

EXECUTIVE SUMMARY

WHITE PAPER ON STRATEGIES TO REDUCE UNHEALTHY FOOD AND BEVERAGE MARKETING TO YOUNG CHILDREN

Background and Rationale

Policymakers, community organizations, and parents may wish to do something to address the ubiquity of food marketing to young children, but they may not know where to begin. This white paper provides an overview of the legal issues that most frequently arise when considering policies to address food marketing to young children. It also examines the specific channels through which young children are exposed to food marketing, and analyzes policy options to address marketing that occurs through each of those channels. These policy options are primarily local, though the paper also includes relevant state and federal policies. Because the paper stems from the Los Angeles County Department of Public Health's Early Childhood Obesity Prevention Initiative, its focus is on California, and on Los Angeles County in particular. However, much of the discussion is relevant for jurisdictions across the country.

The time to address food marketing is now. The obesity epidemic has dire health consequences for young children. In the United States, one out of three low-income children will be obese or overweight before his or her fifth birthday.¹ Obesity disproportionately impacts African-American and Latino children: nationally, 22 percent of Latino children and 20 percent of African-American children are obese, compared with 14 percent of white children and 9 percent of Asian children.² Obese children are at higher risk for serious health conditions such as type 2 diabetes, high blood pressure, and high cholesterol.³ And studies show that children who are obese are more likely to be obese as adults, which means they may face long-term health problems like diabetes, cancer, stroke, and heart disease.⁴

A large body of research outlines the impact of food marketing on the eating behaviors, preferences, and purchase requests of young children.⁵ Young children are especially vulnerable to marketing because children under about five years old lack the cognitive

ability to distinguish between entertainment or factual content and advertising, and children under about eight years old do not understand the persuasive intent of advertising.⁶ Food marketing in particular is especially problematic because the vast majority of food marketing to young kids promotes unhealthy foods and beverages.⁷ This combination of factors has led many groups to recommend limits on child-directed unhealthy food marketing.⁸ While other countries have taken action to limit such marketing,⁹ relatively little has been done in the United States.

Marketing Practices and Their Effects

Marketing is not just advertising in the traditional sense. Marketers use all of the “four Ps” – PRODUCT, PRICE, PLACE, and PROMOTION – to target young children with food-related marketing. From billboards to television to social media, in stores and restaurants, and on public transit, children are exposed to unhealthy food marketing almost everywhere in their communities. Food marketers seek to build brand loyalty among young children¹⁰ because doing so induces children to request, beg, and nag for specific products and brands.¹¹ At the same time, this marketing affects children’s eating behavior and weight status. For example, research shows that children request and consume more unhealthy food after seeing food advertisements.¹² Implementing policies to curb this marketing can therefore positively impact children’s health and well-being.

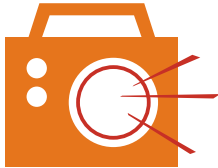
Policy Options

There are many channels through which young children are exposed to unhealthy food marketing, and there are a variety of policy options to address marketing through each channel. The viability of each option depends on legal, political, and practical considerations. For local governments, primary legal considerations include whether the federal or state government already regulates a particular marketing channel – as is the case with television, print, and digital media – and whether a policy will regulate speech. There are many non-speech marketing practices that local governments can address, as well as many areas over which local governments retain control, such as general land use and the use of government property. Local governments can also pursue any regulatory option as a voluntary policy.



Outdoor Advertising

Outdoor advertising takes many forms, and is one of the primary channels by which children are exposed to food marketing.¹³ Studies suggest an association between the number of outdoor food advertisements and obesity prevalence in the surrounding area.¹⁴ Policy options available to local jurisdictions to reduce the amount of outdoor advertising may include: **content-neutral regulation of outdoor signs**, for safety and aesthetic reasons; **voluntary restraints on billboard content by owners of billboards or by those buying billboard space**; and **local-government-funded public service announcements** related to healthy eating and physical activity.



Broadcast Media

Television advertisements remain the most common marketing channel used to reach children,¹⁵ with young children seeing an average of 10.9 food-related television advertisements each day.¹⁶ In the past few years, fast food restaurants have increasingly targeted children who are two to five years old, while decreasing advertisements aimed at older children.¹⁷ Television and other transmitted media are primarily regulated at the federal level, which means there is little room for local governments to directly regulate television advertising. They can, however, **enforce existing federal and state false advertising laws** and work with media outlets on **self-regulatory policies**.



Digital Media

Marketers increasingly use digital strategies to target young children. The majority of brands that most heavily market to children on television also have child-directed websites.¹⁸ In addition to more traditional advertising like banners on websites or advertisements during internet-streamed programs, digital marketing employs novel marketing techniques such as “advergames,” which are branded video games on the internet or on mobile devices. Federal and state laws govern many aspects of internet and mobile communications. Options for local government intervention may include **enforcement of existing federal and state false advertising laws** and **regulation of the local use of technologies that enable location-based marketing**.



