MODEL POLICY AND LEGISLATIVE GUIDANCE

FOR REGULATING THE AVAILABILITY AND MARKETING OF UNHEALTHY BEVERAGES AND FOOD PRODUCTS IN AND AROUND SCHOOLS IN THE CARIBBEAN



GUIDANCE

HCC
HEALTHY CARIBBEAN COALITION

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Abbreviations and Acronyms

CARICOM	Caribbean Community
CARPHA	Caribbean Public Health Agency
CCH	Caribbean Cooperation in Health
COI	Conflict of Interest
CRC	Convention on the Rights of the Child
CROSQ	CARICOM Regional Orgnisation for Standards and Quality
CSO	Civil Society Organisation
ECHO	Commission on Ending Childhood Obesity
FOPWL	Front-of-package warning labelling
g	gram
HCC	Healthy Caribbean Coalition
kcal	kilocalorie
M&E	Monitor and evaluate/monitoring and evaluation
ml	millilitre
NCD	Noncommunicable disease
NGO	Non-Governmental Organisation
NNCDC	National NCD Commission
oz	ounce
PAHO	Pan American Health Organization
PAHO NPM	PAHO Nutrient Profile Model
PTA	Parent-Teacher Association
RPG	Regional Public Good
SB	Sweet Beverage
SDGs	Sustainable Development Goals
UNICEF	United Nations Children's Fund
WHA	World Health Assembly
WHO	World Health Organization

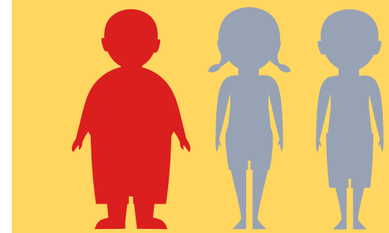
1. Introduction

Childhood obesity and overweight are growing challenges in the Caribbean Community ("CARICOM") affecting one (1) in three (3) children.[1] [*Include any specific statistics for the CARICOM Member State here.*]

Childhood obesity affects not only the immediate health and wellbeing of children but is also a significant risk factor for noncommunicable diseases ("NCDs") and obesity into adulthood.[2] A former UN Special Rapporteur on the Right to Health recently highlighted that "[c]hildren are especially vulnerable to diet-related NCDs because they may be dependent on others, such as parents or schools, for food, and because they are more susceptible to marketing strategies."[3] The urgency of the tri-fold duty of States to respect, protect and fulfil children's rights to the enjoyment of the highest attainable standard of health, adequate nutritious foods and to access information, by preventing and managing childhood obesity, is now more evident than ever.[4]

Faced with "one of the most serious global public health challenges" of this century, there is an urgency to act now and comprehensively to tackle the obesogenic environments in which children are forced to live, learn and play.[5] This Policy, which focuses on regulating the availability and marketing of unhealthy beverages and food products in and around schools, includes key policy elements for [*strengthening and/or developing*] "health-promoting schools".[6] The Policy is therefore an important regulatory buttress for [*developing/strengthening and/or implementing the/a*] national School Nutrition Policy.

Effectively tackling childhood overweight and obesity requires a comprehensive approach. As such, this regulatory Policy should be viewed as a subset of a wider, comprehensive classification of obesity prevention and management policies, including but not limited to interventions to increase physical activity, mandatory front-of-package warning labelling ("FOPWL") requirements, fiscal measures, nutrition education policies, marketing restrictions, procurement policies and school meals policies.[7]



1/3

Caribbean Children is OVERWEIGHT or OBESE

Note: Italicised text within square brackets provide language options or additional information for consideration.

[1] Healthy Caribbean Coalition, *Civil Society Action Plan 2017 – 2021: Preventing Childhood Obesity in the Caribbean* (2017). Available from: https://www.healthycaribbean.org/preventing-childhood-obesity-caribbean-civil-society-action-plan-2017-2021/.

[2] World Health Organization, *Report of the Commission on Ending Childhood Obesity. Implementation plan: executive summary*. Geneva: WHO; 2017 (WHO/NMH/PND/ECHO/17.1). Licence: CC BY-NC-SA 3.0 IGO. Available from: https://000/iris/bitstream/handle/10665/259349/WHO-NMH-PND-ECHO-17.1-eng.pdf?sequence=1.

[3] Dainius Pūras. Statement of the UN Special Rapporteur on the right to health on the adoption of front-of-package warning labelling to tackle NCDs (27 July 2020). (The Statement has been endorsed by: Michaeel Fakhri, Special Rapporteur on the right to food, and Surya Deva, Elzbieta Karska, Githu Muigai, Dante Pesce (Vice Chair), Anita Ramasastry (Chair), Working Group on the issue of human rights and transnational corporations and other business enterprises. Available from: https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26130&LangID=E#_edn21.

[4] United Nations. *United Nations Convention on the Rights of the Child*. Treaty No. 27531. *United Nations Treaty Series* 1577. Available from: https://treaties.un.org/doc/Treaties/1990/09/19900902%2003-14%20AM/Ch_IV_11p.pdf, Article 24; United Nations General Assembly, Committee on the Rights of the Child, *General Comment No. 15*. (2013) UN Doc. No. CRC/C/GC/1 on the right of the child to the enjoyment of the highest attainable standard of health (Article 24), paras. 71-74.

[5] World Health Organization, *Taking Action on Childhood Obesity Report*. Geneva: WHO; 2018 (WHO/NMH/PND/ECHO/18.1). Licence: CC BY-NC-SA 3.0 IGO. Available from: https://apps.who.int/iris/bitstream/handle/10665/274792/WHO-NMH-PND-ECHO-18.1-eng.pdf?ua=1.

[6] World Health Organization, *Making every school a health promoting school: implementation guidance*. Geneva: World Health Organization and the United Nations Educational, Scientific and Cultural Organization; 2021. Licence: CC BY-NC-SA 3.0 IGO. Available from: https://www.who.int/activities/making-every-school-a-health-promoting-school.

[7] Statement of the UN Special Rapporteur, *supra* (note 3).

1.1 Background and Rationale

Unhealthy diets, together with the aggressive marketing of unhealthy beverages and food products in already obesogenic school and other environments, contribute to childhood overweight and obesity.

School Food Environments

Schools, where children spend one-third of their time, are critical settings for tackling childhood obesity and overweight.[8] Further, the availability of unhealthy beverages and food products in and around schools represents a significant part of children's beverage and food consumption.[9] The Report of the World Health Organization ("WHO") Commission on Ending Childhood Obesity ("ECHO") provides policy recommendations, including the need to "eliminate the provision or sale of unhealthy food products, such as sugar-sweetened beverages and energy-dense, nutrient-poor foods, in the school environment" and the need to implement measures to restrict the marketing of unhealthy beverages and food products to children.[10] Such recommendations were assessed through a Caribbean lens to help to inform this Policy.

Unhealthy Beverages

The evidence in support of policies which prohibit the sale of unhealthy beverages, that is, the broad category of sweet beverages ("SBs"), which include sugar-sweetened beverages ("SSBs") and sugary beverages (SuBs), is robust.[11] Several SBs are available to children on a daily basis in and around schools. Within that category of beverages, SSBs represent a significant contributor to free sugars in children's diet and are shown to increase children's risk of becoming obese and developing chronic diseases, such as diabetes, heart disease and high blood pressure.[12] In light of all of the evidence, the WHO recommends to reduce the intake of free sugars to less than 10% of the total energy intake and to less than 5% for further health benefits.[13]

As a result of the incontrovertible evidence and effects on children and society, there has been growing interest among CARICOM States to introduce bans on unhealthy beverages and, in some instances, unhealthy snacks in schools. To date, policies restricting or prohibiting the sale of SBs have been developed and implemented in Bermuda (2006), the Republic of Trinidad and Tobago (2017), Jamaica (2019), The Commonwealth of The Bahamas (2019) and Grenada (2019). Announcements of intentions to introduce similar, or even more robust policies, were also made in Belize (2019) and the Co-operative Republic of Guyana (2019). The strong political leadership demonstrated by these CARICOM States in addressing childhood obesity in the school environment has also helped to pave the way for this current Policy.

Unhealthy Food Products

The sale of unhealthy food products, namely processed and ultra-processed products, continues to increase.[14] Further, the consumption of such products is known to contribute to overweight and obesity in both adults and children. The evidence-based Pan American Health Organization's Nutrient Profile Model ("PAHO NPM"), which applies to processed and ultra-processed products, recommends that products which are excessive in free sugars, sodium, total fats, saturated fats and/or trans fat should be regulated.[15] To date, countries such as Chile, Peru, Colombia, Costa Rica, Uruguay, Mexico and Argentina, have introduced regulatory measures to restrict or ban the availability of unhealthy food products, by relying on a nutrient profiling model or some kind of food categorisations.[16] The examples of these Latin American countries, and other countries around the world, have also generated a further impetus for the current Policy.

Marketing of unhealthy beverages and unhealthy food products

There are also several clear evidence-based conclusions in support of marketing bans on unhealthy beverages and food products. According to the Recommendations from a PAHO Expert Consultation on the Marketing of Food and Non-Alcoholic Beverages to Children in the Americas, not only does the food and beverage industry use "advertising and other forms of food marketing communications to extensively market food to children" but such products are also predominately unhealthy.[17] For example, the food and beverage industry habitually markets "pre-sugared breakfast cereals, soft drinks, sweets, salty snacks and fast foods which are drastically out of line with dietary recommendations for children."[18] Further, the repetitive and pervasive nature of food marketing and advertising to children influences their "knowledge, preferences, purchase requests and consumption patterns."[19] Despite such clear evidentiary bases, policy approaches to address marketing have been modest or non-existent. To date, no CARICOM State has implemented restrictions or bans on the marketing of unhealthy beverages and food products in schools or otherwise. The National School Nutrition Policy for Grenada provides as a strategy "that all foods offered in schools, including sponsorships" should adhere to specific healthy standards.[20] Jamaica's School Nutrition Policy, which has been submitted for Cabinet approval, is expected to address marketing in schools.

In light of the above, this current Policy provides a comprehensive approach to the school food environment and addresses both the availability and marketing of unhealthy beverages and food products in and around schools, among other elements.[21]

1.2 Overview of the Situation

This Policy is framed within the context of international hard and soft laws, regional policies, standards and mandates, as well as domestic laws and policies, including but not limited to:

International Context

The Convention on the Rights of the Child (CRC)

Having ratified the CRC, [*insert name of CARICOM State and year of ratification*] has a binding obligation to "undertake all legislative, administrative and other measures"[22] to progressively respect, protect and fulfil "the right of the child to the enjoyment of the highest standard of health..."[23] Consequently, there is a duty to "address obesity in children" by limiting "children's exposure to "fast foods" that are high in fat, sugar or salt, energy-dense and micronutrient poor, and drinks containing high levels of caffeine

[8] WHO, *Making every school a health promoting school: implementation guidance, supra* (note 6).

[9] Reeve, E., Thow, A.M., Bell, C. et al. *Implementation lessons for school food policies and marketing restrictions in the Philippines: a qualitative policy analysis*, Global Health 14 Art. 8 (2018). Available from: https://doi.org/10.1186/s12992-017-0320-y.

[10] World Health Organization, *Report of the Commission on Ending Childhood Obesity. Implementation plan: executive summary*. Geneva: WHO; 2017 (WHO/NMH/PND/ECHO/17.1). Licence: CC BY-NC-SA 3.0 IGO. Available from: https://apps.who.int/iris/bitstream/handle/10665/259349/WHO-NMH-PND-ECHO-17.1-eng.pdf?sequence=1.

[11] Tim Lobstein, *Reducing consumption of sugar-sweetened beverages to reduce the risk of childhood overweight and obesity*. World Obesity Federation, September 2014. Available from: https://www.who.int/elena/titles/commentary/ssbs_childhood_obesity/en/.

[12] Sousa A, Sych J, Rohrmann S, Faeh D. *The Importance of Sweet Beverage Definitions When Targeting Health Policies-The Case of Switzerland. Nutrients*. 2020;12(7):1976. Published 2020 Jul 3. doi:10.3390/nu12071976.

