
Resolution on Nutrition, Obesity, and Diet-Related Disease

Introduction

Obesity and diet-related disease, such as heart disease, type II diabetes and cancer, seriously compromise public health and continue to grow as major causes of death and disability worldwide including across the United States (U.S.) and the Europe Union (EU). This generation has witnessed a tremendous rise in obesity.¹ In several European countries—the United Kingdom, Poland, the Czech Republic, Ireland—over one in four adults are now obese.² In the United States, over a third of U.S. adults are obese.³ These trends have extended to the youngest members of the population, with over 30% of children measuring overweight or obese in several EU countries and U.S. states, according to recent estimates.⁴

The rise in obesity has coincided with a dramatic increase in type 2 diabetes among children in the U.S.,⁵ and for the population as a whole, the incidence of diabetes increased fourfold between 1980 through 2014.⁶ In the EU, the WHO estimates that some 60 million people in the European Region now have diabetes.⁷

Against this backdrop, TACD offers an update to its May 2006 “Resolution on Nutrition, Obesity, and Diet-Related Disease.”

Overall recommended approach to diet-related disease

In its 2006 Resolution, TACD urged the EU and U.S. to address the growing incidence of diet-related disease through a coordinated set of public policy mechanisms, including restrictions on food marketing, particularly to children; encouraging reformulation of products to lower the use of unhealthy fats, salt

¹ The World Health Organization uses body mass index—an individual’s weight in kilograms divided by the square of her height in meters—to define obesity. Individuals with a BMI of over 25 are overweight, and over 30 qualifies as obesity. World Health Organization. Fact sheet N°311 (updated Jan. 2015), available at: <http://www.who.int/mediacentre/factsheets/fs311/en/>

² World Health Organization. 2015 Report, page 102; data from 2014, available at: http://www.who.int/gho/publications/world_health_statistics/2015/en/

³ Centers for Disease Control and Prevention. “Adult Obesity Facts.” Available at: <http://www.cdc.gov/obesity/data/adult.html> citing Ogden et al. “Prevalence of Childhood and Adult Obesity in the United States, 2011-2012,” *Journal of the American Medical Association*, February 26, 2014, Vol 311, No. 8 available at: <http://jama.jamanetwork.com/article.aspx?articleid=1832542>

⁴ OECD Directorate for Employment, Labour and Social Affairs. “Obesity Update,” p.4 (June 2014) available at: <http://www.oecd.org/health/Obesity-Update-2014.pdf>.

⁵ Ebe D’Adamo and Sonia Caprio. “Type 2 Diabetes in Youth: Epidemiology and Pathophysiology” in *Diabetes Care*, 34:2 (May 2011) available at: http://care.diabetesjournals.org/content/34/Supplement_2/S161.full (noting that “many studies from Europe indicate that type 2 diabetes is not as common as in the U.S. in [childhood] populations”) but see Thomas Reinehr “Type 2 diabetes mellitus in children and adolescents” *World Journal of Diabetes*. (Dec. 2013) available at: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3874486/> (citing studies suggesting that type 2 diabetes may be underdiagnosed in Europe).

⁶ Centers for Disease Control and Prevention. “Number (in Millions) of Civilian, Non-Institutionalized Persons with Diagnosed Diabetes, United States, 1980-2014” available at: <http://www.cdc.gov/diabetes/statistics/prev/national/figpersons.htm>

⁷ World Health Organization. Diabetes Data and Statistics available at: <http://www.euro.who.int/en/health-topics/noncommunicable-diseases/diabetes/data-and-statistics>

and added sugars; clearer labelling standards; improvements in the school food environment; and publicly funded social marketing campaigns to promote healthier eating.

Stakeholders have made some progress on these goals. In the U.S., new legislation requires school lunches to meet higher nutritional standards, new rules require menu labeling in certain restaurants and disclosure of added sugars on nutritional labeling, and authorities are phasing out artificial trans-fats as an allowed ingredient. In the EU, several big food companies launched the so called 'EU-pledge' to curb food marketing to children, several member states have introduced nutritional guidelines for school canteens, a harmonised nutritional declaration will be mandatory across the EU and, in Ireland, menu labeling will soon become mandatory.⁸ In addition some countries, like Ireland and the UK, have introduced legislation to restrict marketing of foods high in fat, sugar and salt to children. The private sector has also undertaken several initiatives to promote healthier diets in the EU and the U.S. However, the problems targeted by our proposed reforms in 2006 continue to contribute to unprecedented levels of obesity and diet-related disease, and we continue to believe the governments of the EU and U.S. can take specific actions that will help reduce the incidence of obesity and diet-related disease. Government leadership is needed to improve food labelling and food composition and to shape a food environment that makes the healthy option the easy option in terms of price and availability. Foods and drinks companies' involvement is critical as long as voluntary initiatives meet national food policies targets and are independently monitored.

