

## Norwegian Government's Proposal for a new regulation on the prohibition of the marketing of certain foods aimed at children

### WFA's response to TRIS Notification 2024/9015/NO

The World Federation of Advertisers (WFA) welcomes the opportunity to contribute to the TRIS notification triggered by the proposal for a new regulation on the prohibition of the marketing of certain foods aimed at children of the Norwegian Government.

WFA represents over [150 brand owners](#) and [60 national advertiser associations](#) worldwide. Nearly a third of our corporate member companies are manufacturers, retailers or service providers in the food and beverage sector.

For the past 15 years, WFA has been championing voluntary initiatives in the area of food marketing, including through partnership with the International Food and Beverage Alliance (IFBA)<sup>1</sup> and through coordination of action at [regional](#) and [national level](#). WFA also partners with the [International Council for Advertising Self-regulation](#) (ICAS) and the [European Advertising Standards Alliance](#) (EASA) to make sure industry-wide mandatory ad standards reflect societal concerns around food marketing, particularly when it comes to children. WFA helped set up the [EU Pledge](#) and supported its evolution over the past years. Through our Norwegian member association [ANFO](#) we also supported the creation of the Food and Drink Industry Professional Practices Committee (MFU) in Norway.

Since 2013, MFU has played an important role in preventing marketing aimed at children, and since it was established, the pledge has been an important guideline for Norwegian retailers and producers. MFU's guidelines have also been regularly updated to meet the latest trends within digital platforms and marketing.

WFA is pleased to provide feedback to the TRIS notification triggered by the Norwegian proposal for a new regulation on the prohibition of the marketing of certain foods aimed at children. We support ambitious industry-wide standards that effectively reduce children's exposure to the marketing of certain food and beverages products that may contribute less to overall dietary quality. While we subscribe to the policy objectives of promoting the general public's health through better diet and nutrition, any measures must be evidence-based, proportionate and shall not create technical barrier to trade.

WFA believes that the proposed regulation, as currently drafted, are a cause of major concerns for non-Norwegian companies – new entrants or not – wanting to access the Norwegian market. Measures restricting ads, on 'stickering' packaging and others are technical trade barriers, and they should have been better assessed in the impact assessment provided.

## 1. Marketing restrictions in one Member State impacts the broader EEA.

### Cross-border advertising will be impacted.

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<sup>1</sup> The [International Food and Beverage Alliance](#) (IFBA) is an alliance of seven multinational food and non-alcoholic beverage companies - The Coca-Cola Company, Ferrero, General Mills, Grupo Bimbo, Kellogg's, Mondelēz International and PepsiCo – who share a common goal of helping people around the world achieve balanced diets and healthy lifestyles. Developed through partnership with WFA, the [IFBA Global Responsible Marketing Policy](#) applies in every country where IFBA members market their products and prohibits the marketing of any products to children under 13 years of age that do not meet specific nutrition criteria. This global policy has inspired action at [regional](#) and [national](#) level, involving a much broader range of companies and industry players.

The case of the impact of cross-border advertising is not well studied, and it is not a given that advertising restrictions are notified under TRIS. Often, marketing functions cover specific regions, for instance ‘Northern Europe’ to ensure that messages are aligned when countries have some cultural and linguistic similarities, mindful of local differences.

As such, WFA believes that the impact on cross-border marketing and marketing coming from other EEA states has not been duly studied by the impact assessment, provided in the consultation document by the Norwegian Government. This impact is most likely very significant due to the far-reaching scope of the marketing restrictions, covering all media.

**A full exemption of packaging is needed to be compliant with EEA internal market requirements.**

WFA welcomes the Norwegian Government’s acknowledgement that a marketing ban on packaging and wrapping would create barriers to trade and would entail a risk that many products would no longer be sold in Norway. Such Regulation would be problematic according to EEA legal obligations and Art. 34 TFEU, ultimately affecting consumer choice. WFA is concerned about the caveats to the packaging exemption provided under Article 6 c) and Article 4 e).

The suitability and appropriateness of this caveat to the packaging exemption has not been evidenced and does not demonstrate that it will achieve the intended public health goal. Meanwhile, stickering or repackaging products specifically for Norway, as suggested by the [consultation document](#), would create disproportionate barriers to trade and a distortion of competition within the European Single Market.

