

Report on the regional workshop on regulation of the marketing of unhealthy food products

Washington, D.C.,
15-17 October 2019



PAHO



Pan American
Health
Organization



World Health
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Summary

The Pan American Health Organization (PAHO) organized a three-day regional workshop on regulation of the marketing of unhealthy food products. The goals of the workshop were to: a) identify international legal frameworks that would make it possible to prevent excessive or illegal advertising and promotion of unhealthy food products, b) identify existing national regulatory rights protection frameworks in the Region's countries that would restrict the advertising and promotion of unhealthy food products, c) identify and analyze the structures and stakeholders needed to effectively enforce the restrictions on advertising and promotion using existing legal frameworks, d) discuss the mechanisms needed to make execution, monitoring, and compliance with restrictions on advertising and promotion more effective, and e) present successful cases of restrictions and application of sanctions to the advertising and promotion of unhealthy food products. Representatives from Brazil, Chile, Colombia, El Salvador, Mexico, Peru, and Uruguay participated in the workshop. Other participants included representatives from the Brazilian Institute of Consumer Defense, RESOLVE to Save Lives (a Vital Strategies initiative), the United Nations Children's Fund (UNICEF), the Global Health Advocacy Incubator (GHAI), the Virginia Polytechnic Institute and State University, and PAHO staff.

Prior to the workshop, a preparatory task was assigned to participants. The task included questions about policies and mechanisms related to marketing regulations and information on jurisprudence related to food marketing.

During the three-day workshop, participants learned from other countries' experiences and about international instruments and mechanisms, and drafted a road map to regulate the marketing of unhealthy food products.

During the first day of the workshop, Alejandro Morlachetti, Regional Advisor on Human Rights from the PAHO Office of Legal Affairs, gave a presentation on international human rights instruments and mechanisms on which countries should base their marketing restrictions. The GHAI representatives also presented promotion and communication materials to support regulation of the marketing of unhealthy food products. Toward the end of the first day, participants described existing national regulatory frameworks that could permit the regulation of marketing.

During the second day of the workshop, country representatives shared their experiences with the use of national legal frameworks. The rest of the day was devoted to taking the first steps to prepare a road map. Participants mentioned and described their countries' actors, structure, processes and mechanisms that are relevant to regulating the marketing of unhealthy food products.

During the third and final day of the workshop, country representatives shared their experiences with cases of legal controversy related to food marketing. Finally, participants developed the closing steps to prepare a national plan targeted at regulating or improving regulation of the marketing of unhealthy food products.

Country presentations about the road map made it possible to appreciate that many of the same actors, structures, processes, and mechanisms are shared by all countries. The most relevant included intersectoral coordination, review of existing policies in the country and other countries or organizations, improvement of all communication channels, optimization of the monitoring and evaluation system, and creation of a plan or platform to substantiate the need for regulation.

Participants used the information presented during the workshop to identify the key elements needed to adopt a policy and analyze the approaches to regulate the marketing of unhealthy food products.

Introduction

Regulation of marketing is a cost-effective measure to reduce the demand for unhealthy products, including ultra-processed products. In the majority of countries in the Region of the Americas, and throughout the world, these policies are absent or lack rigorous implementation, monitoring, and compliance.

Latin America is experiencing a rapid food transition—a process that has led to high rates of overweight and obesity in the Region. Estimates show that more than 50% of men and 60% of women will be overweight or obese by 2030. At present, the prevalence of overweight varies from 18.9% to 36.9% in children ages 5 to 11 and from 16.6% to 35.8% in adolescents. It is important to highlight that a continuous increase in the prevalence of obesity in children has been observed, which is considered to be a public health problem.

For that reason, the Pan American Health Organization (PAHO) *Plan of Action for the Prevention of Obesity in Children and Adolescents* was unanimously approved by Member States during the 53rd PAHO Directing Council. The Plan presents several lines of action, including the regulation of food and advertising. In this regard, the Region of the Americas has made progress toward the implementation of cost-effective measures to prevent and control obesity.

During the 56th PAHO Directing Council, the midterm review of the *Plan of Action for the Prevention of Obesity in Children and Adolescents* was presented. The review highlighted the progress achieved during the Plan's execution. However, the application of regulatory measures to restrict promotion and advertising for sugar-sweetened beverages, fast food, and other unhealthy food products has been adopted by only four countries in the Region, much lower than the goal established by the Organization's Member States.

This means that the majority of the Region's countries lack specific laws and regulations to restrict the promotion and advertising of food products, although many have regulatory frameworks that protect children and adolescents, ensure consumers' rights, and prevent unfair marketing practices. In many countries, these frameworks already permitted restrictions on promotion and advertising, including for unhealthy food products. As a result, it is necessary to mobilize the structures and actors involved in the monitoring and execution of these rights protection frameworks to effectively comply with restrictions on the marketing of both unhealthy food products and other products.

Methods

The workshop included technical presentations and different activities in which participants described current policies and the current situation and prepared a road map for regulations in each country.

During the morning of the first day of the workshop, Alejandro Morlachetti presented the use of mechanisms to monitor compliance with human rights to make progress toward regulating the marketing of unhealthy food products. Furthermore, representatives from the GHAI explained that consumer protection and communications support regulation of the marketing of unhealthy products. In the afternoon, participants were grouped by their country of origin and discussed and presented their countries' current policies and mechanisms to restrict or regulate the marketing of unhealthy food.

During the morning of the second day of the workshop, participants from Chile and representatives from the Brazilian Institute of Consumer Defense shared strategies to mobilize society with the goal of recognizing and denouncing illegal advertising and to improve the efficiency of the regulatory authorities' response. Then, participants carried out a group activity in which they analyzed and presented the stakeholders and studied the structure for a road map on the use and improvement of national legal frameworks to restrict the marketing of unhealthy food products. In the afternoon, participants discussed and gave presentations about their countries' regulatory processes and mechanisms.

During the morning of the third day of the workshop, participants from each country had the opportunity to present the jurisprudence related to food marketing. The delegations shared successes and challenges of processes to establish jurisprudence. The rest of the day, participants presented the steps for developing a national plan aimed at regulating or improving regulation of the marketing of unhealthy food products.

Technical presentations

Mechanisms to monitor compliance with human rights

Alejandro Morlachetti, Regional Advisor on Human Rights from the PAHO Office of Legal Affairs, gave a presentation on the use of mechanisms to monitor compliance with human rights that can be used and be critical to regulating the marketing of unhealthy food products. His presentation focused on the human rights system based on instruments established by the United Nations.

The principles and characteristics of inherent rights include all human beings without any distinctions (nationality, sex, ethnic origin, color, religion or any other condition) and are universal, irrevocable, indivisible, and interdependent. These characteristics constitute the foundation of the human rights system.