Specific Recommendations

Marketing of Foods to Children

The food industry continues to direct enormous expenditures towards marketing unhealthy foods to children. In the U.S. alone, industry spends \$1.79 billion on food marketing to youth each year.⁹ Increasingly, food marketing to children is taking advantage of new media, such as social networking sites, social media, messaging services, and mobile phone and computer games.¹⁰ An abundance of research demonstrates that food industry marketing to children overwhelmingly promotes unhealthy foods, and that food marketing influences children's food preferences and choices, undermining parents' efforts to feed children a healthy diet.¹¹ New marketing techniques such as 'advergaming' (i.e. branded computer games with products inside or companies branded characters) create a personal and interactive connection with children which escapes parents controls.

Public concern over food marketing to children dates back decades. In the U.S., the Federal Trade Commission has responsibility for ensuring advertising is not deceptive or unfair and that agency

⁸ Ireland Department of Health. "Government approves Heads of Bill for calorie posting on menus" (Feb. 5, 2015) *available at:* <http://health.gov.ie/blog/press-release/government-approves-heads-of-bill-for-calorie-posting-on-menus/>

⁹ Federal Trade Commission. "A Review of Food Marketing to Children and Adolescents: Follow-Up Report" (Dec. 2012) *available at:* <https://www.ftc.gov/sites/default/files/documents/reports/review-food-marketing-children-and-adolescents-follow-report/121221foodmarketingreport.pdf> ("FTC Report").

¹⁰ *Id.*; see also Mikaela Persson, Ruth Soroko, Aviva Musicus and Tim Lobstein. "A junk-free childhood 2012: The 2012 report of the StanMark project on standards for marketing food and beverages to children in Europe" *available at:* http://www.worldobesity.org/site_media/uploads/A_Junk-free_Childhood_2012.pdf

¹¹ See generally WHO. "Marketing of foods high in fat, salt and sugar to children: update 2012–2013" (2013) *available at:* http://www.euro.who.int/_data/assets/pdf_file/0019/191125/e96859.pdf?ua=1 ("WHO Child Marketing Report")

proposed banning television advertising of sugary foods aimed at young children in the late 1970s. In response to pressure from Congress, however, the agency withdrew that proposal.¹²

In response to growing criticism, food corporations have embarked upon various “self-regulatory” efforts in recent years. In 2006, major U.S. food companies launched the Children’s Food and Beverage Advertising Initiative (CFBAI), which seeks to change the nutritional profile of foods and beverages marketed to children.¹³ The following year, a number of these same companies joined a common voluntary commitment on marketing known as the EU Pledge.¹⁴ These voluntary initiatives have made some progress on limiting food marketing to children. For example, in the U.S., the CFBAI released uniform nutrition criteria to be implemented by all member companies by December 31, 2013.¹⁵ However, industry has applied inconsistent standards regarding which age groups, mediums, foods, and marketing techniques are covered, and not all companies have participated in these voluntary initiatives.¹⁶ In addition, the practice of self-monitoring by companies in these initiatives, which tends to yield findings of good results and excellent compliance, poses conflict-of-interest concerns¹⁷. As a result, many companies continue to advertise on television and use other media directed towards children, such as interactive online “advergames” that encourage children to “share” advertising materials with other children via email, to sell unhealthy food. These efforts include brand promotion within schools and the school environment.¹⁸

- TACD urges the governments of the EU and U.S. to strengthen mandatory regulations restricting marketing of foods high in fat, sugar and salt to children up to age 16, in all forms, including use of branded and famous cartoon characters in commercials and on packaging, social media and online computer games, and to establish a comprehensive mechanism to monitor food marketing to children and take action when predefined thresholds are crossed
- TACD urges the governments of the EU and U.S. to take measures to stop the marketing of beverages of low or no nutritional value on school premises.
- In the U.S., Congress should rescind limits on the authority of the Federal Trade Commission (FTC) to regulate in this area and mandate regulatory programs consistent with the First Amendment of the Constitution. The FTC in turn should fully enforce existing laws that protect children from unfair and deceptive marketing practices.

¹² See Institute of Medicine. “Food Marketing to Children and Youth: Threat or Opportunity” (Dec. 2005) available at: <https://iom.nationalacademies.org/~media/Files/Report%20Files/2005/Food-Marketing-to-Children-and-Youth-Threat-or-Opportunity/KFMOverviewfinal2906.pdf>

¹³ Council of Better Business Bureaus Children’s Food and Beverage Advertising Initiative website at: <https://www.bbb.org/council/the-national-partner-program/national-advertising-review-services/childrens-food-and-beverage-advertising-initiative/> (click on “About the Initiative” for history).

