



## Analysing Law and Policy to Create an Obesity Management Policy

### A SUMMARY OF FINDINGS AND RECOMMENDATIONS FROM A FINAL REPORT: HEALTHWAY HEALTH PROMOTION EXPLORATORY RESEARCH GRANT

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This research was funded by Healthway through an Exploratory Research Grant.



<b>Table of Contents</b>	
<b>Topic</b>	<b>Page Number</b>
Australian Tax on Sugar Sweetened Beverages	2
Urban Planning and Active Transport	4
Food Labelling	5
Television and junk food advertising to children	7
Appendix	10

## Australian tax on sugar-sweetened beverages

### Background

Some of the negative outcomes that high consumption of sugar-sweetened beverages (SSB) can contribute to are: an increased risk of unhealthy weight gain, dental caries, Type 2 diabetes and cardiovascular disease.<sup>1</sup> A tax on SSB's could positively influence consumer and corporate behaviour to reduce the incidence of obesity in Australia.

### What Qualifies as an SSB?

Although the term 'added sugars' does not capture a wide range of caloric sweeteners (including honey, syrups and fruit juice), it is used in everyday parlance. As such, this term should be used to 'qualify' a SSB for the purposes of the legislation. To be consistent with its actual meaning, it is recommended that 'added sugars' be defined as:

"Any monosaccharide (glucose, fructose, galactose) or disaccharide (sucrose, lactose maltose, trehalose) added to food during manufacturing, processing or preparation".<sup>2</sup>

This definition implicitly excludes the sugars naturally present in honey, syrups, fruit juices and fruit juice concentrates, capturing a narrow range of SSBs. Therefore, a non-exhaustive list of 'taxable beverages' could accompany the definition offered above. The list could explicitly exempt beverages, such as 100% fruit juice and/or drinks sweetened with 100% fruit juice, unsweetened milk-based drinks, and unsweetened waters, to ensure clarity.

### 'Tiered' Taxation

In 2016 the UK government introduced a 'soft drink industry levy',<sup>3</sup> demonstrating that an SSB tax could successfully influence corporate behaviour. In this model, a soft drink with a total sugar content above 5g/100ml is taxed at .18 of a pound per litre, while drinks with more than 8g/100ml are taxed at 0.24 of a pound per litre. This resulted in manufacturers of SSBs reformulating their products so that sugar content is reduced to fall below the 5g/100ml threshold. Before and after levy analyses have demonstrated reductions of about 30% in sales weighted sugar concentration of eligible drinks.<sup>4</sup> A subsequent study of purchasing behaviours in the UK post-levy indicated that the amount of sugar in purchased soft drinks was 10% lower per household per week, despite the volume of soft drinks purchased not changing.<sup>5</sup>

### A Federal Approach

A federal tax in Australia could influence corporate behaviour in a similar way to the UK tax. Any proposed federal tax reform will be scrutinised jointly by Treasury and the Australian Taxation Office (ATO).<sup>6</sup> They will consider whether the proposed tax balances the qualities of equity, efficiency, simplicity and sustainability, while meeting the principle of policy consistency.

Equality: A tax on SSBs leads to a fall in consumption across all socioeconomic groups, but especially in low-socioeconomic groups, who also stand to receive the

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<sup>1</sup> Australia and New Zealand Ministerial Forum on Food Regulation (Food Regulation Forum), 'Policy context relating to sugars in Australia and New Zealand' (2017), Food Regulation Forum, Canberra, Australia p.1 & 5; Scientific Advisory Committee on Nutrition (SACN), 'Carbohydrates and health' (2012), SACN, London, United Kingdom; and World Health Organization (WHO), 'Guideline: sugars intake for adults and children' (2015) WHO, Geneva, Switzerland, pp.12-15.

<sup>2</sup> David S. Ludwig, Frank B. Hu, Luc Tappy & Jenny Brand-Miller, 'Dietary carbohydrates: role of quality and quantity in chronic disease' (2018) 316 *British Medical Journal* doi: <https://doi.org/10.1136/bmj.k2340>, 2.

