

Request to maintain the consideration of effective advertising self-regulation as part of the policy options recommended to Member States

ICAS submission to the WHO consultation on the second draft of the updated Appendix 3 of the WHO Global NCD action plan 2013-2030

This submission is provided by the International Council for Advertising Self-Regulation ([ICAS](https://icas.global)). ICAS is a global platform which promotes responsible advertising through effective advertising self-regulation. It brings together a network of Advertising Standards Bodies, or so-called Self-Regulatory Organizations (SROs) from Africa, Asia-Pacific, Europe, and North & South America, regional associations such as the European Advertising Standards Alliance¹, as well as global associations representing the advertising industry (The World Federation of Advertisers (WFA), the International Advertising Association (IAA), the European Publishers Council (EPC), and WOO, the World Out of Home Organization) as well as experts on global advertising and marketing laws, the Global Advertising Lawyers Alliance (GALA).²

Countries with a Self-Regulatory Organization in ICAS and EASA membership



The Advertising Standards Bodies / SROs in our membership **are independent bodies³** and play a key role in ensuring **that advertising on all media is legal, decent, honest, and truthful**. They do **proactive work to avoid irresponsible advertising**, and **act on complaints to tackle harmful, misleading, or offensive ads**. Their **systems involve a wide range of stakeholders**, not only the advertisers, but also advertising agencies and the media making this self-regulatory system **an effective and ‘collective’ regulatory system for advertising, which is unparalleled when compared to other forms of industry self-regulation**. There are **multiple checks and balances** in place to ensure **the system is transparent and accountable**, which is why the benefits of the self-regulatory system for advertising **have been recognized by public authorities, international organizations, as well as in legislative texts**.

¹ The [European Advertising Standards Alliance \(EASA\)](https://easa.europa.eu/) is the European counterpart of ICAS and brings together 28 independent advertising self-regulatory organizations (SROs), which enforce advertising self-regulatory codes of conduct at national level, and 14 stakeholders representing the advertising ecosystem (advertisers, agencies, media and digital platforms) which are all committed to ensuring responsible advertising.

² List of ICAS members: <https://icas.global/about/members/>. An interactive map of ICAS members can be found [here](https://icas.global/about/members/).

³ SROs operate independently. They administer and enforce the codes and standards independently from the government, specific interest groups, and the advertising industry.

Summary

ICAS has [responded](#) to the consultation on the first draft of the updated Annex 3 of the WHO Global NCD Action Plan and now welcomes the opportunity to provide comments on the [second draft of the updated Appendix 3](#). As with our previous submission, our comments are limited to the policy options that consider advertising, as our role and remit is focused on the promotion of responsible advertising through effective advertising self-regulation.

In this submission, we would like to reiterate that we fully support the goal of the WHO to reduce the preventable and avoidable burden of morbidity, mortality and disability due to noncommunicable diseases.

We welcome that the WHO tries to achieve this:

- by making sure that the action plan and thus the recommended **policies remain based on scientific evidence**;
- by means of **multisectoral collaboration and cooperation at national, regional and global levels**;
- **by encouraging a national level approach**, which allows Member States to implement actions that are best suited to the national context;
- by also **encouraging the private sector to actively ensure responsible marketing practices**;
- and, finally, **by adopting a broad definition of “policies”** in the latest ‘draft [guideline](#) on policies to protect children from the harmful impact of food marketing’ which define policies as *“mandatory, legally enforceable measures (including statutory approaches, regulations, legislation or orders used by a jurisdiction’s legal system) and voluntary measures (including self-regulatory measures, pledges and codes).”*

In this spirit, we would like to highlight:

- that **we agree that policies are needed at Member State level to protect children from the harmful impact of food marketing**, especially in countries where they don’t exist, yet;
- when it comes to the type of policies recommended, which should be evidence-based, we would like to remind that **the WHO draft ‘[guideline](#) on policies to protect children from the harmful impact of food marketing’ (June 2022) recommends mandatory marketing restrictions even though the paper acknowledges that there is only very low certainty evidence that policies to restrict marketing to children have had a positive effect on children’s dietary intake**;
- **we thus recommend maintaining in the Annex the broad definition of policies including the consideration of effective advertising self-regulation**;
- given the importance of a multistakeholder approach, **it is key for Member States and public authorities to work together with civil society and industry**. When it comes to marketing, these collaborations can build on the already existing and effective self-regulatory systems for advertising in many countries;
- finally, **given the need for cost-effective policy interventions, we would like to emphasize that collaborating with self-regulatory systems can be considered as the most cost-effective, because advertising self-regulation comes at no cost to the taxpayers while being fully independent from the industry in its enforcement.**

