

POLICY AND LEGISLATIVE GUIDANCE

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



SUMMARY

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SUMMARY



I. Introduction and Background

Childhood overweight and obesity are growing challenges in the Caribbean Community (CARICOM)¹ affecting [one \(1\) in three \(3\) children](#)². In fact, 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. Obesogenic school environments, where children spend [one-third \(1/3\) of their time](#),³ contribute to childhood overweight and obesity.

Though primarily captured through a health lens, childhood obesity must also be framed from other perspectives, namely human rights, educational and economic perspectives. All CARICOM Member States have [ratified](#)⁴ the United Nations (UN) Convention on the Rights of the Child (CRC)⁵, as well as other relevant international treaties, such as the International Covenant on Economic, Social and Cultural Rights (ICESCR)⁶. These States therefore have a tri-fold obligation to [respect, protect and fulfil](#)⁷ children's rights to health, adequate nutritious foods and to access information, among other rights. Critically, these and other interrelated rights must be centred on cross-cutting human rights principles, such as [non-discrimination](#)⁸ and the [best interests of the child](#).⁹ 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, there has been a marked increase in political support for the regulation of beverages high in sugar in Caribbean school settings, as evidenced by the 2017 ban on sugar-sweetened beverages¹⁰ (SSBs)¹¹ in the [Republic of Trinidad and Tobago](#).¹² Then, in 2018,

in the lead up to the Third UN High Level Meeting (UNHLM3)¹³ on Noncommunicable Diseases (NCDs), [CARICOM Heads of Government and State committed](#)¹⁴ to the implementation of a number of policies aimed at tackling childhood obesity, 'health promoting schools' and Front-of-Package Warning Labelling (FOPWL). Early in the following year, [Jamaica](#)¹⁵ implemented national interim guidelines gradually restricting the sale of SSBs in schools. Later, in 2019, both the [Commonwealth of The Bahamas](#)¹⁶ and [Grenada](#)¹⁷ announced bans on the sale of beverages high in sugar in local schools. The [Co-operative Republic of Guyana](#)¹⁸ also subsequently announced plans to implement the most comprehensive school policy to date, banning both the sale and marketing of these beverages in local schools. [Belize](#),¹⁹ with a Cabinet Paper approved in mid-2019, has also signalled plans to move forward with similar regulations over the next two years.

The momentum in addressing the [school food environment](#)²⁰ 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. Other challenges to be addressed include the lack of harmonisation and alignment of policy approaches at the regional level, the absence of standardised labelling, such as mandatory FOPWL to facilitate easy identification of healthy versus unhealthy food products, as well as the effective and efficient transitions from policy announcement to implementation at the domestic level.

In response to the burgeoning childhood obesity challenge, the Healthy Caribbean Coalition (HCC)²¹ has issued numerous [open letters](#)²² 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 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](#).²³

In support of the Urgent Call to Action, the second objective of its 2020 Global Health Advocacy Incubator (GHA)²⁴ grant and the broader high-level advocacy objectives of the HCC Civil Society Action Plan 2017-2021: Preventing Childhood Obesity in the Caribbean (CSAP),²⁵ 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 sweet beverages²⁶ (SBs)²⁷ and unhealthy food products in Caribbean schools. 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 civil society organizations' (CSOs) advocacy for childhood obesity prevention policies.

The full Report 'Regulating the Availability and Marketing of Unhealthy Beverages and Food Products

in and around Schools in the Caribbean' and the accompanying Model Policy, commissioned by the HCC, are actually a direct response to express requests of the CARICOM Caucus of Ministers of Health at the 2018 World Health Assembly (WHA) in Geneva. The Report and Model Policy were informed by interviews with Caribbean health professionals, other regional and global experiences researched on the Internet and on HCC's Childhood Obesity Prevention Scorecards (COPS)¹². The Report and Model Policy benefitted from reviews by various external partners and select representatives of Ministries of Health and/or Education in the Caribbean. It is expected that the Report and the accompanying Model Policy will serve two distinct but key Caribbean audiences, namely policymakers and civil society advocates.