According to established case law on the impact of different on-pack labelling requirements, laws that require country-specific communications on packaging must be regarded as barriers to intra-EU trade in that they directly affect the product and thus trade within the EU.<sup>2</sup> This is true even if the measures apply indistinctly to all producers and all products, regardless of their origin. This becomes particularly relevant as other countries in the EEA region/ EU have not introduced restrictions on packaging-related marketing communications for food and beverage products. Repackaging products or requiring prohibited element on-pack to be hidden by a sticker would therefore distort competition and impose a significant burden on manufacturers, presenting a technical barrier to trade, at a time when competitiveness, growth and reinforcing the Single Market are key political priorities for the European economy.

The proposed caveat to the packaging exemption is highly problematic for WFA members as many companies operating within the internal market and EEA use shared packs for a group of several EU, EEA and third countries and it creates an uneven playing field for non-Norwegian producers. The government effectively suggests that non-Norwegian producers would have to incur extra costs to enter the Norwegian market by either adapting or ‘stickering’ their packaging.

Adapting packaging for Norway will entail costs for manufacturing new print cylinders, managing double packaging raw materials stocks and multiple data sets. It also increases changeover

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<sup>2</sup> See, for instance, judgment of 24 November 1993, Keck and Mithouard, Joined Cases C-267/91 and C-268/91, ECLI:EU:C:1993:905, para. 15; judgment of 5 April 2001, Bellamy and English Shop Wholesale, Case C-123/00, ECLI:EU:C:2001:214, para. 18; judgment of 26 October 1995, Commission v Germany, Case C-51/94, ECLI:EU:C:1995:352, para. 30; judgment of 16 January 2014, Juvelta, Case C 481/12, ECLI:EU:C:2014:11; judgment of 16 December 1980, Fietje, Case 27/80, ECLI:EU:C:1980:293, para. 15; judgment of 14 February 2008, Dynamic Medien, Case C-244/06, ECLI:EU:C:2008:85, para. 27; Case C-51/94, Commission v Germany, ECLI:EU:C:1995:352, para. 30.

complexity in manufacturing operations, which has repercussions on operational efficiency. Indicative costs per artwork change are approximately €1000 to €2000. When a few thousand Stock Keeping Units (SKUs) are put on the market, this can represent a potential one-off cost of a few million euro for a single company, even before any ongoing costs for separate production of packaging executions for a single country like Norway.

Stickering could potentially inflate the cost of producing some products by around 10% relative to the retail price. Moreover, applying stickers to certain products can create quality problems. Delicate items might get damaged or misplaced during the stickering process and stickers can cover crucial information, leading to confusion among Norwegian consumers (notably for smaller packages/wrappers). Such increased production costs, logistical and quality challenges also risk disproportionately affecting smaller and medium sized companies who may lack the resources compared to larger companies. Such measures would also generate important packaging waste and could go against the objectives set out in the Packaging and Packaging Waste Regulation (as this will lead to additional plastic placed in the market which may not be recyclable).

This increased cost of producing Norway-specific packaging, stickering or repackaging for Norway is likely to make non-Norwegian products less competitive than Norwegian products, so non-Norwegian companies making products for many European countries are likely to get pushed out of the Norwegian market. This would significantly reduce consumer choice in Norway, and people may turn to cross-border shopping or online shopping to access some of their favorite brands if it were to become a *de facto* product ban.

**WFA therefore recommends fully exempting packaging from the marketing ban with no caveats, as the Section 2a of the MFU Code clarifies, due to the technical barrier to trade this would cause in the EEA.**

**The proposed Regulation unduly discriminates against non-Norwegian companies.**

The Ministry, in its consultation document, highlights that the proposed regulation does not have any discriminatory effects. However, we believe that the proposed restrictions on the marketing certain foodstuffs would likely hinder access to the Norwegian market for products from other EEA states more than domestic products. The reason is that Norwegian consumers are generally more familiar with local products<sup>3</sup>, making the marketing ban disproportionately disadvantageous for foreign producers.