Human rights treaties are binding. Countries negotiate, sign, and ratify these treaties with the consent of the State's powers and based on the national constitution. In many countries, treaties tend to be ranked higher than domestic legislation in the hierarchy of laws.

In 1969 the Vienna Convention on the Law of Treaties was approved. The Convention codifies, with universal scope, essential issues related to the process of the celebration and entry into force of international treaties between countries, as well as their observance, application and interpretation (1). This convention is not a human rights treaty, although it is considered to be a standard and is applied in several treaties between countries.

The Universal Declaration of Human Rights (1948) consists of nine fundamental treaties, including the Convention on the Rights of the Child (see figure below). The Declaration was prepared by representatives from all of the world's regions, with different legal and cultural backgrounds, and proclaimed as a common ideal for all people and nations on 10 December 1948 by the United Nations General Assembly in Paris in Resolution 217 A (III) (2). The Declaration established, for the first time, the fundamental human rights that should be protected across the entire world. The pacts and conventions included in the Universal Declaration of Human Rights can serve as models and foundations for the development of a convention on the marketing of unhealthy products.

Universal Declaration of Human Rights (1948)



The Convention on the Rights of the Child contains specific articles that mention the right to health, adequate nutrition, international cooperation, and information and materials. This is an example of how we can find articles in which to consult different aspects related to the protection of children's health.

The work of the United Nations General Assembly has two linchpins: conventional mechanisms and unconventional mechanisms. Conventional mechanisms consist of international treaties monitored by committees. There is a committee for each of the nine fundamental treaties. These bodies receive a report from the State and civil society and alternative reports. There are also extrajudicial mechanisms that consist of individual communications and research. As a result, the committees are the treaties' monitoring bodies and are made up of experts in each subject who are designated according to their credentials. The committees' functions depend on the mandate, although in general they review the initial and periodic reports, receive individual communications, conduct research, and contribute general observations. The information

circulates through a procedure made up of five phases: a) initial report and periodic reports, b) list of issues, c) midterm review based on constructive dialogue, d) final observations, and e) implementation and monitoring.

Extra-conventional mechanisms are based on the Human Rights Council, which sets forth special procedures such as United Nations rapporteurs, individual complaints, and universal periodic review (UPR). The UPR aims to improve the human rights situation in United Nations Member States (3). It is a circular process that includes three stages: examination of the human rights situation; implementation of the recommendations received and the commitments formulated by the State under review; and presentation of information about the implementation of those recommendations and commitments and the human rights situation in the country since the previous review (3). The result of each review is reflected in a final report that mentions the recommendations that the State under review should implement prior to the next review. Three principal documents are used for the review of the State: a 20-page national report on the human rights situation in the country, prepared by the State under review; a 10-page summary that contains information on the treaty bodies, special procedures and the United Nations bodies, prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR); and a 10-page summary that contains information on civil society, prepared by the OHCHR.

With respect to the meeting, Alejandro Morlachetti emphasized General observation No. 16, which refers to the obligations of the State with regard to the impact of the corporate sector on the rights of the child, adopted by the Committee on the Rights of the Child in 2013. A key aspect of this observation is that States have obligations with regard to the impact of corporate activities and operations on children's rights that are protected by the Convention on the Rights of the Child, the related Optional Protocol on the sale of children, child prostitution, and the use of children in pornography, and the related Optional Protocol on the participation of children in armed conflicts (4). This observation is the only one that refers to the corporate sector. The observation is intended to protect children from unhealthy products and attributes this responsibility to international organizations, governments, and companies.

The speaker concluded that existing human rights instruments and mechanisms can fulfill an essential role in the formulation of public health measures targeted at restricting the marketing and commercialization of unhealthy food products and beverages to children. Governments and international organizations can and should observe the obligations derived from international law with a view to redoubling their efforts through the adoption of laws and other measures that restrict marketing and other harmful practices by private actors like companies.

Global Health Advocacy Incubator (GHAI)

The GHAI personnel explained that consumer protection and communications support regulation of the marketing of unhealthy products. There are essential elements through which consumer protection can support the regulation of marketing, including legal analysis and strategies, credible messengers, and coalition building, applied research and opinion polls, and communications.

Before initiating a campaign for marketing unhealthy products to children or the general population, a normative review will help to identify whether existing regulatory frameworks can be strengthened or whether a new law or regulation is needed, which agencies will be responsible for regulating, implementing, enforcing, and monitoring the measure, and how mechanisms to implement and apply the measure can be incorporated. This review will help to identify the interested parties and stakeholders, namely, governmental departments, national or subnational agencies, regulatory bodies, and civil society.

The GHAI team posed several questions that can serve as guidelines for the normative analysis and review. These questions include: Which governmental agencies will implement, enforce and monitor the law? Can regulation, implementation, and execution be made a reality at the national level? Do the bodies identified to implement the law have the political will to do so? How will compliance be supervised? Has marketing aimed at children been addressed through any laws or regulation? And if so, how and through which regulatory means? Are the measures effective? These and other questions from governments, civil society and the entire population will help to analyze and resolve these aspects.

No country has a law or regulation that encompasses all communications media, including digital media. Chile and the United Kingdom were the first countries to issue a policy to regulate marketing. The majority of countries and their governments still need to address the regulation of digital communications media; prohibition of the use of promotional prices, the placement of products in stores, multiple packaging strategies or other key marketing strategies for unhealthy products at points of sale; and restrictions on corporate sponsorship of events or sports teams, to prohibit companies that promote unhealthy products at local sporting events and mass national or international sporting events (5).

To make progress toward regulating the marketing of unhealthy products, it would be beneficial to have credible messengers and build coalitions. Civil society can provide an authorized voice through organizations that represent stakeholders; in particular, fathers, mothers, caregivers, and consumer associations enjoy great credibility with regard to marketing restrictions and their opinion also holds great influence. Some examples of these civic organizations are the PaPaz Network in Colombia, which represents the voices of fathers, mothers and caregivers on this subject, and the Brazilian Institute of Consumer Defense (IDEC).

Furthermore, the team determined that applied research, evidence-based documents, and opinion polls can both influence and garner support from the population. Research and surveys make it possible to identify and document industry marketing practices and propose stricter regulation based on evidence. In some countries, surveys have supported the need to regulate marketing. For example, surveys carried out in Barbados, Brazil, and Colombia demonstrated that there is support for restrictions on the marketing of unhealthy products aimed at children and skepticism regarding industry marketing practices. In general, the public thinks that the government should address the problem of obesity.