Our key message is thus to maintain in the appendix the recommendation to Member States to consider effective advertising self-regulation (or co-regulation⁴ where locally applicable) when considering and implementing policy options and to build and/or strengthen a dialogue with Self-Regulatory Organizations in their country.

In this context, it is crucial to note that recent and relevant texts by authorities on advertising and children point out that the protection of children today requires a broad and collective commitment, by all actors, including businesses and recommend a balanced and inclusive regulation, with the common scope of promoting respect for children's fundamental rights and connectivity opportunities, protecting them from evidence-based potential risks of harm and optimizing the benefits.⁵

The value of effective advertising self-regulation

The self-regulatory approach developed by the advertising industry is unparalleled when compared to most other forms of “industry self-regulation”. The advertising self-regulatory approach is a **comprehensive system** that is **well-balanced and extensive**, featuring **high advertising standards⁶**, a **system for adoption, review and application of these standards and independent bodies that enforce the standards**. The systems are designed to ensure that standards are collectively agreed upon, known, understood, and applied by all the operators in the ecosystem and that those that breach the standards can face sanctions, including referral to appropriate government authorities.

The self-regulatory systems also feature iterative improvements processes with feedback loops through which standards are regularly updated to quickly respond to societal and technological transformations. **Thanks to the broad participation of all members of the industry and the collaboration with other stakeholders, such as civil society, and informed by the learnings from monitoring exercises and the analysis of complaints, these systems allow the capture of and the ability to act upon identified issues.**

Among many distinctive features, the comprehensive advertising self-regulatory system of the advertising industry is unique in that it includes self-regulatory organizations (SROs) which provide for the following:

⁴ Co-regulation is a system of regulation combining statutory and self-regulatory elements.

⁵ See:

- UNICEF Report - “Children in a Digital World”. 2017 pp. 5 and 33. « *The State of the World’s Children 2017 concludes with six priority actions : (...) ; « 5. Leverage the power of the private sector to advance ethical standards and practices that protect and benefit children online.* » <https://www.unicef.org/media/48601/file> United Nations

- Convention on the Rights of the Child General comment No. 25 (2021) on children’s rights in relation to the digital environment. Item H.1 «Children’s rights and the business sector » and 2.

- OECD Recommendation of the Council on Children in the Digital Environment. OECD / LEGAL / 0389. First Version : 2012. Updated : 2021, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0389>

⁶ In most countries, advertising standards are based on the [Advertising and Marketing Communications Code](#) of the International Chamber of Commerce (the ‘ICC Marketing Code’). National adjustments are however often made to take into account legal, social, cultural and economic features of the country. Where the codes contain specific provisions, those provisions are typically agreed upon by an independent standards-making body within the SRO, and subsequently updated on a regular basis. The main standards are also often accompanied by sectoral guidelines addressing the marketing of specific products or services (e.g., alcohol, cosmetics...) or by issue-specific guidelines (e.g., on interest-based advertising, on advertising to children, on influencer marketing, etc.), or by detailed case-specific guidance on the applicable self-regulatory standards.

Independence: SROs operate independently from the industry. They administer and enforce the codes and standards independently from the government, specific interest groups, and the advertising industry.⁷

Universality and comprehensive coverage: SROs cover all forms of commercial communications and bring together a wide range of actors of the advertising industry, including advertisers, agencies, media/publishers and increasingly digital platforms. This means businesses have a direct stake and an enlightened self-interest in adhering to the standards they set which creates a level-playing field amongst them.

Advice and training: SROs are the focal point between the design of the standards and their enforcement; therefore, SROs have a unique expertise regarding the proper implementation of these self-regulatory standards. They provide third-party training and advice to all members of the industry who seek to ensure the compliance of their ads, not only to advertisers, but also to the agencies, the media or influencers. Advice services include e.g. copy advice services or pre-clearance of advertisements before they are published. The services are quick⁸ and are a key preventive feature ensuring ads are legal, decent, honest and truthful.