<sup>3</sup> The *Soft Drinks Industry Levy 2018* (UK) was made pursuant to Part 2 of the *Finance Act 2017* (UK). The *Soft Drinks Industry Levy Regulations 2018* (UK) and the *Soft Drinks Industry Levy (Enforcement) Regulations 2018* (UK) cover administration of the levy for both domestic and imported soft drinks, respectively.

<sup>4</sup> Public Health England: Sugar reduction: Report on progress between 2015 and 2018 (2019)

<sup>5</sup> David Pell et al, *Changes in soft drinks purchased by British households associated with the UK soft drinks industry levy: controlled interrupted time series analysis*, *BMJ* 2021;372:n254

<sup>6</sup> Rob Heferen, Nicole Mitchell and Ian Amalo, *Tax policy formulation in Australia* (2013) Economic round-up No.2, 1-13 <[https://treasury.gov.au/publication/economic-roundup-issue-2-2013-2/economic-roundup-issue-2-2013/tax-policy-formulation-in-australia#P8\\_113](https://treasury.gov.au/publication/economic-roundup-issue-2-2013-2/economic-roundup-issue-2-2013/tax-policy-formulation-in-australia#P8_113)>.

greatest health benefits from this reduced consumption. Any remaining financial imbalance created between socioeconomic groups through the imposition of the tax may be addressed by allocating SSB tax revenue to health promotion, health education, health food subsidies, sports subsidies, and other similar programmes.

**Efficiency:** In creating a price differential between SSBs and healthier alternatives, an SSB tax may drive consumers to substitute healthier options for SSBs. This reduces some of the negative externalities of SSB consumption, thus satisfying the efficiency quality. A tax that corrects negative externalities is considered efficient because it balances the private costs of an activity with the social costs of that activity.<sup>7</sup>

**Simplicity:** Achieving this level of agreement is highly unlikely, as it would require reform to the *A New Tax System (Goods and Services Tax, GST) Act 1999* (Cth). The successful introduction of a federal tax is likely to occur through Australian excise\* law, which is explained below.

**Sustainability:** An SSB tax will meet the requirement of tax sustainability by revealing that the revenue raised and spent from the tax would not disturb the long-term operation of Australia's tax-transfer system\*. The most suitable analysis of this is through appropriation\* and Budget process\*. The proposed tax should include how funds could be allocated to social improvement programs (outlined above in the equity section).

**Consistency:** Policy consistency can be predicted through accurate reporting and evaluation measures. These may be undertaken when the SSB tax rate is subjected to indexation, or through the process of appropriation evaluation outlined above.

Although excise duty is imposed upon licensees, an excise can act as an indirect tax where licensees pass on increased costs to the final consumer through retail price rises. To over-shift SSB costs to consumers will reduce SSB consumption, but when seeking public support, it is important to frame the levy as targeting SSB manufacturers. To ensure imported goods are treated consistently with equivalent local goods, it is necessary to subject importers and distributors of SSBs to excise-equivalent rates of duty, through reforms to existing customs laws.

### **A State Approach**

A state-based tax, if at all possible, would be focused on the sale of the commodity and its transformative effects would be limited to consumer behaviour. The current interpretation of excise duty in the federal Constitution suggests that there is no scope for the states to introduce a tax on SSBs.

### **Recommendation:**

Introducing a federal tax on SSBs could operate to control the sale of SSBs, by making retailers responsible for having the correct licence and licence conditions. In this way, changes to consumer behaviour seem unlikely because there is no added cost to the SSBs. It seems that a federal excise tax scheme would better serve the intent of the SSB tax in Australia, in that it targets manufacturers and is likely to impact consumers if and when costs are over-shifted.

Due to the public understanding of sugars, attempting to introduce SSB nutritional, advisory or warning labels concurrently with an Australian tax on SSBs is not currently feasible. Evidence suggests that consumers become confused about sugar content and overall nutritional quality when 'added sugars' is placed on food labels. This is despite the supporting

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<sup>7</sup> Treasury, Australia's Future Tax System Review Panel, 'Architecture of Australia's tax and transfer system' (2008) [9.2].

evidence that a tax on SSBs may be more effective if products are accompanied by labels indicating the product's high 'added sugar' content and/or risk to health.

