

15 February 2019

Australian Competition & Consumer Commission
Digital Platforms Inquiry
GPO Box 3131
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Dear Mr Sims

JOINT SUBMISSION TO THE PRELIMINARY REPORT INTO DIGITAL PLATFORMS – PROTECTING CHILDREN FROM UNHEALTHY MARKETING

Thank you for the opportunity to provide input to this Digital Platforms Inquiry. We have come together to make this short submission to highlight our concerns regarding the current lack of regulation protecting children from unhealthy commodity marketing and to urge the ACCC to ensure that all recommendations consider the rights of children to safely use and enjoy the online spaces created by digital platforms.

As highlighted in the Preliminary Report, the current regulatory framework is failing consumers because digital platforms and online marketing are largely unregulated. Content regulation, including advertising content and marketing of unhealthy products aimed at children, is especially concerning.

The emergence and growth of marketing on digital platforms, including social media, has created new opportunities for marketers of unhealthy commodities such as alcohol, unhealthy food and gambling. Digital platforms offer several advantages to marketers – as well as being cheaper than traditional media, they enable targeted marketing, lack transparency, make parental surveillance hard (diminishing parental control) and have only minimal regulatory requirements.¹

Children and advertising

There is unequivocal evidence that children are significantly influenced by advertising and marketing. They are increasingly targeted due to their influence on parents – the nag factor – and the opportunity to establish brand loyalty and connectivity.² Children's brains are still developing and they lack the higher-level reasoning skills and life experience of adults, making them an inherently vulnerable group. For this reason it has long been accepted that any content, including advertising, directed to them or that they are exposed to in their daily lives, should be highly regulated.

Further, evidence clearly shows that young people's exposure to alcohol marketing increases their alcohol consumption and increases their likelihood to start drinking earlier.^{3,4,5} Additionally, children's exposure to unhealthy food and sugar-sweetened beverages marketing is undisputedly linked to overweight and obesity.^{6,7} The impact of unhealthy marketing on children's behaviour can also be seen in relation to gambling, with exposure to gambling advertising increasing positive attitudes to gambling and intentions to gamble.⁸

Children's online engagement

Children across Australia access digital media daily, predominantly on mobile devices, most commonly using social media and video platforms. Despite digital platforms having age requirements we know many children under the age of 13 regularly use Facebook, Snapchat and Instagram and this issue is seen globally.⁹ The number of children interacting with digital platforms continues to grow.

Marketing content has developed in sophistication, now designed to be entertaining, immersive and engaging, thereby increasing the difficulties of distinguishing an advertisement by the average adult consumer, let alone a child. As stated in a report from the World Health Organization, “The algorithms of the major platforms give preference to less overt, longer-viewed advertisements (ads), thus bypassing any media literacy children might have and amplifying the power of practices in traditional media.”¹⁰ An increasing use of native content, interactive games, influencers and other novel marketing techniques further blur the lines between content and advertising, and have proven to be highly attractive to young people.

Use of children’s data and targeted advertisements

It is clear that marketers are currently using children’s data to target them with advertisements. This raises serious ethical questions regarding the monetisation and use of minors’ data – effectively selling the use of children’s data to marketing agencies. We believe that it is unconscionable to use a minor’s data to target them with advertisements for unhealthy commodities and strongly urge the ACCC to ensure that all minors are automatically excluded from targeted advertising and to prevent the use of children’s personal data for tracking, targeted advertising and other marketing strategies.

As the Preliminary Report notes, the scope of this problem is hard to quantify, as there is very limited data available on exactly how and when people are targeted and who holds what data. The ACCC must ensure that efforts to increase transparency around data and targeting recognise the importance of monitoring marketing tactics aimed at vulnerable groups, including children. One way to achieve this would be to expand the scope and powers of the regulatory authority – outlined in recommendation four – to include a consumer facing element in addition to advertising and related business oversight.

Priorities

The lack of regulation and the insufficient protections for children against the collection and use of their personal data for unconscionable behaviour, such as targeted marketing by unhealthy commodity industries, requires immediate and decisive action. While we are supportive of a comprehensive review of the media regulatory framework (recommendation six), it is paramount that this not halt measures to protect children in the meantime, by extending regulation, increasing transparency or other methods.

In conclusion we ask that the ACCC in its final report:

1. Acknowledge that in regulating digital platforms consideration must be given to the protection of children and their ability to safely use digital platforms.
2. Recommend that regulations designed to protect children from unhealthy marketing, including unhealthy food, alcohol and gambling, are applied to all media formats, including digital platforms.
3. Recommend that all minors are automatically opted out of targeted advertising and prohibit the use of children’s personal data for tracking, targeted advertising and other marketing strategies.
4. Recommend increasing data collection on targeted advertising used by unhealthy commodity industries to promote transparency and accountability and ensure compliance, potentially through an expanded role for digital platforms’ regulatory authorities.
5. Impose sanctions and monetary penalties for regulatory breaches involving the marketing of unhealthy products to children and the use of children’s personal data.
6. Consider international cross-border strategies to protect the integrity of Australia’s regulatory system.

We wish to see a stronger focus given to the rights of the child and their experiences in interacting with digital platforms. It is the responsibility of our government to ensure that children are able to participate in the digital world without being targeted by marketers of alcohol, unhealthy food, gambling and other products potentially harmful to their health. After all, Australia has always been a strong supporter of the United Nations Convention on the Rights of the Child, where the interests of the child are paramount.

Thank you again for the opportunity to contribute to the *Digital Platforms Inquiry Preliminary Report*. We hope you will consider the recommendations outlined in our submission. If you would like any further information, please contact Trish Hepworth, Director Policy and Research at the Foundation for Alcohol Research & Education (FARE) at patricia.hepworth@fare.org.au or 02 6122 8600.

Yours sincerely

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Endnotes

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