**TRIS notification should have been launched after the end of the national public consultation.**

It is important to note that the public consultation on the draft Proposal was launched on 22 August 2024 and was open for feedback until the 22 November 2024. The draft Proposal was notified through the TRIS on 3 October 2024, with a standstill period until 3 January 2025.

WFA notes that it would have been preferable to finalise the national public consultation first, integrate the comments that stakeholders have published and then notify the draft to the European Commission. Should the draft Proposal change following the provided feedback, it must be re-notified to the European Commission. Otherwise, it could be interpreted that the Norwegian Government never intended to integrate the comments provided through the public consultation.

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<sup>3</sup> Gourmet (C-405/98)

## 2. Food marketing restrictions must be evidence-based and proportionate.

### The evidence base for food marketing restrictions is weak.

Regulatory pressures on the marketing of non-alcoholic food and beverage products have steadily increased since the early 2000s. Year on year, efforts by academics to quantify the impact of food marketing on children's food preferences, choices and consumption have gained in importance. However, to this day, the evidence base for the effectiveness of food marketing restrictions, in terms of producing health outcomes, remains inconclusive.

In the recently published guidelines on *Policies to protect children from the harmful impact of food marketing* the WHO admits its "conditional" policy recommendations are based on "very low certainty evidence" on the effect of policies on children's exposure to food marketing and the power of food marketing as well as on children's dietary intake and product change<sup>4</sup>.

Similarly, the Impact Assessment conducted by the UK government in March 2019 recognises that research looking at how food advertising impacts child preferences over time, including as they progressed into adulthood, only found limited results. It concluded that "*the primary reasons for this are: television viewing being used as a proxy for advertising exposure, low quality methodology, non-dietary markers as outcomes and not being conducted over a significant time period*". It recognises that there is "*limited evidence on the longitudinal impacts of unhealthy food advertising on dietary behaviours*" and that "*the results we can draw from this literature search are limited*"<sup>5</sup>.

### Restrictions on commercial speech must be proportionate.

WFA understands the concerns of the Norwegian Government. However, any policy intervention should be proportionate to the intended objectives. We believe the current Draft Regulation unduly restricts our ability to communicate with consumers, thereby infringing upon the commercial free speech guaranteed by the Norwegian constitution. More targeted measures, particularly through self-regulation, could achieve the same objectives without overly limiting this right. Restrictions on commercial free speech should protect legitimate goals and remain proportionate. Broadly, this means that restrictive measures must effectively serve these goals and not exceed what is necessary to achieve them, especially considering the alternative measures available.

Against this framework, the current proposal is legally problematic in at least three broad respects, disproportionately affecting substantially more marketing than necessary. *First*, the proposed measures are nominally aimed at protecting children, but they also overly restrict adult-directed marketing (in numerous ways as discussed elsewhere in this paper), thereby going too far and constituting a disproportionate restriction on commercial free speech.

*Second*, the proposed measures also affect more marketing than necessary to achieve the stated goal because they restrict ads for numerous nutrient-dense food and beverage products, including those that provide important nutrient and food group contributions to the diet, the consumption of which is associated with healthier diets and body weights. This aspect of the proposal not only restricts more speech than necessary, but it is also counterproductive to the public health goal.

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<sup>4</sup> [Policies to protect children from the harmful impact of food marketing: WHO guideline](#), 3 July 2023.

<sup>5</sup> UK Government (2019) Impact Assessment, Introducing a 21h00-05h30 watershed on TV advertising of HFSS (food and drink that are High in Fat, Salt and Sugar) products and similar protection for children viewing adverts online, available [here](#).

*Third*, the proposal ignores alternative measures that could be just as effective in reducing child exposure without the problematic governmental intrusion on free speech. For instance, the proposal does not appear to have considered the dramatic impact that self-regulation, both by the food and beverage industry as well as digital players such as Google<sup>6</sup>, has already had (and will continue to have) on child exposure to HFSS ads. Watershed bans, and vague standards that only allow ads that somehow manage to appeal to adults without appealing to older teens, are overly broad and outdated measures when compared with alternatives that harness the power of today's digital targeting capabilities to reduce child exposure. Accordingly, self-regulation and changing media habits, together with digital age-targeting capabilities, are already reducing child HFSS ad exposure to negligible levels and stand as an alternative means of achieving the government's goals without the legally problematic impact on speech.