[13] World Health Organization. Guideline: sugars intake for adults and children. Geneva World Health Organization; 2015. WHO/NMH/NHD/15.2.

[14] Pan American Health Organization. *Ultra-processed food and drink products in Latin America: Sales, sources, nutrient profiles, and policy implications*. Washington, D.C.: PAHO; 2019.

[15] Pan American Health Organization, *PAHO Nutrient Profile Model* (2016 and updated 2017). Note for e.g., Mexico uses a version of the PAHO NPM.

[16] *Ibid.*; Laura Reiley, The Washington Post, *Mexico moves to ban junk food sales to children citing obesity as coronavirus risk factor*, August 19, 2020. Available from: https://www.washingtonpost.com/business/2020/08/19/mexico-kids-junk-food-ban/.

[17] Pan American Health Organization, *Recommendations from a Pan American Health Organization Expert Consultation on the Marketing of Food and Non-Alcoholic Beverages to Children in the Americas*, Washington, D.C. PAHO; 2011, p. 2.

[18] *Ibid.*

[19] *Ibid*, p 3.

[20] The Ministry of Education and Grenada Food and Nutrition Council, *National School Nutrition Policy for Grenada*. (2015), p 13. Available from: https://gov.gd/sites/moe/files/docs/Documents/12.%20Grenada%20Schools%20nutrition%20policy%20Final%20Submitted.pdf.

[21] Ministry of Education. National School Nutrition Policy May 10, 2022 - Green Paper. Available from: https://moey.gov.jm/document/national-school-nutrition-policy-may-10-2022-green-paper/ (The Green Paper uses the WHO definition for "marketing" and includes the regulation of marketing of foods and beverages in and around schools as a key strategy which can be accomplished through regulations under the Education Act. There is also a line with the responsibility of the private sector that mentions marketing. However, the Green Paper merely provides the intention of the Ministry of Education and is not law as yet, such that its contents can be changed, for example following stakeholder consultations.).

[22] UN CRC, Article 4 (note 4).

[23] *Ibid*, Article 24.

or other potentially harmful substances..."[24] This duty also extends to regulating the marketing of such unhealthy substances to children and [*insert name of CARICOM State*] also has a duty to control the availability of such harmful substances in schools.[25] This Policy also anticipates the likely obligations and benefits of the proposed Optional Protocol to the CRC on the regulation of commercial marketing by seeking to comprehensively protect children from the marketing of SBs and unhealthy food products in and around schools, among other strategies.[26]

Importantly, General Comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights recognises that "the marketing to children of products such as cigarettes and alcohol as well as foods and drinks high in saturated fats, trans-fatty acids, sugar, salt or additives can have a long-term impact on their health."[27] The Committee recommends that "preventative measures such as effective regulation and monitoring of advertising and marketing industries" be taken.[28] Similarly, the July 2020 Statement by the then UN Special Rapporteur on the right to health, in addition to promoting the adoption of FOPWL to tackle NCDs, also highlights the need to regulate the marketing practices of non-state actors, like the food and beverage industry players, as part of States' duty to protect the right to health.[29]

Other international instruments

Other international instruments, such as the Universal Declaration of Human Rights[30] and the International Covenant on Economic, Social and Cultural Rights[31] ("ICESCR") also recognise the right to health, food and to access information, among other interrelated human rights. Further, the right to health as derived from Article 26 of the American Convention on Human Rights,[32] has benefitted from recent interpretations by the Inter-American Court[33] and is also expressly included in the Additional Protocol in the Area of Economic, Social and Cultural Rights[34] "Protocol of San Salvador".

Sustainable Development Goals ("SDGs")

This Policy is set within the context of the United Nations SDGs, notably SDG 3 (Good Health and Well-Being) and SDG 2 (Zero Hunger). SDG 3 seeks to "ensure healthy lives and promote well-being for all at all ages" and has as target 3.4 "to reduce by one-third premature mortality from noncommunicable diseases through prevention and treatment, and promote mental health and well-being" by 2030.[35] SDG 2 which aims to "end hunger, achieve food security and improved nutrition and promote sustainable agriculture" also addresses the issue of childhood obesity as a form of malnutrition in target 2.2.[36]

[24] United Nations General Assembly. Committee on the Rights of the Child, *General Comment No. 15.* (2013) UN Doc. No. CRC/C/GC/1 on the right of the child to the enjoyment of the highest attainable standard of health (Article 24), para 47. Available from: https://www.refworld.org/docid/51ef9e134.html.

[25] *Ibid.*

[26] Clark H, Coll-Seck AM et al, *A future for the world's children?* A WHO-UNICEF-LANCET Commission. The Lancet Commissions Vol 395, Issue 100224, February 22, 2020. pp 605 – 658 (633).

[27] United Nations Committee on the Rights of the *Child, General Comment No. 16 (2013) on State obligations regarding the impact of business on children's rights*, 17 April 2013, CRC/C/GC/16, para 19. Available from: https://www.refworld.org/docid/51ef9cd24.html.

[28] *Ibid,* para 20.

[29] Dainius Pūras. Statement of the UN Special Rapporteur on the right to health on the adoption of front-of-package warning labelling to tackle NCDs, *supra* (note 3).

[30] United Nations. *Universal Declaration of Human Rights. See for e.g.*, Article 25 (right to health and food), Article 19 (freedom of opinion and expression, including the right to access information).

[31] United Nations. *International Covenant on Economic, Social and Cultural Rights.* 993 UNTS 3 (entered into force 3 January 1976). United Nations: 1966. *See for e.g.*, Article 11 (right to adequate food) and Article 12 (right to the highest attainable standard of health).

[32] Organization of *American States. American Convention on Human Rights* (adopted at the Inter-American Specialized Conference on Human Rights, San José, Costa Rica, 22 November 1969).

[33] *Poblete Vilches et al v Chile* (2018) Judgment of the Inter-American Court of Human Rights; *Cuscul Piraval et al v Guatemala* (2018) Judgment of the Inter-American Court of Human Rights.

[34] Additional Protocol in the Area of Economic, Social and Cultural Rights "Protocol San Salvador" 1988. *See for e.g.*, Article 10.

[35] United Nations Department of Economic and Social Affairs, Sustainable Development, *Sustainable Development Goals.* Available from: https://sdgs.un.org/goals/goal1. [Accessed: July 25, 2020].

[36] *Ibid.*

Various WHO and World Health Assembly ("WHA") endorsed documents

The Global Strategy on Diet, Physical Activity and Health,[37] as endorsed by the 57th WHA in 2004, recommends that WHO Member States "adopt policies that support healthy diets at school and limit the availability of products high in salt, sugar and fats" and "develop appropriate multisectoral approaches to deal with the marketing of food to children, and to deal with such issues as sponsorship, promotion and advertising", among other strategies.[38]

In 2010, the 63rd WHA endorsed a Set of recommendations on marketing of food and alcoholic beverages to children[39] by way of adoption of resolution WHA63.14. As a result, WHO Member States are encouraged to implement the recommended actions to reduce the impact on children of marketing of foods high in saturated fats, trans-fatty acids, free sugars, or salt.

Then, a 2012 Resolution of the WHA endorsed six (6) Global Targets[40] which seek to ensure zero increase in childhood overweight by 2025, among other targets.[41] The "regulation of the marketing of food and non-alcoholic beverages to children" was highlighted as an element of a comprehensive mix of policy actions to halt the increase in overweight in children.[42] In addition, the WHO's NCD Global Monitoring Framework also includes a zero-increase in diabetes and obesity indicator for adolescents.[43]

In 2016, the WHO Commission on Ending Childhood Obesity provided a Final Report[44] which sets out policy recommendations including the implementation of "comprehensive programmes that promote the intake of healthy foods and reduce the intake of unhealthy food products and sugar-sweetened beverages by children and adolescents."[45] Importantly that Report also proposes key actions and responsibilities for a range of stakeholders, including government and the private sector.

Regional Context

The regional context has also shaped this Policy primarily, though not exclusively, through the following policies, standards or mandates:

Caribbean Cooperation in Health ("CCH")

Since 1984, the CCH has sought to foster cooperation in health across the Region. The fourth iteration of the CCH (2016 - 2025) has maintained NCDs as an "important priority [...] through an upgraded Port of Spain Declaration."[46] Regional Public Goods ("RPGs") such as model policies and legislation to strengthen regional and domestic health frameworks, are recognised in this fourth CCH as key to its implementation.[47]

2007 Port-of-Spain Declaration on the Prevention and Control of NCDs ("PSD")

In 2007, CARICOM Heads of Governments endorsed 15 mandates in the PSD which are centred on a whole-of-society approach to addressing the

[37] WHO, *Global Strategy on Diet, Physical Activity and Health (2004).* Available from: https://www.who.int/dietphysicalactivity/strategy/eb11344/strategy_english_web.pdf.

[38] *Ibid,* para 40.

[39] WHO, *Set of Recommendations on the Marketing of Food and Non-Alcoholic Beverages to Children*, Geneva: WHO; 2010. Available from: https://apps.who.int/iris/bitstream/handle/10665/44416/9789241500210_eng.pdf?sequence=1.

[40] WHO. Global nutrition targets 2025: policy brief series (WHO/NMH/NHD/14.2). Geneva: WHO; 2014.

[41] *ibid.*

[42] *Ibid,* p 2.

[43] WHO. *Noncommunicable Diseases Global Monitoring Framework: Indicator Definitions and Specifications.* Available from: https://www.who.int/nmh/ncd-tools/indicators/GMF_Indicator_Definitions_Version_NOV2014.pdf.

[44] World Health Organization, *Report of the Commission on Ending Childhood Obesity. Implementation plan: executive summary.* Geneva: WHO; 2017 (WHO/NMH/PND/ECHO/17.1). Licence: CC BY-NC-SA 3.0 IGO. Available from: https://apps.who.int/iris/bitstream/handle/10665/259349/WHO-NMH-PND-ECHO-17.1-eng.pdf?sequence=1.

[45] *Ibid,* p. 10.

[46] Caribbean Cooperation in Healthy Phase IV, *Summary of the Regional Health Framework 2016 – 2025: "Regional Public Goods for Sustainable Health Development"*. Available from: https://caricom.org/documents/16429-cch-iv-publication_rev-7_health_sector_development.pdf.

[47] *Ibid.*

problems associated with NCDs. One such mandate is that "education sectors promote programmes aimed at providing healthy school meals and promoting healthy eating."[48]

Communiques from the CARICOM Heads of Government Meetings in 2016, 2017 and 2018[49]

The 2016, 2017 and 2018 Communiques of the Conference of the CARICOM Heads of Government emphasise the Region's commitment to tackling NCDs using a multisectoral approach. In the 2016 Communique, the Heads of Government pledged their commitment to "banning advertisement of potentially harmful foods which specifically target children". The following year, the Heads of Government "recommitted themselves to the promotion of healthy lifestyles to combat the epidemic of NCDs." Then, a year later, in 2018, they endorsed "implementing policies geared to preventing childhood obesity, including for health-promoting school environments", among other priorities. These mandates are representative of the highest-level of political commitments for this Policy.

The Caribbean Public Health Agency ("CARPHA") 6-Point Policy Package

CARPHA's 6-Point Policy Package[50] identifies six (6) priority policy actions namely, mandatory food labelling, mandatory school and other institutions nutrition standards and guidelines, reduction in the marketing of unhealthy food to children, product reformulations, trade and fiscal measures and the promotion of healthy food chain incentives.

PAHO Plan of Action for the Prevention of Obesity in Children and Adolescents (2014-2019) and other regional plans, such as HCC's Civil Society Action Plan 2017 - 2021

The five (5) strategic lines of action in the PAHO Plan of Action for the Prevention of Obesity in Children and Adolescents continue to be relevant beyond its 2019 termination date due to its influence on other regional plans, such as the Health Caribbean Coalition's (HCC) Civil Society Action Plan 2017 – 2021: Preventing Childhood Obesity in the Caribbean.[51] This current Policy has also benefitted from the evidence and clear objectives established in the PAHO Plan of Action, namely the improvement of school nutrition and physical activity environments (Line Action 2) as well as the implementation of fiscal policies and regulation of food marketing and labelling (Line Action 3).