It was demonstrated that countries such as Brazil and Mexico had prepared reports on the subject of marketing of unhealthy products. In Brazil, the Food Advertising Observatory (OPA) compiled cases of advertising for Easter candy that needed to be denounced. In Mexico, they have eliminated advertising aimed at children in public spaces and removed the campaign for a brand of frosted corn flakes (Zucaritas®) from the communications media.

The GHAI team offered its support to all of the countries around consumer protection and promotion and communication activities targeted at regulating the marketing of unhealthy food products.

Country-specific information

Brazil

Regulatory framework

Brazil has laws that regulate advertising. In the National Constitution, some articles deal with restrictions on advertising. Article 220 paragraph 4 establishes that “commercial advertising for tobacco, alcoholic beverages, pesticides, medicines and therapies shall be subject to legal restrictions, pursuant to article II of the previous paragraph, and shall contain, whenever necessary, warnings about harms caused by their use” (6). The Constitution also mentions the protection of children and adolescents.

Furthermore, Law No. 9294 (15 July 1996) established some of the restrictions mentioned in the Constitution. The law establishes restrictions on the use and advertising of tobacco products, alcoholic beverages, medicines, therapies, and pesticides. Article 3 paragraph 1 mentions that advertising for these products should not suggest that they lead to well-being or health, should not associate them with civic or religious celebrations, or sporting or Olympic activities, and should not include the participation of children or adolescents (7).

The Consumer Protection Code prohibits misleading and excessive advertising. Article 6 clause IV considers consumer rights to be fundamental and protected from misleading and excessive advertising. With respect to the presentation of products, section II article 30 mentions that all advertising should be sufficiently precise in any communication type or media. Article 36 describes that advertising will be transmitted so that the consumer can recognize and identify it as such easily and immediately, and that the supplier should maintain the factual, technical, and scientific information on the products. Furthermore, article 37 paragraphs I to III prohibit all misleading or excessive advertising. They declare that it is deceitful or excessive to omit the characteristics or price of the product or service, to publicize products and services that incite violence or take advantage of the child’s lack of judgment and experience, and to omit essential information (8).

Brazil’s advertising self-regulation code establishes the general principles of advertising, the responsibilities of the suppliers, and the applicable infractions and sanctions of the responsible agency, that is, the National Board of Advertising Self-regulation. Furthermore, the code men-

tions special categories of advertising, which include alcoholic beverages (Annex A); food, soft drinks, juices, and similar beverages (Annex H); and tobacco products (Annex J). In particular, Annex H describes the measures to take with respect to food, soft drinks, juices, and similar beverages. These include avoiding any association with pharmaceutical products, refraining from encouraging excessive consumption, refraining from undervaluing the importance of a healthy, varied, and balanced diet, refraining from presenting any products as substitutes for basic foods (breakfast, lunch and dinner), and correctly presenting the characteristics of flavor, size, content, and nutritional and health benefits (9).

Furthermore, the National Health Regulatory Agency (Anvisa) is the Brazilian regulatory agency responsible for the approval and supervision of food, cosmetic, tobacco, pharmaceutical products, health services, and medical devices, among others. Anvisa is administered by the Ministry of Health through a management contract that is renewed periodically.

The entities responsible for implementation, monitoring, and compliance with consumer protection and defense laws or regulations include the National Secretariat for Consumers of the Ministry of Justice, the Consumer Protection and Defense bodies, and the Public Ministry. In Brazil, there are sanctions and penalties for companies that violate consumer rights through misleading or excessive advertising. The National Secretariat for Consumers can apply fines of up to approximately 10,000,000 reals (amount equivalent to approximately 10,000 monthly minimum wages) and counter-advertising.

Jurisprudence

In Brazil there are several examples of cases in which the food industry violated the standards that govern product advertising. Some of the best known cases are McDonald's and the Ronald McDonald clown and the Tang® beverage.

In the case of McDonald's and the clown, the company received a fine of 6,000,000 reals (approximately 6,000 minimum wages) after it was accused of using a theater play for supposedly educational purposes to enter schools and encourage children to consume its products, which are unhealthy (10). The Department of Consumer Protection determined that the practice was illegal and considered it to be excessive advertising aimed at children. The company appealed the decision and the cabinet of the National Secretariat for Consumers (Senacon) will analyze the appeal. Furthermore, the Criminal Court of the 2nd District of Barueri decided to prohibit the presentation of Ronald McDonald at any school in the state of São Paulo.

In the case of Tang®, the Mondelez company received a fine of 1 million reals. The product packaging contained the phrase "without artificial coloring," but following an investigation, it

was determined that the packaging did not report that other coloring is used in the production process. The company carried out practices in disagreement with the principles of transparency and good faith established in the Consumer Protection Code (11). The company received the fine for deceit and omission.

Road map

The delegation from Brazil, made up of representatives from the Ministries of Health and Justice, PAHO and the IDEC, described the country's situation and prepared a road map on the use and improvement of national legal frameworks to restrict the marketing of unhealthy food products.

Participants mentioned several actors that should be involved in the process and are responsible for protecting the population. These actors include members of the National Congress, the government (Ministries of Health, Justice, Education, Citizenship and Foreign Affairs, the National Secretariat for Consumers and Anvisa, among others), the Judicial Branch (district attorneys, public defenders and the Supreme Federal Court, among others), civil society (consumers, children's defense organizations, the IDEC, academics and experts, nutritionists, psychologists and physicians, among others), and international agencies (PAHO, UNICEF and the Food and Agriculture Organization of the United Nations [FAO], among others). Support from these actors can accelerate plans to regulate the marketing of unhealthy products.

Participants mentioned the structure and processes that help to raise awareness and train all actors: events, courses, partnerships, and conferences. Representatives from PAHO, the Ministry of Health, and IDEC can achieve an immediate impact through events or conferences. Educational campaigns, such as public health announcements, can be disseminated through several communications media (radio, television, virtual media, among others). PAHO, the Ministry of Health, and UNICEF have the necessary capacity and support to carry out a successful campaign. Furthermore, whenever a regulation is implemented, authorities should be monitored, in particular with respect to technology and digital communications media. The Brazilian representatives mentioned the difficulty of regulating advertising in digital media. Hence, it is necessary to have support from the government and PAHO to develop regulations for all forms of communication.

The mechanisms that should be used are consumer promotion and protection to raise the awareness of authorities, mobilize society, improve authorities' control over misleading and excessive advertising, strengthen jurisprudence, and respect the observance of regional and international treaties.

