

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



## REPORT

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REPORT



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# Abbreviations and Acronyms

# Glossary

AHA	American Heart Association
CARICOM	Caribbean Community
CARPHA	Caribbean Public Health Agency
COPS	Childhood Obesity Prevention Scorecard
CRC	Convention on the Rights of the Child
CSAP	Civil Society Action Plan
CSO	Civil Society Organisation
FOPWL	Front-of-package warning labelling
GHAI	Global Health Advocacy Incubator
HCC	Healthy Caribbean Coalition
JSC	Joint Select Committee
MOE	Ministry of Education
MOH	Ministry of Health
NCD	Noncommunicable disease
NFITF	National Food Industry Task Force
NGO	Nongovernmental Organisation
PAHO	Pan American Health Organization
PAHO NPM	PAHO Nutrient Profile Model
PPP	Public-Private Partnership
PTA	Parent-Teacher Association
SB	Sweet Beverage
SSB	Sugar-sweetened Beverage
SuB	Sugary Beverage
UNHLM3	Third UN High Level Meeting
WHA	World Health Assembly
WHO	World Health Organization

**Added sugars:** Free sugars added to beverages and foods during manufacturing or home preparation.<sup>1</sup>

**Availability:** includes the sale, distribution, provision, donation, use as a reward, serving or bringing of unhealthy beverages or foods onto, in or around schools.

**Free sugars:** 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.<sup>2</sup>

**Health-promoting school:** A school that consistently strengthens its capacity as a safe and healthy setting for teaching, learning and working.<sup>3</sup>

**School food environments:** all the spaces, infrastructure and conditions inside and around the school premises where food is available, obtained, purchased and/or consumed (for example tuck shops, kiosks, canteens, food vendors, vending machines); also taking into account the nutritional content of these foods. The school food environment also includes all of the information available, promotion (marketing, advertisements, branding, food labels, packages, promotions, etc.) and the pricing of foods and food products.<sup>4</sup>

**Sugar-sweetened Beverage (SSB):** non-alcoholic water-based beverage which contains added sugars, such as non-diet soft drinks or sodas, flavoured juice drinks, sports drinks, sweetened teas, coffee drinks, energy drinks, and electrolyte replacement drinks.<sup>5</sup>

**Sugary Beverage (SuB):** beverage containing free sugars, including carbonated or non-carbonated soft drinks, fruit juices and drinks, vegetable juices and drinks, liquid and powder concentrates, flavoured water, energy and sports drinks, ready-to-drink tea, ready-to-drink coffee, and flavoured milk drinks.<sup>6</sup>

**Sweet Beverage (SB):** beverage with added sugar or naturally high in sugar (such as 100% fruit juices), or with no- or low-calorie sweeteners.<sup>7</sup>

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

<sup>1</sup> Pan American Health Organization. [Online]. 2016 and updated 2017. *PAHO Nutrient Profile Model*. Washington, DC: PAHO; [accessed June 30, 2020]. Available from: [https://iris.paho.org/bitstream/handle/10665.2/18621/9789275118733\\_eng.pdf](https://iris.paho.org/bitstream/handle/10665.2/18621/9789275118733_eng.pdf). [p. 22].

<sup>2</sup> *Ibid.*

<sup>3</sup> 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>.

<sup>4</sup> Food and Agriculture Organization of the United Nations. [Online]. School Food and Nutrition. [accessed June 30, 2020] Available from: <http://www.fao.org/school-food/areas-work/food-environment/en/>.

<sup>5</sup> Miller, Caroline et al. "Consumption of Sugar-Sweetened Beverages, Juice, Artificially-Sweetened Soda and Bottled Water: An Australian Population Study." *Nutrients* vol. 12,3 817. 19 Mar. 2020, <https://doi.org/10.3390/nu12030817>.

<sup>6</sup> World Health Organization (2017). Taxes on sugary drinks: Why do it? World Health Organization. Available at: <https://apps.who.int/iris/handle/10665/260253>. Licence: CC BY-NC-SA 3.0 IGO.

<sup>7</sup> Healthy Caribbean Coalition. Civil Society Policy Brief: Priority Nutrition Policies for Healthy Children in the Caribbean. September 2019. Available from: <https://bit.ly/3rPtJx5>.



# Executive Summary

Childhood overweight and obesity are growing challenges in the Caribbean Community (“CARICOM”) affecting one (1) in three (3) children.<sup>8</sup> Obesogenic school environments, where children spend one-third (1/3) of their time,<sup>9</sup> contribute to childhood overweight and obesity. The aim of this Report was to provide policy and legislative guidance for regulating the availability and marketing of unhealthy beverages and food products in and around schools in the Caribbean.

Though primarily captured through a health lens, childhood obesity must also be framed from other perspectives, namely human rights, education and economic perspectives. All CARICOM Member States have ratified<sup>10</sup> the United Nations (“UN”) Convention on the Rights of the Child (“CRC”),<sup>11</sup> as well as other relevant international treaties, such as the International Covenant on Economic, Social and Cultural Rights (“ICESCR”).<sup>12</sup> They therefore have a tri-fold duty to respect, protect and fulfil children’s rights to health, adequate nutritious foods and to access information, among other rights.<sup>13</sup> Critically, these and other related rights must be centred on cross-cutting human rights principles, such as non-discrimination<sup>14</sup> and the best interests of the child.<sup>15</sup> The response of CARICOM Member States to the growing epidemic of childhood obesity within their borders, and also at the Regional level, is therefore urgent.

Recently, several CARICOM States demonstrated interest in promoting healthier school food environments by implementing bans or restrictions

on the sale of sweet beverages<sup>16</sup> (“SBs”) in schools, or making unequivocal statements of their intention to implement such in the future. The momentum in addressing the school food environment across the CARICOM Region, before the COVID-19 pandemic, was certainly palpable. Now, during the pandemic and also post-pandemic, emphasis must be placed on sustaining the political will and encouraging States to move forward with the actual development and/or implementation of those policies, together with the monitoring and evaluation of such. This Report provides the results of a mapping exercise of the existing policies which regulate the availability of unhealthy beverages and food products in schools across CARICOM States. Of importance are the distinct approaches taken and policy elements opted for in terms of the scope, application, target areas and implementation structures. However, consistent across the majority of these policies is the lack of well-structured monitoring and evaluation mechanisms, enforcement mechanisms and sanctions or penalties for non-compliance. Likewise, the majority of existing policies are also void of prohibitions on the availability of unhealthy food products and the marketing of unhealthy food products and/or unhealthy beverages in and around schools. The intra-Region comparison, together with information from interviewees and the lessons learnt from extra-Regional school nutrition policies, helped to identify the strengths and weaknesses of the current policies in CARICOM States. This analysis then informed several provisions of the accompanying [Model Policy](#)<sup>18</sup>.

This Report also provides an outline of the typical policy and legislative processes in select CARICOM States.<sup>17</sup> Cabinet approval remains key, regardless of the CARICOM State if the policy is to have a chance of being effectively enforced. The outline, prepared with the advocate in mind, identifies the advocate’s possible role at the various policy stages. In addition, a short case study of the policy process followed to introduce the existing school SSBs policy in the Republic of Trinidad and Tobago (“Trinidad and Tobago”) is provided. This study illustrates that in practice, the policy process varies and may be quite protracted or even interrupted at times. Importantly, the outline of the policy and legislative processes highlights the potential issues

of transparency and accountability, particularly where influential food and beverage industry players are involved and information is not publicly or easily accessible. The Report’s coverage of the policy environment therefore focuses on the issue of conflicts of interest and the role of Access to Information Acts and/or Integrity Acts in CARICOM States. The example of the challenges with the beverage industry encountered in Jamaica and Trinidad and Tobago are used to highlight the need to minimise industry interference in the policymaking process through effective regulation and strong conflict of interest policies.

**The Report concludes with a set of recommendations at the regional level and for CARICOM States. These include the need to:**

1. prioritise and adopt the revised CARICOM REGIONAL STANDARD: Labelling of Foods – Pre-Packaged Foods – Specification (CRS 5);
2. prioritise the implementation of a regional nutrition standard, such as the Pan American Health Organization (“PAHO”) Nutrient Profile Model (“PAHO NPM”) to facilitate the implementation of nutrition-related policies at the national level;
3. adopt a comprehensive approach to the prevention and management of childhood overweight and obesity which addresses the availability and marketing of unhealthy beverages and food products in and around schools, as well as other policy measures, such as comprehensive school nutrition policies, fiscal measures to incentivise the purchase of healthy foods and discourage the purchase of unhealthy beverages and food products high in fats, sugars and salts, procurement policies, mandatory Front-of-Package Warning Labelling (“FOPWL”), and educational campaigns to support these policy interventions;
4. develop and/or implement the requisite Access to Information and Integrity laws as well as Conflict of Interest policies or codes in the context of the prevention and management of NCDs; and
5. emphasise a human (child) rights-based approach to policy making.

<sup>8</sup> 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/>; “Children” here refers to persons 5-19 years.

<sup>9</sup> 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>.

<sup>10</sup> United Nations. United Nations Treaty Collection. [Online]. [Accessed June 30, 2020]. Available from: [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-11&chapter=4](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4).

<sup>11</sup> 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](https://treaties.un.org/doc/Treaties/1990/09/19900902%2003-14%20AM/Ch_IV_11p.pdf). [Accessed 28 June 2020].

<sup>12</sup> United Nations General Assembly, *International Covenant on Economic, Social and Cultural Rights*. [Online]. 1966, United Nations Treaty Series, vol. 993. [Accessed 28 June 2020]. Available from: <https://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>.

<sup>13</sup> United Nations General Assembly, *Convention on the Rights of the Child*, Article 24; United Nations Committee on the Rights of the Child, *General Comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art 24)*. [Online]. 17 April 2013, CRC/C/GC/15. [Accessed 28 June 2020]. Available from: <https://www.refworld.org/docid/51ef9e134.html>. [paras. 71-74].

<sup>14</sup> UNGA, CRC (1989) (note 11), Articles 2.

<sup>15</sup> *Ibid*, Article 3.

<sup>16</sup> The term “sweet beverages” is used here to denote that the beverage regulations vary across the CARICOM Region.

<sup>17</sup> See e.g., Barbados, Jamaica, Saint Vincent and the Grenadines and the Republic of Trinidad and Tobago.

<sup>18</sup> <https://bit.ly/HCC-MPMUB>.





# Introduction

**The Report also recommends that policymakers at the national level should:**

- 1. implement school policies, using the accompanying Model Policy and guidance provided throughout this Report, as part of a comprehensive suite of policies to tackle childhood overweight and obesity;
- 2. identify key policy elements which must be included prior to any engagement with entities in the food and beverage industry, such as a comprehensive ban on the marketing of unhealthy beverages and food products to children;
- 3. meaningfully engage children, the main beneficiaries, in the policy process;
- 4. promote principles of good governance in the policymaking process, namely transparency, accountability and the identification and mitigation of conflicts of interest; and
- 5. frame policies and laws from a human rights lens.

**The key recommendations for advocates include the need to:**

- 1. strengthen their understanding of national policy and legislative processes;
- 2. be ready with the best scientific evidence to act if any policy windows open;
- 3. develop in-house legal and drafting capacity to be called upon frequently to contribute to the policy and legal discussions at the national and regional level and to assist in the creation of model policies and laws;
- 4. use public campaigns to garner both the public’s support and government’s attention;
- 5. be willing to participate in the implementation of the policy by being present on any implementing committees; and
- 6. monitor the policymaking space to identify and call out potential, perceived and actual conflicts of interest.

The Model Policy for regulating the availability and marketing of unhealthy beverages and food products accompanying this Report should be viewed as the regional “gold standard”, adaptable to the local context. It is a culmination of the learning throughout this Report, as well as the guidance and

recommendations from international, regional and local bodies, such as the World Health Organization (“WHO”), PAHO, the Caribbean Public Health Agency (“CARPHA”) and some Ministries. Detailed justifications for the various policy elements are also annexed to the Model Policy.

Childhood obesity is a major health and human rights challenge facing CARICOM States, with up to one (1) in three (3) children being overweight or obese.<sup>18</sup> The Caribbean has some of the highest obesity rates in the world and to date, no country has been successful in halting or reversing this trend. In response to the problem, the [Healthy Caribbean Coalition](#) (“HCC”)<sup>20</sup> developed a [Civil Society Action Plan 2017-2021: Preventing Childhood Obesity in the Caribbean](#) (“CSAP”)<sup>21</sup>. The CSAP arose out of a 2015 meeting of HCC civil society members in which it was agreed that childhood obesity was one of the most pressing issues facing the Caribbean region and warranted a coordinated response from civil society.

The CSAP therefore aims to provide the HCC member civil society organisations (“CSOs”) with a framework for CSO-led action in support of national and regional responses to childhood obesity prevention. The goal of the CSAP is to halt the increase in childhood obesity by 2025 in CARICOM States through improved development and implementation of policies, legislation and/or regulations to prevent childhood obesity. The overall expected outcome of the CSAP is strengthened contribution of Caribbean civil society to the development, implementation, monitoring and evaluation of national and regional policies, legislation, regulations, programmes and interventions related to childhood obesity prevention.

The CSAP covers seven (7) priority areas: trade and fiscal policy, nutrition literacy, marketing of healthy and unhealthy foods and beverages to children, school and community-based interventions,

resource mobilisation and strategic planning, monitoring and evaluation. The key policy asks are SSBs taxation, mandatory FOPWL, enacting legislation related to the International Code of Marketing of Breast-milk Substitutes, banning the marketing of unhealthy food products to children, banning the sale and marketing of unhealthy food products in schools and mandatory physical education in schools.

In recent years, there has been a marked increase in political support for the regulation of beverages high in sugar in school settings, as evidenced by the 2017 ban on SSBs in Trinidad and Tobago.<sup>22</sup> Then, in 2018, in lead up to the Third UN High Level Meeting on NCDs (“UNHLM3”), CARICOM Heads of Government and State committed to the implementation of a number of policies aimed at tackling childhood obesity, ‘health-promoting schools’ and FOPWL.<sup>23</sup> In the following year, Jamaica implemented national interim guidelines gradually restricting the sale of SSBs in schools.<sup>24</sup> Later, in 2019, both the Commonwealth of The Bahamas<sup>25</sup> (“The Bahamas”) and Grenada<sup>26</sup> announced bans on the sale of beverages high in sugar in local schools. The Co-operative Republic of Guyana (“Guyana”)<sup>27</sup> also subsequently announced plans to implement the most comprehensive of school policies to date, banning both the sale and marketing of these beverages in local schools. Belize, with a Cabinet Paper approved in mid-2019, has also signalled plans to move forward with similar regulations over the next two years.<sup>28</sup>

Despite the increasing progress and momentum by way of political commitments to regulate the

<sup>19</sup> HCC, *Civil Society Action Plan 2017 – 2021: Preventing Childhood Obesity in the Caribbean* (2017), *supra* (note 8).

<sup>20</sup> <https://www.healthycaribbean.org/>.

<sup>21</sup> <https://www.healthycaribbean.org/wp-content/uploads/2017/10/Preventing-Childhood-Obesity-in-the-Caribbean-CSAP-2017-2021.pdf>.

<sup>22</sup> HCC. [Online]. Childhood Obesity Prevention Scorecard: Trinidad and Tobago. [Accessed June 30, 2020]. Available from: <https://www.healthycaribbean.org/cop/country-scorecard.php>.

<sup>23</sup> CARICOM Secretariat. [Online]. Communiqués (2018). [Accessed July 1, 2020]. Available from: <https://caricom.org/communique-issued-at-the-conclusion-of-the-thirty-ninth-regular-meeting-of-the-conference-of-heads-of-government-of-the-caribbean-community/>.

<sup>24</sup> HCC. [Online]. Childhood Obesity Prevention Scorecard: Jamaica. [Accessed June 30, 2020]. Available from: <https://www.healthycaribbean.org/cop/country-scorecard.php>.

<sup>25</sup> HCC. Childhood Obesity Prevention Scorecard: The Bahamas. [Accessed June 30, 2020]. Available from: <https://www.healthycaribbean.org/cop/country-scorecard.php>.

<sup>26</sup> HCC. [Online]. Childhood Obesity Prevention Scorecard: Grenada. [Accessed June 30, 2020]. Available from: <https://www.healthycaribbean.org/cop/country-scorecard.php>.

<sup>27</sup> HCC. [Online]. Childhood Obesity Prevention Scorecard: Guyana. [Accessed June 30, 2020]. Available from: <https://www.healthycaribbean.org/cop/country-scorecard.php>.

<sup>28</sup> HCC. [Online]. Childhood Obesity Prevention Scorecard: Belize. [Accessed June 30, 2020]. Available from: <https://www.healthycaribbean.org/cop/country-scorecard.php>.



# Background

school food environment, there are still a number of challenges. Challenges, for example, arise from the lack of harmonisation and alignment of policy approaches at the regional level, as well as with the effective and efficient transition from announcement to policy implementation, monitoring and enforcement at the domestic level. This Report therefore focuses on healthy school policies, in particular those aimed at regulating the availability and marketing of unhealthy beverages and food products. By mapping the existing Regional SBs policies and select policies from around the world, this Report seeks to identify gaps and opportunities to strengthen existing policies and to develop a Model Policy for the Caribbean. The explanation of the policy and

legislative processes, as well as the specific focus on addressing the issue of conflicts of interest in the policy environment are expected to be of benefit to technocrats and policy makers in the accelerated implementation of these policies. Advocates are also expected to benefit from an increased ability to leverage advocacy opportunities and policy windows. Finally, the Model Policy and Legislative Guidance provided are a direct response to express requests of the CARICOM Caucus of Ministers of Health at the 2018 World Health Assembly (“WHA”) in Geneva. The Model Policy is expected to fast-track implementation by simplifying the drafting process, whilst also facilitating the development of standard monitoring, evaluation and enforcement mechanisms.

In 2018, the HCC was the beneficiary of a grant from the Global Health Advocacy Incubator (“GHA”) to support the implementation of HCC’s regional obesity prevention work under the CSAP. The goal of the project was to create healthier food environments in the Caribbean, with a focus on Barbados and Jamaica, through advocacy efforts. These efforts focused on the implementation of policies and legislation which addressed childhood obesity in the Caribbean.