## Urban Planning and Active Transport

### **Background**

Consumer behaviours are rarely independent of the social, structural and built environment.<sup>8</sup> Urban design can create or hinder opportunities to be physically active and healthy.

### **The Neighbourhood Food Environment and Fast-Food**

Fast-food caterers develop business strategies to be particularly appealing to vulnerable groups. Firstly, they often cluster in low socioeconomic neighbourhoods and schools, especially secondary schools in disadvantaged areas.<sup>9</sup> Secondly, fast-food marketers understand that modern consumers favour convenience over price and taste. They appeal to vulnerable groups through the accessibility and availability of their products with, for example, drive-through and takeaway options.<sup>10</sup>

### **State and Local Planning Laws**

WA has comprehensive jurisdiction regarding planning matters, primarily through the *Planning and Development Act 2005 (WA)* ('**P&D Act**'). The *P&D Act* gives Local Governments the power to designate zones and reserves in its local planning scheme. Essentially, zones and reserves assign a particular use to designated lots within a district, for example to outline residential, mixed-use or commercial zones. Schedule 2 of the *Planning and Development (Local Planning Scheme) Regulations 2015 (WA)* ('**LPS Regulations**') provides that a set of 'deemed provisions' apply automatically to all local planning schemes. This automaticity is designed to promote uniformity of decision-making processes and procedures across local planning schemes. Also, Clause 67 of the LPS Regulations stipulates a list of considerations that LG must have 'due regard' for in assessing a local development proposal. Unfortunately, there is currently no explicit requirement for LG to consider how a proposed development may impact public health.

### **Recommendation**

Due to a lack of data, changes to local planning laws to prevent obesity may be particularly difficult to implement. Nevertheless, assuming sufficient research is undertaken, a key target for reform is introducing another Schedule in the LPS regulations, similar to Schedule 2, as it could be automatically read into all local planning schemes. The entire Schedule could provide processes and procedures for LG planning approval of any fast-food outlet development. An alternative strategy would be amending clause 67 of the LPS Regulations to expressly require LG to consider the public health implications of any fast-food development. Importantly, any amendment to the LPS Regulations should expressly aim to reduce neighbourhood fast-food access and the associated adverse health impacts of fast-food consumption.

### **The Urban Transport Environment: Car Dependency**

Australia's land development is characterised as low-density and spatially dispersed. This 'urban sprawl' model pushes Australians to live further away from the city, but knowledge-intensive jobs began to centralise in CBDs. Due to the current spatial distribution of jobs and housing, the affordability of car ownership and a car-centric built environment, Australians now heavily rely on cars as their primary mode of transport. Those who walk, cycle or use public

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<sup>8</sup> Christopher Newman, Elizabeth Howlett & Scot Burton, 'Implications of fast food restaurant concentration for preschool-aged childhood obesity' (2014) 67 *Journal of Business Research* 1573, 1577.

<sup>9</sup> Brennan Davis & Christopher Carpenter, 'Proximity of fast-food restaurants to schools and adolescent obesity' (2009) 99(3) *American Journal of Public Health* 505; Christopher L Newman, Elizabeth Howlett & Scot Burton, 'Implications of fast food restaurant concentration for preschool-aged childhood obesity' (2014) 67 *Journal of Business Research* 1573; Peter L Day & Jamie Pearce, 'Obesity-promoting food environments and the spatial clustering of food outlets around schools' (2011) 40(2) *American Journal of Preventive Medicine* 113; S. Bryn Austin et al., 'Clustering of fast-food restaurants around schools: a novel application of spatial statistics to the study of food environments' (2005) 95(09) *American Journal of Public Health* 1575; and S.E. Fleischaker, K.R. Evenson, D.A. Rodriguez & A.S. Ammerman, 'A systematic review of fast food access studies' (2010) 12 *Obesity Reviews* e460, e469 doi: <http://dx.doi.org/10.1111/j.1467-789X.2010.00715.x>;

<sup>10</sup> Pulker CE, Trapp GSA, Fallows M, Hooper P, McKee H, Pollard CM. Food Outlets Dietary Risk (FODR) assessment tool: study protocol for assessing the public health nutrition risks of community food environments. *Nutr J.* 2020;19(1):122.

transport as part of their daily commute are in the significant minority, but engagement in these active forms of transport will increase incidental physical activity. Increasing active transport limits the physical inactivity from relying on cars reducing the risk of obesity.