This Summary provides a synopsis of the key policy provisions and their justifications for regulating the availability and marketing of unhealthy beverages and food products in and around schools in the Caribbean. It also summarises the typical policy and legislative processes regarding such an intervention whilst also highlighting the importance of a policy environment buttressed by principles of good governance, such as transparency, accountability and participation. This Summary should be read in conjunction with the [full report](#)²⁸ 'Regulating the Availability and Marketing of Unhealthy Beverages and Food Products in and around Schools in the Caribbean' and its accompanying [Model Policy](#).²⁹

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

¹ <https://caricom.org/>.

² <https://www.healthycaribbean.org/preventing-childhood-obesity-caribbean-civil-society-action-plan-2017-2021/>.

³ <https://www.who.int/initiatives/making-every-school-a-health-promoting-school>.

⁴ https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-11&chapter=4.

⁵ <https://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>.

⁶ <https://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>.

⁷ <https://www.refworld.org/docid/51ef9e134.html>.

^{8,9} <https://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>.

¹⁰ Sugar-sweetened beverages refer to non-alcoholic water-based beverages which contain 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.

¹¹ https://www.researchgate.net/publication/340045105_Consumption_of_Sugar-Sweetened_Beverages_Juice_Artificially-Sweetened_Soda_and_Bottled_Water_An_Australian_Population_Study.

^{12,16,17,18,19} <https://www.healthycaribbean.org/cop/country-scorecard.php>.

¹³ <https://www.who.int/ncds/governance/third-un-meeting/brochure.pdf>.

¹⁴ <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/>.

¹⁵ <https://www.healthycaribbean.org/cop/country-scorecard.php>.

²⁰ <http://www.fao.org/school-food/areas-work/food-environment/en/>.

²¹ <https://www.healthycaribbean.org/>.

²² <https://www.healthycaribbean.org/category/open-letters-statements/>.

²³ <https://www.healthycaribbean.org/call-to-urgent-action/>.

²⁴ <https://advocacyincubator.org/>.

²⁵ <https://www.healthycaribbean.org/wp-content/uploads/2017/10/Preventing-Childhood-Obesity-in-the-Caribbean-CSAP-2017-2021.pdf>.

²⁶ The term "sweet beverage" is used here to denote that beverage regulations vary across the CARICOM Region. "Sweet beverages" refers to beverages with added sugar or naturally high in sugar (such as 100% fruit juices), or with no- or low-calorie sweeteners.

²⁷ <https://bit.ly/3rPtJx5>.

²⁸ <https://bit.ly/HCC-MUB-REP>.

²⁹ <https://bit.ly/HCC-MPMUB>.

II. Key Policy Provisions and Justifications

Despite the shared popularity for school bans on SSBs across the 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 existing school nutrition policies in CARICOM illustrated that consistently across the majority of the current policies the focus is on banning/regulating beverages with excess sugar without addressing unhealthy food products. Further, the mapping exercise highlighted a complete void in prohibitions on the marketing of both unhealthy beverages and food products in and around schools as well as a lack of well-structured monitoring and evaluation (M&E) mechanisms, enforcement mechanisms and sanctions or penalties for non-compliance.

The mapping of the current policies in the CARICOM Region helped to identify gaps which weaken the policies as well as any strengths. Importantly, the mapping exercise emphasized the need for these policies to address:

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.

The Model Policy for regulating the availability and marketing of unhealthy beverages and food products should be viewed as the regional “gold standard”. It promotes a complete ban on the availability and marketing of unhealthy beverages and food products in and around schools and is the culmination of the learning throughout the full Report, as well as the guidance and recommendations from international, regional and local bodies, such as the World Health Organization (WHO),³⁰ Pan American Health Organization (PAHO),³¹ Caribbean Public Health Agency (CARPHA)³² and Ministries in some territories.

The following is an extract of some of the key policy provisions, along with their justifications:

³⁰ <https://www.who.int/>.

³¹ <https://www.paho.org/en>.