The project has four (4) key objectives or pillars, namely building public awareness, engaging high-level policymakers, strengthening coalitions and mapping and countering industry interference. In 2019, a second grant was awarded to the HCC building on the achievements of the 2018 grant and in 2020, the HCC was awarded its current and third grant. The goal and objectives of the three projects are largely the same. Objective 2 of the HCC GHA 2020 grant focuses on building support amongst regional policymakers for the implementation of obesity prevention policies which promote healthier school food environments, including a ban on the sale and marketing of SBs in schools, introduce or increase SB taxes of at least 20%, promote the adoption of a regional FOPWL standard and regulate the marketing of unhealthy food products to children.

The HCC has issued numerous [open letters](https://www.healthycaribbean.org/category/open-letters-statements/)<sup>29</sup> to Heads of Government and Ministers, requesting delivery on commitments to urgently address childhood obesity through the implementation of the aforementioned policies. In September 2019, emerging out of a regional multi-stakeholder meeting of over 120 Caribbean delegates, the HCC issued a [Civil Society Call to Urgent Action for the Caribbean Region to Accelerate Nutrition Policies for the Creation of Healthy Environments for Caribbean Children and to address the epidemic of overweight and obesity among Caribbean children](https://www.healthycaribbean.org/call-to-urgent-action/).<sup>30</sup>

In support of the Urgent Call to Action, the GHA objective 2 and the broader high-level advocacy objectives of the HCC CSAP, the HCC has been working with regional and national partners across all sectors, to create environments which support the accelerated implementation of policies which regulate the availability and marketing of SBs and unhealthy food products in Caribbean schools. HCC has been using multiple approaches including building public awareness and support directly through HCC’s platforms and indirectly through member CSOs. HCC has also focused on building support in the public sector, primarily among key decision makers, policymakers and other technical staff in targeted ministries. One major form of garnering support for policy implementation has been through capacity building. HCCs capacity building efforts among civil society advocates and technocrats have focused on safeguarding policymaking spaces by building awareness around identifying, managing and mitigating conflicts of interest and minimizing industry interference in the policymaking process. There have also been significant investments in the cultivation of champions with political and public access who are in a position to influence policy acceleration.

Further, in response and as part of the monitoring and evaluation component of the HCC CSAP, the HCC has been tracking obesity prevention policies through its [Childhood Obesity Prevention Scorecard](https://www.healthycaribbean.org/cop/country-scorecard.php) (“COPS”).<sup>31</sup> This tracking includes the collation of policy instruments. However, there have been significant challenges in obtaining some of the country policies, which has hindered CSO-led advocacy and the ability of countries to use sample policies to guide the development of domestic policies. There is therefore a need to collate existing policies to encourage the sharing of policies across the region. This sharing of existing policies combined with the development of model policy

<sup>29</sup> <https://www.healthycaribbean.org/category/open-letters-statements/>.  
<sup>30</sup> <https://www.healthycaribbean.org/call-to-urgent-action/>.  
<sup>31</sup> <https://www.healthycaribbean.org/cop/country-scorecard.php>.



# Objectives of the Report and Model Policy

and legislation which has been informed by the strengths and weaknesses of existing policies may serve to accelerate regional policy implementation. It is an ideal time to develop these resources, given the political willingness and public interest in moving these policies forward, coupled with increasing regional CSO advocacy for childhood obesity prevention policies. Ideally, model healthy school policies should regulate the entire school food environment, such that the availability and marketing of unhealthy beverages and unhealthy food products should be prohibited in and around schools and at school events. However, the absence of standardised labelling to facilitate easy identification of healthy versus unhealthy food products, such as mandatory FOPWL, makes it more challenging to regulate the food environment in a systematic, valid and transparent way. Most

of the recently implemented school policies are limited to regulating beverages with excess sugar without addressing foods. Current policies also lack regulation on marketing of unhealthy food products in school settings. This must be addressed with urgency as measures restricting the availability of SBs in schools will be undermined by the marketing of these very products in the school setting, whether directly or indirectly. Taking into consideration minor variations across local environments, there is considerable value in the development of a model policy which regional governments may adapt and use in their settings. This work therefore focuses on the development of a model policy together with legislative guidance which regulates the availability and marketing of unhealthy beverages and food products in and around schools.

The main objective of this Report and the accompanying Model Policy is to provide policy and legislative guidance for regulating the availability and marketing of unhealthy beverages and food products in and around schools in the Caribbean. The Report and Model Policy therefore address key areas such as:

- 1. existing policies and legislation;
- 2. policy and legislative processes;
- 3. policy environment, including the presence of internal and external accountability and transparency mechanisms, such as Integrity Acts, Access to Information Acts and Conflict of Interest Policies;
- 4. policy models and key policy elements, including an explanation as to what models are best for different settings, resource requirements and/or capacity needs, key partners and/or implementers and monitoring, evaluation and enforcement needs.

It is expected that this Report and the accompanying Model Policy will serve two distinct but key audiences, namely policymakers and civil society advocates. Further, given the expectation of a predominantly regional audience, the Report and Model Policy have been crafted to be a useful tool for CARICOM stakeholders.





# Methods

Several data collection methods were utilised to fulfil the stated objectives of the Report and Model Policy. First, a systematic search was conducted on the Internet and on the HCC COPS for any existing pertinent policies and/or related documents. In addition, further Internet searches were conducted to locate other related policies and laws from around the world, information regarding the domestic policy and legislative processes and the policy environment. Relevant findings and the corresponding sources have been included throughout this Report and/or in the accompanying documents.

Next, a mapping tool was developed using the data collected from regional and international policies and laws. This mapping tool was used to assess the existing policies regulating the availability and marketing of unhealthy beverages and food products across the CARICOM Region. This mapping exercise focused on those CARICOM States with policies, whether implemented or not, which ban or restrict SBs in schools, namely Bermuda, Trinidad and Tobago, Jamaica, The Bahamas and Grenada. Belize's Cabinet Paper which announces a ban on SSBs in and around schools is also included in the mapping discussion, where relevant. The complete result of the mapping exercise is provided in **Appendix I** and the relevant aspects of the mapping exercise are included within the body of the Report for ease of reference.

An interview guide, provided in **Appendix II**, was also developed to capture missing data from the Internet and HCC COPS searches. The interview guide therefore included relevant questions under the following sections: introductory section, policy environment, policy development, policy implementation and policy monitoring and evaluation and a concluding section. During the interviews, the relevant section(s) of the interview guide were applied, depending on the interviewee's involvement in the policy process and/or knowledge of the policy environment.

Interviewees were selected based on their involvement in the policy process. The list of

persons contacted included a mix of personnel from the various Ministries of Health ("MOH"), Ministries of Education ("MOE"), as well as external agencies and partners, such as advisors of PAHO/WHO, CARPHA, CSOs, academics and other individuals. In addition, some emphasis was also placed on those CARICOM States which have expressed clear intentions of developing similar or more robust SBs bans or restrictions, by way of Cabinet Paper submissions or unequivocal political statements, such as Guyana.

The findings of the complete mapping exercise and the interviews are presented in this Report. In addition, select policies and laws from jurisdictions outside of the CARICOM Region obtained during the Internet searches, have been used to further the analysis of the strengths and weaknesses of the existing policies. The Model Policy accompanying this Report was developed, having been informed from the Internet and HCC COPS searches, mapping exercise, interviews and global experiences.

Finally, the Report and accompanying Model Policy were submitted for review by several external partners and select representatives of MOH and MOE in the CARICOM Region.

## Limitations

The major limitation to this Report and accompanying documents was the inability to obtain copies of the policy documents for certain CARICOM States and/or to interview the policymakers within those States. The latter challenge, that of being unable to interview key policymakers, was in many instances, a direct impact of the COVID-19 protocols and responses underway across the Region. As a result, the final list of persons actually interviewed was considerably shorter than the list of persons contacted for interviews.

# Mapping of Current Policies Which Regulate the Availability and Marketing of Unhealthy Beverages and Food Products in and Around Schools

## Summary of existing policies

Policies regulating the school food environment, notably those which regulate the availability and/or marketing of unhealthy beverages in schools, have increased in popularity in recent times. For example, in 2018, ahead of the UNHLM3 on NCDs, CARICOM Heads of Government and State endorsed the implementation of policies aimed at tackling childhood obesity, including for 'health-promoting schools' and FOPWL.<sup>32</sup>

The popularity and commitment to addressing this issue are also evident from the Cabinet approvals and/or uptake of such policies at the local level in Bermuda (2006), Trinidad and Tobago (2017), Jamaica (2019), The Bahamas (2019), Grenada (2019) and Belize (2019). In addition, policymakers in Guyana (2019) have made clear political expressions regarding their intention to develop and implement an even more robust policy.

It should also be noted that CARICOM States have developed and, in many instances, implemented other policies which impact or have the potential to impact the school food environment directly or indirectly. These include but are not limited to Food-Based Dietary Guidelines,<sup>33</sup> Food and Nutrition

Security Policies or Strategies,<sup>34</sup> Childhood Obesity Prevention Plans<sup>35</sup> as well as NCD Action Plans.<sup>36</sup>

Given the focus of this Report on policies which regulate the availability and marketing of unhealthy beverages and food products in and around schools, it is important to note that some of those policies ("the current policies")<sup>37</sup> were developed with a view to implementing or supporting the implementation of specific nutrition aspects of an existing national school nutrition policy or national school health policy, such as in Grenada.<sup>38</sup> Alternatively, the majority of the current policies were made possible, in part, because of the adoption of national nutrition guidelines or standards for beverages. This occurred in the case of Bermuda,<sup>39</sup> Trinidad and Tobago and The Bahamas.<sup>40</sup>

On the other hand, Jamaica's Interim Guidelines for Beverages in Schools<sup>41</sup> preceded the completion of the National School Nutrition Policy or the National School Nutrition Standards.<sup>42</sup> The rationale for Jamaica's approach, as suggested by one interviewee, was the view that Interim Guidelines would be easy and fast to implement while producing tangible results ahead of the completion of a more comprehensive school nutrition policy.

<sup>32</sup> Thirty-Ninth Regular Meeting of the Conference of Heads of Government of the Caribbean Community in Montego Bay, Jamaica on 4-6, 2018. Decisions.

<sup>33</sup> Antigua and Barbuda (2013), The Bahamas (2002), Barbados (2017), Belize (2012), Dominica (2007), Grenada (2006), Guyana (2004), Jamaica (2015), St. Kitts and Nevis (2010), St. Lucia (2007), and St. Vincent and the Grenadines (2006).

<sup>34</sup> The Food and Nutrition Policy and Plan of Action For Belize (2010); Food and Nutrition Security Strategy for Guyana (2011); Jamaica National Food and Nutrition Security Policy (2013); St. Kitts and Nevis Food and Nutrition Security Policy; Antigua and Barbuda Food and Nutrition Security Policy (2012).

<sup>35</sup> Barbados Childhood Obesity Prevention Programme National Plan of Action for Childhood Obesity Prevention and Control (2015-2018).

<sup>36</sup> Belize National Plan of Action for the Prevention and Control of Non-Communicable Diseases 2013-2023; Strategic Plan 2013-2020: Integrated Prevention and Control of Noncommunicable Disease in Guyana; Antigua and Barbuda National Strategic Plan for Health (2016-2020).

<sup>37</sup> The existing national school nutrition policies or standards are: the Bermuda School Nutrition Policy (1997), The Trinidad and Tobago National Nutrition Standards for Food Offered or Sold in Schools including beverage standards (2016), Compulsory Standards for Healthy Lunch Meals in Bahamian Schools (2011) and Compulsory Standards for Tuck Shops in Bahamian Schools (2011) and the National School Nutrition Policy for Grenada (2015).

<sup>38</sup> The Ministry of Education and Grenada Food and Nutrition Council. [Online]. *National School Nutrition Policy for Grenada*. (2015), p 13 [Accessed: 25 July, 2020]. Available from: <http://gov.gd/sites/moe/files/docs/Documents/12.%20Grenada%20Schools%20nutrition%20policy%20Final%20Submitted.pdf>.

<sup>39</sup> Government of Bermuda, Ministry of Education and Department of Health Partnership. [Online]. *Bermuda's Healthy Schools Vending Machine and Cafeteria Policy*. [Accessed 25 July, 2020]. Available from: <http://www.healthycaribbean.org/wp-content/uploads/2017/04/Healthy-Schools-Vending-Machine-Cafeteria-Policy-2006.pdf>.

<sup>40</sup> Government of The Bahamas. Nutrition Unit of the Ministry of Health/Department of Public Health [Online]. *Compulsory Standards for Healthy Lunch Meals in Bahamian Schools*. [Accessed 25 July, 2020]. Available from: <https://www.healthycaribbean.org/cop/documents/GBL-SCHOOL-LUNCH-Final-Documents.pdf>; *Compulsory Standards for Tuck Shops in Bahamian Schools*. [Accessed 25 July 2020]. Available from: <https://www.healthycaribbean.org/cop/documents/GBL-TUCK-SHOP-Manual-Final-Documents.pdf>.

<sup>41</sup> Ministry of Health/Ministry of Education, Jamaica. [Online]. Jamaica Cabinet, *Interim Guidelines for Beverages in Schools*. [Accessed 15 June 2020]. Available from: c.

<sup>42</sup> A representative from the Ministry of Education, Jamaica advised that the Draft National Schools Nutrition Policy has been finalized by the Ministry of Education and is currently before the Cabinet of Jamaica for approval. Further, this representative advised that the Ministry of Health and Wellness, Jamaica completed the National Nutrition Standards of Jamaica.



Jamaica’s Draft National School Nutrition Policy was finalised by the Ministry of Education, Youth and Information and has been presented to the Cabinet of Jamaica for approval. Importantly, the Ministry of Education, Youth and Information has nonetheless commenced implementing various provisions of the National School Nutrition Policy, based on the Interim Guidelines for Beverages in Schools and the National School Feeding Programme. In Belize, the approval of the Cabinet Paper to ban SSBs in and around schools also preceded any national policy infrastructure to support it. For example, the Belize School Feeding Policy remains incomplete, the Belize National Agricultural and Food Security Policy has not been adopted and the Belize Nutrition Policy is still in draft.<sup>43</sup>

Mapping and analysis of current policies

It is important to note that despite the shared popularity for SBs school bans across the CARICOM Region, CARICOM States have adopted different policy approaches and policy elements at the domestic level to try to achieve their public health goals. The mapping of the current policies in the CARICOM Region has been used throughout this section of the Report to identify policy gaps which weaken the current policies as well as the strengths which should be considered in a Model Policy. The entire result of the mapping exercise is provided in Appendix I.

Policy Goals and Objectives

The goals and objectives of the current policies, where mentioned within the policy document or otherwise, illustrate that the focus is largely on eliminating unhealthy beverage and/or food products to create healthy food environments in schools. For example, the objectives of the Bermudan Healthy Schools Vending Machine and Cafeteria Policy are “[t]o permit only healthy foods/snacks and beverages, including only plain, unsweetened water, milk, and/or 100% juice to be

sold and consumed on the school premises, whether from the cafeteria, Tuck Shop, vending machine, food truck, outside caterer, or any other means of sale or distribution” and “[t]o encourage parents to send only plain, unsweetened water, milk, and/or 100% juice, and healthy foods in student lunches.”<sup>44</sup>

In The Bahamas, the Standards for Healthy Snacks in Tuck Shops and the Compulsory Standards for Healthy Lunch Meals share an identical set of objectives namely “to achieve energy balance, increase consumption of fruits and vegetables, limit intake of fat, sugar and salt, maintain proper growth and development and to achieve and maintain good health.” On the other hand, the rationale of Jamaica’s Interim Beverage Guidelines may be recognised as “the urgent need to address the increasing rates of overweight and obesity in Jamaica, and particularly the adolescent population...”

Clear, evidence-based policy objectives, which are realistic and attainable are recommended. The aforementioned objectives are lengthy and tend to incorporate the policy options within them, rather than clearly and concisely stating the policy’s aim. Further, policy objectives should be framed to reflect children’s rights, including the right to health and the right to adequate nutritious foods, in recognition of the CARICOM States’ international obligations. Consequently, rather than stating “to address the increasing rates of overweight and obesity”, which is broad and difficult to measure, Jamaica’s Interim Guidelines for Beverages in Schools could have stated its rationale as to reduce the consumption of SSBs in schools – an objective which recognises the rights of children to access healthier beverage options in school settings.

Regulatory Approach

Regulatory instruments

The framework for regulating the availability and/or marketing of unhealthy beverages and food products in schools ranges from voluntary

or food and beverage industry self-regulation to legislation.<sup>45</sup>

In the CARICOM Region, States have opted for some form of government policy. In Trinidad and Tobago, this was by way of a Cabinet Minute in the form of a National Policy Statement in 2017. In Bermuda, The Bahamas and Grenada, Cabinet-approved National Policies or Cabinet Notes were used. In Jamaica, Interim Guidelines, which went beyond the typical

minister-approval, to the level of Cabinet-approval, was the preferred policy option.

These distinct approaches to government policies provide greater control over the policy process than self-regulatory schemes.<sup>46</sup> Nonetheless, the current policies lack proper enforcement mechanisms or sanctions for non-compliance. Further, to date, no CARICOM State has translated its Policy, Cabinet Minute or Guidelines into legislation.

Table 1: Regulatory approaches existing in CARICOM

CARICOM STATES/ KEY POLICY ELEMENTS		TRINIDAD & TOBAGO	JAMAICA	THE BAHAMAS	BERMUDA	GRENADA
Regulatory Approach						
Regulatory Instrument	Primary Legislation/ Subsidiary Legislation (Regulation)					
	Public Policy	Cabinet Minute (National Policy Statement)			National Policy	National Policy
	Guidelines Standards		Interim Guidelines	Standards		
	Voluntary/Self- Regulation					
	Co-Regulation					
Ban/ Restriction	Ban					
	Restriction					
Binding status	Mandatory					
	Voluntary					

- Present/implemented
- Developed but not implemented
- Not present
- NR

No record of this information available
- Not applicable due to existence of other policy measure(s)

<sup>43</sup> Personal Interview (October 2, 2020)

<sup>44</sup> *Bermuda’s Healthy Schools Vending Machine and Cafeteria Policy*. Available from: <http://www.healthycaribbean.org/wp-content/uploads/2017/04/Healthy-Schools-Vending-Machine-Cafeteria-Policy-2006.pdf>.