### **Legal Framework of Transport**

Pursuant to the *P&D Act*, the power to introduce and change transport planning is vested in the Minister and the WA Planning Commission. The *P&D Act* also creates a hierarchical structure in relation to planning schemes, segregating State, regional and local schemes. There are a significant number of regulations which were created as subsidiary legislation to address particular issues and geographical areas. Although there is a nation-wide political awareness of the need for a focus on active transport, WA's un-integrated approach is representative of Australia's contemporary recognition of active transport.

The WA Planning Commission are also tasked with creating State plans, where there is currently an obligation to take into account the use of active transport. However, the State Planning Strategy 2020 does not specifically reference transport, purporting that there is little integration of active transport into this plan.

### **Recommendation:**

To achieve greater active transport and reduce car-dependency, it is important to partner with public education and revise the State Planning Strategy to explicitly include active transport. Secondly, the Minister and Planning Commission must adopt an integrated approach to transport strategy that is both vertical and horizontal, and recognises active transport in state, regional and local government plans. Finally, it is recommended that an intergovernmental agreement\* is the appropriate means to harmonise the active transport goals of the hierarchical structure. An intergovernmental agreement can occur with the Transport and Infrastructure Council of the COAG\*, to implement a national active transportation governance scheme. This is a politically feasible approach, given that all states and territories have already taken some steps to improve active transport at regional and local levels.

Action to reduce car dependency will also help to address the negative externalities associated with this. These include:

**Air Pollution:** Car-related air pollution contributes to the risk of respiratory diseases, like asthma, and chronic illnesses, including cardiovascular disease. <sup>11</sup>

**Noise Pollution:** Prolonged car-related noise pollution is linked to heart attacks, learning disability, tinnitus, high blood pressure, cardiovascular disease and mental health issues. <sup>12</sup>

**Road Trauma:** Despite the probability of increased risks to cyclists and pedestrians as a result of a modal shift away from automobility, car-on-car incidents are and will likely remain the most significant cause of injury on our roads.

## **Food Labelling**

### **Food Labelling in Australia**

A critical task for policy makers is the strengthening of food labelling schemes to help ensure consumers make optimal food decisions. An optimal food decision is one that maximises personal and communal health and safety while meeting one's budgetary, social and cultural parameters. At present, information-provision policies tend to dominate labelling schemes in Australia. Nutrition information is often communicated on food labels through decontextualized, numeric data. These policies persist even though the presence of nutritional

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<sup>11</sup> Billie Giles-Corti, Sarah Foster, Trevor Shilton and Ryan Falconer, 'The co-benefits for health of investing in active transportation' (2010) 21(5-6) *NSW Public Health Bulletin* 122, 123.

<sup>12</sup> Bruce Godfrey, Bruce Armstrong, Graeme Davison, Jaques de Vos Malan and Brendan Gleeson, 'Delivering sustainable urban mobility: final report' (2015) Australian Council of Learned Academics (ACOLA) 1, 65.

information on food labels is only moderately effective in optimising consumer decision-making.<sup>13</sup>

## The Regulatory Framework

### International Regulations

As a signatory to various international treaties, Australia has numerous international obligations to support international food safety. Being a member of the Codex Alimentarius Commission ('**Codex**'), the World Health Organization ('**WHO**') and the World Trade Organization ('**WTO**'),<sup>14</sup> Australia has, where possible, complied with the international standards on food labelling regulations.