Pending regional initiatives

It is also of great significance for the implementation, monitoring and evaluation of this Policy that at the regional level, CARPHA and PAHO are currently collaborating to develop Regional Nutrition Standards which would provide technical recommendations. Further, the CARICOM Regional Organisation for Standards and Quality ("CROSQ") has commenced collaborative work with other key actors on the development of a FOPWL Standard based on the PAHO NPM.

Domestic Context

National Constitution

The Constitution, as the supreme law of the land, makes provision for the infringement of certain rights [*in the public interest or in the interest of public health*]. This provides the State with scope to reasonably regulate the availability and marketing of unhealthy beverages and food products. [*This section should also discuss any specific health rights or health-related rights in the Constitution which support this Policy.*]

Relevant Primary Legislation (and any subsidiary legislation, such as regulations)

[*This section should include a thorough assessment or evaluation of any existing primary and subsidiary laws relevant to the school food environment, such as the Education Act, Health System Act, Consumer Protection Act, Child Protection Act, as well as legislation pertaining to food security, nutrition, marketing, advertising, promotion and sponsorship, food retailing, food labelling, composition and distribution, planning and zoning laws and legislation regulating commercial licensing. This assessment or evaluation should therefore include but not be limited to a careful review of the strengths and weaknesses of all relevant laws, with the aim of identifying any gaps in the legislative framework for inclusion within this Policy, as well as a consideration of the implementation status of the relevant laws and regulations and the potential scope for amendments or repeals to existing laws.*]

National Policies, Guidelines and Standards

[*This section should include a complete assessment or evaluation of any relevant national policies, guidelines and standards relevant to the school food environment, such as the National NCD Plan, National School Nutrition Policy, National Food Security Policy, National Food and Beverage Standards, National Food-based Dietary Guidelines, School Meals Nutrition Guidelines and Standards, for example. This assessment or evaluation should also consider the dietary and food-based nutritional status information of school children, such as their dietary patterns in schools and in particular identify whether mandatory or voluntary nutrition standards exists*].

[48] T. Alafia Samuels and Nigel Unwin, *The 2007 Caribbean Community Port-of-Spain Declaration on noncommunicable diseases: an overview of a multidisciplinary evaluation*, Rev Panam Salud Publica. 2018 42 e193. Available from: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6385896/.

[49] CARICOM Secretariat, Communiqués (2016, 2017, 2018). Available from: https://caricom.org/category/communiques/.

[50] CARPHA, Technical Brief: Promoting Healthy Diets, Food Security, and Sustainable Development in the Caribbean Through Joint Policy Action (2015 and revised in 2017). Available from: https://new.carpha.org/Portals/0/Documents/CARPHA_6_Point_Policy_for_Healthier_Food_Environments.pdf.

[51] Health Caribbean Coalition's (HCC) Civil Society Action Plan 2017 – 2021: Preventing Childhood Obesity in the Caribbean. Available from: Civil Society Action Plan 2017-2021: Preventing Childhood Obesity in the Caribbean.

2. Goals, Objectives, Principles and Values of the Policy

2.1 Goal of the Policy

The overarching goal of this Policy is to contribute to the attainment of children's right to health and to adequate nutritious foods by creating healthy school food environments that enable school children to make informed, healthier choices.

2.2 Objectives of the Policy

The specific objectives of this Policy are:

a. to ban exposure to and the power of marketing of unhealthy beverages and food products in and around schools;

b. to ban the availability and consumption of unhealthy beverages and food products in and around schools by children; and

c. to promote and facilitate the availability and consumption of healthy beverages and healthy foods in and around schools for children.



2.3 Principles and Values of the Policy

The following principles and values have guided the development of this Policy:

Childhood obesity is a human rights issue

The main principle guiding this Policy is that childhood obesity, in addition to being a critical public health concern, is also an important human (child) rights issue. A human rights issue that the State is duty-bound to address "to the maximum extent of [its] available resources and, where needed, within the framework of international co-operation."[52]

Evidence-based approach

The elements of this Policy are grounded in the best available scientific evidence which is free from conflicts of interests (COI). The feedback of key policymakers and public health experts from several CARICOM States, who were interviewed as part of the policy mapping process, provided insight into the Caribbean context and also helped to inform the Policy. Any variances in policy approaches were weighed against the evidence in decision-making regarding the final policy elements.

Collaborative and participatory approach

The challenge of tackling childhood obesity is complex, involving several sectors which need to work together to forge comprehensive and lasting solutions. This Policy, particularly regarding its implementation systems and M&E mechanisms, recommends a collaborative and participatory whole-of-society approach, albeit excluding the food and beverage industry and their allies where contra-health, from decision-making processes.

Human (child) rights-based approach

There is a need to make public policy and supporting documents, such as implementation and M&E reports, easily accessible and available to the public for greater accountability, transparency and participation. The implementation systems and M&E mechanisms of this Policy therefore seek to promote transparency and accountability. This is in light of the fact that concerns regarding COI are likely to arise from the participation of the food and beverage industry and/or other influential individuals in the policy process. In addition, the meaningful participation of children, the main beneficiaries of the policy, in the policy process is also critical for a human (child) rights-based approach.

Policy coherence

This Policy supports existing work towards global targets and goals, such as the WHO's "25 by 25" Target[53] and the SDGs.[54] Consequently, in the formulation of the implementation and M&E mechanisms, policy coherence was an overarching consideration.

Importantly, given this Policy's focus on the school food environment, maximum overall impact on curbing childhood obesity is expected from policy implementation in concert with other childhood obesity prevention policies. This Policy should form part of a comprehensive package of mutually reinforcing policies, such as an FOPWL policy, which is fundamental and of great importance to facilitate the regulation of unhealthy food products in schools.

[52] UN CRC, Article 4 (note 4).

[53] WHO, Global nutrition targets 2025: policy brief series, *supra* (note 39).

[54] United Nations Department of Economic and Social Affairs, Sustainable Development, *supra* (note 34).

Main Policy Provisions

3. Definitions

For the purposes of this Policy,

"available" includes the sale, distribution, provision, donation, use as a reward, serving or bringing of unhealthy beverages and food products onto, in or around schools;

"brand" means a corporate name, product name, business logo, image, character, mark and/or colour(s), whether legally qualifying as a trademark, which is used by a seller or manufacturer to identify goods or services and to distinguish them from competitors' goods or services;[55]

"brand marketing" includes brand advertising and promotion that has the effect of promoting specific unhealthy beverages and/or food products, whether those unhealthy beverages and/or food products are featured directly;

"child" means a person under the age of 18 years enrolled in a school;

"culinary ingredients" means "substances extracted directly from unprocessed or minimally processed foods or from nature and commonly consumed (or consumable) as ingredients of culinary preparations. The extraction process can include pressing, grinding, crushing, pulverizing, and drying. These substances are used to season and cook unprocessed or minimally processed foods and create freshly prepared dishes";[56]

"digital marketing" includes "promotional activity, delivered through a digital medium, that seeks to maximize impact through creative and/or analytical methods, including: creative methods to activate implicit emotional persuasion, such as building engagement in social networks (e-Word-of-Mouth); using immersive narratives or social- entertainment- and humour-based approaches; using "influencers" popular with children, such as YouTube "vloggers" (video bloggers); using augmented reality, online games and virtual environments; or analysis of emotions of vulnerability or to maximize the impact of creative methods";[57]

"extended school day" means any time spent by children before or after the regular school day for any purpose, including but not limited to participation in extra-curricular activities, childcare programmes, school events or school-related events, wherever they be held;[58]

"free sugars" include "monosaccharides (such as glucose and fructose) and disaccharides (such as sucrose and table sugar) added to beverages and foods by the manufacturer, cook and/or consumer, and sugars that are naturally present in honey, syrups and [100% natural fruit] juices";[59]

"marketing" includes, but is not limited to, any form of commercial communication, message, recommendation or action with the aim, effect or likely effect of promoting, increasing the recognition, appeal and/or consumption of particular products and services either directly or indirectly. Marketing therefore comprises anything that advertises or otherwise promotes a product or service (including direct and indirect promotion);[60]

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[55] Definition adapted from the State of California Education Code, s49431.9. Available from: https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201720180AB841&showamends=false.

[56] Pan American Health Organization, *Pan American Health Organization Nutrient Profile Model*, PAHO (2016), available from: http://alimentation-sante.org/wp-content/uploads/2016/03/paho-nutrient-profile-model.pdf.

[57] World Health Organization Regional Office for Europe. Tackling food marketing to children in a digital world: trans-disciplinary perspectives (2016). Available from: https://www.euro.who.int/en/health-topics/disease-prevention/nutrition/publications/2016/tackling-food-marketing-to-children-in-a-digital-world-trans-disciplinary-perspectives.-childrens-rights,-evidence-of-impact,-methodological-challenges,-regulatory-options-and-policy-implications-for-the-who-european-region-2016.

[58] Definition adapted from the Colorado Department of Education, Colorado State Board of Education, Rules for the administration of the healthy beverages policy, 1 CCR 301-79. Available from: https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=6916&fileName=1%20CCR%20301-79.

[59] PAHO (2016), *supra* (note 54).

[60] Definition adapted from World Health Organization, *Set of Recommendations on the Marketing of Food and Non-Alcoholic Beverages to Children*, Geneva: WHO; 2010. Available from: https://apps.who.int/iris/bitstream/handle/10665/44416/9789241500210_eng.pdf?sequence=1; United Nations Children Fund (UNICEF), A Child Rights-Based Approach to Food Marketing: A Guide for Policy Makers. April 2018. Available from: https://bit.ly/2OooSUY and the World Health Organization. Framework Convention on Tobacco Control (2003). Available from: https://www.who.int/fctc/text_download/en/.

"minimally processed foods" include "unprocessed foods that have undergone cleaning, removal of inedible or unwanted parts, drying, grinding, fractionation, roasting, boiling, pasteurization, cooling, freezing, vacuum packing, and/or non-alcoholic fermentation. Minimally processed foods also include the following: combinations of two or more unprocessed or minimally processed foods, minimally processed foods added of vitamins and minerals to restore the original micronutrient content or for public health purposes, and minimally processed foods with additives designed to preserve their original properties, such as antioxidants and stabilizers";[61]

"nutrient profiling" is "the science of classifying or ranking foods according to their nutritional composition for reasons related to preventing disease and promoting health." As a result, a nutrient profile model is a tool used to classify food and drink products which are in excess of critical nutrients, such as sugars, salt, total fat, saturated fat and trans-fatty acids;[62]

"other sweeteners" include "beverage and food additives that impart a sweet taste to a food, including artificial non-caloric sweeteners (such as aspartame, sucralose, saccharin and acesulfame potassium), natural non-caloric sweeteners (such as stevia), and caloric sweeteners such as polyols (namely sorbitol, mannitol, lactitol and isomalt)." This category however does not include fruit juices, honey or other food ingredients that may be used as a sweetener;[63]

"processed food products" means "food products manufactured by industry in which salt, sugar or other culinary ingredients have been added to unprocessed or minimally processed foods and beverages to preserve them or make them more palatable. Processed products are derived directly from natural foods and recognised as a version of the natural foods. Most of them have two (2) to three (3) ingredients. The processes used in the manufacture of these food and beverage products may include different methods of cooking and, in the case of cheeses and bread, non-alcoholic fermentation. Additives may be used to preserve the properties of these products or to avoid proliferation of microorganisms. Examples of processed products include but are not limited to vegetables preserved in salt or by pickling, fruits in sugars and salted, smoked or cured meat and fish";[64]

"regular school day" means the scheduled or timetabled classes for instructional purposes, school assemblies, breaktimes and lunchtimes for children, wherever they be held, and which occur during the official opening hours of the school's office;

"school" means the schools, institutions, centres and colleges specified in section 4.1 of this Policy, which cater to children under the age of 18 years;

"school campus" means all areas of the property under the jurisdiction of the school which constitute the school food environment that are accessible to students during the regular and extended school day, including but not limited to the classrooms, lunchrooms, cafeterias, vending machines, tuckshops, vendors, concession stands or kiosks.[65] For the purpose of the prohibitions on marketing and brand marketing in sections 11 and 12 respectively of this Policy, the school campus also extends to all school buses or vans, whether privately or publicly owned which are predominantly used to transport children

[61] PAHO (2016), *supra* (note 54).