<sup>45</sup> 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. [Accessed: August 15, 2020]. Available from: <http://bitly.ws/9>

<sup>46</sup> Eun. Paola Bergallo et al. 2018. (note 39).

Ban versus Restriction

The majority of the current policies in CARICOM States include a complete ban on SSBs. However, some exceptions to this approach are found in Grenada, where the prohibition is on carbonated beverages and in Jamaica, which has introduced a set of progressively more stringent restrictions on beverages of a specified sugar content.<sup>47</sup> For instance, the imposition of the Jamaican Interim Guidelines for Beverages in Schools in 2019 resulted in beverages containing 6 grams (“g”) per 100 millilitres (“ml”) of sugar or more being prohibited in schools. This restriction tightened in 2020 to 5 g per 100 ml<sup>48</sup> and is expected to become more restrictive each year until a 2.5 g per 100 ml threshold is attained by January 1, 2023.

Internationally, the approach to regulating the availability of SBs also varies – some States have implemented complete bans and others have imposed restrictions on sugar content or calorie content, for example.<sup>49</sup> However, anything less than a complete ban has been described as creating loopholes for beverages high in calories and sugars which contribute to weight gain, such as 100% fruit juices which often contain more free sugars than SSBs.<sup>50</sup>

It is important to note that the reasons are not always clear for a particular approach. Interviewees in Jamaica identified the need to give manufacturers time to adjust and to reformulate products as one of the reasons for the selection of gradual restrictions over an immediate and complete ban. One Jamaican interviewee further expressed the view that the implementation of restrictions rather than a ban was faster since more time would have initially been required for industry to comply with an immediate 2.5 g per 100 ml limit. That being said, it should be noted that Trinidad and Tobago, with a similarly situated beverage industry to

Jamaica, imposed a complete ban on the sale of SSBs in schools. One interviewee articulated that Trinidad and Tobago’s ban was selected due to the WHO’s technical guidance<sup>51</sup> which recommended that beverages containing in excess of the sugar allowance should not be sold.

In light of the above, a complete ban can and should apply in all CARICOM States. However, implementation of such may be easier for smaller CARICOM States where drinks are imported or locally bottled according to a specific recipe rather than manufactured locally. The decision whether to implement a ban or a restriction should be based on which approach moves the particular State closer to achieving its policy objectives. Resolving the issue of whether to restrict or to ban also helps to preserve the legitimacy of the policy in the face of scrutiny on the part of the food and beverage industry or any others.

It should also be noted that in the context of the marketing of beverages in and around schools, a complete ban, rather than threshold restrictions, would be required. This is due to the fact that the particular beverage brand cannot be marketed independently of the beverage’s sugar content. Consequently, achieving greater coherence between nutrition education and the availability and marketing of beverages in schools is only possible through a complete ban on the marketing of unhealthy beverages in and around schools.

Binding Status

All of the current policies in the CARICOM Region are mandatory. The mandatory nature of the policy is a critical component for compliance. However, as previously indicated, sanctions or penalties for non-compliance are missing from the current policies in the CARICOM Region. In contrast, the ban on the sale of junk food and sugary drinks imposed in various Mexican states, such as Oaxaca, includes strict

penalties for non-compliance, namely fines, forced closure of businesses or terms of imprisonment for persons repeatedly in breach of the provisions of the ban.<sup>52</sup>

Scope

In the CARICOM Region, all of the existing SSBs policies target government schools and government-assisted or government-aided schools, whether at the pre-primary, primary or

secondary school level. Private schools are not within the scope of the majority of current policies. Jamaica and Grenada are exceptions in this regard since their policies are applicable to both public and private schools. Bermuda’s ban, though initially not targeting private schools, was actually introduced in private schools, which became compliant within two (2) years.<sup>53</sup>

Table 2: Scope of current policies in CARICOM

CARICOM STATES/ KEY POLICY ELEMENTS		TRINIDAD & TOBAGO	JAMAICA	THE BAHAMAS	BERMUDA	GRENADA
Scope						
Government and Government assisted Schools	Pre-primary/Early Childhood Schools/Institutions					
	Primary Schools/Institutions (incl, Middle Schools if relevant)					
	Secondary Schools/Institutions (incl, Middle Schools if relevant)					
	Tertiary Schools/Institutions					
Private Schools	Pre-primary/Early Childhood Schools/Institutions				Policy was introduced to private schools in 2006 who became compliant within 1-2 years	
	Primary Schools/Institutions					
	Secondary Schools/Institutions					
	Tertiary Schools/Institutions					

- Present/implemented
- Developed but not implemented
- Not present
- NR

No record of this information available
- Not applicable due to existence of other policy measure(s)

<sup>47</sup> A representative from the Ministry of Education, Information and Youth in Jamaica advised that despite the progressive restrictions of the Interim Beverage Guidelines, no beverages in excess of 2.5g per 100 ml are permitted to be served in schools under the National School Feeding Programme.

<sup>48</sup> Jamaica Information Service, Schools Urged To Comply With New Sugar Limit For Sweetened Beverages, January 10, 2020. Available at: <https://jis.gov.jm/schools-urged-to-comply-with-new-sugar-limit-for-sweetened-beverages/>.

<sup>49</sup> Paola Bergallo et al. 2018. (note 39).

<sup>50</sup> Paola Bergallo et al. 2018. (note 39).

<sup>51</sup> World Health Organization. [Online]. Guideline: sugars intake for adults and children. Geneva World Health Organization; 2015. WHO/NMH/NHD/15.2.

<sup>52</sup> BBC. [Online]. *Mexico obesity: Oaxaca bans sale of junk food to children* (August 6, 2020). [Accessed: 15 September, 2020]. Available from: <https://www.bbc.com/news/world-latin-america-53678747>.

<sup>53</sup> *Healthy Schools Bermuda* (April 2017) [Accessed: 15 July, 2020]. Available from: <https://www.healthycaribbean.org/healthy-schools-bermuda/>.



The rationale for excluding private schools from the policy is unclear since private schools must be registered and comply with requirements under the various Education Acts in the CARICOM Region.<sup>54</sup> Some interviewees expressed the view that a ban or restriction which excluded the small number of private schools was still highly effective since public schools represent the majority of schools and the largest population of school-aged children. This position however defeats the objectives of the current policies since not all school food environments are addressed. It is also discriminatory in its approach to protecting children’s rights and a violation of the State’s tri-fold duty to respect, protect and fulfil ALL children’s right to health and their right to adequate nutritious foods. Interviewees also noted that some private schools have expressed interest in the policy and its objectives. This strongly suggests that going forward, CARICOM States should seriously consider protecting ALL children regardless of the school under such policies.

It should also be noted that none of the policies within the CARICOM Region apply to tertiary level institutions. This is consistent with the approach internationally. In Chile and Mexico, for example, the initial inclusion of tertiary institutions in the ban was so forcefully challenged that those provisions were removed from the regulations.<sup>55</sup> This is perhaps

reflective of the increased decision-making capacity of older students at these institutions.

**Target Area(s) Coverage**

**In/on school compound**

All of the current policies target the school food environment, including but not limited to vendors, concessionaires, tuck shop operators, canteen operators and School Feeding Programmes. The position regarding vending machines is unambiguously addressed in both the Bermudan and Bahamian policies but is less explicit in the policies of other States. Nonetheless, the focus on the school compound within the current policies strongly suggests the inclusion of vending machines located on those compounds.

One interviewee opined that vending machines were not specifically mentioned in Jamaica’s Interim Guidelines for Beverages in Schools because they are not usual features in Jamaican public schools. On the other hand, a Ministry representative clarified that, as a matter of policy, vending machines are not permitted in Jamaican schools. This position was used as the basis for not expressly excluding vending machines in Jamaica’s Interim Guidelines for Beverages in Schools. Nonetheless, this policy position should be clarified going forward since it is possible for the situation to easily change.<sup>56</sup>

Table 3: Target area(s) of current policies in CARICOM

CARICOM STATES/ KEY POLICY ELEMENTS		TRINIDAD & TOBAGO	JAMAICA	THE BAHAMAS	BERMUDA	GRENADA
Target						
In/On School compound	Entire school compound (including vendors, concessionaires, tuck shop operators, vending machines, etc.) on the school compound					
Outside of the School compound	Vendors immediately outside the school compound		No radius specified but does not extend to corner shops	Vendors to be forced to set up further from school compound		
	Vendors and business establishments within a specified vicinity of school compound					
Digital environment/ Online School environment	School-owned and/ or issued computers, websites, apps and online learning platforms					
Home/Family Environment	Beverages and Foods Brought from home				Parents encouraged to send only healthy food/snacks and beverages	YES parents will also be prohibited from including these items in students' bagged lunches
School day coverage	Regular School Day					
	Extended School Day			NR		
School events and activities	On school compound		During special school activities	Do not apply to special one-off days such as 'Fun Day' and other fundraising events that take place twice a year. However the standards will apply to the third and subsequent events that may occur	NOTE: the Healthy Schools Nutrition Policy encourages the sale and consumption of nutritious food from the five food groups (at bake sales, sports events, after school programmes, lunch time and summer programmes)	
	Outside of school compound					

Present/implemented

Developed but not implemented

Not present

NR

No record of this information available

Not applicable due to existence of other policy measure(s)

<sup>54</sup> See e.g., Barbados Education Act, Cap. 41, ss31 and 33; Jamaica Education Act and Dominica Education Act 1997 act 11 of 1997, s112 which explicitly states that “The Public Health Authorities shall require the same health and sanitary arrangements for private schools as are required for public schools and assisted private schools.”

<sup>55</sup> Paola Bergallo et al. 2018. (note 39).

<sup>56</sup> A representative from the Ministry of Education, Jamaica advised that vending machines have been explicitly captured in the Draft National School Nutrition Policy of Jamaica.



Outside the school compound

CARICOM States rarely focused their bans or restrictions on vendors outside of the compound. In the case of Jamaica, vendors but not corner shops, outside of the school compound and within a certain proximity to the school compound, are also captured by the restrictions. However, no guidance is expressly provided within the Interim Guidelines for Beverages in Schools regarding the exact radius covered. This lack of specificity is likely to make implementation and enforcement difficult.<sup>57</sup>

In The Bahamas, the latest sugary beverage policy applies to all vendors, whether internal or external to the school compound. However, an earlier policy in The Bahamas required vendors to be 20 yards or further away from the school gates but did not address the vendors who set up before and after regular school hours just beyond those limits.<sup>58</sup> It would therefore be critical for policies to address such scenarios.

Importantly, international studies have shown that the presence of food and beverage vendors around the school compound increases the availability of unhealthy beverages and food products and correlates to increased Body Mass Index (“BMI”) among children.<sup>59</sup> However, determining the appropriate radius for regulating availability around the school must be a decision at the country-level in light of local circumstances. Guidance, nonetheless, may be sought from other jurisdictions which have implemented such a policy measure<sup>60</sup> as well as any Acts, such as the Education Act, which may specify a radius around schools for some particular purpose, such as a compulsory education area.<sup>61</sup>

In light of the above, the failure in the majority of the current policies to address these external environments is a significant gap which should be urgently addressed going forward.

Digital/online school environment

None of the current CARICOM policies address the digital or online school environment. This may be due to the fact that prior to the COVID-19 pandemic, in which some schools were closed and children forced to learn in digital or online school environments, there was hardly any notion of online schooling.

Now, during the ongoing COVID-19 pandemic, the food and beverage industry continues to take advantage of the mostly unregulated digital environments to market unhealthy beverages and food products.<sup>62</sup>

Consequently, the existing policies and new policies should adequately regulate digital marketing and ensure coverage of the digital/online school environment.

Home/family environment

With regards to the application of the ban or restriction to beverages and food products brought from home by the students, Grenada’s policy is the only one within the CARICOM Region which expressly prohibits parents from including banned beverages and processed snacks in children’s lunch bags.<sup>63</sup> However, no clear guidance on how this measure will be enforced appears to be available.<sup>63</sup> Bermuda’s policy provides a recommendation which appears to be voluntary rather than mandatory. This particular measure is therefore another weakness of the current policies.

Interestingly, some individual school policies already mandate that parents are only to send healthy snacks to school with children.<sup>65</sup> Therefore, addressing this particular measure may also help to cultivate better home eating habits among children, which would be beneficial if children are forced to spend the regular school day at home due to national coronavirus public health measures.

School day coverage and coverage at events and activities

For the most part, the current policies in these CARICOM States are not clear on whether the ban or restriction applies to the extended school day and/or to school events and activities both on and off the school compound. Grenada’s ban expressly includes school events and activities whilst Jamaica’s Interim Guidelines for Beverages in Schools expressly stipulate that the restrictions are applicable “during regular school hours and special school activities.” This seems to suggest that “special school activities” are those occurring outside of the regular school hours. However, it is unclear whether the restrictions apply to “special school activities” which take place outside of the school compound or only those on the school compound.<sup>66</sup> Again, these policy elements ought to be clarified to aid implementation.

Target Product(s) and/or Activities

Types of beverages banned/restricted

All of the current policies within CARICOM ban or restrict SSBs or SuBs. In Trinidad and Tobago, SSBs are recognised as those beverages with added sugars as well as beverages containing artificial sweeteners. Consequently, soft drinks, juice drinks, flavoured water, sports/energy drinks, tea, coffee and milk-based drinks with added sugars and/or artificial sweeteners are all expressly banned. However, in Trinidad and Tobago, beverages with high levels of natural sugars, such as juices from concentrate, are permitted.

The Bahamas, though adopting the term “sugary drinks” in its policy, defines such as any non-alcoholic beverages with added sugar. The Bahamian ban therefore affects similar drinks to the ban in Trinidad and Tobago, namely

“all brands of sodas and other carbonated soft drinks; non-fresh (non-100 percent) fruit and or vegetable juice; lemonade/limeade; nectars; malts; energy drinks and flavoured milk along with pre-sweetened teas and coffee.”<sup>67</sup> However the Bahamian ban does not appear to impact beverages with high levels of natural sugars or beverages containing artificial sweeteners. Grenada’s ban affects the category of carbonated SSBs namely sodas, while the ban in Bermuda is on all unhealthy beverages; a category not clearly defined in the policy. The list of permitted beverages in the Bermudan policy includes plain, unsweetened water, milk, and/or 100% juice; which strongly suggests that SSBs or SuBs are the target of the Bermudan policy. Notably, no mention is made of beverages containing artificial sweeteners in the Bermudan policy. In Jamaica, beverages with added sugars are still permitted if they meet the specific sugar content requirements set out in the following implementation schedule:

- Maximum 6g/100ml – effective January 1, 2019
- Maximum 5g/100ml – effective January 1, 2020
- Maximum 4g/100ml – effective January 1, 2021
- Maximum 2.5g/100ml – effective January 1, 2023

The Jamaican Interim Guidelines for Beverages in Schools are also unique in recommending a 12-ounce limit on the package size for all beverages except water and a restriction on caffeine content to less than 10 mg per serving.

It is important to note that all of these CARICOM States permit 100% fruit and vegetable juices as well as milks with no added sugars despite the high quantities of naturally present sugars especially in the concentrates; a position contrary to the WHO Guideline.<sup>68</sup> The WHO recommends reducing the consumption of free sugars to less than 10% of their daily energy intake and less than 5% for further health benefits. This strongly suggests that banning or restricting fruit juices outright or, at a minimum, placing limits on portion sizes would strengthen existing policies and ought to be future policy considerations. The consumption of the actual fruit or vegetable should be encouraged instead.

<sup>57</sup> A representative from the Ministry of Education, Jamaica advised that the Safe School Policy prescribes a specific radius within which vendors are precluded from selling and acknowledged that a better connection ought to have been made in Jamaica’s Interim Beverage Guidelines.

<sup>58</sup> Healthy Caribbean Coalition. [Online]. Meeting Report: *Managing Conflict of Interest for NCD Prevention and Control in the Caribbean*, Meeting held on March 26-27, 2019. [Accessed 15 August, 2020]. Available from: <https://www.healthycaribbean.org/wp-content/uploads/2019/09/Managing-Conflict-of-Interest-for-NCD-Prevention-and-Control-in-the-Caribbean-WEB.pdf>.

<sup>59</sup> Paola Bergallo et al. 2018. (note 39).

<sup>60</sup> 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.

<sup>61</sup> Jamaica Education Act, s20 stipulates that “The Minister may be order declare- (a) any are within a radius of three miles from any school specified in such order to be a compulsory education area...”

<sup>62</sup> A representative from the Ministry of Education, Jamaica advised that parents/guardians are restricted from packing sugary beverages in their child/ward’s lunch kits. However, there was no express indication of this within the policies obtained during this consultancy.

<sup>63</sup> Jamaica Gleaner. [Online]. *Grenada Bans Sale of Soda and Snacks at School*. November 2019 [Accessed 30 July, 2020]. Available from: <http://bitly.ws/9EyU>.

<sup>64</sup> Healthy Caribbean Coalition, Rapid Assessment of the School Nutrition Policy Environment in select Caribbean countries, (November 2019) [Accessed 3 July 2020]. Available from: <https://www.healthycaribbean.org/wp-content/uploads/2020/02/rapid-assessment-of-the-school-nutrition-policy-environment-in-select-caribbean-countries.pdf>.

<sup>65</sup> Healthy Caribbean Coalition, Rapid Assessment of the School Nutrition Policy Environment in select Caribbean countries, (November 2019) [Accessed 3 July 2020]. Available from: <https://www.healthycaribbean.org/wp-content/uploads/2020/02/rapid-assessment-of-the-school-nutrition-policy-environment-in-select-caribbean-countries.pdf>.

<sup>66</sup> A representative from the Ministry of Education, Jamaica confirmed that “special school activities” noted in Jamaica’s Interim Beverage Guidelines include activities inside and outside of the school compound.

<sup>67</sup> Ministry of Finance. *Sugary Drinks Ban to take effect at all public health facilities*. [Accessed 1 September 2020]. Available from: <https://www.facebook.com/FinanceBAH/posts/2595831310510419>.

<sup>68</sup> World Health Organization. [Online]. Guideline: sugars intake for adults and children. Geneva World Health Organization; 2015. WHO/NMH/NHD/15.2.