**Policymakers should consider the value that advertising brings to the economy.**

Far-reaching restrictions would also negatively impact the economy. Ad bans constitute a significant barrier to market access and are likely to freeze existing market shares by limiting the possibility for new market entrants to differentiate themselves from national competitors and impact a broader economic system.

Advertising does not only provide income and employment for those within the industry, and fund content and media. By generating extra consumer expenditure and economic activity, it also supports the wider economy. Several studies have looked at the relationship between advertising spend and economic activity:

- A Deloitte study from 2016<sup>7</sup> quantified that 1 euro invested in advertising generates 7 euros to European Union GDP.
- Also Turkey has recently estimated that every Turkish lira spent on advertising in 2020 generated 19.4 TL in GDP<sup>8</sup>.
- An IHS report on the economic impact of advertising in the USA found that every dollar of ad spending will generate, on average, almost \$22 of economic output (sales)<sup>9</sup>.

When the UK worked on its online advertising ban, a study<sup>10</sup> assessing the Government's cost-benefit analysis showed the potential negative consequences for limited benefits. Indeed, the reduction in calories from a ban on HFSS advertising online is likely to be about 0.13 calories per child per day (or 48 calories per year) with a negative net benefit of £2,328m for companies, according to the study. This data demonstrates that while the benefits for children is limited of an advertising ban, it has important negative consequences for companies.

**Overall, we could conclude that the food and beverage sector and related marketing is a significant contributor to economic growth. Restricting advertising to different audiences, be it adult or children, without due consideration of the benefits of such a regulation versus its economic consequences, would not be proportionate.**

### **3. The Norwegian draft regulation is disproportionate in scope and application**

As highlighted in the first section of this paper, marketing restrictions in one Member States have a spillover effect to other EEA Member States, both in terms of the physical products as well as the

<sup>6</sup> Google's [advertising policy](#) on HFSS food and beverages.

<sup>7</sup> [Value of Advertising](#)

<sup>8</sup> [WFA – Turkish study on the value of advertising](#)

<sup>9</sup> [The Economic Impact of Advertising in the United States 2012-2017, IHS Global Insight, 2013](#)

<sup>10</sup> [SLG Economics for the Advertising Association, ISBA, IAB and IPA, December 2020](#)

ads shared on TV, social media and other means. Below, WFA details specifically the unproportionate measures that would impact our members' ability to connect with consumers across borders.

**Age threshold U18: Foods should not be regulated in the same way as alcohol and gambling.**

When it comes to setting the age threshold for children, both government policies and industry self-regulatory standards around the world tend to set the age of a child, in the context of food marketing restrictions, somewhere between under 13s and under 16s. Global industry standards, such as those endorsed by the International Chamber of Commerce<sup>11</sup>, the International Food and Beverage Alliance<sup>12</sup> and the EU Pledge<sup>13</sup>, apply restrictions to children under the age of 13. Although the World Health Organization has recommended policies to address food marketing to children under 18, such policies remain quite rare and many of them are applied on TV only (Ireland, South Korea, Taiwan).

Most academic reviews recognize that by the age of 12 children develop their behavior as consumers, effectively recognize advertising and can adopt critical attitudes towards it. A landmark review by Sonia Livingstone<sup>14</sup> found no justification for why older children, e.g., those above 12 years of age, should be targeted for restrictions on food advertising. She concluded:

- Before the age of four or five, children regard advertising as simply entertainment.
- Between four and seven, they begin to be able to distinguish advertising from programs.
- By the age of eight, the majority has generally grasped the intention to persuade.
- After eleven or twelve they can articulate a critical understanding of advertising.

This is confirmed by other studies which have had similar findings.<sup>15 16</sup>

**WFA would caution against expanding food ad restrictions towards older teens. Setting the age threshold at under 18 would be disproportionate. It places HFSS foods in the same category as alcohol and gambling.** In addition, teenagers over the age of 16 in Norway are allowed to babysit, to start practice driving, to open a bank account and even to carry firearms. It is quite difficult to suggest that youth who are old enough to do these things are still too young to see a food or beverage ad.