¹⁴ See EU Pledge website at: www.eu-pledge.eu (click on “About the EU Strategy” for history).

¹⁵ FTC Report, *supra* note 10, at ES-14.

¹⁶ Trans Atlantic Consumer Dialogue Comments on the Interagency Working Group on Food Marketed to Children’s Preliminary Proposed Nutrition Principles to Guide Industry Self-Regulatory Efforts (July 14, 2011) available at: <http://test.tacd.org/wp-content/uploads/2013/09/TACD-FOOD-2011-Comments-on-Preliminary-Proposed-Nutrition-Principles-to-Guide-Industry-Self-Regulatory-Efforts.pdf>

¹⁷ S. Galbraith-Emami and T. Lobstein. “The impact of initiatives to limit the advertising of food and beverage products to children: a systematic review.” *Obes Rev.* (Dec. 2013) available at: <http://www.ncbi.nlm.nih.gov/pubmed/23845093>.

¹⁸ WHO Child Marketing Report, *supra* note 11, at 8.

- In the EU the Audiovisual Media Directive, which is currently under review, should set stricter standards to restrict marketing of foods high in fat, sugar and salt to children. At the same time the EU Pledge's scope should include new marketing techniques including advergames, whether they are on companies own websites or not, and cover products placement in family shows. The criteria used to define what foods and drinks can or cannot be advertised should be reviewed as they currently allow marketing of foods high in sugar to children. To be legitimate the EU pledge should adopt stricter nutrition criteria that are in line with public health recommendations on salt, added sugar and saturated fat intakes, such as the WHO Europe's Nutrient Profile Model¹⁹.
- As part of responsible corporate behaviour, food companies associated with foods high in saturated fat, sugar and / or salt should not make use of their brand when sponsoring children's sporting events or equipment and activities in schools.

Healthier products

Manufacturers should reformulate their products to quickly eliminate artificial trans-fats without waiting for deadlines set by regulatory bodies, and lower amounts of saturated fat, sugar, and salt. TACD believes that reformulating existing products will advance public health more than offering healthier or nutritionally-enhanced alternative versions of standard products. Otherwise, companies may tout new products as "low in fat" or "low in salt" but leave regular products' recipes unchanged or, worse, increase levels of salt, sugar or fat in those products²⁰. Policies such as mandatory labeling standards and regulation of nutrition-related health claims have stimulated product reformulation and increased awareness of the negative health effects associated with foods high in salt, sugar, and fat.²¹ In the US, the FDA has removed artificial trans fats from the list of ingredients that is "generally recognized as safe," or GRAS, and manufacturers will soon no longer be allowed to use trans fats as an ingredient, subject to some exceptions²². In the EU, a recent European Commission report similarly found that setting legal limits on the maximum level of artificial trans fats in food products will improve public health and protect consumers from these compounds²³.

- TACD calls for the governments of the EU and U.S. to work with manufacturers and retailers to set binding targets for replacing saturated fats with unsaturated fats, and reducing overall fat, added sugar and salt content in their products. Governments should ask caterers to do the same for their standardized products, and review the appropriateness of portion sizes. Single servings information should be clear to consumers and preferably expressed with numbers (e.g. one biscuits, one yogurt) instead of grams.

¹⁹ WHO Regional Office for Europe Nutrient Profile Model, 2015 available at:

http://www.euro.who.int/_data/assets/pdf_file/0005/270716/Nutrient-Profile-Model_Version-for-Web.pdf?ua=1

²⁰ BEUC. "Informed food choices for healthier consumers" (2015) available at:

http://www.beuc.eu/publications/beuc-x-2015-008_pca_beuc_position_paper_on_nutrition.pdf

²¹ Loreen Klossa, b, Julia Dawn Meyera, b, Lutz Graevea, Walter Vetter. "Sodium intake and its reduction by food reformulation in the European Union — A review" *NFS Journal* Volume 1, June 2015, Pages 9–19 available at:

<http://www.sciencedirect.com/science/article/pii/S2352364615000024>

²² U.S. Food and Drug Administration. "The FDA takes step to remove artificial trans fats in processed Foods" (June 16, 2015) available at: <http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm451237.htm>

²³ European Commission report to the European Parliament and the Council regarding trans fats in foods and in the overall diet of the Union population (Dec. 3, 2015) available at:

http://ec.europa.eu/food/safety/labelling_nutrition/labelling_legislation/trans-fats_en.htm

- TACD calls for the European Commission to come forward with a concrete proposal for EU-wide legal limits on artificial transfats in food products, and Member States and European Parliament to adopt these limits as soon as possible.
- TACD urges the U.S. Food and Drug Administration to minimize any exceptions made to manufacturers seeking to continue using trans-fat and to recognize that even small amounts of trans fat in a wide range of foods are unsafe to consumers.