In many countries, SROs also provide advice on compliance with the legislative rules.

Effective, independent, and impartial dispute resolution at local level: SROs provide efficient and quick complaint handling at no cost to the consumers, consumer associations and public administrations. Being locally based, these consumer-facing entities handle complaints and queries in (the) local language(s) and are mindful of local cultural sensitivities.⁹

Effective sanctions and enforcement: Non-compliance of industry actors are subject to a staggered scale of sanctions¹⁰. Ultimately, self-regulatory bodies may refer a situation where an advertiser refuses to comply with a decision or to participate in the self-regulatory process to the appropriate statutory authorities.¹¹

Accountability and transparency: To ensure accountability and transparency, SROs also generally publish their decisions, or detailed summaries, online. The list of decisions (sometimes called ‘rulings’) or summaries is typically available on the SRO’s website.

⁷ Although Self-Regulatory Organizations (SROs) are primarily funded by the advertising industry, they operate independently. There are several safeguards in place to ensure that complaints on individual ads are dealt with independently and impartially, and decisions are usually made publicly available to ensure maximum transparency. To find more about how SROs are financed, please read our publication: https://icas.global/wp-content/uploads/2018_10_01_SRO_Funding_Overview.pdf

⁸ In Europe, almost all requests for copy-advice are handled in 48h.

⁹ In Spain for example the SRO’s jury has obtained public recognition as an Alternative Dispute Resolution (ADR) body under European law. Spanish legislation is also requiring companies to go through the SRO’s ADR system before going to court.

¹⁰ Most advertisers voluntarily comply with SRO decisions by changing or withdrawing an ad or claim which has been determined as in breach of the standards. Should they refuse to do so, in some regions, SROs ask the media to refuse to publish/run or air the campaign. Ultimately, self-regulatory bodies may refer a situation where an advertiser refuses to comply with a decision or to participate in the self-regulatory process to the appropriate statutory authorities. Options available to the self-regulatory body will depend on the procedures of the Self-Regulatory Organizations, its remit and the existing legal framework. All have proven to be effective in promoting high levels of compliance with self-regulatory decisions.

¹¹ SROs are entitled to act against their own members in case of non-compliance. In general, advertisers that are not in SRO membership, who refuse to accept the self-regulatory procedure and the adjudication of the jury, can also be sanctioned or the SRO can refer the case to the relevant authorities.

Technological innovation: To keep pace with changes in the media and the corresponding advertising landscapes and to effectively regulate advertising, including online advertising, an increasing number of SROs across the globe are investing in technology including automation and artificial intelligence.

Inclusivity and openness: SROs regularly communicate and often involve other interested parties such as civil society and public authorities.

The core principles for an effective advertising self-regulatory system detailed above are enshrined in [the ICAS Charter](#) which was adopted on 7 May 2021 by all ICAS members. The principles in the ICAS Charter correspond to the requirements of integrity pointed out by researchers and authorities.¹²

Advertising Standards and Alcohol Advertising

Ensuring responsible marketing communications for alcohol beverages has been a long-standing priority for Advertising Self-Regulatory Organizations across the globe. Especially when it comes to the protection of minors, national advertising codes and guidelines are strict and detailed. Standards usually include provisions specifying that advertising for alcoholic drinks should not be aimed at minors, should not show minors or young people appearing to be younger than 25 consuming alcoholic beverages, and should not be placed in media, or sponsor events, where a significant percentage of the audience is underage.

Many SROs enforce national programs and standards which reflect the principles of the [Marketing and Advertising Code of the International Chamber of Commerce](#) and its related framework, [the ICC Framework for Responsible Marketing Communications of Alcohol](#).

The industry has also developed further guidelines, principles, sector specific codes and initiatives such as the [Digital Guiding Principles](#) developed by IARD, the International Alliance for Responsible Drinking, and the [Responsible Marketing Pact](#) of the World Federation of Advertisers. The goal of these initiatives is to ensure more transparency and responsibility in the marketing of alcohol beverages, limit underage exposure to alcohol ads, to ensure alcohol ads do not appeal to minors and to ensure minors' online experience is free from alcohol ads.

