

Ministerie van Volksgezondheid,
Welzijn en Sport

Directorate General of Public
Health Nutrition Health
Desc. and Prevention

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nota

Intended focus on children's marketing

Re Regular Commodities Act Consultation (ROW) / Labelling
Meeting date and time April 15, 2024; 10:00 AM - 12:00 PM
Meeting place The Hague, Ministry of Health, Welfare and Sport

NB: This initial memorandum contains an initial draft of the proposed regulations on children's marketing and is for discussion in the ROW/DEL. No further rights can be derived from it.

1 Reason and purpose of consultation

Healthy nutrition is an important determinant of health and a healthy weight. It contributes to combating and reducing overweight, obesity and related diseases. Children and young people frequently come into contact with unhealthy food, including through the use of marketing aimed at children. While this group is extra susceptible to marketing techniques due to the development they are going through. Research shows that food marketing influences the food preferences and purchasing and consumption behavior of young people. Children from lower socio-economic groups and ethnic minority groups are even more sensitive to this marketing.

Children under eight years are unable to understand the commercial purpose behind it understand marketing and see advertisements as entertainment. Once children understand this, the advertisements focus on children's emotions and identity. Adolescents are also a vulnerable target group for marketing. They are less able to inhibit their behavior and are more impulsive. Adolescents respond more strongly to immediate rewards and find it more difficult to take long-term consequences into account in their decisions. Friends and the social environment are becoming increasingly important and role models have a great influence.

Since 2005, the Advertising Code for Foodstuffs (RvV) has been in force in the Netherlands, which contains restrictions on advertising for foodstuffs aimed at children. Since 2017, the Ministry of Health, Welfare and Sport has allowed compliance with the

monitor agreements in the RvV annually. The monitor has shown for several years that children are still exposed too much to the marketing of unhealthy foods and that the advertising code does not comply with the Wheel of Five.

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To reduce the exposure of children up to eighteen years of age to unhealthy In order to limit foodstuffs, and thereby encourage children to consume less unhealthy food, this bill places restrictions on the marketing of unhealthy foodstuffs aimed at children.

The purpose of this initial memorandum is to inform the participants of the ROW about the proposed regulations.

The purpose of the ROW consultation is to check whether there are any uncertainties about the intended deployment and whether there are possible bottlenecks in the implementation. A broad online public consultation will be held at a later stage of the process.

The intended focus on children's marketing is described in more detail under point 4. *Advice and explanation*.

2 Participants consultation

Participants from the ROW/DEL.

3 Points to discuss

- Are there any questions or uncertainties about the intended deployment?
- What consequences are expected when introducing these measures.
- Are there other points that the ROW participants would like to raise?

4 Advice and explanation

Amending the Commodities Act &

Media Act With the proposal we intend to amend parts of the Commodities Act and the Media Act and to impose rules on children's marketing of unhealthy foods. The Commodities Act already includes requirements with regard to food and drink products, the packaging in which they are presented and the method of sale. The Media Act sets rules for public media services, commercial media services, commercial media services on demand and video platform services on various forms of marketing, such as advertising and teleshopping messages, product placement and sponsorship.

With the intended commitment, it has been decided to ban marketing of unhealthy foods if this marketing is aimed at children or if children in particular are exposed to it. The target group 'children' includes all children and young people under the age of eighteen.

Commodities

Act The proposed regulations prohibit the trading of unhealthy food and drink products in a manner aimed at children under the Commodities Act. This means, among other things, that it is prohibited to use marketing aimed at children in the design of the product itself, in the packaging in which it is sold, in the way in which the product is displayed or when it is served. Below is more explanation about the different marketing techniques that target children.

The ban applies to foods sold for on-site use and for use elsewhere than on-site.

Media Act

Under the Media Act, it is intended to impose a ban on public and commercial media services and on-demand commercial media services from targeting children with advertising and teleshopping messages, product placement and sponsorship, as far as unhealthy foods are concerned. This ban applies throughout the day, because the bill focuses on children up to and including the age of seventeen, and this group turns to media services throughout the day.

In addition, a general marketing ban for unhealthy foods around programs specifically intended for children under the age of twelve is also proposed. Marketing that is shown during or just before or after these children's programs by definition affects children in particular. As a result, it is not important whether in such a case a marketing technique is used that is specifically aimed at children.

Public media services and commercial media services concern providers of traditional television. On-demand media services offer video footage under their editorial responsibility, included in a catalogue.

This includes services such as Netflix, Disney Plus and Prime, but also video uploaders such as influencers. Influencers also fall under the Media Act, with specific attention to influencers with more than 500,000 followers.