Participants discussed the steps to develop a national plan targeted at regulating or improving regulation of the marketing of unhealthy food products: any necessary preparations, knowledge management, mobilization, and monitoring systems. Preparation includes meetings and workshops like the current one with different levels of government and organizations like PAHO and IDEC. The entities that are responsible and involved should then assume responsibility, initiate action and offer courses on food advertising and consumer rights. During the next stage, PAHO, UNICEF, the IDEC, and the Ministry of Health should mobilize, identify, and plan strategies with other actors (Public Ministry and civil and academic entities, among others) to promote healthy food and prohibit the marketing of unhealthy products. Finally, all stakeholders should develop a monitoring system to ensure compliance with a regulation.



Regulatory framework

Chile has laws on advertising standards. Regulations in the country include the Health Regulations on Food (RSA) and laws No. 20606, 20869, 19496 and 20660. These laws regulate and protect the population and consumers against advertising about products such as unhealthy food and tobacco.

The RSA is the regulation that establishes the health conditions that food production, importation, preparation, packaging, storage, distribution, and sale processes should adhere to, in order to protect the population's health and nutrition and guarantee a healthy, safe food supply (12). This regulation is included in Ministry of Health Decree 977/1996. The RSA determines the specific requirements that both facilities and food products should meet to guarantee healthy products. The regulation is continuously updated given changes in the consumption and processing of products.

Law 20606 in 2012 focuses on the nutritional composition of food products and related advertising. Articles 1 and 2 establish that the information has to be complete and truthful and include the ingredients. Article 6 prohibits marketing or advertising of products that are unhealthy, such as those that contain excessive quantities of critical nutrients, which should meet the criteria established by the Ministries of Health and Education. Article 7 establishes that advertising for unhealthy products cannot be aimed at children under age 14 (13).

Law 20869 in 2015 deals with food advertising. Article 1 prohibits advertising that encourages the consumption of the food substitutes mentioned in Law 20606 on the nutritional composition of food and related advertising (14). Article 2 prohibits advertising of the food mentioned in Law 20606 on television or in movies (during established times) and during events. Advertising cannot be aimed at children under age 14.

Law 19496 is the consumer protection law, which establishes the regulation between the supplier and the consumer while also protecting the consumer's rights. Article 3 establishes the right to have truthful, timely information about the products and services offered, their price and contractual conditions; to product guarantees; to withdraw from a purchase; and to respect contractual provisions (15). Article 28 prohibits misleading or false advertising of products or services. Article 29 establishes that suppliers are obligated to label products or services.

Law 20660 on tobacco products increases the restrictions on cigarette consumption, sale, and advertising. The following are all prohibited: the sale of cigarettes at a distance of less than 100 meters from schools; the sale or free distribution of cigarettes in units or loose cigarettes; all types of tobacco advertising; smoking on live television programs broadcast during hours for minors; and labels that contain terms such as smooth, light or low in tar, nicotine or something similar (16).

The entities responsible for the implementation or regulation of the law are the Ministry of Health, the Ministry of Education, and the National Consumer Service (SERNAC). These same entities are responsible for monitoring and compliance with the law or regulation. In Chile, sanctions and penalties are enforced, as fines, with companies that violate consumer rights through misleading or excessive advertising.

Jurisprudence

In Chile, there is jurisprudence on noncompliance with laws that regulate product advertising. Some of the most notable cases are those of Kellogg's and McDonald's.

In the case of Kellogg's, it received a fine of 112,000 United States dollars (figure equivalent to approximately 359 monthly minimum wages). The company violated the Food Law and the SERNAC accused it of placing publicity aimed at children on food containers. Furthermore, advertising for Zucaritas® frosted corn flakes, one of the company's most recognized products, with Toño the Tiger as the principal character, insinuates that, after eating, the tiger carries out an extraordinary physical act. This was considered to be an act of manipulation and misleading advertising and Kellogg's removed the publicity immediately.

In the case of McDonald's, the company was sued for providing toys in the Happy Meal, one of the products aimed at children. The law prohibits this type of advertising. The company has received several fines for acts of deceit and noncompliance with the law. In Chile, problems still persist with this company.

Road map

The Chilean delegation was made up of members from the Ministry of Agriculture and the SERNAC, who described the situation in Chile and the steps on a road map on the use and improvement of national legal frameworks to restrict the marketing of unhealthy food products.

Participants mentioned several actors that should be involved in the process and are responsible for protecting the population. These actors include members of the Ministries of Health and Education, the SERNAC, scientific societies (physicians, nutritionists, and other specialists), communication and advertising specialists, and civil society. Coordination of these actors is needed to make progress on the plan to regulate the marketing of unhealthy products.

Participants mentioned the structure and mechanisms that the actors can have and included resources to improve communication among the different actors. Members from the Ministry of Health and the SERNAC can develop meetings and workshops to discuss the subject. Improved communication was noted as a priority. The actors can develop platforms that include information about products, existing regulations, complaints, and consumer perception studies. These platforms will also be useful for the general population. The responsible entities can prepare information in several languages and through educational awareness campaigns.

Participants discussed the steps for developing a national plan targeted at regulating or improving regulation of the marketing of unhealthy food products. The first step will be an evidence-based evaluation of consumers' perceptions and how to improve strategies at the national and international levels. Furthermore, the evaluation should be ongoing to update strategies that improve the situation. It is also necessary to strengthen coordination among stakeholders such as the Ministry of Health, the Ministry of Education and the SERNAC to generate an intersectoral plan. Finally, it is necessary to receive training on how to educate the population. This is necessary to reduce the consumption and purchase of unhealthy food products.



Regulatory framework

Colombia has laws on advertising standards in the country. In particular, food advertising is regulated in laws No. 9 in 1979, 1355 in 2009, 1098 in 2006, 1480 in 2011, Decree 975 in 2014, and Resolution 2092 in 2015.

Law 9 in 1979 dictated health measures, including specific subjects related to advertising. Articles 272 to 274 in particular mention food and beverage advertising. Article 272 prohibits allusions to medicinal, preventive, curative, nourishing or special properties that can give rise to false appraisals regarding the true nature, origin, composition, or quality of the food or beverage on labels or any other advertising medium. Article 273 establishes that advertising should clearly indicate the origin of the basic raw materials used in the preparation of food or beverages. This article also mentions that the use of overlapping labels, with amendments or illegible material, is prohibited in any advertising or publicity environment. Article 274 states that food or beverages with labels or advertising that assign medicinal properties will be regarded as medicines and will additionally need to comply with the requirements established for such products under the law and its regulations (17).

Law 1098 in 2006 issued the Code on Childhood and Adolescence. The goal of this law is to establish substantive and procedural standards for the comprehensive protection of children and adolescents and that the guarantee of their rights will be the obligation of the family, society and the State (18). Article 20 explains that children and adolescents have the right to protection from the marketing of products or services that are not good for mental and physical health.