The alcohol industry commissions regular independent monitoring exercises against their sectoral codes or principles. International Self-Regulatory Organizations often play a key role in such monitoring exercises. They have monitored, for example, the compliance of beer, wine and spirits producers in their ambition to prevent minors from seeing alcohol marketing. In 2019, 14 SROs across the globe, [monitored](#) 2088 online items against the Digital Guiding Principles and the Responsible Marketing Pact, finding an increase in compliance compared to the previous year¹³.

SROs also review complaints from consumers and from competitors. With regards to alcohol advertising, some SROs are pre-clearing alcohol advertising to ensure all ads are compliant before they

¹² The principles enshrined in the ICAS Charter correspond to the requirements of integrity pointed out by researchers and authorities. See the following documents for reference:

- "UNCTAD. Manual on consumer protection, 2018". "Box. 5. Checklist for Self-regulation and corporate social responsibility", Page 44. Available at: https://unctad.org/en/PublicationsLibrary/ditccplp2017d1_en.pdf.

- "OECD Report – alternatives to traditional regulation". 2002. Pages 59 – 60 Available at: <https://www.oecd.org/gov/regulatory-policy/42245468.pdf>

- OECD. Industry self-regulation – role and use in supporting consumer interests. 2015, pp. 8, «Features or provisions of the Self-Regulation ». <https://www.oecd-ilibrary.org/docserver/5js4k1fjqkwh-en.pdf?expires=1658438454&id=id&accname=guest&checksum=29D99884BF769D9826B1B7724EBE71D0>

¹³ Major international and Europe-wide monitoring exercises are coordinated by EASA. For more information see: <https://www.easa-alliance.org/products-services/monitoring-projects>

are published or broadcast¹⁴, while others, such as Ad Standards Canada, have a ‘compliance plus’ program for the spirit sector.¹⁵

SROs, such as the Advertising Standards Authority (ASA) in the UK, also review ads on their own initiative. The ASA recently [published findings](#) from a landmark project, in which they collaborated with five major platforms popular with children, to identify trends in the targeting of ads by alcohol brands in logged-in social media.

This was the latest of [several reports](#) which seek to minimize children’s exposure to age-restricted ads and forms part of the ASA’s ongoing commitment to proactively protect children by having [More Impact Online](#).

Advertising Standards and Marketing of HFSS Foods

Self-Regulatory Organizations take the protection of children, minors and vulnerable groups extremely seriously. Applicable advertising codes concerning the marketing communications for HFSS foods and the **rigorous enforcement of these codes or standards can provide strong protections tailored to work with the individual nations’ economic and legal systems.**

Children deserve especially careful treatment by marketers in any marketing communications directed to them which is why specific provisions on marketing communications to children are included in national self-regulation codes, including the ICC code. Many SROs implement the principles of the [Marketing and Advertising Code of the International Chamber of Commerce](#) and the updated [Framework for Responsible Food and Beverage Marketing Communications](#). Bringing together relevant articles from its International Codes of Advertising Practice and of Sales Promotion, the Framework provides a clear interpretation of existing rules for advertising food and beverages.

Additionally, there are further industry-led initiatives related to food and beverage marketing, such as [the EU Pledge](#) and the US [Children’s Food and Beverage Advertising Initiative](#).

The [EU Pledge](#) is a voluntary initiative by leading food and beverage companies to change the way they advertise to children. Launched in 2007 as a World Federation of Advertisers (WFA) commitment to the [EU Platform for Action on Diet, Physical Activity and Health](#), the EU Pledge commits member companies either to only advertise better-for-you products to children under 13, subject to common nutrition criteria; or not to advertise any products to children under this age at all. The EU Pledge is a framework commitment; individual [companies’ commitments](#) can and often do go beyond.¹⁶ Based on extensive annual third-party audits, the EU Pledge has been able to report [high levels of compliance](#) and a [significant impact on children’s exposure](#) to audiovisual communications for these foods and beverages, notably **an 83% reduction in children’s exposure in and around children’s programs, and a 48% reduction in children’ exposure overall**, across all programs. The program also includes an [accountability mechanism](#), which allows citizens and interested parties across the EU to make complaints. These are channeled to an **independent panel**