³² <https://carpha.org/>.

1 GOALS AND OBJECTIVES OF THE POLICY³³

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

1.2 The specific objectives of this Policy are to:

- ban exposure to and the power of marketing of unhealthy beverages and food products** in and around schools;
- ban the availability and consumption of unhealthy beverages and food products** in and around schools by children; and
- promote and facilitate the availability and consumption of healthy beverages and healthy foods** in and around schools for children.

Policy Justification/Guidance:

- Clear, evidence-based Policy objectives, which are realistic and attainable are recommended.
- 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 Member States’ international obligations.

2 DEFINITIONS

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

Policy Justification/Guidance:

- Clear definitions are critical to the accurate interpretation of terms necessary for the effective implementation, enforcement and the M&E of the Policy.
- Definitions from reputable sources should be used wherever possible, such as the PAHO Nutrient Profile Model (PAHO NPM)³⁴ and the WHO. For example, the above definition for “marketing” was adopted from the WHO Set of Recommendations on the Marketing of Foods and Non-Alcoholic Beverages to children³⁵, the United Nations Children Fund (UNICEF) A Child Rights-Based Approach to Food Marketing: A Guide for Policy Makers³⁶ and the WHO Framework Convention on Tobacco Control.³⁷ The end result is a wide and generous definition²⁸ which addresses both the effect and intention of product and service marketing on children from the various strategies employed by beverage and food industry entities.
- The reference to “any form of commercial communication” captures any form of marketing, including digital marketing. The Policy however also includes a separate definition for “digital marketing” and extends the meaning of “school campus” to online environments, such as school-owned and/or issued computers, websites, apps and online learning platforms.

³³ Note: the numbering of the policy provisions included within this Summary may differ from that of the Model Policy. The Summary Report merely provides a sample of some of the key policy provisions and not the entire Model Policy.

³⁴ https://iris.paho.org/bitstream/handle/10665.2/18621/9789275118733_eng.pdf.

³⁵ https://apps.who.int/iris/bitstream/handle/10665/44416/9789241500210_eng.pdf?sequence=1.

³⁶ <https://bit.ly/2OooSUY>.

³⁷ https://www.who.int/fctc/text_download/en/.

3 SCOPE

- 3.1 This Policy applies to all:
- a.nursery, pre-primary, primary and secondary schools, whether public, government-assisted [*government-aided*] or private [*independent*];
 - b.technical institutions, training centres, community colleges or any other institutions, centres or colleges catering mainly to children, whether public, government-assisted [*government-aided*] or private [*independent*].
- 3.2 This Policy applies to the immediate school campus and to the food environment within a radius of [*at least 0.5 miles*³⁸/ *800 metres*³⁹] from the school campus.
- 3.3 This Policy applies at all times during the regular school day and during the extended school day.

Policy Justification/Guidance:

- A human (child) rights-based approach to policy making, the need to avoid discrimination in public policy, and to promote equity in the policy space to protect all children, regardless of socio-economic background and school enrolment choice; justifies the inclusion of public as well as private and government-assisted or government-aided schools within the Policy.
- Private schools, which are largely excluded from current policies in CARICOM States, fall under the purview of the Ministry with responsibility for Education. That Ministry is empowered by statute to register private schools and to make regulations concerning their removal from the list of registered schools under the relevant Education Acts. Consequently, the inclusion of private schools within the scope of the Model Policy is also justified by that oversight exercised by the Ministry of Education.
- The immediate school campus as well as the inclusion of the food environment outside the school campus recognises the pervasive nature of the availability and marketing of unhealthy beverages and food products to children within and outside of the school campus.
- CARICOM States are at liberty to determine the exact radius to be covered by such regulations. However, States should seek to comply with their duty under the CRC to limit children's exposure to "fast foods" and the marketing of such in schools and other places.⁴⁰ The determination of the appropriate radius should also be grounded in the best available evidence.
- It is necessary to address not only the regular school day but also the extended school day and special events since the food environment extends to such as well. The experiences of international States with similar policies have highlighted the limitation of policies which do not include the extended school day or school events, whether on or off campus.