### National Regulations

Australia and New Zealand have a joint food regulation scheme. The two instruments most relevant to food labelling laws are the *Food Standards Australia New Zealand Act 1991* (Cth) ('**the Act**') and the *Australia New Zealand Food Standards Code* ('**the Code**'). *The Act* establishes the Food Standards Australia New Zealand ('**FSANZ**'), which is responsible for setting standards within the Code. The Code itself is a compilation of standards relating to a multitude of food concerns, including labelling. The Code implicitly imposes responsibility upon consumers, even food-sensitive consumers, to check food labels and ensure they store, prepare and consume products as intended and date marked by the producer. In its task of setting standards, FSANZ works with many other agencies, and the common purpose of these organisations appears to be reducing food-related risks in the general population and food-sensitive sub-groups. This approach to food safety is one that often focuses on short-term risks to health. Issues like diet-related non-communicable diseases are not targeted by these standards.



Figure 1 - HSR graphic

### Co-regulatory and voluntary industry food labelling

Despite government and industry consensus that consumer health benefits from highly visible, quick-reference evaluative food labels, in Australia there is a lack of mandatory front-of-pack nutrition labelling that targets risk-nutrients and meets preventive health\* goals. The widely used interpretive food labelling in Australia is the Health Star Rating ('**HSR**') scheme (see Figure 1), which exists on an opt-in basis. The HSR is designed precisely with preventive health in mind. Ordinary reasonable consumers are more comfortable and can correctly interpret the HSR to make healthier food choices more than when they use the other nutrient-based information labels.

## Recommendations

### Make the HSR mandatory

The HSR is increasingly familiar, acceptable and useful to Australian consumers and should become mandatory. This is entirely feasible, particularly when considering the mandatory Australian country of origin label ('**CoOL**'), which was initially a voluntary labelling scheme. The HSR could be made compulsory on all packaged food products that are required to bear a food label under the Code.

### Changes within a voluntary HSR system

Firstly, it is recommended that the HSR algorithm be amended, so food with high risk-nutrient content, energy density or low nutritional value can no longer be allocated a relatively high star rating. For example, a breakfast cereal containing dehydrated fruit may receive only 2

<sup>13</sup> Christina A Roberto and Ichiro Kawachi, 'Use of psychology and behavioural economics to promote healthy eating' (2014) 47 (6) *American Journal of Preventive Medicine*, 832; Peggy J Liu et al, 'Using behavioural economics to design more effective food policies to address obesity' (2014) 36 (1) *Applied Economic Perspectives and Policy* 6, 13.

<sup>14</sup>Codex Alimentarius Commission International Food Standards, 'Members' (2019) <<http://www.fao.org/fao-who-codexalimentarius/about-codex/members/en/>>, World Health Organisation (WHO), 'Alphabetical list of WHO member states' (2019) <[https://www.who.int/choice/demography/by\\_country/en/](https://www.who.int/choice/demography/by_country/en/)> and World Trade Organization (WTO), 'Understanding the WTO: the organization members and observers', (2019) <[https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/org6\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm)>.

stars due to its high total sugars content, while another breakfast cereal receives 4 stars despite its sugar content coming from added, processed sugar.<sup>15</sup> Secondly, it is recommended that the HSR be extended to standardised menu items in fast-food chain restaurants. The advantage of imposing an updated HSR system as an evaluative tool in multiple food-choice environments is that it offers consistent and useful information for consumers, while further increasing their familiarity to the scheme. Thirdly, it is recommended that health warnings on foods that are disproportionately high in risk-nutrients be introduced, similar to the scheme introduced by anti-tobacco regulation. Finally, a longstanding obstacle to mandating food labelling is that the industry preferences setting 'soft', voluntary labelling standards. To that end, it is recommended that advocacy is aimed at removing voluntary industry food labelling.

In summary, to achieve the preventive health goal of reducing the rising incidence of obesity, it is crucial for Australian food labelling laws to prescribe an interpretive front-of-pack labelling scheme that is truthful, accurate and familiar to the community.

## Television and internet junk food advertising to children

### The Issue

Numerous studies have confirmed a positive correlation between children's exposure to junk food advertising and increased consumption of junk food.<sup>16</sup> It is necessary to establish more effective regulatory protections targeting junk food manufacturers, whose advertising expenditure is currently able to counter the healthy eating messages broadcast by government, public health and consumer groups.