Law 1355 in 2009 defines obesity and noncommunicable chronic diseases associated with obesity as a public health priority and adopts measures for their control, treatment, and prevention (19). Articles 3, 8, 9 and 11 mention the promotion and regulation of products that contain high levels of critical, unhealthy nutrients in several environments, such as educational centers. Articles 12 and 13 explain the regulation and strategy for food and beverage advertising in communications media (19).

Law 1480 (2011), which issued the Consumer Statute, has the goal of protecting, promoting, and guaranteeing the effectiveness and free exercise of consumers' rights. Article 3 establishes that consumers and users have the right to receive quality products that will not cause them harm. Article 28 regulates the cases, content, and manner in which information should be presented when provided to children and adolescents. Article 30 explains that misleading advertising is prohibited. The advertiser will be responsible for the damages caused by misleading advertising and communication media will be jointly responsible only if there is verified fraud or gross fault. Ar-

ticle 31 states that advertising for products that are harmful to health will provide clear warnings regarding their harmfulness (20).

Decree 975 in 2014 regulates the cases, content and manner in which information and advertising should be presented when aimed at children and adolescents in their capacity as consumers. Article 3 describes that information aimed at children and adolescents should be clear, truthful, sufficient, timely, verifiable, understandable, precise, and appropriate. Communications should not influence consumption decisions and will not contain any form of violence or discrimination that can affect a person's life or physical integrity. Article 4 determines that information and advertising aimed at children and adolescents should be respectful of their conditions. Information and advertising should avoid using images or representations that do not correspond to the product's reality or exaggerating the product's true size, nature, durability, and uses. They should not affirm or insinuate that consumption of a food or beverage replaces one of the day's three main meals (breakfast, lunch, and dinner) and cannot use qualitative expressions, diminutives, or adjectives with regard to the product's price (21).

Resolution No. 2092 in 2015 restricts the marketing and advertising of unhealthy products like sugar-sweetened beverages in public schools in Bogotá (22). Article 5 describes that public schools should meet specific conditions, such as offering fruits and designating a day for good nutrition. Articles 8 and 9 mention the restrictions, prohibitions, and conditions of the products that school kiosks can sell.

The entities responsible for implementation of the laws and regulations are the Ministry of Health and Protection Social (Resolutions No. 5109 and 333), the Ministry of Education, and the Ministry of Trade, Industry and Tourism. The entities responsible for monitoring and compliance with the law or regulation include: the Institute of Food and Drug Monitoring (Invima) and the Territorial Health Entities, through the risk approach and using the model of inspection, surveillance and control; the Intersectoral Food and Nutrition Security Commission (CISAN), in charge of directing national nutrition policy and coordinating the preparation of the National Food and Nutrition Security Plan; and the Industry and Trade Authority.

In Colombia, sanctions and penalties are enforced for companies that violate the imposed regulations. These sanctions include fines, warnings, seizure of products, suspension or cancellation of the registry or license, and temporary or definitive closure of the establishment or service.

Jurisprudence

In Colombia, there is jurisprudence on the food industry's noncompliance with product publicity laws. Some of the most significant examples are those of Quala S.A., with its Doña Gallina character, and Gaseosas Posada Tobón S.A., with its Manzana Postobón® product.

In the case of Doña Gallina (Mrs. Hen in English), Quala S.A. received a fine of 451,045,000 Colombian pesos (amount equivalent to 700 monthly legal minimum wages). The company was accused of violating Law 1480. The publicity generated a false, mistaken perception regarding the product's attributes for consumers. The Doña Gallina commercials said that "Doña Gallina soups are 100% creole hen," but the product had many more ingredients in addition to hen and those were not exclusively creole (23).

In the case of Manzana Postobón®, a soft drink, Gaseosas Posada Tobón S.A. received a fine of 1,490,608,800 Colombian pesos (equivalent to 1,800 current legal minimum wages). The company violated laws No. 1480 and 1437 and was accused of misleading advertising because it omitted information and used offers or incentives on the container and packaging (24).

Road map

The Colombian delegation included members from the Ombudsman's Office for Childhood, Adolescence and the Family and the National Agency for Legal Defense of the State. Members described the situation in Colombia and the steps on a road map on the use and improvement of national legal frameworks to restrict the marketing of unhealthy food products.

Participants mentioned several actors that should be involved in the process and are responsible for protecting the population. The main actors are as follows:

- The Executive Branch: Ministry of Trade (Industry and Trade Authority, SIC), Ministry of Health (Invima), Ministry of Agriculture, Ministry of Transparency and Access to Public Information, Ministry of Education, Presidency of the Republic, and the Intersectoral Food and Nutrition Security Commission (CISAN).
- Control entities: Public Ministry (General Procurator of the Nation), Office of the Ombudsman, and the Solicitor's Office.
- Civil society: consumer associations and schools.
- Expert committees: lawyers, publicists, economists, and physicians.
- Congress of the Republic: members of the Legislative Branch (senators).

Participants mentioned the structure, processes, and mechanisms, which include strengthening institutions in Colombia, regulations, developing policies, and improving communications with the population. In the country, there is a need to strengthen institutions that guarantee that the population is protected against advertising. The regulation of laws, monitoring, and control for food and beverage advertising is also needed. In Colombia, a policy or action plan is needed to ensure the regulation of all actors, including the food industry. Once a policy is established, it will be ne-

cessary to strengthen the operations of the food and nutrition security observatory. Furthermore, a plan for communications with the population is needed to educate and provide information through campaigns and to provide broader dissemination of information.

The steps that the participants discussed for developing a national plan targeted at regulating or improving regulation of the marketing of unhealthy food products included meetings, communications, an action plan, and implementation of the plan. First, an interinstitutional meeting, which includes the Ministry of Health, Invima and SIC, is needed. At this meeting, the steps and criteria for an action plan can be discussed. Furthermore, the Public Ministry and other entities can plan and lead a strategy, for example, in the area of communications, to protect the population. Then, stakeholders can propose an action plan to the President of the Republic and the Congress of the Republic and elevate it for their approval. Finally, once the action plan is approved, the stakeholders need to implement the action plan to move forward with the greater overall plan.

El Salvador

Regulatory framework

El Salvador has laws or regulations on advertising standards. There are legal provisions that regulate advertising as part of marketing. These include the Consumer Protection Law (LPC), the Medicines Law (LM), the Comprehensive Protection of Childhood and Adolescence Law (LEPINA), the Health Code, the Tobacco Control Law (LCT), and the Special Comprehensive Law.