³⁸ <https://ajph.aphapublications.org/doi/10.2105/AJPH.2008.137638>.

³⁹ <https://bmcpublikealth.biomedcentral.com/articles/10.1186/1471-2458-13-70>.

⁴⁰ <https://www.refworld.org/docid/51ef9e134.html> (See: para 47).

4 APPLICATION OF THE PAHO NUTRIENT PROFILE MODEL (PAHO NPM)³⁴

- 4.1 The Ministry of Health [*and Wellness*] shall apply the relevant PAHO NPM³⁴ thresholds (**Table 1**) to identify all processed and ultra-processed foods which are in excess of free sugars, sodium, total fats, saturated fats and or trans fats.

Table 1: <u>PAHO NPM</u> ³⁴ criteria for classifying processed and ultra-processed products					
FREE SUGARS	SODIUM	TOTAL FATS	SATURATED FATS	TRANS FATS	OTHER SWEETENERS
≥10% of total energy from free sugars	≥1 mg of sodium per 1 kcal OR ≥300 mg/100g of product OR ≥40mg/100 millilitre (ml) for drinks providing no energy	≥30% of total energy from total fat	≥10% of total energy from saturated fat	≥1% of total energy from trans fat	Any quantity of other sweeteners

Policy Justification/Guidance:

- This policy element addresses the need for an evidence-based and effective way to identify and classify food products. States around the world have used either a nutrient profile model system or the categorisation of foods.
- The PAHO NPM³⁴ was selected because of its evidence basis as well as the need for standardised approaches to health issues in the CARICOM Region. Further, applying the PAHO NPM³⁴ will not only be useful for the Policy but can also form the basis for efficient implementation of several other policies, such as fiscal policies and FOPWL.
- The involvement of the Ministry of Health [*and Wellness*], or a delegated authority, in applying the PAHO NPM³⁴ is critical. This is to ensure consistency in the unhealthy beverages and food products being restricted in all schools, especially in the absence of standardised FOPWL. This responsibility should therefore not be delegated to the schools themselves. Nonetheless, schools should be adequately supported for proper implementation of this Policy.

5 PROHIBITION OF UNHEALTHY BEVERAGES

- 5.1 The Ministry of Health [*and Wellness*] shall deem all sweet beverages as “unhealthy beverages” and shall produce and publicly disseminate a list of all unhealthy beverages [*at least once every year in the month of August*].
- 5.2 No person shall make available or cause to be made available any unhealthy beverages in and around schools.
- 5.3 Unhealthy beverages from the following categories are prohibited in and around schools:
- a. sodas or soft drinks;
 - b. fruitades or juice drinks;
 - c. fruit juices;
 - d. sports or energy drinks;
 - e. sweetened or sweetened flavoured waters;
 - f. flavoured milks;
 - g. coffee and tea beverages with added sugars or caloric sweeteners; and
 - h. beverages with any quantity of other sweeteners

Policy Justification/Guidance:

- The Ministry of Health, which possesses the technical expertise, should be responsible for determining and communicating the list of unhealthy beverages each year to schools.
- A complete prohibition on all unhealthy beverages, that is sweet beverages, is in keeping with the goal and objectives of the Policy. Further, it is advisable to start from the position of a complete prohibition on all unhealthy beverages and then carve out any justifiable exceptions.
- The complete prohibition on the part of all persons in the school food environment, including parents and children, from bringing or otherwise making unhealthy beverages available in and around schools, is a necessary policy measure to close certain gaps identified in existing policies whereby children are allowed to bring to school unhealthy beverages or can obtain such just outside of the school gates, for example. 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 COVID-19 public health measures.
- A list of prohibited beverage categories was included, in addition to the expected provision of the list of unhealthy beverages from the Ministry of Health [*and Wellness*] in recognition of the feedback provided by interviewees who opined that such a list should be included within the Policy to facilitate easier implementation and compliance by stakeholders. This broad categorisation may also act as an additional buffer in the event that new beverages are introduced by the beverage industry following the dissemination of the official list from the Ministry of Health [*and Wellness*]. The Ministry of Health [*and Wellness*] should be empowered to re-issue the list, as required.
- Importantly, the PAHO NPM³⁴ includes artificial sweeteners within its broad categorization of “other sweeteners” based on the fact that the “habitual use of sweet flavours (sugar-based or not) promotes the intake of sweet food and drinks, including those that contain sugars.” Therefore, despite the lack of consensus on the approach to be taken regarding sweeteners, CARICOM States should recognise the importance of this policy measure to satisfy the objective of the Policy as well as its usefulness in anticipating industry’s reformulations which may seek to include excessive amounts of artificial sweeteners to maintain the sweet taste of beverages.