The age cut-off for these restrictions is critically important, particularly given the proposal to ban ads that “may appeal” to children. Almost anything that appeals to adult audiences will also appeal

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<sup>11</sup> [ICC Toolkit: Marketing and Advertising to Children](#)

<sup>12</sup> [IFBA: Responsible Marketing Commitments](#)

<sup>13</sup> [EU Pledge](#)

<sup>14</sup> Ofcom, Childhood Obesity - Food Advertising in Context (review of academic research conducted by Prof. Sonia Livingstone, LSE, London, UK), 22 July 2004

<sup>15</sup> See, e.g., Ali M, Blades M, Oates C, Blumberg F. Young children's ability to recognize advertisements in web page designs. *British Journal of Developmental Psychology*; 2009; 27: 71–83 (noting that “Levin, Petros, and Petrella (1982) showed 3-, 4- and 5-year-olds a video that included, in random order, 10 second extracts from television advertisements (for children or adults) and from programmes. Children watched the video and were asked to say whether each extract was a ‘commercial’ or a ‘programme’”. The 3- and 4-year-olds identified three-quarters, and the 5-year-olds identified nearly all, of the advertisements for children. The children's ability to recognise the advertisements for adults was only slightly poorer than their ability to recognise the advertisements for children. In other words, 5-year-olds were competent at identifying television advertisements. This finding has been replicated in other studies (Butter, Popovich, Stackhouse, & Garner, 1981; Gaines & Esserman, 1981; Stephens & Stutts, 1982; Stutts, Vance, & Hudleson, 1981”). See also Luik JC. Ideology Masked as Scientific Truth: The Debate About Advertising and Children 11, quoting Melissa Ditman in the American Psychological Association's Monitor on Psychology in November 2002 as noting that “by age three or four, most children are able to differentiate an ad from a program.” Id. at 11.

<sup>16</sup> Ali M., et al. (citing several studies for the proposition that children “appreciate the persuasive nature of advertisements at about 7 or 8 years of age”). See also ICC Commission on Marketing and Advertising. ICC Statement of Code Interpretation ICC Reference Guide on Advertising to Children. Dec 2016 (“In middle childhood (ages 6–9), children develop and understanding of advertising or selling intent, with most studies agreeing that by age 8 most children understand that advertisers are trying to sell them something”).



to someone who is 16 or 17. In our view, there is no way to impose such restrictions up to age 18 without having a massive impact on adult-directed advertising.

#### Adults should not be considered vulnerable consumers.

The draft proposal suggests prohibiting the marketing of products listed in the proposed Annex I if it is done in a way that encourages adults to purchase the products for their children (Art. 4 (4)). This measure could in practice prohibit depicting a family breakfast setting or gathering around the dinner table, in connection to marketing many or most of common household products. This approach appears too restrictive and paternalistic, potentially infringing on personal freedoms and undermining parental responsibility. **Since such a law has not been applied anywhere else in the world, to our knowledge, we believe it would reflect a seriously disproportionate impact on adult-directed commercial expression.** As with setting the age limit for these restrictions at 18 (versus the more common approach of “under 13” or “under 16”), this part of the proposal would have a highly problematic effect on ads directed solely at adults.

#### Audience thresholds are more effective than time-based bans (watersheds).

The draft regulation suggests that any films, shown in cinema before 18:30 should be considered as aimed at children (Art. 4 §2 a)). In addition, for TV and social media, an assessment based on “time and place” of marketing should take place to understand if the ad is aimed at children (Art. 4 §3 c)).

WFA recommends using audience thresholds that more effectively target restrictions at media settings where children constitute an important proportion of the audiences, instead of time-based restrictions. In fact, audience thresholds should be used for all media outlets subject to legislations, not just broadcast media. This reflects the WHO’s recommendations to reduce children’s HFSS marketing exposure<sup>17</sup>.

Robust audience thresholds can be found in policies in the UK (under 16s, 25%), Ireland (under 18s, 50%), Australia (under 15s, 25%), the Netherlands (under 13s, 30%) and Canada (under 13s, 15%). These can be applied on cinema and on television without disproportionately affecting adult or general audiences.