Clearer and honest labeling

TACD believes that consumers need access to full nutrition information to make healthy choices and put government advice into practice. Governments should pre-approve any health claims made by food manufacturers, clearly define nutrition claims (e.g. 'low fat'), and prohibit manufacturers from attaching health claims to foods that are high in fat, sugar or salt. In recent years, some countries have adopted simplified front-of-package labeling and research has shown that if such labelling includes color coding this helps consumers to make healthier choices, particularly those with time pressures.²⁴ In the EU, the Nutrition and Health Claims Regulation has greatly improved consumer protections since they came into force in 2007.²⁵ The European Commission, however, still needs to implement provisions governing nutrient profiles, which are included in EU law, to ensure nutrition and health claims are not used on foods and drinks high in sugar, fat and salt. In the U.S., recent reforms have made it easier for consumers to evaluate products with added sugars, and choose healthy options in certain chain restaurants. However, loopholes allow manufacturers to make misleading health-related claims for foods. In the EU, some countries have implemented additional nutrition labeling schemes, such as the traffic light schematic in the UK. Such labels are authorised by EU law in order to help consumers spot healthier food options provided they fulfil certain well-defined criteria. A European Commission's report, to be published in 2017, will provide an overview of the benefits and limitations of the different schemes and potentially recommend a harmonised EU scheme.

- TACD urges the governments of the EU and U.S. to adopt mandatory menu labeling rules that give consumers information about calories and, for larger chain restaurants, fat, sugar, and salt content. These may include warning notices for foods with extremely high sodium content (e.g. in excess of twice the daily limit).
- TACD urges the governments of the EU and U.S. to improve labeling to highlight products that are high in salt, added sugar and saturated fat.
- TACD calls for the governments of the EU and U.S. to also develop simplified front-of-pack color coded labeling schemes to be used consistently by the food industry which help consumers to easily identify which foods are high, medium or low in unhealthy fats, added sugars or salt and facilitate comparison between similar products.
- TACD urges the European Commission to implement the Nutrition and Health Claims Regulation by setting strict nutrient profiles.

²⁴ Erica van Herpen, Sophie Hieke, Hans C.M. van Trijp. "Inferring product healthfulness from nutrition labelling: The influence of reference points." *Appetite* 72 (2014) 138–149 available at: https://www.researchgate.net/publication/259120467_Inferring_Product_Healthfulness_from_Nutrition_Labelling_The_Influence_of_Reference_Points

²⁵ Regulation (EC) No 1924/2006 available at: http://ec.europa.eu/food/safety/labelling_nutrition/claims/index_en.htm

- TACD urges the U.S. government to prohibit health claims on unhealthy foods and to require that claims for so-called “natural” foods meet specific standards, such as those required under the USDA organic program.

School foods

TACD believes that the governments of the EU and U.S. should take concrete steps to ensure a healthy eating environment in schools.

- TACD urges the governments of the EU and U.S. to prohibit the sale of soft drinks and snack foods of low nutritional value on school premises.
- TACD encourages U.S. policymakers to fully implement updated nutrition standards for school lunches, and to adequately monitor and enforce compliance.
- TACD urges the governments of the EU and U.S. to provide adequate funding for nutrition education and physical activity programs.
- TACD urges the governments of the EU and the U.S. to establish programs providing for free fruits and vegetables to school children.
- TACD urges the governments of the EU and U.S. to adequately fund school meals and meal preparation sites, and to prevent the sale of “competitive foods” on school premises.

Corporate behaviour and best practices

TACD believes that multinational food companies that make improvements to their products - such as adding nutritional labelling or reducing unhealthy ingredients like sodium - should do so everywhere they operate. In practice, most companies typically respond to national or regional pressures and make positive changes only in countries where they feel pressured to do so, but fail to do so on a transatlantic basis.

- TACD calls on the governments of the EU and U.S. to monitor such corporate behaviour, and encourage corporate policies to be based on best practices throughout the EU and U.S.
- TACD encourages the governments of the EU and U.S. to share best practices by considering the positive effects of actions already taken at various levels.
- TACD calls for multinational companies to introduce positive changes in a consistent manner throughout the EU and U.S., so that consumers throughout the transatlantic marketplace can benefit equally from changes in product reformulation, portion sizes, and marketing practices.
- TACD calls on the food industry to voluntarily take a more responsible approach, but believes that concrete and consistent action to address these problems generally requires legislative solutions.



Economic incentives and disincentives to promote healthier eating

TACD encourages the governments of the EU and U.S. to explore ways in which subsidies for fruits and vegetables could be sensibly reallocated to promote healthy eating.