Table 4: Target area(s) of current policies in CARICOM

CARICOM STATES/ KEY POLICY ELEMENTS		TRINIDAD & TOBAGO	JAMAICA	THE BAHAMAS	BERMUDA	GRENADA
Target product(s)/activities						
Types of beverages banned/ restricted	Select SSBs	SSBs: soft drinks, juice drinks, flavoured water, sports/energy drinks, tea, coffee; milk-based drinks with added sugar	SSBs: carbonated beverages (such as regular soda), fruit drinks, sports drinks, energy drinks, sweetened waters, coffee and tea beverages above the maximum sugar concentration in the implementation schedule.	Sugary beverages: carbonated and non-carbonated forms including but not limited to, all brands of soda and other carbonated soft drinks; non-fresh (non-100%) fruit and/or vegetable juice, lemonade/limeade, nectars, malts, energy drinks and flavoured milk along with pre-sweetened teas and coffee.	All unhealthy beverages (i.e. all drinks except plain unsweetened water, milk and/or 100% juice)	Carbonated beverages
	Other content portion requirements (i.e. no artificial sweeteners)	Tea, coffee, milk-based drinks with artificial sweeteners.	Maximum 6g/100ml - effective January 1, 2019 Maximum 5g/100ml - effective January 1, 2020 Maximum 4g/100ml - effective January 1, 2021 Maximum 2.5g/100ml - effective January 1, 2023  NOTE: Artificial sweeteners are not banned/restricted but their use is expressly discouraged. Recommends that caffeine content be less than 10mg per serving. Recommends that package size for all beverages except water sold or served to children (i.e. less than 18 years old) should be less than 12 ounces.			
Promotes the provision of clean drinking water					Students to drink water throughout the school day (including sipping water at their desks)	
Types of foods banned/ restricted	Food categories/ Nutrient Profile modelling				Unhealthy foods/snacks	Processed snacks
Bans/Restricts Marketing	Children's ages protected					
	Media covered					
	Beverages and Foods covered					

- Present/implemented
- Developed but not implemented
- Not present
- NR

 No record of this information available
- Not applicable due to existence of other policy measure(s)



Artificial sweeteners

The majority of the current policies do not make any provision to ban or restrict the use of artificial sweeteners. Only Trinidad and Tobago’s policy expressly bans teas, coffee and milk-based drinks with artificial sweeteners. Jamaica’s Interim Guidelines for Beverages in Schools simply recommends that the use of artificial sweeteners be discouraged.

These distinctions in the approach to artificial sweeteners may be explained by the fact that the impact of artificial sweeteners on health and weight gain remains unclear.<sup>69</sup> However, as one interviewee expressed, the beverage industry may decide to flood the school food environment with beverages containing artificial sweeteners in response to partial restrictions. Further, permitting the availability and marketing of beverages with artificial sweeteners is likely to be inconsistent with schools’ nutrition education content.

Moreover, within the context of children’s consumption of artificial sweeteners, the American Heart Association (“AHA”) issued a statement warning of the potential negative health effects of prolonged consumption of low-calorie sweetened beverages by children.<sup>70</sup> Internationally, Mexico has established limits on the amount of artificial sweetener permissible in beverages and, in October 2019, introduced mandatory FOPWL regulation which requires manufacturers to include warnings for children on beverages containing artificial sweeteners.<sup>71</sup>

It is therefore important to recognise that there is evidence that the “habitual use of sweet flavours (sugar-based or not) promotes the intake of sweet food and drinks, including those that contain sugars”<sup>72</sup> and that the consumption of artificial sweeteners damages the gut microbiota.<sup>73</sup> Taking a proactive approach to regulating artificial sweeteners represents an important opportunity to strengthen current policies and for the development of new policies in the CARICOM Region. Critically, artificial sweeteners are also not

recommended in the PAHO NPM, the existing regional standard.

Promotes the provision of clean drinking water

The majority of policies in CARICOM States are notably silent on the availability, consumption and promotion of clean drinking water. Bermuda’s policy, however, makes express provision for “students to drink water throughout the school day, such as students sipping water at their desks from reusable water bottles.” In fact, in 2016, the Department of Education in Bermuda installed a bottle-filling water station in four schools and then a year later, in 2017, the America’s Cup<sup>74</sup> donated 12 water stations to the Department of Education for installation in Bermudan public schools. This water promotion strategy continues to be implemented through a Healthy Schools Partnership with an undisclosed corporate entity for the purchase of at least one bottle-filling water station for eight (8) public schools.

It is important to recognise that drinking adequate amounts of water has several health benefits, such as lower calorie intake and risk for obesity.<sup>75</sup> The current policies should therefore be strengthened and any new policies developed to include children’s access clean drinking water; an important human right.<sup>76</sup>

Types of food products banned or restricted

Bermuda, Grenada and The Bahamas are the three (3) CARICOM States with policies designed to regulate the availability of food products and/or snacks in schools. The Bermudan policy, for example, only permits healthy foods/snacks and beverages. However, the Bermudan policy identifies permissible beverages as being “plain, unsweetened water, milk, and/or 100% juice” but does not stipulate a similar list of permissible healthy foods/ snacks or any criteria for determining such. Guidance, if sought from Bermuda’s Healthy Schools Nutrition Policy or the Daily Dietary Guidelines Eat Well Plate, is likely to be difficult for schools to implement given the absence of comprehensive lists of banned foods/ snacks or criteria for determining such. This ought to

be clarified to strengthen the current policies or for the development of new policies.

Grenada’s ban on “processed snacks” appears to also be without clear criteria on how such snacks will be identified. However, it is significant that the Grenada Food and Nutrition Council in implementing aspects of the Grenada School Nutrition Policy, relied on the PAHO NPM to generate a list of permissible foods and beverages to send to schools and vendors.

International experiences with bans or restrictions on food products, particularly as it relates to marketing, highlight that some countries rely on random categorisations to determine unhealthy food products with minimum success. However, the easier approach is to employ a nutrient profiling scheme which categorises foods or snacks according to the nutritional composition.<sup>77</sup>

The implementation of a regulatory approach to ban or restrict unhealthy food products in schools would be aided by the use of FOPWL. In fact, FOPWL, which is strict and based on robust scientific evidence, should be regarded as a foundational policy which permits the easy identification of unhealthy beverages and food products to be restricted or banned.

Overall, the lack of bans or restrictions on food products across CARICOM is a major weakness since the current policies only address one aspect of the school food environment. Where such bans or restrictions do exist, the criteria is not always clear.

Marketing

None of the current policies in CARICOM States ban or restrict the marketing of unhealthy beverages or food products to children in schools.<sup>78</sup> The rationale for excluding marketing bans or restrictions from the current policies varied. One interviewee highlighted that the regional documents<sup>79</sup> informing the ban did not provide for restrictions or bans on marketing at the time of policy formulation, while another interviewee

suggested that marketing was not an issue on school compounds to warrant a ban or restriction. Yet other interviewees intimated that a marketing ban had not even been contemplated during the policy formulation process so that no specific rationale for its exclusion could be proffered.

However, international recommendations to restrict the marketing of unhealthy beverages and food products to children, as adopted by the WHA, were readily available since 2010.<sup>80</sup> Further, the lessons learnt from other jurisdictions are instructive. In Latin America, advertising bans or restrictions are a common feature of policies which address the school food environment and have reaped several benefits for children’s health and food preferences. For example, Chile’s comprehensive Law of Food Labelling and Advertising, which came into force in 2016, simplified the imposition of regulations in schools by using FOPWL to easily identify foods which are prohibited from being sold or marketed in schools while also restricting child-directed marketing across various media.<sup>81</sup>

It is important to recognise that the implementation of a ban on the sale of unhealthy food products, without also regulating a ban on the marketing of those products, undermines the overall efficacy of the policy. Further, the CRC, which all CARICOM Member States have ratified, establishes binding obligations on these governments to “undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention.”<sup>82</sup>

Further, children’s right to health in the CRC and, as interpreted in UN CRC General Comment No. 15 on the right of the child to the enjoyment of the highest attainable standard of health, is an “inclusive right, extending not only to timely and appropriate prevention, health promotion, curative, rehabilitative and palliative services, but also to a right to grow and develop to their full potential and live in conditions that enable them to attain the highest standard of health through

<sup>69</sup> Paola Bergallo et al, (note 39).

<sup>70</sup> Rachel K Johnson et al, Low-Calorie Sweetened Beverages and Cardiometabolic Health: A Science Advisory From the American Heart Association. Vol. 138, Issue 9. 28 August 2018. Pages e126- e140. <https://www.ahajournals.org/doi/10.1161/CIR.0000000000000569>.

<sup>71</sup> Association of Schools & Programs of Public Health, *INSP Mexico: Food Warning Labels in Mexico- A Public Health Achievement* (February 13, 2020). [Accessed 9 November 2020]. Available from: <https://www.aspph.org/insp-mexico-food-warning-labels-in-mexico-a-public-health-achievement/>.

<sup>72</sup> PAHO, *Pan American Health Organization Nutrient Profile Model*, PAHO (2016), available at: <http://alimentation-sante.org/wp-content/uploads/2016/03/paho-nutrient-profile-model.pdf> Accessed July 21, 2020.

<sup>73</sup> Suez, J., Korem, T., Zeevi, D. et al, *Artificial sweeteners induce glucose intolerance by altering the gut microbiota* **Nature** 514, 181-186 (2014) <https://doi.org/10.1038/nature13793>.

<sup>74</sup> One of the largest competitive sailing events which was hosted in Bermuda for the first time in 2017.

<sup>75</sup> *Increasing Access to Safe Drinking Water in Schools and Communities*. [Accessed 24 November, 2020]. Available from: [https://www.heart.org/-/media/files/about-us/policy-research/policy-positions/healthy-schools-and-childhood-obesity/increasing-access-to-safe-drinking-water-ucm\\_475974.pdf?la=en](https://www.heart.org/-/media/files/about-us/policy-research/policy-positions/healthy-schools-and-childhood-obesity/increasing-access-to-safe-drinking-water-ucm_475974.pdf?la=en).

<sup>76</sup> United Nations. United Nations General Assembly Resolution A/RES/64/292 (2010) recognises the right to water and sanitation.

<sup>77</sup> Rayner, M. (2017). *Nutrient profiling for regulatory purposes*, Proceedings of the Nutrition Society (2017). 76, 230- 236 [Accessed 1 August, 2020]. Available from: [https://www.cambridge.org/core/services/aop-cambridge-core/content/view/778CCADE2005659B38A76ED61A92828D/S0027665117000362a.pdf/nutrient\\_profiling\\_for\\_regulatory\\_purposes.pdf](https://www.cambridge.org/core/services/aop-cambridge-core/content/view/778CCADE2005659B38A76ED61A92828D/S0027665117000362a.pdf/nutrient_profiling_for_regulatory_purposes.pdf).

<sup>78</sup> A representative from the Ministry of Education, Jamaica advised that the final iteration of the Draft National School Nutrition Policy includes a prohibition on the marketing of unhealthy foods and beverages in Jamaican schools.

<sup>79</sup> Interviewees cited regional documents such as the 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](https://new.carpha.org/Portals/0/Documents/CARPHA_6_Point_Policy_for_Healthier_Food_Environments.pdf).

<sup>80</sup> World Health Assembly. WHA Resolution WHA63.14

<sup>81</sup> Taillie LS, Reyes M, Colchero MA, Popkin B, Corvalán C (2020) *An evaluation of Chile’s Law of Food Labeling and Advertising on sugar-sweetened beverage purchases from 2015 to 2017: A before-and-after study*. PLoS Med 17(2): e1003015. <https://doi.org/10.1371/journal.pmed.1003015>.

<sup>82</sup> UNGA, CRC (1989) (note 11), Article 4.





the implementation of programmes that address the underlying determinants of health.”<sup>83</sup> Consequently, States’ obligations include child rights-based approaches to the prevention and control of childhood obesity. It is critical to note that General Comment No. 15 also highlights the role of the food and beverage industry on the child’s right to health, especially its child-focused marketing strategies. Consequently, States are required to regulate the marketing and availability of “fast foods” that are high in fat, sugar or salt, energy-dense and micronutrient-poor, and drinks containing high levels of caffeine or other potentially harmful substances” in schools and other places frequented by children.<sup>84</sup>

Therefore, the inclusion of marketing bans or restrictions in the current policies and new policies across CARICOM is important for the realisation of children’s right to health, as well as other interrelated rights, such as the right to education, to access appropriate information and privacy in the context of marketing and advertising.<sup>85</sup>

Implementation Systems

Structure

All of the current policies within the CARICOM Region mention the MOH and/or the MOE as the lead implementing ministries. In the case of Trinidad and Tobago and The Bahamas, the MOE is the lead implementing Ministry. However, those policies also include other stakeholders from within and outside of the government to assist with the implementation process, such as the MOH (where not currently stated as the lead implementor), principals and school administrators, vendors, Parent-Teacher Associations (“PTAs”) and children. In Grenada, the Food and Nutrition Council was not only pivotal in developing the policy but also in its implementation.

<sup>83</sup> United Nations. United Nations Committee on the Rights of the Child (UN CRC), General Comment No. 15. (2013) on the right of the child to the enjoyment of the highest attainable standard of health (Article 24). UN Doc. No. CRC/C/GC/1 (Adopted by the Committee at its sixty-second session (14 January – 1 February 2013) [para 2].

<sup>84</sup> Ibid [para 47].

<sup>85</sup> United Nations Children Fund (UNICEF), A Child Rights-Based Approach to Food Marketing: A Guide for Policy Makers. April 2018. [Accessed 5 August, 2020]. Available from: <https://bit.ly/2OooSUY>. See also CRC General Comment No. 16 (2013) on State obligations regarding the impact of the business sector on children’s rights. Adopted by the Committee at its sixty-second session (14 January – 1 February 2013) [para 59].

<sup>86</sup> Osornprasop, Sutayut; Phulkerd, Sirinya; Gowachirapant, Sueppong. 2018. *Lessons Learned from Thailand’s Obesity Prevention and Control Policies (English)*. Washington, D.C.: World Bank Group. <http://documents.worldbank.org/curated/en/397481548340562764/Lessons-Learned-from-Thailands-Obesity-Prevention-and-Control-Policies>.

<sup>87</sup> Renata Valaitis (2015), *Implementation of Ontario’s School Food and Beverage Policy (P/PM 150) in Peel Region: A Qualitative Evaluation*, Waterloo, Ontario Canada.

<sup>88</sup> A representative from the Ministry of Education, Jamaica advised that the Draft National School Nutrition Policy of Jamaica includes a comprehensive strategic action and implementation plan together with a budget which details the resources required for implementation.

<sup>89</sup> The Gleaner, *Guidelines Set for Sale of Beverages in Schools*, (January 2019), [Accessed 30 August, 2020]. Available from: <http://jamaica-gleaner.com/article/news/20190110/guidelines-set-sale-beverages-schools>; Further, a representative from the Ministry of Education, Jamaica advised that the Draft National School Nutrition Policy is includes a comprehensive strategic action and implementation plan, along with a budget detailing the required resources for effective implementation.

<sup>90</sup> Healthy Caribbean Coalition, *Accelerating Nutrition Policies in The Caribbean Creating Supportive Environments for Healthy Children* Meeting Report (September 17 – 18, 2019) [Accessed 5 July, 2020]. Available from: <https://www.healthycaribbean.org/wp-content/uploads/2019/12/Accelerating-Nutrition-Policies-in-the-Caribbean-Meeting-Report-October-2019.pdf>.

<sup>91</sup> Caribbean National Weekly.com, *Bahamas to Ban Sweetened Drinks from Schools and Healthcare Facilities* (October 2019). [Accessed 29 July 2020]. Available from: <https://www.caribbeannationalweekly.com/caribbean-breaking-news-featured/bahamas-to-ban-sweetened-drinks-from-schools-and-healthcare-facilities/>.

Such inclusive and collaborative multi-stakeholder approaches to implementation have been recognised in several implementation assessment studies as being key to effective implementation.<sup>86</sup> International studies have also revealed that the presence of policy champions is pertinent for successful implementation.<sup>87</sup>

Implementation Systems

The current policies in the CARICOM Region contain minimal details regarding how implementation is expected to work, nor do they provide any separate implementation plans which are accessible to the public.<sup>88</sup> In Jamaica, sensitisation sessions were held and a MOHW list of prohibited and permitted beverages was provided to schools to facilitate implementation.<sup>89</sup> Trinidad and Tobago likewise sensitised key stakeholders and dialogues with beverage manufacturers were held with a view towards acceptance and implementation.<sup>90</sup> Implementing the Bermudan Healthy Schools Vending Machine and Cafeteria Policy involved the Department of Health meeting with all entities responsible for stocking school vending machines to ensure that they were aware and understood the policy’s provisions on what was permissible and impermissible in schools.

Grenada’s ban includes provision for vendors on the school compound to be issued with a permit evidencing recognition of their obligations. However, interviewees involved at various stages in the policymaking process were unclear on exactly how this provision was to be implemented. In The Bahamas, although the implementation of the SSBs ban has been delayed due to the impact of hurricane Dorian in 2019,<sup>91</sup> to date, no clear implementation plan for the ban has been announced or is accessible to the public.

Internationally, the implementation of policies regulating the availability and marketing of unhealthy beverages and food products has been slow due to a lack of clear implementation strategies. In Chile, however, the implementation process has proven to be more effective due to the existence of sanctions for non-compliance.<sup>92</sup>

Table 5: Implementation systems within the current policies in CARICOM

CARICOM STATES/ KEY POLICY ELEMENTS		TRINIDAD & TOBAGO	JAMAICA	THE BAHAMAS	BERMUDA	GRENADA
Implementation Systems						
Structure	Lead Agency	MOE	MOEYI + MOH	MOE/DOE	DOE + DOH	MOE
	Multi-stakeholder involvement	MOH, School supervisors, Principals	Schools, Education Officers	Schools and lunch vendors	Principals and administrators	Schools, vendors
Implementation Systems	Advocacy, Awareness and training	MOH, MOE, NSDSL, NPTA Sensitisation sessions; dialogues with manufacturers	Sensitisation sessions held	NR	Sensitisation meetings	Sensitisation meetings
	Pilot programs					
	Phase-in provisions					NR
Resources Provisions	Human Resources			NR		NR
	Informational Resources	Circular Memorandum	Directive to schools, List of prohibited and permitted beverages provided	NR		NR
	Financial Resources (Funding)	NR	NR	NR	NR	NR
Enforcement	Complaints Mechanisms					
	Penalties/ Sanctions					
	Other					

Present/implemented

Developed but not implemented

Not present

NR

No record of this information available

Not applicable due to existence of other policy measure(s)

<sup>92</sup> Paola Bergallo et al, (note 39).