6 ACCESS TO SAFE DRINKING WATER

- 6.1 Children must have free and adequate access to safe drinking water in and around schools.
- 6.2 Children should be encouraged to drink plain water in environmentally-friendly ways during the regular and extended school day.

Policy Justification/Guidance:

- The majority of policies in CARICOM States are notably silent on the availability, consumption and promotion of clean drinking water.
- Drinking adequate amounts of water has several health benefits, such as lower calorie intake and risk for obesity.⁴¹
- Children’s access to clean drinking water is also an important human right.⁴²



7 PROHIBITION OF UNHEALTHY FOOD PRODUCTS

- 7.1 Given the nutrient intake recommendations for free sugars, sodium, total fats, saturated fats and trans fats, the Ministry of Health [*and Wellness*] shall deem all foods equal to and/or in excess of any one or more of the thresholds as “unhealthy food products”.
- 7.2 The Ministry of Health [*and Wellness*] shall produce and publicly disseminate a list of unhealthy food products [*at least once every year in the month of August*]. This Policy applies at all times during the regular school day and during the extended school day.
- 7.3 No person shall make available or cause to be made available unhealthy food products in and around schools.

Policy Justification/Guidance:

- Unhealthy food products are readily available in schools and also widely marketed. Consequently, to seriously address the objectives of such a Policy, it is necessary to tackle all unhealthy food products.
- The evidence in support of this policy measure includes the fact that unhealthy food products are “deliberately formulated to be habit-forming and even quasi-addictive”⁴³ for children and adults. The production and marketing of unhealthy beverages and food products are “powerful drivers of the pandemics of obesity and NCDs.”⁴⁴
- To date, CARICOM Member States have tended to only regulate the availability of beverages, without addressing unhealthy food products. A more comprehensive approach should be adopted by CARICOM States to address all unhealthy food products in the school food environment.



⁴¹ 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.

⁴² <https://undocs.org/pdf?symbol=en/a/res/64/292>.

^{43,44} https://iris.paho.org/bitstream/handle/10665.2/51094/9789275120323_eng.pdf?sequence=5.

8

PROHIBITION ON THE MARKETING OF UNHEALTHY BEVERAGES AND FOOD PRODUCTS

- 8.1
- Persons are prohibited from using any form of marketing and/or sponsorship of unhealthy beverages and food products at all times during the regular school day and during the extended school day.
- 8.2
- No person shall market or cause to be marketed any unhealthy beverages or food products in and around schools using any of the [following techniques](#).⁴⁵

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

Policy Justification/Guidance:

- This particular element seeks to identify and address various forms of marketing, namely direct marketing, indirect marketing, product sales and market research. It also provides non-exhaustive examples of the [marketing strategies covered](#).⁴⁶
- A comprehensive approach to prohibiting the marketing of unhealthy beverages and food products is supported by the [WHO Set of Recommendations on the Marketing of Food and Non-Alcoholic Beverages to Children](#).⁴⁷ This policy element therefore seeks to address both the [exposure and power of marketing on children](#).⁴⁸ It addresses exposure and power by considering the what and where of product marketing whilst also restricting marketing techniques used by the food and beverage industry in schools.
- It should be noted that brand marketing is also excluded in the Model Policy to avoid any gaps or weaknesses in the policy space whereby food and beverage industry entities could target children through the marketing of their brands which, in many instances, are already well-known among children audiences and linked to unhealthy beverages and food products.
- It should also be noted that in the context of the marketing of unhealthy 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.