The goal of the LPC is to protect consumers' rights and establish the National Consumer Protection System and the Consumer Protection Agency as the institutions in charge of promoting and developing consumer protections. The chapters of the law mention consumers' rights, such as product safety and quality, sanctions, and product information. In particular, article 31 regulates illicit advertising that threatens fundamental rights and misleading or false advertising, including for food and beverages (25).

The goal of the LM is "to guarantee the institutionality that makes it possible to ensure the accessibility, registration, quality, availability, efficiency, and safety of medicines and cosmetic products for the population and to facilitate better prices for the public and private user" (26). Article 60 of the law regulates the promotion and publicity of medicines and article 63 prohibits the public promotion of psychotropic and narcotic drugs (26).

The LEPINA establishes that children and adolescents have a right to comprehensive protection. Article 96 prohibits the dissemination of advertising or publicity that is inadequate or harmful for children and adolescents (27). Material is considered inadequate or harmful if it contains statements related to discrimination, violence, pornography, and the use of alcohol and drugs, among others.

The Health Code aims to develop the constitutional principles related to public health, among others. The article establishes the health authority's control over the labeling of food and beverages to prevent labels from representing a danger to health when they advertise quantities or properties that they do not have. Article 187 prohibits the advertisement of beer, wine, liquor, and tobacco products in programs aimed at a child audience (28).

The LCT aims to establish standards that regulate the importation, promotion, advertising, sponsorship, marketing and use of tobacco and related products, and to reduce the demand. Article 13 prohibits all types of advertising of tobacco and related products, except at points of sale (29).

The goal of the Special Comprehensive Law is to establish and guarantee a violence-free life for women. Article 22 establishes that advertisers, communications media including electronic, computer, and telematic media, and marketing agencies cannot disseminate content, slots or advertising that is sexist against women (30).

The aforementioned laws that exist in El Salvador do not deal specifically with regulation of the marketing of unhealthy food products, although there are laws that regulate advertising of these products or services. Existing laws can serve as guidelines for developing a regulation for the marketing of unhealthy food products.

The entities responsible for implementation of the law or its regulation include the Ministry of Health, the Sanctioning Court of the Consumer Protection Agency, the Boards for the Protection of Childhood and Adolescence, courts specialized in childhood and adolescence, and the Ministry of the Interior. The Ministry of Health is the entity in charge of applying sanitary and health standards and carrying out monitoring.

In El Salvador, companies receive sanctions and penalties if they violate the imposed regulations. These sanctions include fines (up to the equivalent of 200 urban monthly minimum wages in the industry), the seizure of products or services, and the suspension and temporary or definitive closure of the establishment or service.

Jurisprudence

In El Salvador, jurisprudence was established with a case in which an advertisement for soy milk broke the law.

In this case, the sanctioning court determined that the companies Casa Bazzini S.A. and Droguería Hermel S.A. broke the regulation on consumption when they erroneously used the term “milk” on products obtained from soybeans (31). It was determined that the advertisement was misleading and false. This violation can lead to a sanction of up to 200 urban monthly minimum wages in the industry, according to article 46 of the Consumer Protection Law.

Road map

The delegation from El Salvador included members from the Ministries of Health and Agriculture and Livestock, the Salvadoran Institute for the Integral Development of Childhood and Adolescence (ISNA), and the Consumer Protection Agency. Participants described the situation in the country and the steps on a road map on the use and improvement of national legal frameworks to restrict the marketing of unhealthy food products.

Participants mentioned several actors that should be involved in the process and be responsible for protecting the population. These actors include representatives from the Ministries of Health, Government and Territorial Development, Agriculture and Livestock, and Foreign Affairs, the Consumer Protection Agency and the Sanctioning Court, the Legal Secretary of the Presidency, the Legislative Assembly, special judges on the subject, the Supreme Court of Justice, the National Advertising Council, and civil society (consumer associations and professional associations). These actors are needed to make progress on planning related to regulations for unhealthy products and to reducing obesity in the country.

Participants mentioned the structure, processes, and mechanisms that actors can use. They recommended formation of an interinstitutional committee to review legislation and define the legal framework with responsibility and action on the subject. The committee will review existing legislation and processes for complaints, protocols, or action in the country and other countries. All communications media, including digital media, can also be incorporated and used to promote the population’s rights and gather their complaints. Furthermore, participants noted that it is necessary to have monitoring and evaluation mechanisms, develop and set up an advertising observatory, and coordinate and collaborate with interested sectors.

Participants discussed the steps for developing a national plan targeted at regulating or improving regulation of the marketing of unhealthy food products. The first step is to form an interinstitutional committee that will be responsible for compliance, monitoring, and evaluation of the regulation. Then, the committee will prepare a situational assessment of the regulation of marketing of unhealthy food products at the national and international levels. Once the committee concludes the diagnosis phase, there should be a consultation with relevant sectors

and actors such as the committee, international organizations and civil society and strategies should be developed to address the issue. Finally, the committee needs to prepare and implement an action plan to ensure compliance with the country's agenda for nutrition and noncommunicable diseases.

Mexico

Regulatory framework

Mexico has laws on advertising standards. The country's regulations include those that implement the General Law on Health regarding Advertising, the Self-regulation Code for Food and Non-alcoholic Beverage Advertising Aimed at a Child Audience (the PABI Code); an agreement that established the general guidelines for the sale and distribution of food and beverages prepared and processed at schools in the national educational system; guidelines for food and beverages on television and in movies; and the Official Mexican Standards (NOM) 051-SCFI/SSA1-2010 and 051-2019. These regulations protect the population and consumers against product advertising.

The Regulations implementing the General Health Law establish health control of the advertising of products, services, and activities included in the General Health Law. Article 6 of the Regulations prohibit publicity that indicates or induces a person to explicitly or implicitly believe that the product has ingredients or properties that it lacks (32). Article 7 establishes that advertising will be guiding and educational regarding the product or service in question, such as by containing information on the product's specifications. Article 10 establishes the health legends or messages that should appear in advertising for products, services, and activities (32). Article 27 prohibits the mention of supplementary food products as dietary and will establish precautionary messages regarding the possible effects that their consumption could initiate.

The purpose of the PABI Code from 2009 is to establish the principles, guidelines, mechanisms for verification and compliance for the marketing of food and non-alcoholic beverages aimed at a child audience (33). Advertising aimed at child audiences should be positive and understandable and include factual information. This advertising should not be misleading, false, or excessive.

the general guidelines.

A national agreement reached in 2014 establishes the general guidelines for the sale and distribution of food and beverages prepared and processed at schools in the national educational system. Title II (first chapter) mentions correct nutrition principles, which includes a complete, balanced, sufficient, and varied diet that contains healthy foods. Furthermore, the principles mention the need to promote these healthy foods (34). Title V (sole chapter) prohibits the supply or preparation of unhealthy products and products with high critical nutrient content and anticipates sanctions if suppliers break the agreement.