### Viewing and Advertising Patterns

Television still remains the most frequently used screen-based device across all age groups in Australia. Notably, children's peak viewing times ('PVTs') do not match when children's (C) and pre-school children's (P) classifications are televised. PVTs are relevant because the existing industry standards and codes of practice maintain that these classifications are a sufficient means to prevent child exposure to junk food marketing.

Online junk food advertising has also been linked to children consuming junk food,<sup>17</sup> although it remains significantly less researched. The emerging trend suggests that Australian children will only continue to spend more time online. Reforms targeting junk food advertising during children's PVTs on broadcast free-to-air ('FTA') and subscription TV should be prioritised.

### Outdoor Junk Food Advertising to Children

Children are continuously exposed to branded food marketing through outdoor or out of home ('OOH') food advertising, for example in common billboards and posters. State-owned assets\* offer prominent public viewing spaces for OOH advertisers that are mobile, stationary and maximise opportunities for repeated audience exposure. The OOH advertising industry is significantly more powerful than the under-funded public health agencies, because of its highly commercial and lucrative nature.

### The Regulatory Framework

#### *Junk food on TV and the internet*

Despite public health consensus that exposure to junk food advertising is a modifiable risk factor for obesity, governments have avoided statutory intervention. Instead, industry-based schemes have been introduced and are expected to operate as legitimate alternatives. Several identifiable shortcomings in these schemes has led to a failure to reduce children's overall exposure to junk food marketing and its obesogenic effects.

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<sup>15</sup> See Sanne, A.E. Peters et al, 'Incorporating added sugar improves the performance of the Health Star Rating front-of-pack labelling system in Australia' (2017) 9 *Nutrients* 701, 7.

<sup>16</sup> Emma J Boyland et al, 'Advertising as a cue to consumers: a systematic review and meta-analysis of the effects of acute exposure to unhealthy food and non-alcoholic beverage advertising on intake in children and adults' (2016) 103 *American Journal of Clinical Nutrition* 519

<sup>17</sup> Limin Buchanan, Bridget Kelly and Heather Yeatman, 'Exposure to Digital Marketing Enhances Young Adults' Interest in Energy Drinks: An Exploratory Investigation' (2017) 12(2) *PlosOne* 16, 17.

The *Broadcasting Services Act 1992* (Cth) (**'TBS Act'**) is the central legislation enabling television broadcasting in Australia. The *TBS Act* gives the Australian Communications and Media Authority control over national broadcast regulation through a licencing system, under which broadcasters must hold a licence to broadcast a program. Certain licence conditions, including restrictions on tobacco advertising and offensive or sexually explicit content, are automatic but additional conditions may also be imposed.

The *TBS Act* also establishes a co-regulatory system where industry groups are expected to create and self-manage their advertising actions through industry standards and codes of practice. Multiple industry representatives have developed codes of practice that apply to all media advertising, for example, the Australian Association of National Advertisers and the Australian Food and Grocery Council. The limited recognition of children's actual PVTs means that these provisions lack impact because they do not limit children's overall exposure to television junk food advertising. Advertisers can also choose whether or not to become signatories, as these are voluntary codes. Also, children are considered to be between 0 and 14 years under the *TBS Act*. This age range is insufficient given the empirical evidence showing how junk food marketing influences adolescents just as it does younger children.

#### *Junk food advertising on state-owned assets*

Recently, the Outdoor Media Association\* (**'OMA'**) produced its own policy around responsible marketing to children for OOH. OMA's National Health and Well Being Policy (**'the Policy'**) came into effect on 1 July 2020 and it proved ineffective across many areas. For example, the new restriction against advertising certain products within a 150m sightline of Australian schools is likely to have little impact in reducing the harmful effects of children's actual exposure, especially given that junk food advertising and branding is permitted en route to schools and remains unrestricted on public transit that enters schools.

The Policy also relies on food being categorised with a Health Star Rating (HSR) of less than 3.5 stars to be precluded from advertisements. The previously mentioned issue with the HSR calculator means that the OMA's policies may not apply at all to unhealthy products.