Resources Provisions

The current policies across the CARICOM Region do not specifically identify all of the resources required for implementation. For example, the focus of the current policies appears to be on the human resources required. As such, these policies identify the persons expected to be involved in implementation; whether nutritionists and dietitians in the case of Jamaica or school principals or administrators, in several other instances. However, none of the current policies clearly identify the financial resources or the sources of funding for implementation. Further, the identification of informational resources is limited in all of the current policies.

From the lessons learnt in the implementation of similar policies abroad, the delineation of sufficient resources – financial, human and informational – for implementation is critical for policy success.<sup>93</sup> There may be scope to rely on existing human resources, such as health inspectors for example.

Enforcement and/or sanctions/penalties

As previously mentioned, the majority of the policies in the CARICOM Region do not include specific enforcement provisions or provide for sanctions or penalties for non-compliance. Grenada’s policy does however mention the revocation of school compound vendors’ permits for non-compliance while the Bahamian Minister of Health announced that vendors may be forced to set up further away from the school compound as a deterrent mechanism.<sup>94</sup> These policy measures, though commendable, must however go further given the importance of enforcement mechanisms and sanctions or penalties to give effect to the policy.

Monitoring and Evaluation Mechanisms

Lead Agency or Ministry and the Key M&E Partners

The MOE, MOH or both ministries are also recognised as leading the monitoring and evaluation of the current policies within the CARICOM Region. Notably, in some instances, policies also identify other key M&E partners. For example, Jamaica’s Interim Guidelines for Beverages in Schools expressly identifies Parish Nutritionists and

Dietitians as necessary to assist with the monitoring process. This approach would tend to suggest, at least in theory, the availability of sufficient human resources with adequate training and expertise to perform the ongoing M&E functions.

Other policies in the Region are less explicit in the naming of specific groups of persons to be involved in M&E. This may be due to the more constrained human resources in other territories. Alternatively, the lack of specificity may merely be the sign of underdeveloped M&E mechanisms; a major limitation of the majority of the current policies. Bermuda’s Vending Machine and Cafeteria Policy, for example, is completely silent on the matter of M&E. However, an interviewee from Bermuda advised that M&E is provided by way of Healthy Schools, Nutrition Services and the independent meal providers for schools.

It is important to note that the WHO recommends the involvement of independent entities in the M&E process, such as non-governmental organizations (“NGOs”) and/or partners in academia.<sup>95</sup> This recommendation is of great import for all CARICOM States to ensure some measure of accountability and transparency in the M&E process. The additional benefit of this approach to the CARICOM State with limited human resources is the ability to better conduct the M&E process.

M&E Systems

The M&E systems, where mentioned, in the various regulatory instruments across the CARICOM Region include the use of monitoring checklists (The Bahamas and Trinidad and Tobago), school activity audits (Jamaica) and/or compliance reports (Bermuda, Jamaica and Trinidad and Tobago). However, the realisation of these M&E systems is unclear in practice. Trinidad and Tobago utilises a monitoring checklist and generates reports, while the Bermudan M&E system involves conducting annual audits and monitoring of vending machine contents during scheduled and unscheduled visits to schools.

Table 6: M&E mechanisms within the current policies in CARICOM

CARICOM STATES/ KEY POLICY ELEMENTS		TRINIDAD & TOBAGO	JAMAICA	THE BAHAMAS	BERMUDA	GRENADA
Monitoring and Evaluation Mechanism						
Governance Structure	Lead Agency Ministry	MOE + MOH	MOEYI	MOE/DOE	MOE	MOE
	Key M&E Partners	School supervisors, Principals	Parish nutritionists and dieticiens	MOH (to provide technical support in training vendors); Schools	Healthy Schools, Nutrition Services and the independent meal providers for schools	Schools
M&E Mechanisms	Checklist/ School Activity Audit		School Nutrition and Physical Activity Audit to be carried out at baseline (December 2018) and six (6) months and after one (1) year	Monitoring checklist for every snack and drink item sold by tuck shops provided at least once a term or as deemed necessary	Annual audit and monitoring of vending machines contents during scheduled and unscheduled school visits	NR
	Reporting System	Compliance Report prepared by Health Education Division based on information from the School Supervisors				
	Laboratory analysis of the content of beverages and foods					NR
Resources Provisions	Human Resources			NR		NR
	Informational Resources	Monitoring checklist	Activities supporting schools	NR		NR
	Financial Resources (Funding)	NR	NR	NR	NR	NR

Present/implemented

Developed but not implemented

Not present

NR

No record of this information available

Not applicable due to existence of other policy measure(s)

<sup>93</sup> Osornprasop, Sutayut; Phulkerd, Sirinya; Gowachirapant, Sueppong. 2018 (note 79).

<sup>94</sup> CNW Network, *Bahamas to Ban Sweetened Drinks from Schools and Healthcare Facilities* (October 2019) [Accessed 5 July 2020]. Available from: <https://www.caribbeanationalweekly.com/caribbean-breaking-news-featured/bahamas-to-ban-sweetened-drinks-from-schools-and-healthcare-facilities/>.

<sup>95</sup> World Health Organization, *Policy Brief: Taking measures to implement the WHO Set of Recommendations to reduce the impact of the marketing of unhealthy foods and non-alcoholic beverages to children*, WHO (December 2014) Available at: <https://www.who.int/nmh/ncd-coordination-mechanism/Policybrief31.pdf> Accessed: August 15, 2020.



In Jamaica, compliance reports are expected to be prepared as part of the M&E system.<sup>96</sup> However, to date, M&E in Jamaica has primarily taken the form of anecdotal evidence from children, parents and members of the community.<sup>97</sup>

It is important to note that the Bahamian ban was only expected to go into effect from December 1, 2019 and the ban in Grenada from January 1, 2020. However, no indication of the M&E mechanism(s) has been provided in either case.

Resource Provisions

The source(s) of funds or financial resources required for the M&E process are not mentioned within the current policies or to be found in any publicly available supporting documents. These policies also fail to identify the indicators for measuring progress with the policy. In addition, one interviewee cited the absence of laboratory analysis of the contents of beverages and food products found in schools as a barrier to effective implementation and M&E. This is due to the fact that it is difficult to definitively conclude the contents of the foods and beverages in schools from the industry-affixed labels. In Jamaica, however, it should be noted that some laboratory upgrades in 2019 have resulted in the ability to analyse the content of food products and, therefore, to provide critical baseline information on the concentrations of sugar, salt and fat in those products.<sup>98</sup>

At the international level, the lessons learnt from the implementation of the school food and marketing policy in the Philippines are instructive. The policy should clearly set out the M&E mechanisms, together with details about the supporting human, informational and financial resources for M&E.<sup>99</sup> In Thailand, a similar lesson learnt there was that the budget and other resources for M&E should be clearly identified.<sup>100</sup>

Public Education Campaigns

Although not directly featured in any of the current policies of CARICOM States, the inclusion of a public education campaign is critical to garner the support of the general public and the attention of the political directorate.<sup>101</sup> Several interviewees, for example, expressed the view that an earlier [public health campaign by a Jamaican CSO](#)<sup>102</sup> created widespread recognition of the issue of childhood obesity and helped to pave the way for the introduction of the Jamaican Interim Guidelines for Beverages in Schools.

Effective and ongoing communication with all stakeholders is therefore critical to garnering and maintaining the political will at the highest level and buy-in amongst several of the intended beneficiaries of the policy. Importantly, effective public education campaigns may provide important counter messages to dispel the myths widely publicised by the food and beverage industry.

Drivers/Facilitators and challenges/barriers in the introduction of these policies

The policy environment consists of numerous challenges or barriers and drivers or facilitators for the introduction of policies. Understanding these barriers and drivers represent an opportunity for the policymaker and advocate to strengthen existing policies and/or design new ones. The following section presents interviewees' opinions about the barriers and facilitators in the introduction of the current policies:

Drivers/Facilitators

Political will and courage

In recent years, the political leadership displayed by CARICOM Ministers of Health in the fight against childhood obesity has been commendable given the possible opposition from the private sector.

The political courage extends from the north of the islands chain, with the bold assertions of Dr. the Hon. Duane Sands, Minister of Health in The Bahamas that “the culprits are the people sitting outside of the [school] gate”<sup>103</sup> and the recognition by Dr. the Hon. Christopher Tufton, Minister of Health in Jamaica that the government's role is “to protect our children and the public health of all Jamaicans”<sup>104</sup> to the south, with the public call of Trinidad and Tobago's Health Minister, Terrence Deyalsingh, for parents to stop placing unhealthy beverages and food products in children's lunch kits.<sup>105</sup>

Interviewees highlighted that the ultimate policy driver or facilitator is the presence of strong political buy-in at the highest level. Some interviewees even suggested that the endorsement of the policy by opposition members was significant in the Jamaican context. Such a position emphasised the non-partisan reality that childhood obesity and overweight are significant problems to be addressed.

Public support

The overwhelming support of the public was another critical driver which interviewees identified. In Jamaica, the presence of a wide-spread, highly successful CSO-led [advocacy campaign](#)<sup>102</sup> was described as a facilitator for the introduction of the Interim Guidelines for Beverages in Schools since it raised public awareness about the negative health impacts of sugar and rallied the public's support. Interviewees in Jamaica highlighted the importance of wide stakeholder support, especially on the part of schools and the media.

Institutional support

The presence of strong institutional support was also cited as being or having the potential to be an important driver or facilitator for policy implementation. The [Jamaica Moves Campaign](#),<sup>106</sup> for example, provided strong support for the Jamaican Interim Guidelines for Beverages in

Schools, while in Grenada, the National NCD Commission played an important role in pushing for childhood obesity to be prioritised on the political agenda. In Belize, it should be noted that the Belize Parliamentary Front Against Hunger and Malnutrition, a multisector committee composed of all Members of Parliament, including Opposition Members, has the potential to be highly influential in promoting the implementation of the SSBs ban.

Early stakeholder sensitisation and involvement

Interviewees also cited the importance of garnering early stakeholder support and buy-in from school boards, principals, PTAs, children, vendors and CSOs, among others. However, all interviewees expressed the view that caution ought to be exercised in engaging with the food and beverage industry players. In fact, some interviewees stated that the beverage industry was only engaged later on in the policy process and only for sensitisation purposes, rather than for consultations. Interviewees from Jamaica also warned that key aspects of the policy, such as the timeline for implementation and the restricted sugar content, should be agreed before involving the beverage industry.

Experiences of other countries

The uptake of similar policies in other CARICOM States, as well as fiscal policies taxing SSBs, were also highlighted as significant drivers. For instance, the introduction of SSBs bans in schools in Trinidad and Tobago, along with the SSBs taxes in Barbados, Dominica and Bermuda was highlighted by some interviewees as influential in encouraging the uptake of SSBs bans in schools, as a first step to additional SSBs policy measures.

Grounding in scientific evidence

The readily available scientific evidence<sup>107</sup> was acknowledged by some interviewees as helpful to the introduction of the policy. This evidence allowed MOH, MOE and other partners to counter industry arguments during the policy process.

<sup>96</sup> Racquel Porter, *Schools blame vendors for continued sale of sugary drinks*, Jamaican Observer (2019). [Access: 10 August 2020]. Available from: [http://www.jamaicaobserver.com/news/schools-blame-vendors-for-continued-sale-of-sugary-drinks\\_167027?profile=1373](http://www.jamaicaobserver.com/news/schools-blame-vendors-for-continued-sale-of-sugary-drinks_167027?profile=1373).  
<sup>97</sup> Personal Interview (July 21, 2020).  
<sup>98</sup> Jamaica Information Services, *Labs upgraded to analyse sugar, salt and fat in food products*. [Accessed 10 August 2020]. Available from: <https://jis.gov.jm/labs-upgraded-to-analyse-sugar-salt-and-fat-in-food-products/>.  
<sup>99</sup> 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). [Accessed 25 July, 2020]. Available from: <https://doi.org/10.1186/s12992-017-0320-y>.  
<sup>100</sup> Osornprasop, Sutayut; Phulkerd, Sirinya; Gowachirapant, Sueppong. 2018 (note 79).  
<sup>101</sup> A representative from the Ministry of Education, Jamaica advised that the Draft National School Nutrition Policy of Jamaica incorporates training and public education programmes.  
<sup>102</sup> <https://www.heartfoundationja.org/campaign/are-you-drinking-yourself-sick-campaign/>.

<sup>103</sup> The Tribune, *Sugary Drinks Ban for All Schools* (October 2019). [October 30, 2019]. [Accessed 25 July 2020]. Available from: <http://www.tribune242.com/news/2019/oct/31/sugary-drinks-ban-all-schools/>.  
<sup>104</sup> Jamaica Information Service, *Cabinet Approves Interim Guidelines for Beverages in Schools* (December, 2018) [Accessed 25 July, 2020]. Available at: <https://jis.gov.jm/cabinet-approves-interim-guidelines-for-beverages-in-schools/>.  
<sup>105</sup> Trinidad and Tobago Guardian, *Ban on soft drinks at Government schools* (27 January 2017). [Accessed 25 July 2020]. Available from: <https://www.guardian.co.tt/article-6.2.349045.fa76b4d0a5>.  
<sup>106</sup> <https://www.jamaicamoves.com/>.  
<sup>107</sup> Some interviewees cited the following mandates as being critical to the development of the policy: PAHO Plan of Action for the Prevention of Obesity in Children and Adolescents (2014–2019); PAHO Nutrient Profile; CARPHA Six-Point Policy Package and various WHO Guidelines.



Barriers/Challenges

Industry interference

Resistance from the beverage industry and the contrary voices of highly influential persons in the community were identified as being major challenges in both Jamaica and Trinidad and Tobago. Industry pushback primarily focused on opposing the sugar content of beverages and the timeframe for compliance since reformulations were required. For example, in Trinidad and Tobago, beverage manufacturers demanded a three-year lead time for compliance. Here it is apposite to note that if a complete ban is implemented there would be no controversy over the time for compliance. Beverage industry players also complained about the policy singling them out when unhealthy food products also contribute to childhood obesity and overweight.

Internationally, the challenges experienced with the beverage and food industry are similar. In Mexico, for example, industry opposition was cited as being responsible for weakening the enacted beverage and food guidelines.<sup>108</sup> Interestingly, some interviewees suggested that Jamaica’s adoption of gradual restrictions over a number of years was the result of forceful opposition by the beverage industry.

In other CARICOM States, with smaller beverage industries or which import the majority of their SSBs, considerably less or no opposition was experienced from industry. In Grenada, interviewees explained that the country as a whole was already benefiting from the ban imposed in Trinidad and Tobago, from where the majority of its SSBs are imported. The local beverage industry players did not mount any strong opposition to the locally imposed ban. It is nonetheless important to have strong conflict of interest (“COI”) policies which safeguard the policymaking spaces from influence of the food and beverage industry.

Ministerial governance structure (ownership of the policy)

Barriers or challenges were also experienced at the ministerial level. According to one interviewee,

obtaining consensus across the MOH and MOE, when joint implementing partners, was problematic since these Ministries were used to working in silos. In one instance, an interviewee indicated that there was even some doubt as to which Ministry was the lead.

Collaboration across Ministries for policy implementation and M&E remains a challenge. Another example cited by some interviewees was that discussions prior to the announced ban included SSBs and hard candies but the final announcement reflected a different approach, namely processed snacks. This position was adopted without consulting several of the policy partners.

Lack of information within the policy or to support policy implementation

To date, many of the current policies remain undisclosed to the public. This results in the population being unaware of the policies which are meant to protect them. The public is therefore not well informed or in a position to hold governments accountable for policy implementation.

Some interviewees also pointed out that after the introduction of the ban, school principals and administrators were trying to obtain information regarding what beverages were permissible or prohibited under the ban. Interviewees in another CARICOM State suggested that school administrators were left to figure out how to implement the policy without any technical guidance in the form of human or informational resources. This highlights a lack of information to support policy implementation at the level of schools.

Implementation processes (scheduling and attendance at meetings)

Interviewees described a lack of ownership of the policy by all stakeholders involved. Instead, ownership was relegated to the implementing Ministry or to another body which was viewed as the one to advance the policy at all times.

Further, interviewees expressed the challenges in getting implementing committee members to meet to facilitate implementation, particularly where the committees were large and involved

many members. In some instances, smaller sub-committees were formed to advance the implementation of the policy. Nonetheless, there were still breakdowns in communication regarding what needed to be done based on who attended meetings.

Lack of budget

The MOE’s limited budget was cited as a challenge to the implementation of the policy in one instance. However, it is probable that if more ministry personnel had been available for the interview, this challenge would have been more widely recognised, especially in light of the current economic status of many CARICOM States.

Lack of a national or regional approach, such as a national or regional nutrition standard or national or regional front of package nutrition labelling standard

In some CARICOM States, there was a lack of supporting policy infrastructure. In Belize, for example, one interviewee cited the absence of a completed school feeding policy, the lack of

adoption of the food and security policy as well as the nutrition policy being in draft as problematic for effective implementation of the announced SSBs sale and marketing ban.

The lack of a regional or national nutrition standard was also cited as a challenge by some interviewees. However, bans were nonetheless introduced as proactive measures. Now, the frontend of the process, that is, the adoption of standards, needs to be completed for better and more efficient implementation. Interviewees in one CARICOM State cited the lack of regional or national standards to determine what foods should be sold as a challenge to the introduction of a policy which covered food products. Some interviewees also went on to cite the importance of the PAHO NPM as well as the expected Guideline or Standard being developed by CARPHA and PAHO/WHO.

In light of all of the above, the current policies regulating the availability of beverages in schools across CARICOM may be strengthened and/or developed to minimise and/or close existing gaps by, among other things, addressing the following:

**WHO:** ALL children in ALL pre-primary, primary and secondary schools, whether public or private, should be protected;

**WHAT:** The availability AND marketing of BOTH unhealthy beverages and food products must be simultaneously addressed for greatest effect;

**WHERE:** The ENTIRE school campus, whether in an online setting or at the physical site, including a specified radius outside of the school campus, and extending to all school events, activities and transportation, such as school buses or vans;

**WHEN:** The regular school day, as well as extended school day, school events and activities should be adequately regulated; and

**HOW:** A complete ban rather than gradual restrictions should be preferred. CARICOM States should recall that public health recommendations should be independent from any perceived effects on industry, such as reduced sales of unhealthy products.