^{45,46} <https://www.gao.gov/assets/240/230626.pdf>.

⁴⁷ https://apps.who.int/iris/bitstream/handle/10665/44416/9789241500210_eng.pdf.

⁴⁸ <https://apps.who.int/iris/bitstream/handle/10665/259349/WHO-NMH-PND-ECHO-17.1-eng.pdf?sequence=1>.

9

COMMUNICATION PLAN

- 9.1
- The Ministry of Information [*Public Affairs*], in collaboration with the Ministry of Education and the Coordinating Working Group⁴⁹ shall develop a comprehensive communication plan, including a public education campaign to raise awareness about the Policy and to garner widespread support for the Policy at every level of the society.
- 9.2
- The communication plan must clearly identify and articulate the rights of school children as the key beneficiaries of the Policy and the Government as principle duty bearer, among other key messages.

Policy Justification/Guidance:

- This policy element recognises the importance of effective and ongoing communication with all stakeholders to garner widespread support for the Policy, such as the highly [effective public health campaign of the Jamaica Heart and Stroke Foundation](#).⁵⁰
- Prior to the development and implementation of the communication plan, there should be consultations with key actors, including children, parents, civil society, vendors and the wider public, regarding the Policy. Such participation will be supportive of a human (child) rights-based approach to policymaking but may also safeguard stakeholder 'buy-in'.

⁴⁹ The Coordinating Working Group represents one of the suggested groups to be established to assist with the coordination and implementation of the policy. See: Report 'Regulating the Availability and Marketing of Unhealthy Beverages and Food Products in and around Schools in the Caribbean' for additional details.

⁵⁰ <https://www.heartfoundationja.org/campaign/are-you-drinking-yourself-sick-campaign/>.

10 ENFORCEMENT AND PENALTIES

- 10.1 The government of [insert country] shall be responsible for the overall enforcement of the Policy and shall ensure the appropriate enforcement mechanisms are available.
- 10.2 Given the individuals, companies and groups who must comply with this Policy, appropriate sanctions to deter and punish non-compliance must be imposed for first, second and third offences on:
- a. Food and Beverage Industry entities, such as reprimands, appropriate level of fines and/or revocation of company certificates [permits or licences];
 - b. Concessionaires, canteen operators, tuck shop operators and vendors on the school campus and within the [0.5 miles³⁸/ 800 metres³⁹] radius, such as reprimands, appropriate level of fines and or revocation of business certificates [permits or licences];
 - c. Principals, school administrators, teachers, such as administrative penalties pursuant to [the relevant Education Act];
 - d. Parents and children, in accordance with school rules and regulations.

Policy Justification/Guidance:

- 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.
- 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. It is therefore also necessary to specify that the Policy is mandatory and to provide for an effective complaints mechanism,⁵¹ as provided for in the full Model Policy.
- The WHO recommends the inclusion of “clear definitions of sanctions”⁵². Further, identifying those persons responsible for compliance and the penalties associated to each of them for non-compliance is a critical component of the rule of law. Persons should be aware of and clear on the prohibitions, penalties and any applicable defences.

The full Model Policy, included as an accompanying document to the Report ‘Regulating the Availability and Marketing of Unhealthy Beverages and Food Products in and around Schools in the Caribbean’, is expected to fast-track implementation by simplifying the drafting process, whilst also providing measures relevant to effective implementing systems, as well as M&E mechanisms.

⁵¹ <https://link.springer.com/article/10.1057/jph.2013.9>.
⁵² https://apps.who.int/iris/bitstream/handle/10665/44416/9789241500210_eng.pdf?sequence=1.