[62] PAHO (2016), *supra* (note 54).

[63] PAHO (2016), *supra* (note 54).

[64] PAHO (2016), *supra* (note 54).

[65] Change Lab Solutions, *Food and Beverage Marketing: Model School Wellness Policy Language* (2017). Available from: http://www.changelabsolutions.org/sites/default/files/ModelLocalSchoolWellnessPolicyLanguage_FINAL_201706_3.pdf.

to and from school, as well as to school-owned and/or issued computers, websites, apps, online learning platforms;

"sponsorship" includes any form of contribution to any event, activity or individual with the aim, effect or likely effect of promoting particular products, services or brands;[66]

"ultra-processed food products" means "industrial formulations of food products manufactured with several ingredients. Like processed products, ultra-processed products include substances from the culinary ingredients' category, such as fats, oils, salt, and sugar. Ultra-processed products can be distinguished from processed products based on the presence of other substances that are extracted from foods but have no common culinary use (such as casein, milk whey, protein hydrolysate, and protein isolates from soy and other foods); substances synthesized from food constituents (e.g., hydrogenated or interesterified oils, modified starches, and other substances not naturally present in foods); and additives used to modify the colour, flavour, taste, or texture of the final product. Unprocessed or minimally processed foods usually represent a tiny proportion of or are absent in the list of ingredients of ultra-processed products, which often have 5, 10, or 20 or more items. Several techniques are used in the manufacture of ultra-processed products, including extrusion, molding, and pre-processing, through frying. Examples include soft drinks, packaged snacks, "instant" noodles, and chicken nuggets";[67]

"unhealthy beverages" include beverages which contain excessive amounts of added sugar, salt, saturated fats and or trans fats which exceed the relevant thresholds established in the PAHO NPM and which are prohibited by way of this Policy, such as sweet beverages, sugar-sweetened beverages and sugary beverages;

"unhealthy food products" include processed and ultra-processed food products which contain excessive amounts of added sugar, salt, saturated fats and or trans fats which exceed the relevant thresholds established in the PAHO NPM and which are prohibited by way of this Policy;

"unprocessed foods" include "foods obtained directly from plants or animals that do not undergo any alteration between their removal from nature and their culinary preparation or consumption."[68]

[66] Definition adapted from World Health Organization. Framework Convention on Tobacco Control (2003).

[67] PAHO (2016), *supra* (n 54).

[68] PAHO, *supra* (note 46).

4.Scope

4.1 **This Policy applies to all:**

a. nursery, pre-primary, primary and secondary schools, whether public, government-assisted [government-aided] or private [*independent*];

a. technical institutions, training centres, community colleges or any other institutions, centres or colleges catering mainly to children, whether public, government-assisted [*government-aided*] or private [*independent*].

4.2 **This Policy applies** to the immediate school campus and to the food environment within a radius of [*at least 0.5 miles/ 800 metres*][69] from the school campus.

4.3 **This Policy applies** at all times during the regular school day and during the extended school day.

4.4 **This Policy applies** to individuals, companies or groups who may make beverages and/or foods available or cause such to be made available in and around schools and/or who may market beverages and/or foods or cause beverages and/or foods to be marketed in and around schools, including but not limited to:

a. principals [*proprietors of private schools*];
b. school administrators and school boards;
c. teachers and teaching assistants;
d. parents and guardians;
e. children;
f. canteen operators;
g. tuck shop operators;
h. vending machine operators;
i. vendors;
j. concessionaries;
k. visitors to schools;
l. persons or entities in the formal and informal food and beverage industry;
m. personnel in public, private or non-governmental sectors.

[69] *See e.g.,* results of studies, such as Brennan Davis, PhD and Christopher Carpenter, PhD. Proximity of Fast-Food Restaurants to Schools and Adolescent Obesity. Am J Public Health. 2009 March; 99(3):505-510. doi: 10.2105/AJPH.2008.137638 which suggests (0.5 miles); Smith,D., Cummins, S., Clark, C. et al. Does the local food environment around schools affect diet? Longitudinal associations in adolescents attending secondary schools in East London. BMC Public Health 13,70 (2013) https://doi.org/10.1186/1471-2458-13-70 which analyzed diet influences on adolescents of food retail outlets 400 – 800 metres from schools.

5. Application of the PAHO Nutrient Profile Model ("PAHO NPM")

5.1 The Ministry of Health [*and Wellness*] shall apply the relevant PAHO NPM thresholds (**Table 1**) to identify all processed and ultra-processed beverages and food products which are in excess of free sugars, sodium, total fats, saturated fats and/or trans fats.

5.2 The PAHO NPM shall not be applied to any unprocessed or minimally processed beverages and food products, culinary ingredients or other single substances extracted directly from foods or nature and used as ingredients in culinary preparations.

5.3 The nutrition label on processed and ultra-proceeds beverages and food products shall be used to apply the PAHO NPM in accordance with **Annex I**.

Table 1: PAHO NPM criteria for classifying processed and ultra-processed products

FREE SUGARS	SODIUM	TOTAL FATS	SATURATED FATS	TRANS FATS	OTHER SWEETENERS
≥10% of total energy from free sugars	≥1 mg of sodium per 1 kcal OR ≥300 mg/100g of product OR ≥40mg/100 millilitre (ml) for drinks providing no energy	≥30% of total energy from total fat	≥10% of total energy from saturated fat	≥1% of total energy from trans fat	Any quantity of other sweeteners

6. Prohibition of Unhealthy Beverages

6.1 The Ministry of Health [*and Wellness*] shall deem all beverages equal to and/or in excess of any one or more of the PAHO NPM thresholds as "unhealthy beverages".

6.2 The Ministry of Health [*and Wellness*] shall produce and publicly disseminate a list of all unhealthy beverages [at least once every year in the month of August].

6.3 No person shall make available or cause to be made available any unhealthy beverage in and around schools.

6.4 Unhealthy beverages from the following categories are prohibited in and around schools:

a. sodas or soft drinks;
b. fruitades or juice drinks;
c. fruit juices;
d. sports or energy drinks;
e. sweetened or sweetened flavoured waters;
f. flavoured milks;
g. coffee and tea beverages with added sugars or caloric sweeteners; and
h. beverages with any quantity of other sweeteners.

7. Permitted Beverages

7.1 Persons who have complied with any specific requirements may make available or cause to be made available the following beverages, which are exempt from the beverage prohibition:

a. plain water;
b. unsweetened flavoured or infused water; and
c. unsweetened milk.

7.2 The inventory of unhealthy beverages belonging to any person specified at section 4.4 which exists at the date of implementation of this Policy is exempt from the beverage prohibition for a maximum period of [*six (6) months*] or until depleted, whichever occurs first.

8. Access to Safe Drinking Water

8.1 Children must have free and adequate access to safe drinking water in and around schools.

8.2 Children should be encouraged to drink plain water in environmentally-friendly ways during the regular and extended school day.

9. Prohibition of Unhealthy Food Products

9.1 Given the nutrient intake recommendations for free sugars, sodium, total fats, saturated fats and trans fats, the Ministry of Health [*and Wellness*] shall deem all foods equal to and/or in excess of any one or more of the PAHO NPM thresholds as "unhealthy food products".

9.2 The Ministry of Health [*and Wellness*] shall produce and publicly disseminate a list of unhealthy food products [*at least once every year in the month of August*].

9.3 No person shall make available or cause to be made available unhealthy food products in and around schools.

10. Permitted Foods

10.1 The inventory of unhealthy food products belonging to any person specified at section 4.4, which exists at the date of implementation of this Policy is exempt from the unhealthy food products prohibition for a maximum period of [*six (6) months*] or until depleted, whichever occurs first.

10.2 Persons should promote the access to and availability of local, natural fruits, vegetables and other healthy foods in and around schools.

11. Prohibition on the Marketing and/or Sponsorship of Unhealthy Beverages and Food Products

11.1 Persons are prohibited from using any form of marketing and/or sponsorship of unhealthy beverages and food products at all times during the regular school day and during the extended school day.

11.2 No person shall market and/or sponsor or cause to be marketed and/or sponsored any unhealthy beverages or food products in and around schools, including using any of the following techniques:[70]

a. Direct marketing including but not limited to the use of posters, billboards, brochures, leaflets, signs or advertisements, product promotions, giveaways, samples, coupons or taste tests;
b. Indirect marketing, such as corporate sponsorships, grants or gifts including but not limited to financial, product or equipment donations to schools or related events or activities, such as corporate scholarship programmes, corporate-sponsored educational materials, corporate-sponsored school-based or national sporting events, beverage or food-based incentive programmes which provide children with products, services or coupons to incentivise academic activity, beverage or food-based incentive programmes in which persons donate supplies and/or money to schools for the purchase of certain beverages or food products or incidental advertising, such as advertising banners on school-owned and/or issued computers, websites, apps, online learning platforms;
c. Product sales, including but not limited to food-based fundraising activities in which the products sold are unhealthy beverages and/or food products prohibited under this Policy; beverage or food product contracts which offer sponsorship payments in the form of direct cash or non-cash items, commissions on product sales in exchange for exclusive sales; distribution rights and or marketing access;
d. Market research including but not limited to surveys or polls, beverage or food samples, coupons and taste tests;
e. Digital marketing including but not limited to paid-for-advertisements, such as pop-up media, videos and animations, online competitions and product placements on school-owned and/or issued computers, websites, apps and online learning platforms.

12. Prohibition on Brand Marketing

12.1 Brand marketing promotes all of the products associated with the brand, including those beverages and food products which are prohibited under this Policy. Persons are prohibited from using any form of brand marketing of unhealthy beverage and food product brands at all times during the regular school day and during the extended school day.

12.2 No person shall use or cause to be used a brand which has the effect of promoting, directly or indirectly, unhealthy beverages or food products on:

a. posters, scoreboards, signs and banners;
b. the exterior or interior of vending machines;
c. school equipment, including but not limited to sports equipment, cafeteria equipment, school message boards and school supplies;
d. school media, including but not limited to school newsletters, newspapers, calendars, yearbooks, digital platforms, such as websites and social media; and
e. school buses or vans.

[70] Adapted from the United States General Accounting Office, *Report to Congressional Requesters: Public Education: Commercial Activities in Schools*. September 2000. GAO/HEHS-00-156. Available from: https://www.gao.gov/assets/240/230626.pdf.

13. Permitted Marketing

13.1 The marketing of permitted beverages and foods and/or the brand marketing of brands **with exclusively permitted beverages and foods** are allowed in and around schools. However, priority should be given to public health social marketing strategies.

13.2 The prohibition on the marketing of unhealthy beverages and food products shall not immediately apply to those beverage and food contracts existing at the date of adoption of this Policy. All existing contracts for unhealthy beverages and/or food products will be terminated by the end of the expiration date set at the time of adoption of this Policy.

13.3 The relevant person(s) specified at section 4.4 must replace, remove and/or have replaced or removed all marketing of unhealthy beverages and food products and brand marketing within [*six (6) months*] or at the expiry of the relevant contract, whichever occurs first.

14. Management of Conflicts of Interest

14.1 In order to assist with the identification of actual or potential conflicts of interest, the Ministry of Education shall develop and distribute partnership eligibility criteria, procurement best practice guidance, as well as disclosure and recusal guidance to schools.

14.2 To assist schools with managing conflicts of interest, the Ministry of Education shall develop a Conflict of Interest Management Plan or Guidance which can be adapted by schools, subject to the approval of the Ministry of Education.

