example, only factual and verifiable information regarding the product). This latter approach may help circumvent potential challenges arising from the emergence of marketing techniques or from difficulties in defining what is appealing to children and other vulnerable groups.

across the EU

Cross-border marketing

Television broadcasts, videos-on-demand and content shared through VSPs or social media are hardly ever just distributed to their country of origin anymore. Cross-border marketing requires that countries cooperate and take coordinated action as national regulations alone are unlikely to suffice in effectively tackling it.

Digital marketing

Digital marketing can be substantially more pervasive, personalised and targeted. Its power and impact are amplified compared to other forms of marketing. As children’s screen time has been shifting from television watching to use of the internet on computers, tablets or smartphones, addressing digital marketing should be a key element of codes to restrict exposure of children to marketing of food, non-alcoholic, and alcoholic beverages.

Nevertheless, children's exposure levels to such marketing are difficult to measure. Current exposure levels are likely an underestimate given the technical and methodological limitations in the monitoring of online advertising and lack of available data. Other challenges include addressing influencer marketing, and the implementation of systems for age verification and for tagging of content with brand-category flags and age flags.

Nutritional or composition criteria

Using consistent and comparable nutritional or composition criteria—that allow for adaptation to the national contexts—in a regional or global level and across platforms, could improve the effectiveness of marketing restrictions and at the same time level the field for the industry. For those considering to address brand marketing, a possibility worth exploring is the adaptation of nutritional or compositional criteria for application to the whole market portfolio of the brand rather than to just specific products.

Not all EU Member States have established nutritional or compositional criteria to limit marketing of food and non-alcoholic beverages. Among those that have, thresholds used may not be consistent and product categories may not be comparable. In the case of alcohol, setting a common alcoholic content threshold for limiting marketing of alcoholic products can technically be more straightforward. Several EU Member States are already using such thresholds to regulate the marketing of alcoholic beverages.

in a sustainable and efficient way

To ensure a code's effectiveness and its adhesion to its goals and objectives, it is crucial to operationalise it in a sustainable manner. This can be enabled by defining the actors, mechanisms and resources necessary for the enforcement of the code, its monitoring and evaluation upfront. In addition, the collection of reliable exposure data could be optimised by integrating it in already established and regular information systems, like surveys.

Regular and transparent reporting of efforts to restrict exposure of children to marketing does not only protect children but can also reassure parents, contribute to a level playing field for industry and contribute to the reduction of the human, social and financial burden of NCDs.

Relevant networks and resources

WHO European Action Network (EAN) on reducing marketing pressure on children

WHO EAN on marketing pressure was established in January 2008 and consists of a group of 28 WHO European Region countries (of which 19 EU MS) working together to find ways to reduce the high salt, energy-dense, micronutrient-poor foods and beverages marketing pressure on children.

Study on the exposure of children to linear, non-linear and online marketing of foods high in fat, salt or sugar

This European Commission DG SANTE-commissioned study aims to get more insights and evidence on the exposure of children to marketing of HFSS foods through linear, non-linear and digital marketing. One of its main objectives is to enable the development of adequate instruments and tools to assess this exposure. Results are expected to be published in April 2020.

Best ReMaP Joint Action

Following the identification by the EU SGPP of the best practices in the area of nutrition and physical activity in 2017, three were selected for implementation by the EU Member States. This Joint Action was created as the mechanism for implementation and includes a dedicated work package on marketing restrictions.

International Network for Food and Obesity/Non-communicable Diseases (NCDs) Research, Monitoring and Action Support (INFORMAS)

INFORMAS is a global network of public-interest organisations and researchers that aims to monitor, benchmark and support public and private sector actions to increase healthy food environments and reduce obesity and NCDs and their related inequalities. Under the section *Resources*, INFORMAS provides some protocols regarding marketing and advertising.

A Child Rights-Based Approach to Food Marketing: A Guide for Policy Makers [22]

This guide offers a legal analysis that links the WHO Recommendations with a human rights framework, particularly the Convention on the Rights of the Child. In this analysis, the UNCRC provides the foundation for a child rights-based approach to ending childhood obesity and the prevention of NCDs.

Monitoring food marketing to children. A joint Nordic monitoring protocol for marketing of foods and beverages high in fat, salt and sugar (HFSS) towards children and young people

The aim of the protocol is to establish a joint Nordic practice for how to monitor marketing of HFSS foods and beverages to children and young people. It distinguishes between marketing that appears to be directed at children and marketing that children are actually and potentially exposed to.

WHO CLICK framework

The WHO European Office for the Prevention and Control of Noncommunicable diseases launched the CLICK monitoring framework to address this deficiency in data on exposure to digital marketing. The five-step tool is designed to gather data on children's exposure to marketing and can be adapted to national context.

*WHO Europe training unit for the monitoring of food and beverage marketing to children across multiple media**

This training unit seeks to support WHO Europe member states with the design, conduct, analysis and dissemination of independent food marketing monitoring activity that is critical for underpinning evidence-based policy action and for evaluating the efficacy of regulatory schemes. Materials available within the training unit include a template training programme, audio-narrated training slideshows, template protocols and coding schema for the monitoring of both broadcast and digital media, example marketing materials and coding, a journal article template and folder of relevant existing publications, and data analysis guidance.

* This training unit was prepared by Dr Emma Boyland (University of Liverpool), Dr Mimi Tatlow-Golden (The Open University) and Jo Jewell (WHO Regional Office for Europe).

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List of abbreviations

ASA	Advertising Standards Authority (UK)
AVMSD	Audiovisual Media Services Directive
CAP	Committee of Advertising Practice (UK)
DG SANTE	Directorate-General for Health and Food Safety
EU	European Union
HFSS	High in total Fat, saturated fats, <i>trans</i> fatty acids, Salt and/or Sugars
ICD	International Classification of Diseases
JRC	Joint Research Centre
NCDs	Non-Communicable Diseases
OECD	Organisation for Economic Co-operation and Development
SDGs	Sustainable Development Goals
SGPP	Steering Group on Health Promotion, Disease Prevention and Management of Non-Communicable Diseases
TACD	Trans Atlantic Consumer Dialogue
UN	United Nations
UNCRC	United Nations Convention on the Rights of the Child
UNICEF	United Nations Children’s Fund
VSPs	Video-sharing platforms
WCRF	World Cancer Research Fund
WHO	World Health Organization

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