<sup>108</sup> Paola Bergallo et al (note 39)..





# Summary of the Policy and Legislative Process

The policy and legislative processes in the various CARICOM States share several common features. However, the regionally-minded advocate must also be aware of the distinctions. As a starting point, “policy” may be defined as “a purposive course of action followed by an actor or set of actors in dealing with a problem or matter of concern”.<sup>109</sup> A policy therefore “outlines what the government wants to achieve during the term of office.”<sup>110</sup> Legislation, on the other hand, is the end product of the translation of policy into a set of enforceable rules or legislative text.<sup>111</sup> Policies may be developed and implemented by a Ministry, that is, approved by a particular Minister or other person empowered to approve such or policies may be formally submitted for Cabinet approval. The focus here is on the latter policy process, that is, the national policy for which Cabinet approval is sought.

### General Policymaking Process<sup>112</sup>

Policymaking involves a series of interdependent components, namely agenda setting or problem or issue identification, policy formulation, policy adoption or legitimisation, policy implementation, M&E and enforcement. The advocate should be aware that different terms or phrases are occasionally used to describe these components of the policy process; however, their significance remains largely the same.

The advocate must also be mindful of the fact that the policymaking process is rarely linear or sequential. Instead, certain policy components may be worked on simultaneously or omitted altogether. Nonetheless, depicting the typical policy process as

a cycle (**Figure 1**) is useful so that the advocate is aware of the policymaking “best practice” and its components.

The policy components are explained below along with specific mention of possible engagement by advocates at each component, where relevant:

### Agenda Setting, Issue Identification or Problem Identification

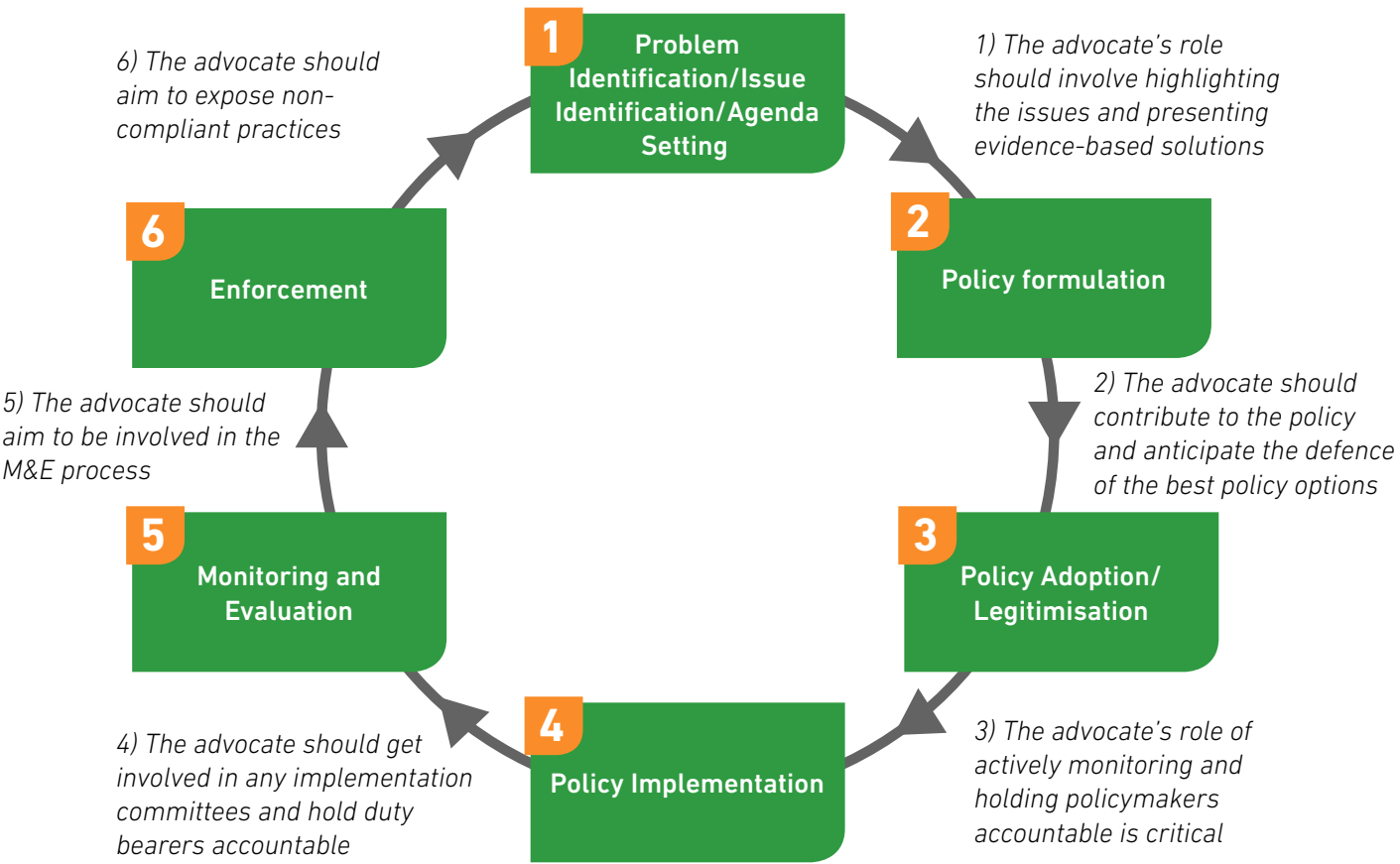
This initial stage of the policy process involves the identification of the issue or problem which is to be resolved or the setting of the policy agenda.<sup>113</sup>

Various persons may be involved in bringing the particular problem or issue or agenda item to the fore. For example, a particular Minister or Ministry may identify the issue or problem to be addressed. In some Caribbean jurisdictions, a Concept Paper, which outlines the problem, is developed at this stage of the process.

However, the advocate must be keenly aware that his or her role at or even prior to the agenda setting or issue identification stage involves highlighting the issues and presenting possible solutions, together with robust evidence in support.<sup>114</sup>

A practical example of the agenda setting or issue identification component of policymaking was seen in Grenada, when the National Chronic Noncommunicable Disease Commission spearheaded a national consultation on the prevention and management of childhood obesity. This consultation was useful in highlighting Grenada’s childhood obesity scorecard and caused the Ministry of Education to be seized of the issue.

Figure 1: The general policy process<sup>115</sup>



### Policy Formulation

At this stage, the policy’s goals and objectives together with available policy options should be formulated.<sup>116</sup> Setting evidence-based, realistic and achievable policy objectives is a critical part of the policy formulation process. For example, the policy objective should not be to reduce obesity among school children but rather to increase the offer and/or consumption of healthy food products or to reduce the offer and/or consumption of unhealthy food products among school children; an objective

which is not only feasible but also recognises the rights of children to access healthy nutritious foods. Policy formulation should also include establishing implementation systems, M&E mechanisms, as well as enforcement mechanisms for the Policy. The Ministry with responsibility for the policy would usually be responsible for this stage, and should safeguard policy formulation against conflicts of interest and industry interference. Public consultations in the form of public hearings, online consultations, should allow different actors

<sup>109</sup> Anderson, J.E. *Public policymaking: An introduction* Boston: Houghton Mifflin Company (2003) pp 1 - 34 [Accessed 30 July, 2020]. Available from: <http://kropfpolisci.com/public.policy.anderson.pdf>.

<sup>110</sup> 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>.

<sup>111</sup> The Improved Access to Justice in the Caribbean (IMPACT Justice, *Legislative Process and Drafting Instructions Manual* (February 2016) [Accessed 1 July 2020]. Available from: <http://caribbeanimpact.org/website/wp-content/uploads/2018/05/IMPACT-Justice-Legislative-Process-and-Drafting-Instructions-Manual-2016.pdf>.

<sup>112</sup> The information for this section has been adapted primarily from The Improved Access to Justice in the Caribbean (IMPACT Justice, *Legislative Process and Drafting Instructions Manual* (February 2016). Available from: <http://www.policyproject.com/pubs/workingpapers/wps-11.pdf>.

<sup>113</sup> Hardee K, Feranil I et al. *The Policy Circle: A Framework for Analyzing the Components of Family Planning, Reproductive Health, Maternal Health, and HIV/AIDS Policies*. Policy Working Paper Series No. 11. (2004). Available from: <http://www.policyproject.com/pubs/workingpapers/wps-11.pdf>.

<sup>114</sup> Julius Court et al, *Policy Engagement: How Civil Society can be more effective*. Overseas Development Institute (2006). [Accessed 15 August 2020]. Available from: <https://cdn.odi.org/media/documents/200.pdf>.

<sup>115</sup> IMPACT Justice, (note 103).

<sup>116</sup> Hardee K, Feranil I et al. *supra* (note 105).



to share their views and suggestions, including advocates. Advocates should therefore be ready with meaningful contributions to the formulation of the policy and anticipate the defence of the best policy option against opposing arguments in support of a weaker policy option, and/or a delay or impediment of the policy. This stage should ideally result in the preparation of a draft policy document for submission to Cabinet or to the relevant Cabinet Committee.

Policy Adoption or Legitimation

Policy adoption or legitimisation involves a determination of whether to adopt or legitimise, change or reject the formulated policy. The recommendation may be that Cabinet should approve the policy document as a Green Paper, which would then also need to be presented in the House(s) of Parliament. Alternatively, the recommendation may be that changes should be made to the policy document prior to its resubmission to Cabinet or to the relevant Cabinet Committee.<sup>117</sup> The advocate should be keenly aware that, in practice, strong industry lobbying may result in a completely different or weaker policy being adopted. The advocates' role of actively monitoring and holding policymakers accountable is therefore critical.

Adoption or legitimisation will also typically involve consultation on the Green Paper with stakeholders to obtain feedback and support for the policy. For example, key stakeholders within the government might include other Ministries, who would have a role to play in the policy implementation, whilst stakeholders outside of the government would include persons likely to be affected by the policy, NGOs and CSOs, for example. The consultative process is critical since it not only helps to identify the preferred policy solution but is also a valuable governance tool.

Once the consultative process is completed, the revised policy document is submitted to Cabinet

or to the relevant Cabinet Committee which would either recommend that the policy document be presented in the House(s) of Parliament as a White Paper or that additional changes be made prior to resubmission.<sup>118</sup>

Policy Implementation

Implementation involves bringing the policy to fruition by engaging in the requisite activities. Ideally, policy implementation should occur in accordance with a specified implementation plan which identifies the specific activities along with appropriate timelines and indicators. It has been suggested that the implementation plan should also identify the requisite human, financial, informational and technical resources which are necessary for successful implementation of the policy. The advocate should view the implementation process as an accountability opportunity and be engaged in it, even where government-driven.

Policy Monitoring and Evaluation

Monitoring and evaluation of the policy is a critical but often omitted component which facilitates a determination of the level of success of the policy. Effective M&E may lead to the identification of further issues or problems and may be used to guide the recommencement of the policy process to address such issues or the termination of the policy process entirely. The advocate may also be involved at this stage by assisting with the M&E of the policy.

Enforcement

For many policies, the most significant hurdle to overcome is the enforcement mechanism. Enforcement mechanisms are required to ensure effectiveness and wide compliance. These should ideally include both monetary and non-monetary sanctions or penalties, as appropriate. Policymakers should therefore ensure the enforcement mechanism includes sanctions or penalties which are commensurate to the issue.

The advocate should aim to have social sanctions applied to entities in the food and beverage industry to expose any non-compliant practices. Some of these "social sanctions" may include publicizing sanctions for non-compliance.

It is apposite to recall that enforcement is the responsibility of the State. However, it is inevitable that the State will, for one reason or another, be unable to effectively monitor all schools thoroughly and frequently. Consequently, every citizen, especially parents and children, should recognise his or her role as an enforcement actor if wide compliance is to be achieved. Likewise, civil society organisations must also play a significant role at this stage as well as throughout the policy process.<sup>119</sup>

In light of the above, it is evident that the general policy process has components which can be easily described in theory. In practice, however, policymakers rarely follow such a rigid approach especially where urgent policy development is required.

The Policymaking Process in Select Caricom Jurisdictions

The Constitutions of the majority of CARICOM States govern the policymaking process. For example, the typical constitutional provision provides that the Cabinet is the "principal [executive] instrument of policy."<sup>120</sup> As such, the Cabinets of the various CARICOM States are "charged with the general direction and control" of government.<sup>121</sup> In the other CARICOM States, where the constitutional provision is not as explicit, Cabinet's role in the policymaking process may be implied from its purview over "the general direction and control" of the government<sup>122</sup> or from its responsibility to "advise the President", such as in Dominica.<sup>123</sup> This consistently recognised importance of the Cabinet in the policy process means that policy must be produced in the form of

a Cabinet Paper, Cabinet Note or Policy Document, as referred to in the various CARICOM States. **Table 7** provides an overview of the typical policy processes in select CARICOM states to arrive at such critical documents.

The advocate should note that the policy process in the other CARICOM states, though not identified here, is, in theory, largely the same. However, what obtains in practice may be considerably more complicated or simple as previously explained. A practical example of the policy process followed in introducing the SSBs ban in Trinidad and Tobago is included in **case study I**.

<sup>117</sup> Government of Jamaica, *Guidelines for the Development of National Policies* (2017) Office of the Cabinet of Jamaica.  
<sup>118</sup> *Ibid.*

<sup>119</sup> Sobers, NP., Bishop L, Ng SW et al, Understanding the need for a whole-of-society approach in school nutrition policy implementation: a qualitative analysis, *Implement Sci Commun.* 2021 Jul 17;2(1): 79. doi: 10.1186/s43058-021-00184-z ("Civil society organisations including faith-based organizations were also perceived as critical in this limited resource setting.");  
<sup>120</sup> Constitution of Barbados, s64(2), Constitution of Belize, 1981, s44(2), Constitution of Jamaica, 1962, s69(2).  
<sup>121</sup> *Ibid.*  
<sup>122</sup> Constitution of Trinidad and Tobago, 1976, s75(1).  
<sup>123</sup> Constitution of Dominica, s60(3).



Table 7: An overview of the policy process in select CARICOM States

CARICOM STATES/ POLICY PROCESS	BARBADOS	JAMAICA	TRINIDAD & TOBAGO	ORGANISATION OF EASTERN CARIBBEAN STATES - ST. VINCENT AND THE GRENADINES
Agenda setting/Issue identification	1. Identify the problem (either by government or third-party)	1.Develop the Concept Paper	1. Identify the problem (either by government or third-party)	Identify the problem (either by government or third- party)
Policy formulation	2. Formulate the policy 3. Host townhall meetings and stakeholder consultations (Green Paper) 4. Relevant Minister (ministry) to prepare the Cabinet Paper	2. Prepare and submit the Plan of Action to the Cabinet Office 3.Conduct of public consultations (Green Paper); 4.Prepare the Policy Document	2. Host stakeholder consultations 3. Prepare policy paper and obtain approval of relevant line Minister 4. Prepare Cabinet Note	2. Constitute/form special committee (consisting of stakeholders, such as the intended beneficiaries of the policy, journalists, etc.) 3.Prepare and bring the draft of the policy to the stakeholder consultation 4. Conduct stakeholder consultations 5. Relevant Minister to prepare the Cabinet Paper
Policy adoption/ Legitimation	5. Approve the Cabinet Paper by the relevant Minister 6. Submit the Cabinet Paper to Cabinet for consideration and approval 7. If approved, prepare Cabinet Decision return to the sponsoring Ministry for the preparation of Drafting Instructions which would need to be sent to the Chief Parliamentary Counsel's office (legislative drafters)	5. Submit the policy to Cabinet for approval (White Paper) 6. Table the policy in Parliament (White Paper) 7. Policy approved by Parliament	5. Obtain Cabinet approval	6. Submit the Cabinet Paper to Cabinet for consideration 7. Vote on the part of the Cabinet Paper regarding the policy 8. Obtain the approval of the Cabinet Paper by the relevant Minister
Implementation	8. Implement the policy	8.Implement the Cabinet Decision	6. Implement the policy	9. Implement the policy
M&E	9. Monitor and evaluate the policy	9. Monitor and evaluate the Cabinet Decision	7. Monitor and evaluate the policy	10. Monitor and evaluate policy
Enforcement	10. Enforce the policy	10. Enforce the policy	8. Enforce the policy	11. Enforce the policy

Case Study I: SSBs Ban in Trinidad and Tobago<sup>124</sup>

Evidence of the increasing number of children with conditions typically associated with obese adults was pivotal to the agenda setting or problem identification stage of the SSB ban in Trinidad and Tobago. In addition, the work started in 2015 on the National Nutrition Standards for Food Offered or Sold in Schools, which included a beverage standard, together with the 2017 National Strategic Plan for Prevention and Control of Noncommunicable Diseases and the CARPHA 6-Point Policy Package also supported the agenda setting component of the SSB ban. Following a presentation of the evidence and standards, the Joint Select Committee (“JSC”) of Parliament on the Economic Aspect of Childhood Obesity issued recommendations, including calling for a ban on the sale of SSBs in schools.

It should be noted that very early in the process and for a period of time extending over nearly a year, the Minister of Health chaired several meetings with the beverage manufacturing sector. These meetings took the format of roundtable discussions, where evidence regarding the increase in NCDs was presented. Beverage manufacturers were asked to review the WHO Guideline<sup>125</sup> and to suggest strategies for voluntary compliance. However, beverage manufacturers were unwilling to accept the proposed measures and even attempted to get the MOH to agree to a three-year grace period for their compliance.

The MOH conducted a stakeholder mapping exercise, followed by engagement of the identified stakeholders, such as the MOE, school boards, principals, CSOs, unions and the National Parent-Teacher Association (“NPTA”). The MOH had to agree on the specific policy measure(s) to address the identified problem. Once agreed, the MOH developed a Note for Cabinet’s consideration on childhood obesity prevention and control, which included the recommendation that a ban on the sale and serving of SSBs in schools be imposed. Cabinet then issued a Cabinet Minute containing a National Policy Statement on the prohibition of the sale or serving of SSBs in government and government-assisted schools.