14.3 The Ministry of Education shall develop [*or strengthen*] accountability mechanisms between schools and itself through existing [*or new*] reporting requirements.

15. Coordination and Implementation

Lead Implementing Ministry

15.1 The Ministry of Education shall be the lead implementing Ministry for this Policy and shall collaborate with other key implementing partners.

15.2 Within [*x number of days/months*], the Ministry of Education shall establish a Coordinating Working Group and oversee the formation of the various school-based committees required for implementation of this Policy (**Annex II**).

Key Implementing Partners

i. Coordinating Working Group

15.3 Due to the inter-sectoral impact on the school food environment, a Working Group comprising of representatives from the Ministry of Education and other key Ministries, together with at least one (1) representative from a health agency, such as PAHO or CARPHA, a children rights agency, such as UNICEF, academia, such as the University of the West Indies, a food security agency, such as the Food and Agriculture Organization of the United Nations or the United Nations World Food Programme and a Civil Society Organisation ("CSO") may be established to have oversight of the implementation and M&E of this Policy.

ii. School-based Committees

15.4 Schools must establish at least one (1) School-Based Committee consisting of:

a. Principal, Deputy Principal or Senior Teacher;
b. Member of the School Board of Management;
c. Representative from the Parent-Teacher Association ("PTA") or in the absence of a functioning or any PTA, no less than three (3) parents of children currently enrolled in the school;
d. At least one (1) canteen operator, tuck shop operator, concessionaire or vendor on the school campus;
e. At least one (1) vendor within the [*0.5 miles/ 800 metres*] radius from the school campus;
f. At least three (3) children enrolled at the particular school;
g. Partners in academia.

15.5 In an effort to garner community support, community volunteers, particularly health professionals, CSOs, non-governmental organisations ("NGOs"), farmers and international partners, should also be encouraged to join or support the implementing committees.

Implementing Systems

i. Roles and Responsibilities

15.6 Clear roles and responsibilities for members of the Working Group and School-Based Committees should be established (**Annex III**).

15.7 The Ministry of Education, in collaboration with key implementing partners, shall develop an implementation plan with specific timelines and activities for the implementation of this Policy.

15.8 Persons interested in selling and marketing beverages and foods in and around schools and/or during the regular or extended school day shall apply to the Ministry of Health [*and Wellness*] for permission [*or a licence*] to do so.

ii. Stakeholder engagement

15.9 The Coordinating Working Group and the various School-Based Committees may each identify a number of key champions or influential persons to assist in promoting the implementation of the Policy at the political and community levels.

15.10 The Ministry of Education and its key implementing partners shall only sensitise the food and beverage industry after approval of the implementation plan and timelines.

iii. Implementing Resources

15.11 The Ministry of Education and the Coordinating Working Group shall be responsible for determining the financial resources, informational resources and any additional technical resources required for the implementation and M&E of this Policy.

iv. Accountability mechanisms for key implementing partners

15.12 Key implementing partners must sign and submit a formal declaration of conflicts of interest and impartiality to the Ministry of Education.

15.13 The Ministry of Education, in collaboration with the Coordinating Working Group, shall report to Cabinet regarding the implementation, M&E of this Policy annually.

15.14 Each School-Based Committee [*or each district/parish representing several school-based implementing committees*] must provide a written report at the end of each school year, in the established format, to the Coordinating Working Group, who in turn must provide one comprehensive report to the Ministry of Education.

15.15 The reports of the School-Based Committees [*or districts/parishes representing several school-based implementing committees*] and Coordinating Working Group should be made publicly available [*pursuant to relevant Freedom of Information Act/Access to Information Act*].

15.16 Other external health agencies, academia, CSOs and/or NGOs should be invited to review the report of the Working Group and to provide shadow reports to the Ministry of Education on the implementation and M&E processes.

16. Monitoring and Evaluation ("M&E")

Lead Monitoring and Evaluation Ministry

16.1 The Ministry of Education shall be the lead M&E Ministry of this Policy and shall collaborate with other key M&E partners.

Key M&E partners

The Coordinating Working Group

16.2 The Coordinating Working Group identified in section 15.3 of this Policy shall also have oversight of and advise on the M&E of this Policy.

16.3 Schools must establish M&E Committees consisting of:

a. Partners in academia;
b. CSOs;
c. children;
d. parents;
e. school officials;
f. canteen operators, vendors, concessionaires and or tuck shop operators.

M&E mechanisms

i. Roles and Responsibilities

16.4 The M&E Committees [*or each district/parish representing several school-based M&E committees*] must provide two written reports, one mid-way through the school year and the other at the end of each school year, in the established format, to the Coordinating Working Group, who in turn must provide one comprehensive report to the Ministry of Education.

ii. Stakeholder engagement

16.5 The Coordinating Working Group and School-Based M&E Committees may identify a number of key champions or influential persons to assist in the promotion of the Policy at the political and community levels respectively.

16.6 The Ministry of Education, along with its key M&E partners, shall only sensitise the food and beverage industry about the M&E mechanisms after approval of the M&E framework.

iii. M&E Resources

16.7 The Ministry of Education, in collaboration with other key M&E partners, shall be responsible for the development of a M&E framework with output indicators about compliance.

iv. Accountability mechanisms for key M&E partners

16.8 The reports of the School-Based M&E Committees [*or each district/parish representing several school-based M&E committees*] and the Coordinating Working Group shall be made publicly available [*pursuant to relevant Freedom of Information Act/Access to Information Act*].

16.9 Other external health agencies, academia, CSOs and or NGOs should be invited to review the report of the Coordinating Working Group and to provide shadow reports to the Ministry of Education on the M&E processes.

17. Training

17.1 The Ministry of Education shall conduct a capacity needs assessment to determine the training required for relevant stakeholders.

17.2 The Ministry of Education, as lead implementing ministry, with the support of its key implementing partners, shall coordinate the sensitisation and training of relevant stakeholders and provide such persons with opportunities to ask questions to understand their respective roles in the successful implementation of the Policy.

17.3 The training should be enhanced by the dissemination of user-friendly educational resources to relevant stakeholders.

18. Communication Plan

18.1 The Ministry of Information [*Public Affairs*], in collaboration with the Ministry of Education and the Coordinating Working Group shall develop a comprehensive communication plan, including a public education campaign to raise awareness about the Policy and to garner widespread support for the Policy at every level of the society.

18.2 The communication plan must clearly identify and articulate the rights of school children as the key beneficiaries of the Policy and the government as principal duty bearer, among other key messages.

19. Budget

The Ministry of Education, as lead Ministry of this Policy, must seek to identify and secure a sustainable financing mechanism for the Policy.

20. Enforcement and Penalties

20.1 This Policy is mandatory and shall take effect from [*insert commencement date*].

20.2 The government of [*insert country*] shall be responsible for the overall enforcement of this Policy and shall ensure that appropriate enforcement mechanisms are available.

Complaints Mechanism

20.3 The public should be encouraged to assist in enforcement of this Policy through the use of a formal complaints' mechanism established and coordinated by the Ministry of Education [*and any appropriate consumer protection agencies*].

Penalties/Sanctions

20.4 Given the individuals, companies and groups who must comply with this Policy, appropriate sanctions to deter and punish non-compliance must be imposed for first, second and third offences on:

a. Food and Beverage Industry entities, such as reprimands, appropriate level of fines and/or revocation of company certificates [*permits or licences*];
b. Concessionaires, canteen operators, tuck shop operators and vendors on the school campus and within the [*0.5 miles/ 800 metres*] radius, such as reprimands, appropriate level of fines and or revocation of business certificates [*permits or licences*];
c. Principals, school administrators, teachers, such as administrative penalties pursuant to [*the relevant Education Act*];
d. Parents and children, in accordance with school rules and regulations.

Defences

20.5 The relevant defences must also apply, where the individual, company or group took reasonable steps and exercised due diligence to avoid infringing this Policy or where there was no lawful or reasonably practicable means of knowing or preventing the infringement of this Policy.

21. The Way Forward

In light of the above, a comprehensive statutory prohibition, whether in the form of a new primary Act, an amendment to an existing Act, subsidiary legislation, a new Act or a suitable combined approach [*depending on the existing laws and regulations at the domestic level*], is required to fully implement and enforce all elements of this Policy.

Importantly, a public education campaign should be launched as well as training and or educational sessions with key stakeholders to garner support for the intended legislation. The legislative process would typically adhere to that outlined in the Report 'Regulating the Availability and Marketing of Unhealthy Beverages and Food Products in and around Schools in the Caribbean' at Part IX – Summary of the Policy and Legislative Process, namely:

a. The Ministry of Education, as lead and sponsoring Ministry, should seek Cabinet's approval of the Policy and for the Policy's implementation using legislation;
b. Once Cabinet approval is obtained, the Ministry of Education should submit comprehensive drafting instructions for the legislative drafter(s) to prepare the draft bill;
c. The Ministry of Education should circulate the draft Bill upon receipt to relevant stakeholders for comment and engage in consultations with key stakeholders, including other Ministries and external stakeholders, such as NGOs and CSOs;
d. Any relevant changes should be communicated to the drafting office and a final draft Bill provided which the Ministry of Education will need to bring before the Cabinet for approval;
e. The Bill once approved by Cabinet, must then be included in the legislative agenda of the relevant House, usually the lower House in bicameral systems, to go through the various legislative stages (See: stages (a) – (f) listed in the Report 'Regulating the Availability and Marketing of Unhealthy Beverages and Food Products in and around Schools in the Caribbean' at Part IX – Summary of the Policy and Legislative Process);
f. Once the various legislative stages are completed, the Bill will be considered to be an Act and be published in the official Gazette by the Ministry of Education;
g. The Ministry of Education must also ensure that all administrative processes related to implementing the bill are completed, such as establishing the Coordinating Working Group and Committees;
h. At this stage, great emphasis would need to be placed on enforcement. As such, the Ministry of Education, other key Ministries and partners would need to ensure that the formal complaints mechanism and other enforcement mechanisms are functional.
i. The Ministry of Education and its partners should continue public education campaigns before, during and after the passing of the Act to ensure the greatest level of support for the legislation.

In terms of content, the requisite statutory prohibition should, at a minimum, include:

a. A clear purpose of the statutory prohibition, namely to provide for the furtherance of children's right to health by regulating the availability and marketing of unhealthy beverages and food products in and around schools and related matters;
b. An interpretation section with clear definitions for key policy elements, such as the age range of children to be protected as well as terms such as "marketing", "brand marketing", "digital marketing", "unhealthy beverages and food products", for example. The definitions provided in the policy should guide the interpretation section for the statute or regulations;
c. A formal and expressed adoption of the PAHO NPM along with any Regional Nutrition Standards or Guidelines into the statute or regulations. The statutory prohibition should also specifically address compliance with such Regional Standards and provide details and examples of their application within the Schedule to the Act or regulations, for example;
d. Specific details about the prohibition on the availability and marketing of unhealthy beverages and food products in and around schools;
e. A clear indication of any applicable exceptions to those prohibitions in and around schools;
f. Provision for the establishment of the various implementing, M&E Committees and Coordinating Working Group and details provided of their composition and governance, such as appointment of a chairman and the tenure of committee members;
g. Provisions for accountability, such as an explicit requirement for the publicity of reports and the establishment of a complaint mechanism;
h. Miscellaneous provisions including but not limited to budgetary provisions and other provisions regarding the issuing of licences to vendors, mandates for the enforcement, implementation and M&E;
i. Clear and unambiguous penalties for non-compliance and any applicable defences;
j. Final provisions which indicate the need to amend any other statutes, such as Planning laws.

In addition, the FOPWL requirements being created by CROSQ and partners for the Region should be adopted at the domestic level to facilitate an easier application of the PAHO NPM. Further, child protection legislation and consumer protection laws should be amended to include greater protection against the marketing of unhealthy beverages and food products to children within and outside of the school campus and online.

Finally, further guidance on the contents of the law may also be sought from the Food and Agricultural Organization (FAO) publication: - Cruz, L. 2020. Legal Guide on school food and nutrition - Legislating for a healthy school food environment. FAO Legal Guide No. 2. Rome, FAO. https://doi.org/10.4060/ca9730en.