The Guidelines for Food and Beverages in Television and Cinema (2014) specify the nutritional and advertising criteria that food and non-alcoholic beverage advertisers should observe to publicize their products on regular and restricted television and in movie theaters, in accordance with the provisions in articles 22 bis, 79 (fraction X) and 86 (fraction VI) of the General Health Law Regulation regarding Advertising (35). The restricted days and times on television are Monday to Friday from 00:00 to 14:30 and 19:30 to 23:59 and Saturdays and Sundays from 00:00 to 7:00 and 19:30 to 23:59.

NOM 051-SCFI/SSA1 was approved in 2010 and modified in 2019. This standard establishes the general labeling specifications for commercial and health information on prepackaged food and non-alcoholic beverages (36, 37). It establishes that it is obligatory to declare the content of the product, such as the amount of sodium, fats, and sugars, among other components. This standard also establishes mandatory frontal labeling for nutritional warnings on all food and beverage packaging and prohibits the use of nutritional statements and advertising elements applied on product labels that contain nutritional warnings.

The entities responsible for implementation and monitoring of the law or regulation include the Ministry of Health, the Council for Self-regulation and Ethics in Advertising (CONAR), the Office of the Federal Procurator for Consumers (Profeco), the Federal Commission for Protection against Sanitary Risks (Cofepris), the General Directorate of Standards, the Federal Commission for Consumer Protection, the Committee of School Consumption Establishments, and education and health authorities. Furthermore, academic institutions and other agencies such as the National Institute of Public Health, the Consumer Court and the ContraPESO (CounterWEIGHT) Foundation have investigated and carried out monitoring on this subject.

In Mexico, companies that violate the regulations receive sanctions and penalties that include fines, although this does not apply for all standards.

Jurisprudence

The participant from Mexico mentioned the case of the McDonald's Happy Meal.

In this case, McDonald's received a sanction of over 684,000 Mexican pesos (figure that amounts to approximately 218 monthly minimum wages). Profeco announced that it sanctioned McDonald's for misleading advertising in the Happy Meal. Profeco ordered the company to suspend the advertising due to the inclusion of fruit as a dessert and the use of imprecise images on the Happy Meal (38).

Road map

The delegation from Mexico included some members from the National System of Comprehensive Protection for Girls, Boys, and Adolescents and described the situation in the country and the steps on a road map for the use and improvement of national legal frameworks to restrict the marketing of unhealthy food products.

The participant mentioned several actors that should be involved in the process and be responsible for protecting the population. These actors include representatives from the government (Ministries of Health, Education and Agriculture, Secretariat of Finance and Public Credit, Profeco, Cofepris, CONAR, Foreign Trade, and Secretariat of Economy), civil society (academic and philanthropic institutions), international agencies (FAO, UNICEF, PAHO and the World Trade Organization), consumers and private industry.

The structure that the participant presented began with identification of the stakeholders' roles, power, capacity, and political will. Stakeholders can develop evidence-based tools for regulations or policies. International organizations can prepare reports about Mexico and coordinate with the government on the development of educational campaigns for the population. Campaigns will include information on healthy products and how to correctly read labels. Furthermore, stakeholders need to develop a transparent, accessible, and cost-effective system and monitor regulations on the marketing of unhealthy food products.

The steps described for a national plan targeted at regulating or improving regulation of the marketing of unhealthy food products include intersectoral coordination, evaluation of regulations, and development of a platform. First, all sectors should coordinate to discuss the issue. Next, it is necessary to evaluate existing regulations, laws, and complaints in the country and at the international level. It is also necessary to strengthen and update the country's standards. Raising awareness about the information, through interactive campaigns or access to information, is im-

portant for civil society, decision-makers, the public, government, and industry. This information can protect and empower the population, specifically children and adolescents. Finally, authorities should develop a transparent platform that includes information, such as regulations and laws. Furthermore, it is necessary to have support from all levels of government and international organizations to move forward with plans to reduce obesity in the country.



Regulatory framework

Peru has laws on advertising standards. There are provisions that guide the evaluation of unfair competition in advertising activity related to healthy diet, energy efficiency, tobacco, and alcohol.

Legislative Decree No. 1044 passed the Law on the Suppression of Unfair Competition, which prohibits and sanctions acts of unfair competition and violations of standards that regulate commercial advertising (39).

In the case of healthy diet, there are several laws and decrees that protect children and adolescents against advertising and promotion. Law No. 30021 has the goal of effective promotion and protection of children's and adolescents' right to public health and adequate growth and development (40). Furthermore, food and non-alcoholic beverages with high critical nutrient content should meet the recommendations of the World Health Organization (WHO). Article 8 explains that advertising for food and non-alcoholic beverages should not encourage excessive consumption of unhealthy products, generate false expectations and use arguments or techniques that can cause confusion regarding nutritional benefits (41). Supreme Decree No. 017-2017-SA approves the regulation of Law 30021 and establishes the provisions and actions that should be implemented for its application and compliance (41). Supreme Decree No. 012-2018-SA approves the Manual on Advertising Warnings within the framework of the provisions in Law 30021. This decree establishes the technical specifications for designating advertising warnings, including octagonal-shaped nutritional warning labels, on processed food that surpasses established technical parameters and in communications media, according to the law's regulation (42).

Law No. 27345 is the Law to Promote Efficient Use of Energy and declares the efficient use of energy as of national interest, with the goal of ensuring its supply, protecting the consumer, pro-

moting the competitiveness of the domestic economy, and reducing the negative environmental impact of energy use and consumption (43). Article 3 establishes that the population has the right to sufficient, adequate, and truthful information on labels and containers and in advertising. Supreme Decree No. 009-2017-EM approves the technical regulation related to information on energy efficiency on labels in order to protect the consumer and reduce the negative environmental impact of the use and consumption of energy products (44).

In the case of tobacco products, Law No. 28705 regulates the prevention and control of the risks of tobacco use. The goal of this law is to protect the population against the consequences of tobacco use and to ensure that tobacco products are marketed responsibly (45). Supreme Decree No. 015-2008-SA approves the regulation of this law and guarantees both protection of the population and companies' compliance with regulations for both the information presented and advertising (46).

In the case of alcoholic beverages, Law No. 28681 regulates marketing, consumption, and advertising of these products. Article 7 establishes that container labels should have the following legend in legible characters: "Drinking alcoholic beverages in excess is harmful." Article 9 prohibits the promotion or distribution of alcoholic beverages at events for children and adolescents and the promotion or distribution of toys that allude to alcoholic beverage products (47). Supreme Decree No. 012-2009-SA approves the regulation of this law, which ensures compliance with obligations to protect the population and children and adolescents (48).