Healthy foods A healthy diet complies

with the Health Council's Guidelines for a Good Diet. The Nutrition Center has built on the Guidelines for a Good Diet with the Wheel of Five. The Wheel of Five shows what a complete diet can look like for various target groups within the population. The criteria for healthy nutrition as included in the proposed measure are therefore based on the Wheel of Five. This means that only products that fall within the Wheel of Five fall within the scope of the proposed measure because they are substantiated as healthy. This does not mean that you cannot eat products outside the Wheel of Five. However, this does not require a children's promotion. The 2012-2016 food consumption survey shows that in children (1-18 year olds), 70% of energy intake comes from products outside the Wheel of Five.

With the intended deployment, no foodstuffs will be banned. Also, not all marketing for unhealthy foods is banned, but only that marketing that targets children or to which children in particular are exposed.

Directed to children - General standard Marketing is

prohibited if the marketing is specifically aimed at persons under the age of eighteen or if they are particularly exposed to such. Factors indicative of the general standard include the use of bright colours, humor, fantasy characters, animation, children's themes such as fantasy, magic, mystery, suspense or adventure, images of animals or showing activities primarily performed by

children are carried out. Typically, a combination of these types of factors will lead to a particular marketing technique being targeted at children.

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In addition, some specific marketing techniques are prohibited, because scientific research shows that these marketing techniques are frequently used to reach children.

Aimed at children - prohibited marketing techniques *ÿ Licensed and brand equity characters* Because licensed characters and

brand characters are used on a large scale in marketing aimed at children and children are very sensitive to this form of marketing, this bill proposes to ban these forms of marketing in their entirety. prohibit. A licensed character is a character from films, cartoons, video games, cartoons or children's series or another children's idol from a third party that is linked to a product or brand on the basis of a license. A brand equity character is a unique image that represents a product or brand and has no separate identity outside the associated product or brand.

The use of a brand character in a logo is exempt from the proposed ban, because brand characters in logos are frequently used by manufacturers, including products for adults. A logo is a graphic expression that is associated with a company or product name, or with an organization. Logos always have the same design and color.

ÿ Use of children's idols Children's idols

are seen by children as interesting, authoritative and credible. Moreover, children think that child idols promote the advertised product because they have genuine affection for the brand and not because they make money from it. Children's idols should therefore not be used to promote unhealthy food to children.

A children's idol is a person or fantasy figure who is primarily aimed at an audience under the age of eighteen. A person who does not specifically target children, but who attracts an audience that is mainly under the age of eighteen, is also seen as a child idol. Influencers with an audience that is mainly under the age of eighteen are also seen as child idols. The creative content of the material published by an influencer on his own channel is not covered by this ban.

ÿ Use of games Children like to play a

lot. To make a product more attractive to children, games are used. A game form consciously invites people to actively participate in an activity for relaxation according to fixed rules with elements such as competition, agility, insight and chance. Game formats include: competitions, (thinking) puzzles, savings promotions, riddles, scratch-off/scratch-ink and vouchers.

ÿ Toys linked to the (packaged) product The use of toys and collectibles is

a technique to stimulate product purchases. Toys are understood to mean things that:

European Directive 2009/48/EC on the safety of toys. The ban applies to both packaged products and (prepared) products that are sold for direct consumption.

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Toys may not be linked to unhealthy food, for example through linked sales of (packaged) products, by offering toys for free with the sale of (packaged) products, by wrapping toys in chocolate or by putting sweets in toys. Toys may also not be linked to food and drink for direct consumption, such as a meal or children's ice cream.

ÿ *Use of the term "child"*

The word 'child' or variations thereof refers to the target group of children, which gives the impression that the product is specifically intended for children. When the word 'child' is used for unhealthy food, this is considered marketing aimed at children. No marketing of unhealthy food may take place where a reference is made to the target group "child" or "children". The word "child" or a variant thereof, such as childlike, may not be used in slogans on packaging or in the product name, among other things.

ÿ *Use images of groups of children* Children are sensitive to social influence from peers. Particularly during adolescence (approximately from the age of ten), friends and the social environment become increasingly important and role models have a great influence. In addition, during puberty there is a stronger response to rewards, such as acceptance from peers, because the brain is still developing. Expressions involving groups of children under the age of eighteen or groups of people with an underage appearance in advertisements in relation to an unhealthy food product is therefore not permitted.

Planning

After discussion in the ROW - with the approval of the Council of Ministers - the draft decision will be widely submitted in a public consultation. Other steps in the process consist of implementation tests at the NVWA and the Dutch Media Authority, regulatory burden test at the ATR, notification to the European Commission and advice by the Council of State. If everything goes according to plan, the draft decision will be submitted to the House of Representatives in mid-2025.