Annexes

Annex I: Identifying Processed and Ultra-Processed Products Using The PAHO NPM[71]

In order to classify a product using the PAHO NPM, first calculate the proportion of the total kilocalories (kcal) in the product from each of the critical nutrients (free sugars, sodium, total fats, saturated fats and trans fats) using the simple calculations shown below:

FREE SUGARS:

For free sugars, divide the amount of kcal from free sugars in the beverage or food by the total amount of kcal in the beverage or food, and then multiply by 100 to convert into a percentage.

$$\frac{\textbf{Kcal from free sugar in the product}}{\textbf{Total kcal in the product}} \textbf{ x100}$$

Importantly, the amount of kcal from a given number of grams (g) of free sugars can be obtained by multiplying the number of g by 4 kcal (1 g of free sugars contains 4 kcal) as follows:

$$\frac{\textbf{g of free sugar x 4 kcal}}{\textbf{Total kcal in the product}} \textbf{ x100}$$

SODIUM:

The PAHO NPM recommends the following criteria to define "excessive in sodium":

1. If the **ratio between the amount of mg of sodium in the product and the total energy (kcal) in the product is 1 or more**.
2. Further, an additional criterion of **a concentration of 300 mg or more of sodium per 100 g of product.** Practically, this means that a product which is "low" in sodium should contain no more than 120 mg sodium per 100 g of the product.
3. With regards to non-alcoholic, ultra-processed beverages that declare to have zero calories (that provide no energy), PAHO recommends using a threshold of **40 mg or more of sodium per 100 ml of beverage**.

TOTAL FATS, SATURATED FATS, TRANS FATS:

For total fats, saturated fats, and trans fats, divide the kcal from each of these critical nutrients by the total kcal in the product, then multiply by 100 to obtain the percentage.

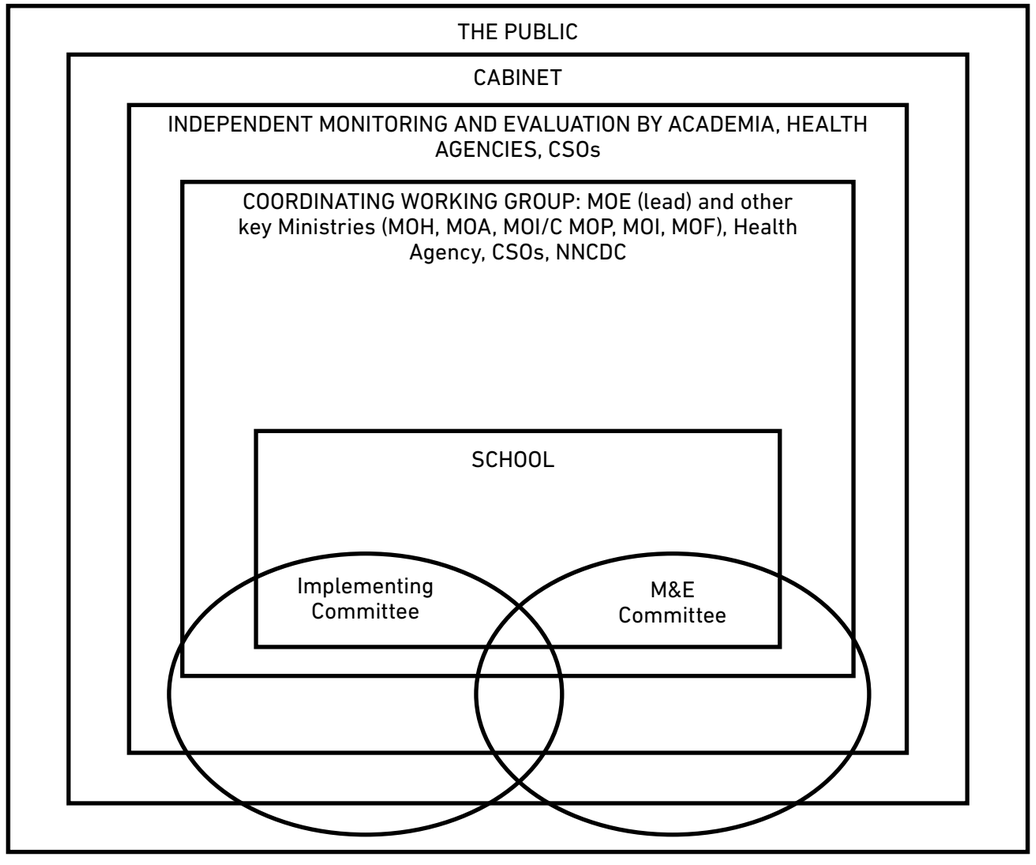
$$\frac{\textbf{Kcal from total fats/saturated fats/trans fats in the product}}{\textbf{Total kcal in the product}} \textbf{ x100}$$

Importantly, the kcal from each of these critical nutrients, total fats/saturated fats/trans fats, can be obtained by multiplying the g in the product by 9 kcal (since 1 g of total fats/sat. fats/trans fats provide 9 kcal).

$$\frac{\textbf{g of total fats/saturated fats/trans fats in the product x 9 kcal}}{\textbf{Total kcal in the product}} \textbf{ x100}$$

[71] Information provided by Dr. Elisa Prieto, Advisor, Non-Communicable Diseases and Mental Health of the WHO/PAHO Caribbean Subregional Office

Annex II: Multi-Sector Framework for Implementation, Monitoring and Evaluation



The overlapping ovals illustrate that the composition of the Implementing Committees and the M&E Committees may be cross-cutting and include the same persons from the schools, academia, health agencies, CSOs and the wider public. In addition, the Cabinet is involved from a reporting perspective since progress reports produced by these Committees should be submitted to Cabinet.

Annex III: Roles and Responsibilities

The following table provides a summary of some of the main roles and responsibilities for key stakeholders involved in and affected by this Policy:

PARTIES	ROLES AND RESPONSIBILITIES
Ministry of Education (Lead Ministry)	Lead the presentation of the Policy before Cabinet for approval; Provide clear drafting instructions for the development of legislation [and/or regulations]; Lead the implementation and M&E of the Policy; Coordinate the formation of the various implementing and M&E committees and advisory groups; Disseminate information resources to schools, institutions, centres and colleges; Report on the implementation and M&E of the Policy to Cabinet; Review and adopt any changes to the implementation and M&E systems.;
Ministry of Health [and Wellness]	Provide strong support for the Policy, notably as it relates to implementation and M&E; Circulate a list of prohibited and permitted beverages and food products to the Ministry of Education and to the public; Regulate the number and types of vendor licences for the availability of beverages and food products in and around schools with the aim of promoting healthier food choices; Support the training of all vendors, concessionaires, tuck shop operators for greater compliance with the Policy.
Coordinating Working Group	Assist with the coordination and implementation of this Policy; Prepare and submit reports on implementation and M&E of the Policy to the Ministry of Education; Make recommendations to improve the Policy, along with its implementation and M&E processes; Develop information guides, booklets, criteria for training workshops, etc (including those suitable for children); Provide guidance on new methods of fundraising for schools, institutions, centres and colleges; Provide support for the development and implementation of a comprehensive communication strategy.
Ministry of Agriculture	Provide guidance on the means by which schools can secure healthy food options, particularly of domestically grown products.
Ministry of Information [Public Affairs]	Assist the Ministry of Education and the Coordinating Working Group in the development of and implementation of a comprehensive communication plan about the Policy, including a public education campaign.
Ministry of Planning	Provide oversight and enforcement capacity regarding the food environments within the [0.5 miles/ 800 metres] radius of schools

PARTIES	ROLES AND RESPONSIBILITIES
Ministry of Finance	Allocate budget specifically for the implementation and M&E activities of this Policy..
Civil Society Organisations	Contribute to the communication efforts to highlight the mischief to be addressed by the policy and to introduce and promote the policy; Contribute at all stages of the policy development and implementation process, including advocacy efforts and mobilising the community; Promote and provide external M&E policy; Spearhead independent M&E and reporting efforts regarding industry's attempts to influence the policy process.
School personnel (school administrators, superintendents, principals, deputy principals, teachers)	Establish implementing and M&E committees or use existing committees; Participate in the implementing and M&E school-based committees; Champion the implementation and M&E of the Policy in schools; Disseminate information regarding the Policy to canteen operators, concessionaires, tuck shop operators, vendors, parents and children in a timely manner.
Children	Be champions of the Policy in their respective schools, institutions, centres or colleges; Participate in the implementing and M&E school-based committees; Use the complaints mechanism, where necessary.
Parents	Participate in the implementing and M&E school-based committees; Be champions of the Policy; Assist in achieving the Policy objectives by providing children with only the permitted beverages and foods; Use the complaints mechanism, where necessary.
Vendors, canteen operators; tuck shop operators; vending machine operators; vendors; concessionaries; etc.	Cooperate in the training and licensing requirements of this Policy; Apply for licences to sell permitted beverages and foods in and around schools; Participate in the implementing and M&E school-based committees; Use the complaints mechanism, where necessary.
Media	Promote the Policy and protect against false messages.

NOTE: The Food and Beverage Industry would be responsible for adhering to the Policy.

Annex IV: Justifications for the Main Policy

3. DEFINITIONS

The definition section of the Policy provides the interpretation to be applied to those terms which are critical for effective implementation, enforcement and monitoring and evaluation of the Policy.

The glossary in the PAHO NPM was used to generate the definitions for the following terms: **"culinary ingredients", "free sugars", "minimally processed foods", "other sweeteners", "processed products", "ultra-processed products" and "unprocessed foods"**.

However, the definition of "**marketing**" was adopted from the WHO's Set of Recommendations on the Marketing of Foods and Non-Alcoholic Beverages to children and the World Health Organization Framework Convention on Tobacco Control.[72] Such a wide and generous definition is necessary to address both the effect and intention of product and service marketing on children from the various strategies employed by beverage and food industry entities. Importantly, this definition includes all promotion, advertising and sponsorship strategies which tend to be pervasive in some school food environments. "**Sponsorship**" is also defined in line with best practice provided in the World Health Organization Framework Convention on Tobacco Control.

In addition, definitions are provided for "**brand**", "**brand marketing**" and "**digital marketing**" to ensure that these aspects of the commercial activities of food and beverage industry entities are also properly captured. This is critical because the definition for "marketing" focusses on the product or service rather than the brand or the marketing of that brand. Children are increasingly aware of brands, many of which are associated with unhealthy beverages and food products. A comprehensive policy seeking, as this one does, to create less obesogenic school food environments, should also limit brand marketing. The definitions for "brand" and "brand marketing" were derived from the State of California's Education Code, Section 49431.9[73] whilst that for "digital marketing" is from a report of the WHO's Regional Office for Europe.[74]

It is important to note that the WHO's Set of Recommendations on the Marketing of Foods and Non-Alcoholic Beverages to children does not provide an age limit for policy coverage.[75]The upper age limit of 18 years for the meaning of "**child**" was guided by the human rights-based approach to the formulation of this Policy and the definition used in the CRC.[76] Importantly, although the age of compulsory education in most CARICOM States ends at 16 years, some students do continue in formal education in schools, technical institutions and colleges up to the age of 18 years. The evidence also suggests that it is necessary to protect all children given the negative effects of unhealthy food marketing on all of them.[77]

A wide and generous definition was used for the term "**available**" to capture all of the ways in which beverages and foods may exist or come to exist in and around schools. The word "available" was used, instead of "sale", to recognise the reality of school food environments which are penetrated by unhealthy beverages and food products through several non-sale activities, such as the use of unhealthy beverages and food products as rewards in classroom settings or from students bringing unhealthy beverages and food products to school.

The definitions for "**extended school day**" and "**regular school da**y" were developed from the definitions used in the Colorado Department of Education's Rules for the administration of the Healthy Beverage Policy.[78] These definitions are wide enough to capture all possible activities which children may engage in or be exposed to regarding the availability and marketing of unhealthy beverages and food products.