¹⁴ In Spain, for example, the Spirits Code provides for mandatory and binding Copy Advice for cinema, TV, print, outdoor and radio ads and the Brewers Code and Wine Code foresee mandatory and binding Copy Advice for tv ads. For more information on pre-clearance see <https://www.easa-alliance.org/easa-activities/pre-clearance>

¹⁵ For more information see [Spirits Canada’s Code of Responsible Advertising and Marketing Complaint Procedure \("Complaint Procedure"\)](#)

¹⁶ Additionally to the EU Pledge, there are also national pledges e.g. in Belgium, Portugal, and Switzerland. In June 2022, the local food companies in Greece have signed the Greek Pledge committing to adhere to the EU Pledge commitments. This initiative is carried out by the Hellenic Food Industry Association (SEVT) in collaboration with the Hellenic Advertisers’ Association (SDE) and the monitoring will be conducted by the independent, national self-regulatory body, SEE.

of experts administered by the [European Advertising Standards Alliance](#) (EASA), which delivers rulings. These are [published](#) on the EU Pledge website. Member companies that are found in breach must take corrective measures as directed by the panel's ruling.

In the US, the [Children's Food and Beverage Advertising Initiative \(CFBAI\)](#) and the [Children's Confection Advertising Initiative](#) were created to improve the landscape of food advertising to children under age 13. They are administered by BBB National Programs, which also oversees other advertising self-regulation programs including the Children's Advertising Review Unit.¹⁷ Under CFBAI, participants voluntarily commit that, in advertising primarily directed to children, they will either not advertise foods or beverages to children at all or advertise only products that meet CFBAI's strict Uniform Nutrition Criteria. All CCAI participants pledge to not advertise to children at all. Participants in both programs also do not advertise in elementary schools and do not engage in advertising primarily directed to children under age 6. **Since CFBAI began in 2007, participants have reduced nutrients to limit, like added sugars or sodium, and added more food groups or important nutrients like calcium and Vitamin D in foods advertised to children. Some participants do not advertise to children at all. The CFBAI participants account for 70% of advertising on children's television¹⁸.**

CFBAI monitors and evaluates the participants' compliance with their pledge commitments and publishes an [annual report](#) on compliance and progress. These annual reports have noted instances of non-compliance but generally found excellent compliance over the years.

In the UK, the Advertising Standards Authority (ASA) has addressed potential harms relating to a large number of issues, especially when it comes to the protection of children. The ASA conducts own research with consumers to understand what concerns them most. As such, the rules in place to protect children are deliberately strict. Ads must not contain anything that is likely to result in the mental, physical or moral harm of a child.

Furthermore, ads for food and drink products that are classed as being high in fat, salt or sugar aren't allowed to appear in or on any dedicated children's media. In fact, the ASA goes much further by allowing them only to be shown exclusively or predominantly to adult audiences, in which adults comprise at least three quarters of the audience.

The ASA also continues to use technology to proactively monitor the media landscape for any breaches of the rules, taking compliance action as necessary. The ASA's [CCTV-style Monitoring Reports](#) and [Avatar Monitoring Reports](#) bring transparency and assign accountability to this important area of their work, and their findings have triggered a significant strengthening of the [ASA system's online targeting guidance](#).

¹⁷ CARU's Children's Advertising Guidelines, which apply to all food advertisers, prohibit: depicting excessive food consumption; discouraging or disparaging foods provided by parents or schools or recommended by the U.S. Dietary Guidelines; and depicting snack foods as substitutes for meals.

¹⁸ A 2017 report from the University of Connecticut's Rudd Center for Food Policy & Health found a 50% decline in food ads viewed by children on children's TV programming in the ten years since CFBAI's launch. (Report available at <https://uconnruddcenter.org/research/food-marketing/facts/>.) A 2018 Rudd report noted an 18% decline in children's exposure to food advertising overall since the start of CFBAI. See [Trends in TV advertising: 2017 update reports food-related TV advertising viewed by children and teens from 2002 to 2017.pdf](#). Brief Report. May 2018. A 2018 U.S. study regarding advertising on apps intended for children under age five found virtually no foods ads, although almost all apps contained at least one type of ad. Meyer, M. et al, Advertising in Young Children's Apps, A Content Analysis, Journal of Developmental & Behavioral Pediatrics (Oct. 29, 2018), available at https://journals.lww.com/jrnldbp/Abstract/publishahead/Advertising_in_Young_Children_s_Apps_A_Content.99257.aspx.