Print Media

Marketing in print media, such as magazines and newspapers, is less common than in many other forms of media,¹⁹ particularly when it's directed at young children who cannot read. Nonetheless, there are still a number of child-oriented print publications, including over 160 magazines directed at children.²⁰ Though direct regulation by local governments is challenging, they can **encourage self-regulation by local print media outlets.**



Marketing in Childcare Settings and Schools

Young children spend a great deal of time either in childcare or in school, but there is a lack of data on the extent of food marketing in schools, and even less information about marketing in childcare settings. Legally, it is relatively easy for local governments to regulate marketing in public childcare settings or public schools. It is somewhat more challenging in private schools or childcare, but nonetheless there remain strategies available to local governments, including **setting nutrition standards, restricting food marketing in schools and childcare settings,** and **limiting screen time,** all to the extent allowed by state and federal law.



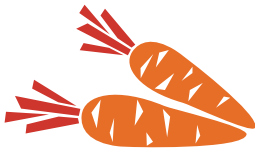
Government Procurement and Vending

Government agencies' purchasing decisions can affect marketing. Agencies purchase food products to provide meals to dependent residents, such as in public childcare settings, which impacts children's exposure to products and the attendant signage and packaging. Governments generally have the authority to choose which foods to purchase or to include contractual provisions limiting what vendors can sell on their properties. Accordingly, local governments can limit unhealthy food marketing to young children by **setting nutrition standards for food purchased by government to be distributed to dependent community members,** such as children in public childcare settings, and by **adopting healthy vending standards,** which would set nutrition standards for food sold on government property.



Government Property and Government Sponsorship

Many localities allow advertising, including advertising for unhealthy foods, on government property, such as in transit stations and on transit vehicles. Local governments and government agencies may also seek funding from private parties to support events, activities, or properties, which can provide valuable income but can raise concerns when the private party is a corporation that, for example, produces or sells unhealthy foods. Governments have varying degrees of authority to restrict advertisements on their own property, and different courts have reviewed regulation of advertisements on transit vehicles differently. Local jurisdictions' options include: **regulating the content of advertising on public property**, particularly on property that traditionally has not been open to all kinds of speech; **regulating advertising on public transit vehicles and on bus shelters/transit stations**; and **adopting a sponsorship policy** with clear criteria for selecting private sponsors.



Healthy Zoning

Land use planning can affect the extent to which young children are exposed to certain types of restaurants or retail outlets and their attendant signage. Localities have the power to regulate development in their community, and they can use zoning to determine how land may be used. Using this power, local jurisdictions can **limit unhealthy food outlets and mobile vendors near sites frequented by young children**, like childcare facilities or playgrounds.



In-Store and In-Restaurant Environments

In-store and in-restaurant environments are a hotbed for marketing to young children because marketers can utilize all four Ps of marketing – price, product, promotion, and place. For example, food items are placed at children's eye level, product packaging uses bright colors and characters that appeal to children, kids' meals include toys, and checkout aisles are stocked with candy and sodas. These environments are ripe for intervention by local governments. Opportunities include **addressing product placement on shelves and in checkout aisles, regulating signage** to promote healthier messages and create content-neutral restrictions, and **implementing nutrition standards for restaurant children's meals**.



Taxation and Tax Incentives

Tax policies affect the marketing of unhealthy foods and beverages by impacting price. Though young children do not often purchase items on their own, prices can influence the purchasing decisions made by their parents. Local governments can **impose taxes on sugar-sweetened beverages or unhealthy food**. Alternately, they can **impose a sales tax on advertising itself**.



Hospital Infant Formula Giveaways

Breastfeeding results in health benefits for infants, children, and mothers.²¹ Nonetheless, many hospitals provide mothers with free infant formula,²² which may negatively impact women's subsequent breastfeeding. There is room for local action to address this practice, including **voluntary programs to stop formula giveaways at local hospitals** and **prohibiting the giveaway of free infant formula by hospitals**.

This white paper provides detailed explanations of each of the above channels and policies. Many of the policies outlined have not yet been implemented, and therefore it is difficult to predict with certainty how they would be evaluated by a court were they to be challenged. However, local governments should not hesitate to take action to protect children's health by limiting marketing. This is particularly true with respect to settings in which marketing goes beyond speech, where laws that regulate business practices with a minimal effect on speech can be put into place. This white paper equips local jurisdictions with the preliminary tools needed to combat the pervasive marketing of unhealthy foods and beverages to young children.

Executive Summary Endnotes

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