As it relates to policy implementation, the MOE is the main implementing ministry, and benefits from the strong support of the MOH. The MOE, for example, issued a Circular Memorandum to the schools regarding the policy. However, the MOH and MOE worked together to develop a M&E mechanism for the policy, which included a monitoring checklist for use on visits to the schools by School Supervisors. School Supervisors would then be responsible for submitting compliance reports every three months to the MOH. Other M&E partners, namely the Health Education Division, are involved in the generation of reports based on the checklists completed by the School Supervisors. Finally, the MOE also conducts a policy impact assessment to determine awareness about the policy and compliance with the policy.<sup>126</sup>

<sup>124</sup> Interview (July 2020) and multiple online and other sources.  
<sup>125</sup> World Health Organization. [Online]. Guideline: sugars intake for adults and children. Geneva World Health Organization; 2015. WHO/NMH/NHD/15.2.  
<sup>126</sup> Trinidad and Tobago Parliament, Joint Select Committee on Social Services and Public Administration, 12th Report (Jan 10, 2020).

The General Legislative Process in Caricom States<sup>127</sup>

Legislation is the means by which policies are transformed into enforceable written law. The Constitutions of CARICOM States also govern the legislative process. These Constitutions state, for example, that Parliament has the power to make laws for the peace, order and good government of the particular CARICOM State.

The nuances in the legislative process across CARICOM States are largely due to the existence of bicameral or unicameral parliamentary systems. That is, whether there is a Lower House of Parliament and an Upper House, namely the Senate or just one House of Parliament, as in Dominica and the Turks and Caicos Islands.

The typical stages of the legislative process have been identified as follows:<sup>128</sup>

- 1. **Polycymaking:** as described above. The sponsoring Ministry must seek Cabinet’s approval of its Policy by way of a Cabinet Paper or the equivalent in the particular jurisdiction. The end result of the polycymaking stage may be the decision of Cabinet to have the policy implemented using legislation and/or regulations.
- 2. **Drafting:** The sponsoring Ministry, having sought Cabinet’s approval to draft the legislation, should prepare clear, concise and unambiguous drafting instructions for the legislative drafter(s) to prepare the draft Bill.
- 3. **Consultation:** The Bill should then be circulated by the sponsoring Ministry to relevant stakeholders for comment. The sponsoring Ministry should engage in consultations with key stakeholders, including other Ministries and external stakeholders, such as NGOs and CSOs, for example. Any required changes to the Bill should be submitted to the legislative drafter(s) for

the Bill to be revised based on the relevant feedback.

- 4. **Enacting the Bill:** Once the sponsoring Ministry is satisfied with the Bill as drafted, it must submit it to the Cabinet for approval. 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 (a – f below) namely:

- a. **Introduction and publication:** At this stage, the Bill must be published in the Official Gazette and placed on the Legislature’s Order Paper in the responsible Minister’s name.
- b. **First reading:** The first reading of the Bill involves the reading of the short title of the Bill. However, there is no debate on the Bill at this stage.
- c. **Second reading and debate:** The Minister of the sponsoring Ministry moves for the second reading of the Bill, which is then followed by a debate on the Bill. However, no amendments to the Bill are permissible at this stage.
- d. **Committee stage:** At this stage, each clause of the Bill is debated and amendments are permitted. Either a Committee of the entire House or a Special Select Committee, including members of the Opposition, will consider the Bill. The latter type of committee is typically constituted where the Bill is controversial, complex or technical. It is also at this stage that submissions by interested persons, typically written but possibly also oral submissions, are entertained by the respective Committees.
- e. **Report stage:** The Bill, as amended, is reported to the House.
- f. **Third reading and passing of the Bill:** The Bill is read a third time and put to a vote.

If it passes the vote, the Clerk would then read the title of the Bill and refer to it as an Act of Parliament. It is important to note that in the CARICOM States with bicameral systems, the same enacting stages must be repeated in the Upper House. Further, in some instances, the Bill may have to be returned to the Lower House if amended and the legislative process recommenced.

- 5. **Assent and Publication:** the Act is published in the official Gazette by the sponsoring Ministry.
- 6. **Administrative implementation:** the sponsoring Ministry must ensure that administrative processes related to implementing the Bill are completed, such as issuing licences, making appointments and setting up a Commission, if necessary.
- 7. **Commencement:** The date of publication in the Gazette typically represents the date that the Act comes into force. However, some Acts may specify a date to come into force by way of proclamation.
- 8. **Enforcement:** Enforcement requires actors such as the police or enforcement officers ensuring compliance and charging for non-compliance.
- 9. **Adjudication:** Adjudication is within the purview of the courts or tribunals and involves interpretation or the resolution of disputes arising from the statute.
- 10. **Commenting:** Commenting, as the name suggests, refers to the ability of persons from various backgrounds to comment on the legislation during the enacting stages (see: stage 4 above) and after enactment. Commenting may therefore result in amendments to the Act.

It is important to note that subsidiary legislation, such as regulations, would be approved and signed by the Minister of the sponsoring Ministry and then published in the Official Gazette. The process pertaining to subsidiary legislation is therefore usually a lot faster but there must be a primary Act empowering the making of such subsidiary legislation.

Human (Child) Rights-Based Approach to the Policy and Legislative Processes

The policy and legislative processes just outlined should pursue a child rights-based approach. Such an approach recognises that States are the primary duty-bearers in relation to children’s rights, whilst also highlighting children, as the main beneficiaries or rights-holders.<sup>129</sup> The policy and law-making processes for a school policy aimed at regulating the availability and marketing of unhealthy beverages and food products must therefore recognise the State’s obligation to respect, protect and fulfil children’s rights in that regard.

The child rights-based approach therefore calls for the focus to be on children’s inalienable rights, such as the right to health, adequate nutritious foods and access to information and States’ duties in realizing them.<sup>130</sup> The CRC, its General Comments and other instruments or Statements of UN Special Rapporteurs can be relied upon as a normative foundation for a child rights-based approach to policy and law-making.<sup>131</sup> In doing so, key child rights principles should be adhered to, such as the meaningful participation of a variety of stakeholders throughout the policy process. Children, for example, will be affected significantly by the policy and legislation and should therefore be included in any consultations, dialogues, exchanges or other forms of participation pertaining to the policy.<sup>132</sup> In addition, the policy and legislative instrument(s)

<sup>127</sup> IMPACT Justice, (note 103).

<sup>128</sup> The information for this section has been adapted primarily from The Improved Access to Justice in the Caribbean (IMPACT Justice, *Legislative Process and Drafting Instructions Manual* (February 2016). Available from: <http://caribbeanimpact.org/website/wp-content/uploads/2018/05/IMPACT-Justice-Legislative-Process-and-Drafting-Instructions-Manual-2016.pdf>.

<sup>129</sup> 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>. p. 55.

<sup>130</sup> *Ibid* p. 25-26.

<sup>131</sup> *Ibid*

<sup>132</sup> *Ibid* p. 49.





# Summary of Policy Environments

should be translated into a format which is easy for children to understand.

Other principles pertinent to the human (child) rights-based approach to policy and legislative processes include equality and non-discrimination,<sup>133</sup> such that children from both public and private schools should be involved in the process. Further, principles such as the best interests of the child,<sup>134</sup> transparency, accountability and advocacy must also be at the fore of these processes.

Consequently, “a human-rights based approach aims to empower people – especially the most vulnerable and marginalised – to participate in the formulation, implementation and monitoring of policies and legal frameworks that affect [the school policy] and hold accountable those who have a duty to act.”<sup>135</sup> The child rights-based approach therefore tends to promote adherence to the rule of law, that is, that everyone – States, the food and beverage industry and all others, are subject to the law.<sup>136</sup>

The policy environment, that is, the actors, rules and various socio-economic and other contexts surrounding policymaking, must be carefully considered by both the policymaker and the advocate. By their nature, policies which regulate the availability and marketing of unhealthy beverages and food products in and around schools are likely to be strongly opposed by the food and beverage industry, particularly where industry players are large. This is due to the perceived and actual reduction in the availability of their products, as currently formulated, in and around schools, if such policies are implemented and enforced. Policies regulating the availability and marketing of unhealthy beverages and food products may therefore be vulnerable to the influence of the food and beverage industry and other influential persons, especially where there is a lack of strong accountability or transparency mechanisms, such as Conflict of Interest Policies, Integrity legislation and Access to Information laws.

## Policy Environments with large food and beverage industries or industry players

CARICOM States with large food and beverage industries or with large industry players are likely to experience significant challenges with the introduction of their SBs policies, if industry involvement is not carefully managed.

In Jamaica, a National Food Industry Task Force (“NFITF”) was created in 2017 to tackle the unhealthy eating practices of the population.<sup>137</sup> Prior to the introduction of Jamaica’s Interim Guidelines for Beverages in Schools, the NFITF engaged the food and beverage industry players with a view to encouraging them to consider actions which would improve health.<sup>138</sup> The suggested actions included product reformulations, the use of easier to comprehend food labels and restrictions on the marketing of unhealthy beverages and foods. However, industry players in and connected with

Jamaica strongly opposed these measures and engaged in various tactics to continue misleading the public or to try to intimidate advocacy efforts. For example, in 2018, a Jamaican food and beverage manufacturer sought an injunction against a Jamaican CSO regarding the posting of a photo of one of its beverages on Instagram, as part of a wider public education campaign against the consumption of sugary drinks.<sup>139</sup> The application for an injunction was subsequently voluntarily withdrawn by the manufacturer. Nonetheless, the initiation of court proceedings illustrates the intent of some industry players to counter public health messages.

Industry players were also reluctant to embrace Jamaica’s Interim Guidelines for Beverages in Schools and unwilling to make the requisite changes. Likewise, key influential voices within Jamaican communities attempted to cast doubt on the clear evidence in support of those Guidelines by downplaying the impact of SBs on children’s health and comparing the sugar in foods to that in beverages.<sup>140</sup> Industry pushback was so significant that one interviewee described the NFITF as having accepted industry’s description of the challenges which it would face in reformulating and relabelling products, especially on the part of the small and medium-size manufacturers. As a result, the Jamaican Interim Guidelines for Beverages in Schools opts for a gradual approach to the reduction of sugar intake in beverages over a period of four years, rather than an immediate ban on all beverages with sugar, in line with the WHO Guideline.<sup>141</sup> The approach which the industry players preferred.

In Trinidad and Tobago, a complete ban on SSBs was implemented in April 2017 despite the push back from the large beverage industry (See: **Case Study 1**). These beverage industry players were engaged in several roundtable discussions directly with the

<sup>133</sup> UNGA, CRC (1989) (note 11), Articles 2.  
<sup>134</sup> UNGA, CRC (1989) (note 11), Articles 3.  
<sup>135</sup> *Ibid* p. 25-26.  
<sup>136</sup> *Ibid* p. 23.

<sup>137</sup> Jamaica Information Service, *Health Minister Commended for Setting up Food Industry Task Force*, June 25, 2018. Available from: <https://jis.gov.jm/health-minister-commended-setting-food-industry-task-force/>.  
<sup>138</sup> Personal Interview (August 25, 2020).  
<sup>139</sup> Healthy Caribbean Coalition, *Public Health Prevails in Jamaica* (May 3, 2018). [Accessed 30 October 2020]. Available from: <https://www.healthycaribbean.org/public-health-prevails-in-jamaica/>.  
<sup>140</sup> Personal Interview (August 25, 2020).  
<sup>141</sup> World Health Organization. [Online]. Guideline: sugars intake for adults and children. Geneva World Health Organization; 2015. WHO/NMH/NHD/15.2.





Minister of Health. During these discussions, the beverage players were insistent that a minimum of three years should be granted for them to gradually meet the WHO Guideline.<sup>142</sup> Nonetheless, the Government of Trinidad and Tobago, relying on the strong evidence in support of the public health policy measure, proceeded with the recommended immediate ban on all SSBs.

Policy Environments with small to medium-sized food and beverage industries or players

In other CARICOM States with smaller beverage industries or where imports represent the majority of SSBs, such as in Grenada, there was significantly less opposition to the introduction of similar school policies. In Grenada, for example, the National Bottling Company and other beverage industry players did not oppose the policy in any significant way. Further, Grenada’s importation of the majority of its SSBs from Trinidad and Tobago, where a SSBs ban was already in effect, meant that imports were of already reformulated products. This phenomenon highlights the importance of comprehensive policies in all CARICOM States, but particularly, those responsible for beverage and food exports. In other instances, such as in Belize, beverage industry players were not meaningfully consulted prior to or after the announcement of the SSBs ban.

Rules of engagement in the policy environment

The presence of the food and beverage industry in school food environments and its influence in the policy environment strongly suggest that the rules of engagement with such industry players should be clear and unambiguous. Accountability, transparency and independence of the policy processes from undue influence are therefore critical tenets of good governance within a state.<sup>143</sup>

Within CARICOM, this may take the form of robust Access to Information or Freedom of Information Acts, Integrity in Public Life Acts and/or Conflict of Interest Policies, among other approaches. **Table 8** provides a snapshot of some laws and policies which offer, or have the potential to offer, upon amendment, enhanced protection to the policymaking environment.

Access to Information Acts/Freedom of Information Acts

In the majority of Caribbean Constitutions there is an explicit right to receive information without interference.<sup>144</sup> This right, in most instances, is a component of the overarching right to freedom of expression. Further, in several Caribbean countries, Access to Information Acts or Freedom of Information Acts have also been enacted and give persons the right to access information of public bodies or private bodies exercising public functions (**Table 8**). These Acts are therefore pertinent to successful advocacy work since they have the potential to promote more meaningful participation in the policy process. The advocate may, for example, exercise his or her right to access and review government policies and use such information to hold governments accountable.

However, the advocate ought to be aware of specific exceptions under these Acts, which remove certain categories of documents from being freely accessed or accessed at all by the public. For instance, some of the Access to Information or Freedom of Information Acts in the CARICOM Region, do not permit access to certain Cabinet documents, such as Cabinet Decisions or other official records of Cabinet deliberations.<sup>145</sup>

Nonetheless, these Acts represent important governance tools which can help to promote accountability and transparency in the public

policy process. CARICOM States should however consider amendments to the existing Access to Information Acts or Freedom of Information Acts to include access to information of purely private bodies.<sup>146</sup> The advocates’ ability to access private sector information, such as budgets, corporate social responsibility reports will promote better transparency and accountability in society.

It is also important to note children’s right to access appropriate information pursuant to Article 17 of the CRC and Article 19 of the International Covenant on Civil and Political Rights (“ICCPR”) and the implications that States’ obligations have for domestic legislation and policies. In the context of the school food environment, the children’s right to information suggests that appropriate health education content is required to facilitate the realisation of the right to health and to permit the making of informed decisions.<sup>147</sup>

Integrity in Public Life Act or Prevention of Corruption Act

Integrity in Public Life or Prevention of Corruption legislation may be found in the majority of Caribbean countries (**Table 8**). These laws target public officials and primarily focus on disclosure requirements whilst in public office.<sup>148</sup>

Importantly, the majority of CARICOM states have also ratified the 2004 UN Convention against Corruption,<sup>149</sup> with the exception of Barbados (signatory) and St. Vincent and the Grenadines. This Convention, by way of Article 33, encourages Member States to consider incorporating

protections for whistle-blowers, that is, persons making reports in good faith and on reasonable grounds.<sup>150</sup> In this regard, the Trinidad and Tobago Integrity in Public Life Act is noteworthy since it includes whistle-blower protection mechanisms, as well as conflict of interest provisions, among other key provisions.<sup>151</sup> CARICOM States should therefore consider amending or introducing Integrity in Public Life or Prevention of Corruption laws to be compliant with their binding international obligations.

Public-Private Partnerships (“PPP”) Policies

PPP policies should be governed by transparency and accountability principles. The link between the PPP and the Access to Information or Freedom of Information Acts should also be apparent and facilitative of an independent assessment of the PPP initiative.<sup>152</sup>

Other Policies or Codes of Conduct

There are currently no policies which specifically address conflicts of interest with regards to the prevention and management of NCDs in CARICOM.<sup>153</sup> This is significant because the social determinants of health traverse many sectors outside of health and will inevitably involve numerous players across all levels of society- public, private and civil society.<sup>154</sup> For instance, the Sixty-Third WHA urged Member States to “cooperate with civil society and with public and private stakeholders in implementing the set of recommendations on the marketing of foods and non-alcoholic beverages to children in order to reduce the impact of that marketing, while ensuring avoidance of potential conflicts of interest”.<sup>155</sup>

<sup>142</sup> *Ibid*

<sup>143</sup> Emmanuel B Omobowale et al, *Addressing conflicts of interest in Public-Private Partnerships*, BMC Int Health Hum Rights. 2010; 10:19. [Accessed 30 August 2020]. Available from: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2914055/>.

<sup>144</sup> See e.g., Antigua and Barbuda Constitution, s12; The Bahamas Constitution, s23; Dominica Constitution, s10; Grenada Constitution, s10; St. Lucia Constitution, s10; St. Vincent Constitution, s10; Barbados Constitution, s20: “Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, and for the purposes of this section the said freedom includes the freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference and freedom from interference with his correspondence or other means of communication.”

<sup>145</sup> Jamaica Access to Information Act, 2004, s15.

<sup>146</sup> Commonwealth Human Rights Initiative, *Detailed Analysis of Belize Freedom of Information Act 1994 & Recommendations for Amendments* (February 2006) [Accessed 15 August 2020]. Available from: <https://www.humanrightsinitiative.org/programs/ACT/Belize/Belize%20-%20F0I%20Act%201994%20-%20critique%20-%20final.pdf>.

<sup>147</sup> UNICEF. A Child Rights-Based Approach to Food Marketing: A Guide for Policy Makers. (2018). (note 79).

<sup>148</sup> United States Department of State, Country Reports on Human Rights Practices for 2011, Bureau of Democracy, Human Rights and Labor. [Accessed 30 August 2020]. Available from: <https://2009-2017.state.gov/documents/organization/186694.pdf>.

<sup>149</sup> United Nations Office on Drugs and Crime, *The United Nations Convention Against Corruption*, [Accessed 25 July 2020]. Available from: [https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf).

<sup>150</sup> *Ibid*.

<sup>151</sup> Trinidad and Tobago Integrity in Public Life Act, Chap 22:01, s29 (conflict of interest) and s42A (whistle-blower protection)

<sup>152</sup> Government of the Bahamas Public Private Partnerships Policy [Accessed 30 August 2020]. Available from: <https://www.bahamas.gov.bs/wps/wcm/connect/5a74940c-6125-406c-8140-5584eaf525d4/Public+Private+Partnerships+Policy+Sept+2018.pdf?MOD=AJPERES>.