In Ireland, the [Advertising Standards Authority for Ireland \(ASAI\)](#), has [updated](#) the rules relating to the advertising of High Fat, Salt and Sugar (HFSS) products in 2021. The rules are restricting marketing communications for HFSS foods and beverages from being directed or targeted at children under the age of 15 through the selection of media or the context in which they appear. The rules are in response to changing media habits among young people, as well as wider concerns in society about public health challenges for this age group. Thresholds for non-broadcast media will reduce the overall exposure to HFSS product marketing communications.¹⁹

The Benefits of Advertising Self-Regulation and its International Recognition

The core principles of advertising self-regulation as detailed above and the work done specifically around food and alcohol advertising and the protection of minors, show that the self-regulatory system has numerous benefits for policy makers, consumers, marketers, and society as a whole.

For policy makers: Self-regulatory ad standards provide an additional layer of consumer protection that complements the legal framework. National advertising self-regulatory bodies help educate and thus avoid problems before they happen by providing training and copy advice. They keep track of key concerns about advertising and take steps to address them when needed. Self-regulation is also more efficient and faster than the legal process to adapt to technological and societal changes.

For marketers: It is often estimated that one-third to one-half of a company's market capitalization is represented by its brand reputation²⁰, which is why consumer trust in the brand is crucial to corporate success. Advertising self-regulation, through the promotion of responsible advertising, helps build consumer trust in brands. Maximized returns on long term investments on advertising benefit not only advertisers but also agencies and media, who will see a higher demand for creative yet responsible advertising. Advertising self-regulation also ensures an impartial and level-playing field for brands.

For consumers: Self-regulation provides an effective, inexpensive (typically cost-free), fast and efficient solution to handle consumer complaints. An efficient and meaningful self-regulatory system helps make sure that advertising remains responsible and thus ensures a high level of consumer protection.

The benefits of advertising self-regulation are recognized by international governmental organizations such as the Asia-Pacific Economic Cooperation (APEC), the European Union (EU), the Organization for Economic Cooperation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD).

- The **Asia-Pacific Economic Cooperation (APEC)**²¹ and the **Organisation for Economic Cooperation and Development (OECD)**²² have both recognized advertising self-regulation's important role and called for greater capacity building of such systems.

¹⁹ See rule 8.21 of the ASAI Code: "Where a marketing communication for HFSS is permissible, it shall be subject to media specific placement rules, including maximum thresholds for each medium."

²⁰ [World Intellectual Property \(WIPO\) Report Brands – Reputation and Image in the Global Marketplace](#), WIPO, 2013
In Canada, 96% of consumers believe that it is 'somewhat' to 'very' important for advertisements to have a set of rules and regulations that advertisers must follow. [Ad Standards Canada Consumer Research](#), Ad Standards, Canada, 2019

²¹ [Asia Pacific Economic Cooperation \(APEC\) Joint Ministerial Statement](#), APEC, 2017

²² Industry Self-Regulation: ROLE AND USE IN SUPPORTING CONSUMER INTERESTS, OECD (2015-03-01), OECD Digital Economy Papers, No. 247, OECD Publishing, Paris. <http://dx.doi.org/10.1787/5js4k1fjqkwh-en>. "Toolkit for protecting digital consumers". (OECD) 2018. The Report recognizes the benefits of effective Self-Regulation, "particularly relevant to the characteristics of the digital economy". Pages 59 and 60 <https://www.oecd.org/going-digital/topics/digital-consumers/toolkit-for-protecting-digital-consumers.pdf>