The remaining definitions for "**unhealthy beverages and food products**", "**school**" and "**school campus**" are also necessary for the efficient implementation of the Policy. For example, the definition for "**unhealthy beverages**" is all-encompassing including the broad category of sweet beverages. On the other hand, "**unhealthy food products**" reflects the end point of the assessment using the PAHO NPM. Definitions for "**school**" and "**school campus**" are relevant for understanding the scope of the Policy. Importantly, the term "school campus" has an extended meaning which includes online environs, such as school-owned and/or issued computers, websites, apps and online learning platforms as well as school buses. This wide scope is necessary to capture an aspect of the school environment which would otherwise be excluded from the Policy and make children vulnerable to harmful marketing practices to and from schools.

4. SCOPE

4.1 The justification for the inclusion of public as well as private and government-assisted or government-aided schools was guided by the human rights-based approach to policy making and the need to avoid discrimination in public policy. Such a wide inclusion ensures equity in the policy space to protect all children, regardless of socio-economic background and school enrolment choice. Importantly, private schools fall under the purview of the Ministry of Education. As a result, that Ministry is empowered to register private schools and to make regulations concerning their removal from the list of registered schools under the relevant Education Acts.

4.2 The immediate school campus as well as the inclusion of the food environment outside of the school campus recognises the pervasive nature of the availability and marketing of unhealthy beverages and food products to children within and outside of the school campus. Similar approaches have been adopted elsewhere, such as in South Korea, where the sale of unhealthy food products within a 200-metre radius from the school compound is restricted.[79] Further, this policy measure was also informed by the lessons learnt from jurisdictions which did not initially include such wide coverage, such as the Philippines.[80] Recognising the gap in the policy space, subsequent policies of City Governments in the Philippines, such as the Quezon City Government, included a 100-metre ban on the sale of junk foods from the perimeter of schools.[81]

CARICOM States are at liberty to determine the exact radius to be covered. However, States should recall their duty under the CRC to limit children's exposure to "fast foods" and the marketing of such in schools

[72] World Health Organization, *Set of Recommendations on the Marketing of Food and Non-Alcoholic Beverages to Children*, Geneva: WHO; 2010. Available from: https://apps.who.int/iris/bitstream/handle/10665/44416/9789241500210_eng.pdf?sequence=1.

[73] State of California Education Code, s49431.9. Available from: https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201720180AB841&showamends=false.

[74] World Health Organization Regional Office for Europe. Tackling food marketing to children in a digital world: trans-disciplinary perspectives (2016). Available from: https://www.euro.who.int/en/health-topics/disease-prevention/nutrition/publications/2016/tackling-food-marketing-to-children-in-a-digital-world-trans-disciplinary-perspectives.-childrens-rights,-evidence-of-impact,-methodological-challenges,-regulatory-options-and-policy-implications-for-the-who-european-region-2016.

[75] WHO, *supra* (note 1).

[76] United Nations Convention on the Rights of the Child, Article 1 (Adopted and opened for signature, ratification and accession by the General Assembly resolution 44/25 of 20 November 1989; entry into force 2 September 1990).

[77] World Health Organisation, *Evaluating Implementation of the WHO Set of Recommendations on the Marketing of Foods and Non-Alcoholic Beverages to Children: Progress, Challenges and Next Steps for Guidance in the WHO Region*, WHO 2018.

[78] Colorado Department of Education, Colorado State Board of Education, Rules for the administration of the healthy beverages policy, 1 CCR 301-79. Available from: https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=6916&fileName=1%20CCR%20301-79.

[79] Paola Bergallo, Valentina Castagnari, Alicia Fernandez, Raul Mejia, *Regulatory initiatives to reduce sugar-sweetened beverages (SSBs) in Latin America*, PLoS One. 2018; 13(10): e0205694 https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6195269/#pone.0205694.ref023 Accessed August 15, 2020.

[80] Reeve, E., Thow, A.M., Bell, C. et al. *Implementation lessons for school food policies and marketing restrictions in the Philippines: a qualitative policy analysis*, Global Health 14 Art. 8 (2018). Available from:https://doi.org/10.1186/s12992-017-0320-y.

[81] Quezon City Local Government, *QC Government All Set to Curb Consumption of Sugary Drinks*, March 2018. Available from: https://quezoncity.gov.ph/index.php/latest-news/item/7-qc-govt-all-set-to-curb-consumption-of-sugary-drinks.

and other places.[82]It is important to note that this policy measure would need the support of zoning and planning regulations for effective implementation. Further, the principle of non-discrimination ought to apply in the treatment of vendors and business owners to avoid challenges with implementation.

4.3 It is necessary to address not only the regular school day but also the extended school day and special events since the food environment extends to such as well. The experiences of international States with school nutrition policies have highlighted the limitation of policies which do not include the extended school day or school events, whether on or off campus.[83]

4.4 This policy provision is necessary to clearly identify the persons affected by this Policy, that is, those who own the rights and those who owe the duties. The list, though not exhaustive, was produced to reflect the State's obligation to respect, protect and fulfil the child's right to health and in particular, to address the private sector's impact on children's right to health as outlined in General Comment No. 15.[84]

5. APPLICATION OF THE PAHO NPM

This policy element addresses the need for an evidence-based and effective way to identify and classify foods. This element is therefore essential to implementation of the overall Policy. States around the world have used either a nutrient profile model system or some categorisation of food products.

The PAHO NPM was selected because of its evidence basis as well as the need for standardised approaches to health issues in the Region, in accordance with the CCH. It is important to note, for example, that the inclusion criteria for the critical nutrients addressed in the PAHO NPM, namely sugars, sodium, fats, saturated fats and trans fat, were intricately linked to and based on the WHO Population Nutrient Intake Goals to Prevent Obesity and Related NCDs (PNIGs). Further, applying a nutrient profiling model will not only be useful for the school nutrition policy but can also form the basis for efficient implementation of several policies, such as fiscal policies and FOPWL.

That said, whatever the approach selected, whether nutrient profile model or broad categorisations of food products, the CARICOM State should adopt the standard or approach into the legislation of the CARICOM State.

5.1 – 5.3 The involvement of the Ministry of Health [*and Wellness*], or a delegated authority, in applying the PAHO NPM is critical. This is to ensure consistency in the unhealthy beverages and food products being restricted in all schools, especially in the absence of standardised FOPWL. This responsibility should therefore not be delegated to the schools themselves. Nonetheless, schools should be adequately supported for proper implementation of this Policy.

6. PROHIBITION OF UNHEALTHY BEVERAGES

6.1- 6.2 A complete prohibition on all unhealthy beverages, that is sweet beverages, is in keeping with the goal and objectives of the Policy. Further, it is advisable to start from a position of a complete prohibition on all unhealthy beverages and then carve out any justifiable exceptions.

[82] UN Committee on the Rights of the Child (CRC), *General Comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24)*, 17 April 2013, CRC/C/GC/15. Available from: https://www.refworld.org/docid/51ef9e134.html.

[83] Some States with policies which exclude the extended school day or school events and which have been evaluated with recommendations to also cover the extended school day include the Philippines and Thailand, for example.

[84] UN CRC, *supra* (note 4), para 80.

This policy measure reflects a one-off approach to the prohibition on unhealthy beverages rather than a phased approach. It also reflects a complete prohibition on the part of all persons in the school food environment, including children, from bringing or otherwise making unhealthy beverages available in and around schools. This is a necessary policy measure to close certain gaps identified in existing policies whereby children are allowed to bring to school unhealthy beverages or can obtain such just outside of the school gates, for example.

Importantly, the PAHO NPM includes artificial sweeteners within its broad categorization of "other sweeteners" based on the fact that the "habitual use of sweet flavours (sugar-based or not) promotes the intake of sweet food and drinks, including those that contain sugars."[85] This rationale has therefore been considered in the inclusion of this policy measure since it pertains to children and the objective of promoting healthier consumption habits. As such, the prohibition includes beverages with other sweeteners.

Despite the lack of consensus on the approach to be taken regarding sweeteners, CARICOM States should recognise the importance of this policy measure to satisfy the objective of the Policy as well as its usefulness in anticipating industry's reformulations which may seek to include excessive amounts of artificial sweeteners to maintain the sweet taste of beverages.

6.3 The requirement of a list of prohibited (and permitted) beverages from the Ministry of Health [*and Wellness*] or some appropriately delegated agency is in response to the feedback obtained during interviews with key policymakers and influencers in the Region. The general consensus was that including a list within the Policy would aid implementation on the part of schools. The list, in this instance, is non-exhaustive and provides categories, rather than specific products. The Ministry of Health's listing should however provide specific products which are prohibited for the most effective implementation.

7. PERMITTED BEVERAGES

7.1 The list presented is non-exhaustive but representative of the main categories of beverages which are not sweet beverages or which, though containing free sugars, are considered by the experts as not resulting in negative health effects, such as milk.[86]

It should be noted that this Model Policy recommends a prohibition on fruit juices due to their high sugar content. This prohibition is in furtherance of the Policy's objective of ensuring that the healthier beverages, such as water are promoted. However, given the reality of the situation in the Caribbean regarding the costs and availability of fruits, alternative policy measures may be included, such as permitting a specific portion (i.e. four (4) ounces) size for 100% natural fruit juices (with no added sugars). Whatever the policy measure adopted in relation to fruit juices, States should be mindful of any evidence-based nutritional guidelines. Importantly, appropriate public education campaigns, especially targeting parents and children, should buttress whatever policy measure is adopted and children should be encouraged to consume fruits in their natural form, rather than in liquid form as beverages.

7.2 this policy measure was necessary to address the situation where persons would find themselves having to dispose of supplies of existing beverages.

[85] PAHO, *Pan American Health Organization Nutrient Profile Model*, PAHO (2016), available from: http://alimentation-sante.org/wp-content/uploads/2016/03/paho-nutrient-profile-model.pdf.

[86] World Health Organization, *Guidelines: Intake of sugars in adults and children*. Geneva: WHO; 2015.

8. ACCESS TO CLEAN DRINKING WATER

This measure is in furtherance of the policy objectives and allows children to make this healthy beverage choice more easily. In addition, it seeks to safeguard children's right to access to safe drinking water; an important aspect of the right to health.[87]

9. PROHIBITION OF UNHEALTHY FOOD PRODUCTS

9.1 & 9.3 Given this Policy's overarching goal and objectives, a complete prohibition on the availability of all unhealthy food products is suggested. It is advisable to start from a position of a complete prohibition on all unhealthy food products and then carve out any justifiable exceptions.

Unhealthy food products are readily available in schools and also widely marketed. Consequently, to seriously address the objectives of this Policy, it is necessary to tackle all unhealthy food products. The evidence in support of this policy measure includes the fact that unhealthy food products are "deliberately formulated to be habit-forming and even quasi-addictive" for children and adults. Further, the marketing of unhealthy food products are "powerful drivers of the pandemics of obesity and NCDs."[88]

To date, CARICOM States have tended to only regulate the availability of beverages. Grenada's recent ban includes a ban on "processed snacks" but is yet to be implemented. Therefore, a more comprehensive approach should be adopted by CARICOM States to address all unhealthy food products in the school food environment.

9.2 A list of unhealthy beverages and food products generated by the Ministry of Health [*and Wellness*], with the requisite technical assistance from members of the Coordinating Working Group, should assist in the implementation of the Policy. This sentiment was shared by multiple interviewees. For example, the Grenada Food and Nutrition Council (GFNC) generated a list of food and packaged snack suggestions for schools based on the PAHO NPM to support the implementation of the Grenada School Nutrition Policy.

10. PERMITTED FOODS

10.1 This policy measure was necessary to address the situation which many schools would find themselves in of having to dispose of several foods.

10.2 The promotion of access to and availability of fruits and vegetables and other healthy foods is in furtherance of the Policy goal and objectives.