### **Recommendations**

1. Update the voluntary codes to include a uniform definition of junk food. Junk food should be defined as any discretionary or non-core food, including any non-alcoholic drink, that is nutrient poor, high in energy (kilojoules/calories), saturated fat, salt, and/or sugar, and not necessary to a healthy diet.<sup>18</sup>
2. Lift the narrow age-range from 0-14 years, to 0-17 years, when defining children in the voluntary codes.
3. Require, as a licence condition of the *TBS Act*, broadcast licensees to refrain from televising junk food advertising between the hours of 6am and 9pm on broadcast FTA and subscription TV. This coincides with children's actual peak viewing times and will curtail children's actual exposure to television junk food advertising. Breaches of the time-based advertising licence condition would fall within the jurisdiction of the Australian Communications and Media Authority, triggering warning or infringement notices, and potential withdrawal of the advertisement. A civil penalty provision could also be introduced in the *TBS Act* to accompany any breach.
4. Target social media companies to introduce advertisement bans. Recently, Instagram and Facebook decided that they would not allow their users under the age of 18 to see advertisements that promote diet products or cosmetic procedures.<sup>19</sup> This initiative could be extended to include banning young people from seeing junk food advertisements.
5. The Western Australian Government is phasing out alcohol advertising on state-owned assets by 2022 through its prohibition in new agreements and contract extension options. Alcohol advertising on fixed train infrastructure and buses now stopped, with

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<sup>18</sup> National Health and Medical Research Council, 'Discretionary food and drink choices' (2017) accessed from <https://www.eatforhealth.gov.au/food-essentials/discretionary-food-and-drink-choices>.

<sup>19</sup> James Greig, 'Instagram Has Banned Adverts for Toxic Diet Products', *Metro* (Online, 20 September 2019) <<https://metro.co.uk/2019/09/20/instagram-has-banned-adverts-for-toxic-diet-products-10777887/>>.



changes to alcohol advertising on trains to be phased in by 2022. The Government can and should take similar action with respect to junk food advertising.

## APPENDIX

<b>Tax-Transfer System:</b>	Australia has a 'tax and transfer' system, which is designed to ensure wealth is collected and redistributed to achieve the policy objectives of government.
<b>Appropriation:</b>	Direct subsidy, grant or payment, allocated through an Appropriation Act whereby the spending is accurately reported and assessed to determine whether funding is effective in meeting government policy aims.
<b>Budget Process:</b>	The "decision-making process for allocating public resources to the government's policy priorities". <sup>20</sup>
<b>Excise:</b>	Excise is a form of tax focussed on specific goods that are intended for domestic consumption and can, on current interpretation, be imposed at any stage of production or distribution, other than importation. Excise duty currently applies to alcohol (except wine), tobacco and fuel.
<b>Intergovernmental Agreement:</b>	An agreement made between two or more governments to problems of mutual concern.
<b>COAG:</b>	The Council of Australian Governments is the institutional forum for intergovernmental agreements.
<b>Preventative Health:</b>	In this context, this is achieved by providing everyday consumers with salient, easy-to-understand messages about the origins, constituents and nutritional quality of a product – without dictating what they eat.
<b>State-owned Assets:</b>	Include, but are not limited to, state-owned land, a state-owned enterprise, state-owned infrastructure and financial assets.
<b>Outdoor Media Association:</b>	An industry body that represents outdoor media display companies. In 2018, built and maintained more than "17,000 items [state-owned assets] valued at \$352M including: bus shelters, kiosks, park benches, and pedestrian bridges". <sup>21</sup>
<b>Australian Communications and Media Authority:</b>	The statutory authority responsible for overseeing national broadcasting practices, including advertising.

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<sup>20</sup> Department of Finance, 'The budget process' (2019) Retrieved from <<https://www.finance.gov.au/budget/>>.

<sup>21</sup> Outdoor Media Association, 'Community commitment: providing essential services' (2020). OMA. Retrieved from <<https://www.oma.org.au/community-commitment>>.