For social media and other outlets where reliable age-targeting or age-gating techniques are available, companies can apply one or several demographic targeting tools and topic controls to ensure an ad will not be served to audiences under a certain age. Examples of such tools include (a) selecting specific ages and excluding certain audiences based on cookie data or other age indicia; (b) applying age filters on social media platforms to ensure brands’ social media posts are not shown young audiences (e.g., Instagram allows companies to set age restrictions by channel and post); (c) excluding audiences whose age is unknown because they are not logged into an account, or websites whose visitors are entirely unknown); or (d) excluding specific sites, channels or other content that is primarily appealing to young children (e.g., movies or cartoons, appealing influencers, games, or YouTube channels).

**WFA would therefore recommend to base any restrictions on audience data, using demographic targeting tools, rather than the time of airing.**

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<sup>17</sup> [Set of recommendations on the marketing of foods and non-alcoholic beverages to children](#), World Health Organization, 2010.

**Restrictions should apply to ads that appeal *primarily* to children.**

We support the view that commercial communications should not be designed in a way that speaks primarily to children. Appeal rules are especially important when it comes to media where there is limited data on the presence of children and where age-targeting is less sophisticated. The EU Pledge, for instance, has detailed guidance on creative execution and avoiding HFSS ads appealing primarily to children<sup>18</sup>. Other industry-wide standards, such as those in place in Australia, New Zealand, the Netherlands, Belgium, and the UK, also use primary appeal elements to define what commercial communication is targeted to children. None of these governments have been able to define what appeals to a 17 vs 19-year-old, pointing out the lack of evidence of raising the age of a child to above 16 year old.

The proposed regulation outlines different aspects of the marketing prohibition on marketing “aimed” or “directed” at children (Art. 4 (2) & (3)). In the assessment of whether certain marketing is “aimed” or “directed” at children, the element of what “primarily appeals” to children should be of central importance. But we are concerned that the proposal does not consistently employ this standard. For example, the operative language in the proposal turns on “whether the marketing has a form of presentation, content or design that may appeal to children, for example due to language, colors, effects, use of imagery, use of animation or drawn characters.” This is quite concerning because nearly anything “may appeal” to children, especially if children are defined to include people up to age 18. This is why the modifier “primarily” should always be used with “appeal” in rules such as this. The WFA believes that when designing advertising policies aiming to protect children, it is important to carefully separate advertising targeted at general audiences versus advertising targeted at children. Language such as “may appeal”, as included in the text, is far too broad to make that careful separation.

WFA is of the belief that appeal criteria, such as the ones defined by the EU Pledge, are robust to ensure that the design of ads for products which do not comply with the nutrition criteria will not be primarily appealing to children across media, and in particular where the audience cannot confidently be identified (i.e. non-measured media through e.g. print).

**WFA recommends considering the question of “primary appeal” according to the MFU and EU Pledge creative execution guidance. The wordings “may appeal” should be removed due to its unclear nature.**

**Animated characters are not automatically appealing to children, a case-by-case assessment is needed.**

WFA cautions against the lack of clarity linked to the marketing prohibition when products use animations and drawn characters when assessing whether the marketing of products covered by Annex I is aimed at children (Art. 4, (2) d)). Such broad category may lead to a confusion about branded and licensed characters and their use in ads on packaging and other media.

Company-owned characters are part of a brand’s intellectual property; taking them away from the brand would, in essence, mean that the brand ceases to be the same entity. When the UK government decided to regulate food marketing in 2006, it differentiated between characters which are an integral part of the brand and those that are licensed on an ad-hoc basis. For good reason, the UK government decided to keep the brand equity exemption under the Health and Care Act of

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<sup>18</sup> [EU Pledge Implementation Guidance Note](#), 2022.



2022. Other regulators, including for example, in Ireland, Netherlands, Australia, Canada, Singapore and Spain, take the same view.