11. PROHIBITION ON THE MARKETING OF UNHEALTHY BEVERAGES AND FOOD PRODUCTS

Recalling the wide definition used for "marketing" in the definition section of the Policy, this particular element seeks to identify and address the main types of marketing, namely direct marketing, indirect marketing, product sales, market research and digital marketing. It also provides non-exhaustive examples of the marketing strategies covered. The COVID-19 pandemic resulted in many schools migrating to online learning environments. As a result, regulating the digital marketing of unhealthy beverages and food products is increasingly critical.[89]

[87] United Nations Convention on the Rights of the Child, Article 24 *supra* (note 4); World Health Organization, Report of the Commission on Ending Childhood Obesity - Implementation Plan: Executive Summary (2017), Available from: https://apps.who.int/iris/bitstream/handle/10665/259349/WHO-NMH-PND-ECHO-17.1-eng.pdf?sequence=1.

[88] Pan American Health Organization, *Ultra-processed food and drink products in Latin America: Sales, Sources, Nutrient Profiles and Policy Implications. Washington, D.C.: PAHO; (2019). Available from: https://iris.paho.org/bitstream/handle/10665.2/51094/9789275120323_eng.pdf?sequence=5.*

[89] Center for Science in the Public Interest. USDA urged to protect kids from digital food marketing on online learning platforms. 2020. Available from: https://cspinet.org/news/usda-urged-protect-kids-digital-food-marketing-online-learning-platforms-20200713.

This comprehensive approach to prohibiting the marketing of unhealthy beverages and food products is supported by the WHO Set of Recommendations on the Marketing of Food and Non-Alcoholic Beverages to Children (2010). This policy element therefore seeks to address both the exposure and power of marketing on children. It addresses exposure and power by considering the what and where of product marketing whilst also restricting marketing techniques used by the food and beverage industry in schools.[90]

12. PROHIBITION ON BRAND MARKETING

This policy element is necessary because entities in the food and beverage industry employ marketing techniques which promote products, services and brands. Further, the threshold approach to restrictions is inappropriate to marketing, and in particular to brand marketing since the brand cannot be marketed independent of the content of the beverage or food product. Brand marketing should therefore feature in such a school policy to comprehensively address the marketing challenges in the school food environment.

If brand marketing is excluded, it provides a gap in the policy space for players in the food and beverage industry to reach children through marketing of their brands which, in many instances, are already well-known and linked to unhealthy beverages and food products. The evidence suggests that "exposure to "healthy" meal bundles, or to brand advertising where a brand is typically associated with less healthy items, does not promote healthier choices in children but a preference for fast food."[91] Here, it is worth noting that there is also a need for better coherence between nutrition education content and SSB availability in schools, which is most efficiently achieved through a complete ban.

13. PERMITTED MARKETING

13.1 Permitting the marketing of healthy beverages and foods is permissible in light of the objectives of the Policy. Provision has also been made for brand marketing of healthy brands, that is, brands which only have healthy beverages and foods coverage. This approach is important given the significant impact that the marketing prohibition is likely to have on school funding and fundraising activities. This exemption has the benefit of recognising the child's right to health while also encouraging new sources of private sector funding for schools. However, priority should be given to promoting accurate health messages.

13.2-13.3 An exemption has been made regarding existing food and beverage contracts. This is justified by the need for reasonableness in policymaking. A reasonable timeline for removing marketing, brand marketing, digital marketing and sponsorships that are not in compliance with the Policy should be given, where existing contracts are in effect.

14. MANAGEMENT OF CONFLICTS OF INTEREST

Addressing conflicts of interest[92] is critical given the long-established influence of food and beverage industry players in the school food environment and in the policymaking space. Technical assistance from the Ministry of Education should be provided to alleviate the challenges and to assist schools in identifying and managing actual and potential conflicts as they move forward with new partners.

[90] WHO, *supra* (note 2).

[91] World Health Organization, *Evaluating Implementation of the WHO Set of Recommendations on the Marketing of Foods and Non-Alcoholic Beverages to Children: Progress, challenges and guidance for next steps in the WHO European Region*. WHO (2018). Available from: https://www.euro.who.int/__data/assets/pdf_file/0003/384015/food-marketing-kids-eng.pdf.

[92] See e.g., World Health Assembly, WHO Framework for Engagement with Non-State Actors, WHA69.10, Available from: https://apps.who.int/gb/ebwha/pdf_files/wha69/a69_r10-en.pdf ("A conflict of interest arises in circumstances where there is potential for a secondary interest… to unduly influence either the independence or objectivity of professional judgement or actions regarding a primary interest—that is, WHO's work— or where it may be reasonably perceived to unduly influence the work."). See also: PAHO, Ethics Office Brochure - Conflicts of Interest, Available from: https://www3.paho.org/hq/index.php?option=com_content&view=article&id=10144:ethics-conflicts-interest&Itemid=42316&lang=en ("A conflict of interest occurs when your personal or private interests interfere – or appear to interfere – with your official responsibilities."); Healthy Caribbean Coalition and NCDA ("A situation in which the concerns or aims of two different parties are incompatible resulting in competing priorities and interests, with undue influence that interferes with performance, the decision-making process, or outcomes, putting objectivity and fairness at risk, often for organizational/institutional or personal gain.").

It is important to note that partnership eligibility criteria, procurement best practice guidance, disclosure and recusal guidance for schools as well as a Conflict Management Plan with supporting Conflict of Interest Declarations, to be signed by members of the various implementing and M&E Committees, should be developed as part of the policy implementation process. Ultimately though, implementation of this provision will be most effective if the ultra-processed food and beverage industry players are precluded from any partnerships with schools.

15. & 16. COORDINATION, IMPLEMENTATION AND M&E

These policy elements were designed based on interviews with key implementing partners in various CARICOM states, as well as lessons learnt from jurisdictions from around the world in implementing similar policies.[93]

Lead Implementing Ministry

The Ministry of Education was selected as the lead implementing Ministry because of the need for this Ministry to take the leadership role in safeguarding the health and wellbeing of the children under its care. The Ministry of Education has legal authority over the schools under the various Education Acts. Consequently, the lead of the Ministry of Education in implementing such a Policy in and around schools is critical. It should however be noted that other Ministries, especially the Ministry of Health [*and Wellness*] must play key supporting roles for the success of the Policy. A similar approach was taken in Trinidad and Tobago, which identified the Ministry of Education as lead but with strong support from the Ministry of Health.

Practically, the clear identification of one lead Ministry would also assist in avoiding the uncertainty of not knowing who was "in charge" of the Policy; an issue identified by some interviewees. However, the other extreme of one Ministry being viewed as "owning" the Policy should be avoided through greater inter-government collaboration as part of the suggested Coordinating Working Group. Likewise, the challenge of obtaining consensus where more than one ministry is involved can be mitigated by providing clear roles for all parties involved (**Annex III**).

Key Implementing and M&E Partners

The vertical and horizontal inter-connected layers of implementing partners, including CSOs, school children and other champions (**Annex II**), are suggested in recognition of the human rights-based approach to policymaking. In addition, such multi-sectoral and multi-stakeholder involvement is proposed to safeguard implementation by involving multiple players and beneficiaries and promoting greater accountability and transparency.

The Coordinating Working Group is expected to be useful in fostering greater collaboration across ministries, particularly where the ministries tend to work in silos. Such a Working Group can also assist in identifying champions at the level of the political directorate of the country.

The Coordinating Working Group and the school-based implementing committees, specifically comprised of the agencies and individuals mentioned in the Policy, represent groups of persons who can help to move the policy implementation process forward. This is critical to safeguard implementation. Importantly, children have been included on the implementing committees in furtherance of a human (child) rights-based approach.

It should be noted that instead of creating separate school-based committees for each school, it may be possible to strengthen or add functions to existing committees or other structures or to create school committees at the parish or district level who work on implementing the Policy across multiple schools. With regards to M&E, similarly composed committees or groups are necessary for effective continuity in the policy process.

Indicators to assist with committee composition:

1. Dieticians and Nutritionists

Jamaica's approach to implementation of its beverage guidelines has been through parish nutritionists and dieticians. However, in smaller CARICOM States the size of that particular tranche of the population may be too small to accommodate such an approach. Instead, dieticians and nutritionists may be on some, but not all school-based committees or may form part of the Coordinating Working Group to provide nutrition guidance. CARICOM States may also wish to consider existing human resources in education and health, such as education supervisors and/or health inspectors.

2. Size of Food and Beverage Industry

It is important to note that players in the food and beverage industry should not be involved in policy formulation but should be sensitized and invited to comment as part of the general policy process. CARICOM States' obligations extend to preventing the infringement of the child's right to health by third parties, such as the food and beverage industry.

Implementing systems

Several interviewees also highlighted the need for better demarcation of roles and responsibilities in the implementation process to avoid stalling and also to foster greater accountability among implementing partners. The roles and responsibilities delineated in **Annex III** are non-exhaustive and merely for guidance. Some key roles have also been included and discussed throughout the Policy itself.

Stakeholder engagement was also cited by interviewees as a critical factor in the implementation of the policy. Interviewees described the need to involve stakeholders at all levels and highlighted the importance of "buy-in" from the political directorate as well as at the school level on the part of principals, teachers, vendors, parents and children. The suggested members for the various committees and the Coordinating Working Group is also in response to this need for greater stakeholder engagement since it is expected that implementing champions can be created at every level.

Addressing the implementing and M&E resources within the Policy is critical to ensure that there are adequate to support those processes. Again, the structure of the various committees and the Coordinating Working Group are expected to assist with the human resource requirement and the financial requirement, to some extent. However, financial and informational resource requirements should be supported via the Ministry of Finance and external partners in health, education and human rights, for example.

The inclusion of accountability mechanisms is justified on the basis that the proposed bans are likely to result in some agitation by the food and beverage industry as well as other influential individuals within

[93] Reeve, E., Thow, A.M., Bell, C. et al. *Implementation lessons for school food policies and marketing restrictions in the Philippines: a qualitative policy analysis*, Global Health 14 Art. 8 (2018). Available from: https://doi.org/10.1186/s12992-017-0320-y.

the society. In addition, this policy option provides multiple layers of accountability in the form of the structure of committees, reporting mechanisms, public access and availability of reports, as well as the ability to provide shadow reports.

17. TRAINING

Sensitisation and ongoing training sessions will be critical for the success of the Policy. Training should be supported by the dissemination of easy-to-understand educational resources. It will be important to take advantage of PTA meetings and other forums to ensure that stakeholders understand their responsibilities in the success of the Policy.

18. COMMUNICATION PLAN

This policy measure seeks to recognise the importance of effective and ongoing communication with all stakeholders to garner widespread support for the Policy, such as the highly effective public health campaign of the Jamaica Heart and Stroke Foundation.

However, it is important to note that prior to the communication plan, there should also be review consultations with key actors, including children, parents, civil society, vendors and the wider public, regarding the Model Policy. Such participation will be supportive of a human (child) rights-based approach and may also safeguard stakeholder 'buy-in'.

19. BUDGET

A policy measure addressing how funds will be secured is critical for effective implementation and M&E of the Policy. In fact, adequate budget allocation is critical to realise children's rights, including their right to health and adequate food, in furtherance of the CARICOM State's obligations under the CRC.[94]

20. ENFORCEMENT AND PENALTIES

This policy element responds to the recommendations of the WHO to "include clear definitions of sanctions".[95] Here, it was necessary to specify that the Policy is mandatory and to provide for an effective complaints mechanism which has proven successful elsewhere.[96]

Identifying those persons responsible for compliance and the penalties associated to each of them for non-compliance is a critical component of the rule of law. Persons should be aware of the prohibitions, penalties and any applicable defences.

[94] General comment No. 19 (2016) on public budgeting for the realization of children's rights (art 4).

[95] World Health Organization, *Set of Recommendations on the Marketing of Food and Non-Alcoholic Beverages to Children*, Geneva: WHO; 2010. Available from: https://apps.who.int/iris/bitstream/handle/10665/44416/9789241500210_eng.pdf?sequence=1.

[96] Kim D. Raine et al, *Restricting marketing to children: Consensus on policy interventions to address obesity,* Journal of Public Health Policy (2013) 34, 2390253. Doi: 10.1057/jphp.2013.9.

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