

Regulating “Junk Food” Marketing Aimed at Children

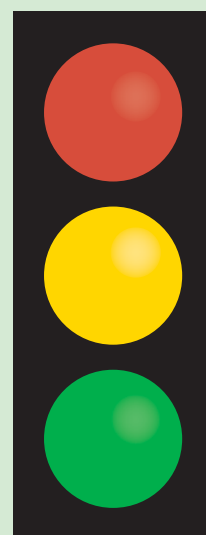
There are many ways to limit the marketing of non-nutritious foods to children. But government policies must be carefully crafted: Under the First Amendment of the U.S. Constitution, courts have extended nearly the same level of protection to commercial speech that applies to political, artistic, and religious speech.

This guide is intended to help advocates evaluate possible regulatory opportunities. Unless otherwise indicated, the policy options can be implemented at a local, state, or federal level. (Strategies identified as a **FEDERAL-LEVEL ACTION** are highly unlikely to be legally viable on a state or local level.)

Even the strategies that are most likely to withstand legal challenge should be carefully crafted and supported by facts documenting their connection to improved public health. We recommend seeking an attorney’s assistance when finalizing any policy related to the strategies described below.

GREEN: Likely to withstand a legal challenge

- Prohibiting or regulating the location of *all* billboards, regardless of content
- Limiting or eliminating specific uses of land, such as fast food sales
- Imposing fees on businesses that sell non-nutritious foods/beverages
- Levying state or federal taxes on certain foods/beverages or ingredients
- Requiring restaurants to include nutritional information for menu items
- Implementing ad campaigns that counter or parody food industry messages
- Banning the sale of non-nutritious foods/beverages at public facilities and other specified locations
- Restricting the sale of non-nutritious foods/beverages to children
- Prohibiting “toy-with-purchase” giveaways with non-nutritious foods/beverages
- Brokering voluntary restrictions on advertising for non-nutritious foods/beverages
- Implementing V-chip ratings for TV commercials (**FEDERAL-LEVEL ACTION**)
- Requiring warnings on all non-nutritious food/beverage ads (**FEDERAL-LEVEL ACTION**)
- Expanding existing labeling requirements to include easy-to-understand information (such as pie charts) indicating non-nutritious food/beverage content (**FEDERAL-LEVEL ACTION**)



YELLOW: More vulnerable to a legal challenge than GREEN

- Banning non-nutritious food advertising during federally defined “children’s programming” (**FEDERAL-LEVEL ACTION**)
- Regulating non-nutritious food advertising on websites, video games, and/or publications targeted at young children (**FEDERAL-LEVEL ACTION**)

RED: Unlikely to withstand a legal challenge under current law

- Restricting billboards advertising products that fall within a certain category of foods (such as sodas or fast food)
- Banning non-nutritious food advertising in newspapers, magazines, billboards, or any other medium that includes an adult audience
- Implementing a local or state government restriction on advertising over radio, TV, cable, internet, or other electronic media



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