Licensed characters can also be an ally in helping children make healthier choices. Many companies are proactively using their children-appealing licensed characters to promote healthy foods including fruits and vegetables. While many licensed characters appeal to children, not all licensed characters are intended for young audiences. Numerous live-action characters are intended to primarily appeal to older audiences. Additional decision filters including primary audience, overall market position and placement on adult foods and in adult content should also be considered in lieu of blanket bans. Additionally applying strict nutrition criteria that severely restricts the use of kid-appealing licensed characters on food and beverages may lead to a missed opportunity to move children's preferences to a "better for you" alternative (for example moving children's preferences to lower sugar interim options vs a significant dietary change). These small pivots have shown successful and sustainable in the longer term and could align with food industry reformulation strategies thus supporting public health objectives, consumer acceptance and business objectives.

**WFA therefore recommends explicitly exempting company-owned, brand equity characters as well as licensed characters from being automatically considered as appealing to children.**

**Exhibitions held in the context of recognized holidays and festivities shall be exempted from marketing prohibitions.**

WFA recommends that "special exhibitions" held in the context of recognized holidays and festivities (e.g., Christmas, New Year, Halloween, national celebrations, etc.) be included in the list of exemptions from the marketing ban outlined in Art. 6 of the draft regulation. These events uphold long-standing traditions that enrich social life and strengthen community bonds. Special point-of-sale materials (incl. the use of licensed and brand equity characters) displayed during these occasions contribute to this cultural narrative, appealing to a broad audience - adults and children alike - precisely because they have deep cultural and historical roots.

Restricting marketing tied to these moments risks undermining celebrations that hold significance for the community.

It is also important to acknowledge the economic contribution that these "special exhibitions" make during holidays. They support businesses which depend on these peak seasons for a significant portion of their annual revenues. Excluding these exhibitions from the scope of the law would ensure that it does not unduly harm businesses while still achieving its goal.

**Sponsorships help communities to connect through sport, culture and international events.**

The draft proposal understands sponsorships as marketing and is therefore covered by the general marketing ban, with however the ability to sponsor only if the company's name and logo is used (Art. 6 (a)). WFA believes that the language is vague and could disproportionately affect companies who carry the same name as some of their branded products. As the intention of the proposed legislation is to have a local impact, we are concerned with the feasibility of enforcing such rules in the case of international events, for example Olympics or football World Cups.

As this paper highlights, it is critical to determine the audience when restricting advertisement and sponsorships. Establishing an audience threshold and consequently adapting the advertising and

sponsorship activity will ensure that children are not targeted. In understanding what this means, it is worth mentioning the new Self-Regulatory framework of New-Zealand<sup>19</sup>. The framework includes a section on sponsorships and specifically restricts sponsorships of products that do not meet the framework's nutrition criteria when targeted to children under 16.

What is important here is the element of targeting which is only possible when an audience threshold approach is applied. Companies understand the critical importance of not targeting children with such ads or events. However, the exposure approach, currently mentioned in the consultation document, is practically unfeasible as it is impossible to precisely determine who would be exposed.

The impact of sponsorship at grassroots level should also not be disregarded. Denying the ability for brands to engage in brand sponsorship of sports, sporting or cultural events would be detrimental to the events, organizations, or sports which rely on the proceeds to maintain their activities. Those hardest hit would invariably be small scale, community and grassroots level events or organizations, which make up the vast majority of sponsorship deals, and which will struggle to find funding from alternative sources. This could have the effect of lowering public accessibility to sport and sporting events, contrary to the public health goals of the Norwegian government.

**WFA recommends rules on sponsorship to be carefully drafted to clarify the scope of the restrictions and ensure proportionality, refocusing the regulations to restrict targeting young audiences unless they comply with specific guidelines, following the example from New-Zealand.**

**Corporate or brand sustainability and social responsibility initiatives should be explicitly excluded from the sponsorship marketing ban.**

Companies have their own initiatives driven by a social responsibility purpose, and often work with third-party organisations in support of local communities, including in Norway, sometimes under the company name and other times under a brand name that is more familiar to people.

**WFA believes that corporate or brand sponsorship for sustainability, community programmes, charities and social responsibility initiatives, such as food donation, sports clubs, or other corporate events should be explicitly added to Article 6 a) as permitted practices that are excluded from the scope of the sponsorship marketing ban due to the negative impact this would have on financing those initiatives.**

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<sup>19</sup> [Food and Beverage Advertising Code | New Zealand](#)