<sup>153</sup> Healthy Caribbean Coalition, Meeting Report: *Managing Conflict of Interest for NCD Prevention and Control in the Caribbean*, Meeting held on March 26-27, 2019. [Accessed 15 August 2020]. Available from: <https://www.healthycaribbean.org/wp-content/uploads/2019/09/Managing-Conflict-of-Interest-for-NCD-Prevention-and-Control-in-the-Caribbean-WEB.pdf>.

<sup>154</sup> WHO. Report by the Director-General. *Social Determinants of Health. 6 January 2021*. EB148/24. Available from: [https://apps.who.int/gb/ebwha/pdf\\_files/EB148/B148\\_24-en.pdf](https://apps.who.int/gb/ebwha/pdf_files/EB148/B148_24-en.pdf).

<sup>155</sup> WHA Resolution WHA63.14



# Conclusions and Recommendations

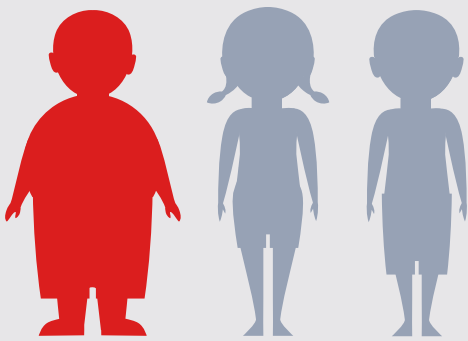
In Barbados, for example, the social partnerships concept may promote better stakeholder engagement in the policymaking process but also create greater scope for perceived, potential or actual conflicts, if left unchecked.<sup>156</sup> Potential and/or actual conflicts of interest must therefore be mitigated through a better understanding of these concepts and their identification by both policymakers and advocates. The importance of disclosure, where conflicts arise, is critical. However, in the appropriate case, recusal may be the necessary action.

Table 8: Laws/Policies With Ability To Safeguard the Policymaking Environment

ACT OR POLICY/ CARICOM STATE	Access to Information Act/Freedom of Information Act	Integrity in Public Life Act/Prvention of Corruption Act	Public-Private Partnership Law/ Policy
Antigua and Barbuda			
Bahamas			
Barbados			
Belize			
Dominica			
Grenada			
Guyana			
Haiti			
Jamaica			
Montserrat			
Saint Lucia			
Saint Kitts and Nevis			
Saint Vincent and the Grenadines			
Suriname			
Trinidad and Tobago			
Anguilla			
Bermuda			
British Virgin Islands			
Cayman Islands			
Turks and Caicos Islands			

- Enacted/implemented Act/policy
- Drafted bill/policy but not enacted or implemented or soft law guidelines
- No formal action taken/No Act or policy found

<sup>156</sup> Edwin Jones and Eris Schoburgh. *Deconstructing Policy Making and Implementation Issues in a Caribbean Context* Sir Arthur Lewis Institute of Social and Economic Studies, Vol. 53 No. 4 Special Issue on Government and Politics (December 2004) pp. 35-61DOI: 10.2307/27866389.



1/3 Caribbean Children is OVERWEIGHT or OBESE

With one (1) in three (3) of the Region's children being overweight or obese, CARICOM States are not only facing an enormous public health issue but also a threat to children's right to health and to adequate nutritious foods, among other related rights. Tackling the obesogenic school food environments through robust bans on the availability and marketing of unhealthy beverages and food products is recognised as a key intervention among a comprehensive package of policies for childhood obesity prevention.

Some CARICOM States have already developed and implemented SBs bans or restrictions. However, as illustrated from the mapping exercise, critical gaps exist in these policies which must be rectified to maximise positive impacts on children's health and wellness. Existing policies should be strengthened and new policies developed to include prohibitions on the availability and marketing of unhealthy beverages and food products in and around schools. Likewise, children must not be allowed to bring unhealthy beverages and food products onto the school compound, whether from home or from vendors outside of the school compound. It must be reiterated that all CARICOM Member States have ratified the CRC and therefore have a duty to respect, protect and fulfil children's right to the enjoyment of the highest attainable standard of health and other rights.

It is critical that the advocate possesses a complete understanding of the policy process and is ready with meaningful contributions to the decision-making, implementation, M&E and enforcement processes, as outlined in this Report. In addition, the policy environment must also be considered by both policymaker and advocate so that actual and potential conflicts of interest are identified, mitigated and managed through disclosure procedures and useful public policy information available to the public. Likewise, safeguards for the policy environment should be introduced to guard against actors opposing the protection of public health and the realization of children's rights.

In light of the findings of this report, the following recommendations arise for consideration **at the regional level and by CARICOM States**:

- 1. Emphasise a human (child) rights-based approach to policy making.** In the context of school nutrition policies, this approach would involve the promotion of children's right to health, to adequate food and to education through reliance on a framework buttressed in international human rights law and key principles, such as participation, the best interests of the child, transparency and accountability, among others.<sup>157</sup> Such a human (child) rights-based approach is critical for the CARICOM State's compliance with its binding international obligations to respect, protect and fulfil human rights, notably the CRC in this instance;
- 2. Adopt the revised CARICOM REGIONAL STANDARD: Labelling of Foods – Pre-Packaged Foods – Specification CRS 5 containing mandatory front of package nutrition warning labels (FOPWL).** This should be prioritised by CARICOM States so that they can in turn adopt FOPWL into their respective national laws; an approach which would facilitate the efficient implementation of other nutrition-related policies;
- 3. Implement a regional nutrition standard. A regional nutrition standard,** such as the PAHO NPM, should be prioritised to assist with the implementation of nutrition-related policies at the national level;
- 4. Translate policies into national laws.** The translation of policies into national laws should also be accompanied by regulations for the most effective implementation and enforcement. In this regard, CARICOM should draft a model Bill to assist Member States with the enacting of school food environment legislation;
- 5. Develop and/or Implement Access to Information or Freedom of Information Acts.** CARICOM states currently without any of the requisite access to information or integrity laws, policies or codes of conduct, should seek to develop and implement such. All CARICOM States should develop and implement policies regarding conflict of interests specifically in the context of the prevention and management of NCDs; and
- 6. Adopt a comprehensive approach to the prevention and management of childhood obesity and overweight.** This should involve addressing the availability and marketing of unhealthy beverages and food products in schools, as well as other policy measures, such as comprehensive school nutrition policies, fiscal measures to incentivise the purchase of healthy foods and discourage the purchase of unhealthy food products high in fats, sugars and salts, procurement policies, mandatory FOPWL, and educational campaigns to support these policy interventions.

The following recommendations arise for consideration by **policymakers**:

- 1. Implement school policies using the accompanying Model Policy<sup>18</sup>** to this Report and the guidance provided in this Report. Such a Policy should however form part of a comprehensive suite of policies to tackle childhood overweight and obesity;
- 2. Identify the key policy elements,** such as comprehensive bans on the marketing of unhealthy beverages and food products to children, which are critical and which must be included prior to any engagement with entities in the food and beverage industry;
- 3. Meaningfully engage children, the rights-holders and main beneficiaries of school nutrition policies, in the policy process.** This should be facilitated at all stages of the policy process;
- 4. Promote principles of good governance** in the policymaking process, namely transparency, accountability and the identification and mitigation of conflicts of interest; and
- 5. Frame policies and laws within a human rights lens** to emphasise States' tri-fold duty to respect, protect and fulfil the rights of children and other persons.

The following recommendations arise for consideration by **advocates**:

- 1. Strengthen understanding of national policy processes;**
- 2. Strengthen engagement with policymakers** in as many stages of the policy process as possible;
- 3. Be ready with the best scientific evidence** to act if any policy windows open;
- 4. Develop in-house legal and drafting capacity** to be called upon frequently to contribute to the policy and legal discussions at the national and regional level and to assist in the creation of model policies and laws;
- 5. Use public campaigns to garner both the public's support and government's attention;**
- 6. Be willing to participate in the implementation of the policy** by being present on any implementing committees;
- 7. Monitor the policymaking space** to identify and call out potential, perceived and actual conflicts of interest; and
- 8. Actively assist in the M&E and enforcement of the policy** when implemented.

<sup>157</sup> 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>; UNICEF. *A Child Rights-Based Approach to Food Marketing: A Guide for Policy Makers*. (2018). (note 79).





Appendix 1

Mapping of Policies Which Regulate the Availability and Marketing of Unhealthy Beverages and Food Products in CARICOM schools

CARICOM STATES/ KEY POLICY ELEMENTS		TRINIDAD & TOBAGO	JAMAICA	THE BAHAMAS	BERMUDA	GRENADA
Regulatory Approach						
Regulatory Instrument	Primary Legislation/ Subsidiary Legislation (Regulation)					
	Public Policy	Cabinet Minute (National Policy Statement			National Policy	National Policy
	Guidelines/ Standards		Interim Guidelines	Standards		
	Voluntary/Self- Regulation					
	Co-Regulation					
Ban/Restriction	Ban					
	Restriction					
Binding status	Mandatory					
	Voluntary					
Scope						
Government and Government assisted Schools	Pre-primary/Early Childhood Schools/ Institutions					
	Primary Schools/ Institutions (incl. Middle Schools if relevant)					
	Secondary Schools/ Institutions (incl. Middle Schools if relevant)					
	Tertiary Schools/ Institutions					
	Pre-primary/Early Childhood Schools/ Institutions				Policy was introduced to private schools in 2006 who became compliant within 1-2 years	
	Primary Schools/ Institutions					
	Secondary Schools/ Institutions					
	Tertiary Schools/ Institutions					

Present/implemented

Developed but not implemented

Not present

NR

 No record of this information available

Not applicable due to existence of other policy measure(s)

CARICOM STATES/ KEY POLICY ELEMENTS		TRINIDAD & TOBAGO	JAMAICA
Target area(s) coverage			
In/On School compound	Entire school compound (including vendors, concessionaires, tuck shop operators, vending machines)		
Outside of the School compound	Vendors immediately outside the school compound		No radius specified but does not extend to corner shops
	Vendors and business establishments within a specified vicinity of school compound		
Digital environment/ Online School Environment	School-owned and/or issued computers, websites, apps and online learning platforms		
Home/Family Environment	Beverages and Foods Brought from home		
School day coverage	Regular School Day		
	Extended School Day		
School events and activities	On school compound		During special school activities
	Outside of school compound		

THE BAHAMAS	BERMUDA	GRENADA
Vendors to be forced to set up further from school compound		
	Parents encouraged to sned only healthy food/snacks and beverages	YES parents will also be <i>prohibited</i> from includingh these items in students' bagged lunches
NR		
Do not apply to special one-off days such as 'Fun Day' and other fundraising events that take place twice a year. However the standards will apply to the third and subsequent events that may occur	NOTE: the Healthy Schools Nutrition Policy encourages the sale and consumption of nutritious food from the five food groups (at bake sales, sports events, after school programmes, lunch time and summer programmes)	



CARICOM STATES/ KEY POLICY ELEMENTS		TRINIDAD & TOBAGO	JAMAICA
Target product(s)/activities			
Types of beverages banned/restricted	Select SSBs	SSBs: soft drinks, juice drinks, flavoured water, sports/energy drinks, tea, coffee; milk-based drinks with added sugar	SSBs: carbonated beverages (such as regular soda), fruit drinks, sports drinks, energy drinks, sweetened waters, coffee and tea beverages above the maximum sugar concentration in the implementation schedule.
	Other content portion requirements (i.e. no artificial sweeteners)	Tea, coffee, milk-based drinks with artificial sweeteners.	Maximum 6g/100ml - effective January 1, 2019 Maximum 5g/100ml - effective January 1, 2020 Maximum 4g/100ml - effective January 1, 2021 Maximum 2.5g/100ml - effective January 1, 2023  NOTE: Artificial sweeteners are not banned/restricted but their use is expressly discouraged. Recommends that caffeine content be less than 10mg per serving. Recommends that package size for all beverages except water sold or served to children (i.e. less than 18 years old) should be less than 12 ounces.
Promotes the provision of clean drinking water			
Types of foods banned/restricted	Food categories/ Nutrient Profile modelling		
Bans/Restricts Marketing	Children's ages protected		
	Media covered		
	Beverages and Foods covered		
Implementation Systems			
Structure	Lead Agency	MOE	MOEYI + MOH
	Multi-stakeholder involvement	MOH, School supervisors, Principals	Schools, Education Officers

THE BAHAMAS	BERMUDA	GRENADA
Sugary beverages: carbonated and non-carbonated forms including but not limited to, all brands of soada and othe carbonated soft drinks; non-fresh (non-100%) fruit and/or vegetable juice, lemonade/limeade, nectars, malts, energy drinks and flavoured milk along with pre-sweetened teas and coffee.	All unhealthy beverages (i.e. all drinks except plain unsweetened water, milk and/or 100%juice)	Carbonated beverages
	Students to drink water throughout the school day (including sipping water at their desks)	
	Unhealthy foods/snacks	Processed snacks
MOE/DOE	DOE + DOH	MOE
Schools and lunch vendors	Principals and administrators	Schools, vendors





CARICOM STATES/ KEY POLICY ELEMENTS		TRINIDAD & TOBAGO	JAMAICA
Implementation Systems	Advocacy, Awareness and training	MOH, MOE, NSDSL, NPTA Sensitisation sessions; dialogues with manufacturers	Sensitisation sessions held
	Pilot programs		
	Phase-in provisions		
Resources Provisions	Human Resources		
	Informational Resources	Circular Memorandum	Directive to schools, List of prohibited and permitted beverages provided
	Financial Resources (Funding)	NR	NR
Enforcement	Complaints Mechanisms		
	Penalties/ Sanctions		
	Other		
Monitoring and Evaluation Mechanism			
Governance Structure	Lead Agency Ministry	MOE + MOH	MOEYI
	Key M&E Partners	School supervisors, Principals	Parish nutritionists and dieticians
M&E Mechanisms	Checklist/ School Activity Audit		School Nutrition and Physical Activity Audit to be carried out at baseline (December 2018) and six (6) months and after one (1) year
	Reporting System	Compliance Report prepared by Health Education Division based on information from the School Supervisors	
	Laboratory analysis of the content of beverages and foods		
Resources Provisions	Human Resources		
	Informational Resources	Monitoring checklist	Activities supporting schools
	Financial Resources (Funding)	NR	NR

THE BAHAMAS	BERMUDA	GRENADA
NR	Sensitisation meetings	Sensitisation meetings
		NR
NR		NR
NR		NR
NR	NR	NR
MOE/DOE	MOE	MOE
MOH (to provide technical support in training vendors); Schools	Healthy Schools, Nutrition Services and the independent meal providers for schools	Schools
Monitoring checklist for every snack and drink item sold by tuck shops provided at least once a term or as deemed necessary	Annual audit and monitoring of vending machines contents during scheduled and unscheduled school visits	NR
		NR
NR		NR
NR		NR
NR	NR	NR



# Appendix 2

Interview Guide



## INTERVIEW GUIDE

The aim of this interview is to gain an understanding of the policy environment, as well as the development, implementation and monitoring and evaluation processes involved in the national policy regulating the availability of sweet beverages in your territory.

This understanding will facilitate an accurate mapping of the existing policy landscape in the Caribbean Community (“CARICOM”) and assist in the development of policy and legislative guidance for regulating the availability and marketing of sweet beverages and unhealthy foods in schools across CARICOM.

This interview comprises of six (6) sections. However, only the section(s) most applicable to you will be applied. The sections are:

- i. Introductory Questions
- ii. Policy Environment Questions
- iii. Policy Development Process Questions
- iv. Policy Implementation Process Questions
- v. Policy Monitoring and Evaluation Process Questions
- vi. Concluding Questions

The entire interview is expected to take approximately 60 minutes. Please do indicate if you require a break at any time or if clarification of any question is required.

### INTRODUCTORY QUESTIONS:

- 1. How would you describe your role in bringing the national policy which regulates the availability (and marketing) of sweet beverages (and unhealthy foods) in schools into existence?
- 2. What was most enlightening and or challenging about your role in bringing that policy into existence?
- 3. What is the policy’s objective?

### POLICY ENVIRONMENT QUESTIONS:

- 4. Please describe any challenges or barriers in the introduction of this policy?
- 5. Please describe the facilitators in the introduction of this policy?
- 6. Was there industry (food and beverage sector) opposition to the introduction of this policy?

### POLICY DEVELOPMENT PROCESS QUESTIONS:

- 7. What exactly does the policy ban or restrict?
- 8. Does the policy also ban or restrict the marketing of sweet beverages (and unhealthy foods) in schools?
- 9. What was the rationale behind the scope or coverage of the policy?
- 10. Why does the policy include or exclude the various elements, such as allowing the marketing of sweet beverages?
- 11. Is the policy mandatory or voluntary? How and why was such an approach decided?
- 12. Why was a ban selected? or Why was a restriction selected?
- 13. What was the policy development process?
- 14. What international, regional and or national policy/policies were considered in the development of the policy?
- 15. What resources were required for development of the policy?
- 16. What are some key lessons learnt from the policy development process?
- 17. What, if anything, had to be done to protect the policy development space from Conflict of Interests?



POLICY IMPLEMENTATION PROCESS QUESTIONS:

- 18. What was the policy implementation process?
- 19.What resources were required for implementation of the policy?
- 20. What aspects of the policy were challenging to implement or have not been implemented as yet?
- 21.What were the challenges or barriers experienced in the implementation of the policy?
- 22. What were the facilitators to the implementation of the policy?
- 23. What are some key lessons learnt from implementation of the policy to date?
- 24. What, if anything, had to be done to protect the policy implementation space from Conflict of Interest?

POLICY MONITORING AND EVALUATION QUESTIONS:

- 25. What is the policy monitoring and evaluation process?
- 26. What resources are required for monitoring and evaluating the policy?
- 27.What are the challenges or barriers faced in monitoring and evaluating the policy?
- 28. What are the facilitators to the monitoring and evaluation of the policy?
- 29.What are some key lessons learnt from monitoring and evaluation of the policy to date?

CONCLUDING QUESTIONS:


- 30. What are some of the overall strengths and weaknesses of the policy?
- 31.What would be your advice be to any entity seeking to create a Model Policy for CARICOM?
- 32. Is there anything else that you would like to add that we have not already discussed?







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