- The **United Nations Conference on Trade and Development (UNCTAD)** states in the ‘Guidelines for consumer protection’²³ that Member States should encourage the formulation and implementation of codes of marketing and other business practices to ensure adequate consumer protection.
- In **Europe**, effective advertising self-regulation is promoted as a complementary policy tool to general legislation within several policy and regulatory initiatives, such as the Audiovisual Media Services Directive (AVMSD). The revised AVMSD expressly encourages self-regulation and the use of codes of conduct in relation to HFSS foods and beverages marketing.²⁴ The revised AVMSD also expressly encourages self-regulation and the use of codes of conduct in relation to alcohol marketing.²⁵
- The **European Union’s Better Regulation package**²⁶ commends principles for effective self-regulation and its inclusion in the policy toolkit and regulatory impact assessment.
- In the US, the regulatory authority primarily responsible for oversight of advertising and marketing practice, the **Federal Trade Commission (FTC)**, recognizes the role and efficacy of advertising self-regulation, and actively promotes participation by members of the advertising ecosystem. FTC guidance has spurred evolution of self-regulatory requirements, such as the Children’s Food and Beverage Advertising Initiative, FTC-approved industry safe harbor programs pursuant to the Children’s Online Privacy Protection Act, the Digital Advertising Accountability Program, regarding interest-based advertising,²⁷ and the Direct Selling Self-Regulatory Council, offering a first line of compliance enforcement, reducing the burden on regulators. In addition, the FTC has issued several reports on self-regulation in the alcohol industry.²⁸ The FTC has specifically noted that self-regulation is an appropriate response to concerns about the impact of alcohol advertising on youth, given the substantial protections the First Amendment to the U.S. Constitution affords to advertising.

²³ UNCTAD Guidelines for Consumer Protection, 2015. https://unctad.org/system/files/official-document/ditccplpmisc2016d1_en.pdf, item 31; UNCTAD Manual on Consumer Protection, 2018. Page 45 https://unctad.org/system/files/official-document/ditccplp2017d1_en.pdf

²⁴ Article 4a of the Directive (EU) 2018/1808 concerning the provision of audiovisual media services (Audiovisual Media Services Directive) establishes that “Member States shall encourage the use of co-regulation and the fostering of self-regulation through codes of conduct adopted at national level in the fields coordinated by this Directive to the extent permitted by their legal systems”. In addition, recital 28 of the [Directive \(EU\) 2018/1808 concerning the provision of audiovisual media services \(Audiovisual Media Services Directive\)](#) states: ‘Certain widely recognised nutritional guidelines exist at national and international level, such as the World Health Organisation Regional Office for Europe’s nutrient profile model, in order to differentiate foods on the basis of their nutritional composition in the context of television advertising of foods to children. Member States should be encouraged to ensure that self- and co-regulation, including through codes of conduct, is used to effectively reduce the exposure of children to audiovisual commercial communications regarding foods and beverages that are high in salt, sugars, fat, saturated fats or trans-fatty acids or that otherwise do not fit those national or international nutritional guidelines.’

²⁵ Recital 29 of the [Directive \(EU\) 2018/1808 concerning the provision of audiovisual media services \(Audiovisual Media Services Directive\)](#) states: ‘Similarly, Member States should be encouraged to ensure that self- and co-regulatory codes of conduct are used to effectively reduce the exposure of children and minors to audiovisual commercial communications for alcoholic beverages. Certain self- or co-regulatory systems exist at Union and national level in order to market alcoholic beverages responsibly, including in audiovisual commercial communications. Those systems should be further encouraged, in particular those aiming at ensuring that responsible drinking messages accompany audiovisual commercial communications for alcoholic beverages.’

²⁶ [European Union’s Better Regulation Package](#), European Commission, 2015

²⁷ See Federal Trade Commission Staff Report: Self-Regulatory Principles For Online Behavioral Advertising: Tracking, Targeting, and Technology, <https://www.ftc.gov/reports/federal-trade-commission-staff-report-self-regulatory-principles-online-behavioral>

²⁸ See [Self-Regulation in the Alcohol Industry: Report of the Federal Trade Commission \(March 2014\) \(ftc.gov\)](#).

Conclusion

In conclusion, we recommend maintaining the recommendation to Member States to also consider effective advertising self-regulation when considering and implementing policy options. We also believe that Member States should be encouraged to build and/or strengthen a dialogue with Self-Regulatory Organizations in their country.

Resolving the big societal and health issues at global level will require strong local, regional and global partnerships and co-operations between public authorities, civil society and the industry. When it comes to advertising these partnerships can build on the strong self-regulatory systems that already exist in most developed and bigger economies across the globe.

ICAS and our members stand ready to discuss the best way we could work together to help ensure that marketing of alcohol or HFSS foods is appropriate, and that children and minors are protected from harmful advertising and marketing practices.

For more information, please contact



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