III. Overview of Policy Process and Environment

The policy and legislative processes in the various CARICOM States share several common features. 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”.⁵³ A policy therefore “outlines what the government wants to achieve during the term of office”.⁵⁴ Legislation, on the other hand, is the end product of the translation of policy into a set of enforceable rules or legislative text.⁵⁵

The General Policymaking Process

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 how he/she can get involved. Cabinet approval remains key in the typical policy process in select CARICOM States if the policy is to have a chance of being effectively enforced.

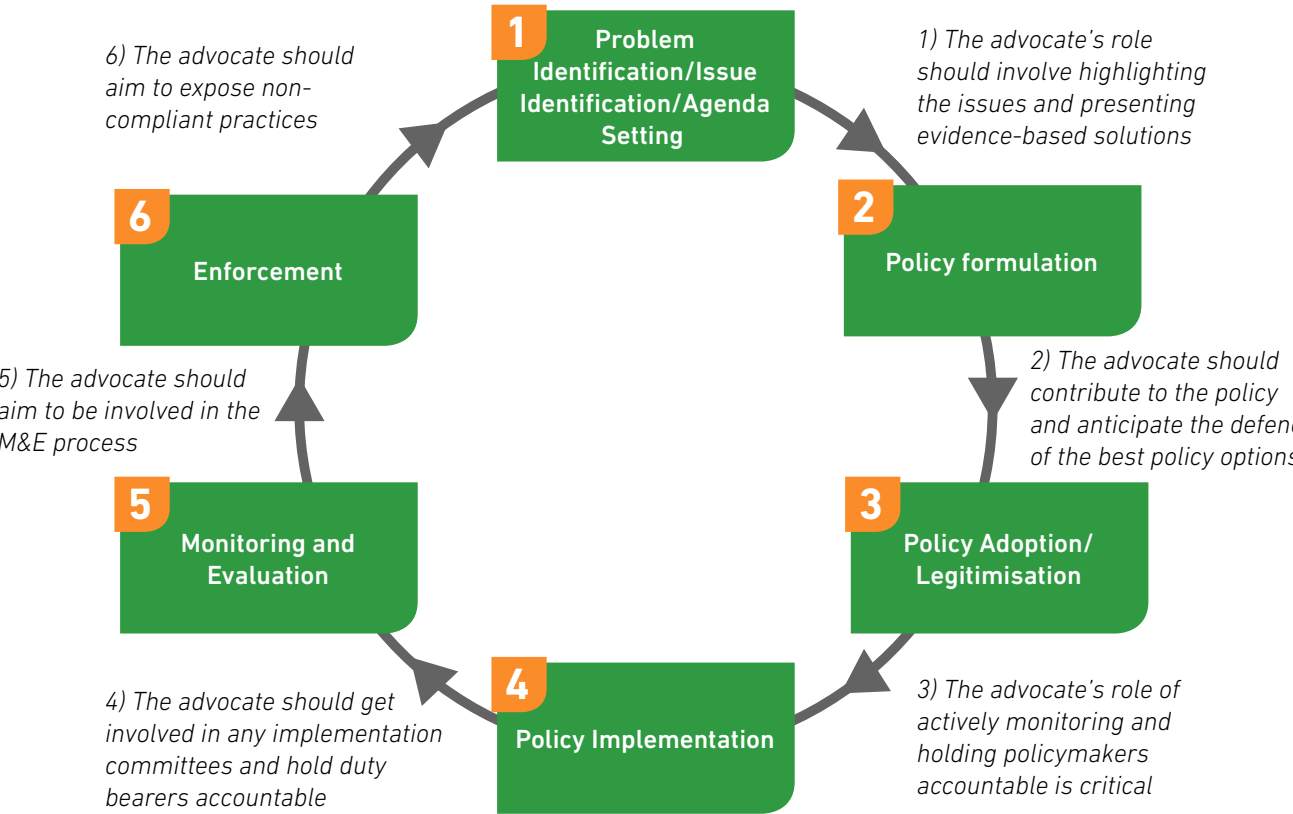


Figure 1: The general policy process

⁵³ <http://kropfpolisci.com/public.policy.anderson.pdf>.
⁵⁴ <http://www.fao.org/documents/card/en/c/ca9730en>.
⁵⁵ <http://caribbeanimpact.org/website/wp-content/uploads/2018/05/IMPACT-Justice-Legislative-Process-and-Drafting-Instructions-Manual-2016.pdf>.

The General Legislative Process

A comprehensive statutory prohibition, whether in the form of a new primary Act, an amendment to an existing Act, subsidiary legislation or a new Act [*depending on the existing laws and regulations at the domestic level*], is required to fully implement and enforce all elements of the Model Policy. Importantly, a public education campaign should be launched as well as training and or educational sessions with key stakeholders to garner support for the intended legislation.

The legislative process would typically adhere to that outlined in the Report '[Regulating the Availability and Marketing of Unhealthy Beverages and Food Products in and around Schools in the Caribbean](#)'²⁸ at Part IX – Summary of the Policy and Legislative Process, namely:

- a. The Ministry of Education, as lead Ministry and sponsoring Ministry, should seek Cabinet's approval of the Policy and for the Policy's implementation using legislation;
- b. Once Cabinet approval is obtained, the Ministry of Education should submit comprehensive drafting instructions for the legislative drafter(s) to prepare the draft bill;
- c. The Ministry of Education should circulate the draft Bill upon receipt to relevant stakeholders for comment and engage in consultations with key stakeholders, including other Ministries and external stakeholders, such as non-governmental organizations (NGOs) and CSOs;
- d. Any relevant changes should be communicated to the drafting office and a final draft Bill provided which the Ministry of Education will need to bring before the Cabinet for approval;
- e. The Bill once approved by Cabinet, must then be included in the legislative agenda of the relevant House, usually the lower House in bicameral systems, to go through the various legislative stages (See: stages (a) – (f) listed in the Report '[Regulating the Availability and Marketing of Unhealthy Beverages and Food Products in and around Schools in the Caribbean](#)'²⁸ at Part IX – Summary of the Policy and Legislative Process);
- f. Once the various legislative stages are completed, the Bill will be considered to be an Act and be published in the official Gazette by the Ministry of Education;
- g. The Ministry of Education must also ensure that all administrative processes related to implementing the bill are completed, such as establishing the Coordinating Working Group and Committees;
- h. At this stage, great emphasis would need to be placed on enforcement. As such, the Ministry of Education, other key Ministries and partners would need to ensure that the formal complaints' mechanism and other enforcement mechanisms are functional;
- i. The Ministry of Education and its partners should continue public education campaigns before, during and after the passing of the Act to ensure the greatest level of support for the legislation.

Importantly, the consultative nature of the policy and legislative processes highlights the potential for issues of transparency and accountability to arise, particularly where influential food and beverage industry players are involved and where information is not publicly or easily accessible. The issue of conflicts of interest and the role of Access to Information Acts and/or Integrity Acts in CARICOM States therefore becomes critical. Likewise, children, as the main beneficiaries of such rights-based policies, should be key participants in the policy process.

In the majority of Caribbean Constitutions there is an explicit right to receive information without interference.⁵⁶ 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. 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's policies and use such information to hold Governments accountable.

⁵⁶ 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."

IV. Recommendations

In light of all of the above, several recommendations arise.

At the **regional level and for the CARICOM States**, the main recommendations include the need to:

1. prioritise and adopt the revised [CARICOM REGIONAL STANDARD: Labelling of Foods – Pre-Packaged Foods – Specification \(CRS 5\)](#);⁵⁷
2. prioritise the implementation of a regional nutrition standard, such as the [PAHO NPM](#)³⁴ 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 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.

It is also recommended that **policymakers at the national level** should:

1. implement school policies, using the accompanying [Model Policy](#)²⁹ and guidance provided throughout the Report '[Regulating the Availability and Marketing of Unhealthy Beverages and Food Products in and around Schools in the Caribbean](#)'²⁸, 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 to act upon the best scientific evidence 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.

⁵⁷ <https://law.resource.org/pub/crs/ibr/cc.crs.5.2010.pdf>.

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