Current legislation in Peru, such as Law No. 29459 that regulates pharmaceutical products, medical devices and health products, permits regulation focused on the marketing of unhealthy products aimed at the entire population.

The entities responsible for the implementation of the law or regulation are the Ministries of Health, Energy and Mines, and Agriculture and Production, the Commission for the Suppression of Unfair Competition, the Commission for the Supervision of Unfair Competition and the Commission for Consumer Protection from Unfair Competition of the National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI). The INDECOPI commissions carry out daily monitoring of advertising announcements that are disseminated in any type of communication platform or media, and the Management Office for Supervision and Oversight supports all of the commissions.

In Peru, sanctions and penalties are applied to companies that violate the imposed regulations and include fines (according to the case at hand) and the temporary or definitive closure of the establishment or service.

Jurisprudence

In Peru, there is jurisprudence for product advertising due to industry noncompliance with the law. One of the best known cases is that of Ambrosia Gomas (gum drops).

In this case, the company Molitalia S.A. was accused of using images of fruits (pear, orange, raspberry, strawberry, grape and pineapple) when these products did not contain natural fruits. The case's final resolution ruled against the industry due to violation of Legislative Decree No. 1044. Accordingly, Molitalia S.A. was fined the equivalent of three tax units and was ordered, as a corrective measure, to definitively and immediately terminate the advertising on the product's packaging (49).

Road map

The participant from Peru, who is a member of INDECOPI, described the situation in the country and the steps on a road map on the use and improvement of national legal frameworks to restrict the marketing of unhealthy food products.

The participant mentioned several actors that should be involved in the process and be responsible for protecting the population. These actors include representatives from the Ministries of Health, Production and Agriculture, the General Health Directorate, the Association of Consumers, the National Council for Self-regulation in Advertising (CONAR), the Government Procurement Supervisory Agency (OSCE), local municipalities, communications media, food influencers on social media, and INDECOPI.

The structure, processes, and mechanisms that actors can develop include holding meetings, designing intersectoral cooperation, preparing reports, and using communications media. The government needs to coordinate and hold a meeting to discuss the budget, the level of personnel, and inspections to regulate and develop a law or regulation on marketing. Furthermore, it should consider hiring specialized personnel. After this step, the government needs to review and improve standards that exist in all sectors on regulation of the marketing of all products in the country. Furthermore, informative pamphlets, campaigns or other forms of communication can be prepared for the population and companies to provide education and transmit information.

The steps described for developing a national plan targeted at regulating or improving regulation of the marketing of unhealthy food products include meetings, agreements, monitoring and eva-

luation. First, it is necessary to coordinate interinstitutional meetings to discuss and direct attention toward the subject. Then, INDECOPI, PAHO, and UNICEF can sign an agreement for technical cooperation for the country. Next, the government, INDECOPI, PAHO, and influencers can collaborate to develop communications at the national level, such as information campaigns on healthy products and foods, with the goal of reducing the consumption of unhealthy products. The Ministry of Health and INDECOPI can monitor and evaluate the campaigns and develop reports on the impact and results to share with international organizations (FAO, PAHO and UNICEF, among others). It is necessary to have support from all levels of government and international agencies.



Regulatory framework

Uruguay has laws to regulate advertising. Current regulations in the country include laws No. 17250, 19307, 19140 and 19244 and Decree 272/018 (29 August 2018).

Law 17250 in 2000 is a law about consumer relationships and consumer protections. Article 6 establishes that the protection of life and health, and sufficient and clear information, are basic consumer rights. Article 7 establishes that “all products and services whose use can imply a risk for consumers’ health or safety beyond the risk that would be considered normal, due to their nature or purpose, should be marketed while observing established standards or types” (50). Article 17 establishes that the presentation of products should provide clear, easily legible information about their characteristics and, among other elements, the risks they present for consumer health. The information described in this article, as well as on any labels, will be provided as established in the regulation. Article 24 establishes that all advertising has to be transmitted and disseminated in a way that the consumer identifies it as such. Misleading advertising and advertising whose content omits essential information or includes partially false information are prohibited (50).

Law 19140 in 2013 establishes protection of children’s and adolescents’ health through the promotion of healthy eating habits. Article 4 prohibits advertising in educational establishments when it relates to groups of food and beverages that are not included on a list prepared by the Ministry of Public Health (51).

Law 19307 in 2014 is the law for media that regulates the delivery of services on radio, television, and other audiovisual communication media. Article 32 establishes that children and adolescents are protected from advertising through all audiovisual communication services throughout the week, between 6:00 and 22:00. Article 33 establishes that advertising messages should not cause moral or physical damage to children and adolescents and should consider the WHO recommendations when advertising food with high fat, salt, or sugar content (52).

The entities responsible for the implementation of the law or regulation include the Consumer Protection Area of the Directorate-General for Trade, of the Ministry of Economy and Finance, the Ministry of Public Health, and the Ministry of Industry, Energy and Mining, through the Audiovisual Communication Council, with technical assistance from the Regulatory Unit for Communication Services (Law 19307). The Consumer Protection Area and the Ministry of Public Health are charged with supervision of laws 17250 and 19140.

In Uruguay sanctions and penalties are applied to companies that violate the regulations imposed. These sanctions include fines, counter-advertising, closures, and suspension as providers of the State. For Law 19140, there is no sanctioning mechanism.

Jurisprudence

The participants from Uruguay did not mention specific legal cases, although they clarified that the inclusion of images and descriptions of fruits or ingredients on products that do not contain them is illegal in the country. If companies violate the laws or regulations, they can receive sanctions and penalties.

Road map

The delegation from Uruguay, made up of representatives from the Ministry of Public Health and the Ministry of Economy and Finance (Consumer Protection), described the situation in their country and the steps on a road map on the use and improvement of national legal frameworks to restrict the marketing of unhealthy food products.

Participants mentioned several actors that should be involved in the process and be responsible for protecting the population. These actors include representatives from the Consumer Protection Area, the Ministries of Public Health, Education and Culture and Industry, Energy and Mining, the

Uruguayan Institute for Children and Adolescents (INAU), the Regulatory Unit for Communication Services (URSEC), the National Public Education Administration (ANEP), the Audiovisual Communication Council, and the Council of Governors. These actors are necessary to move forward with plans to regulate unhealthy products and reduce obesity.

The structure that participants mentioned begins with the development of a Consumption and Health Management Committee that includes the aforementioned actors, in particular the Ministry of Public Health and the Consumer Protection Area. The Committee's inclusion of the National Honorary Policy Coordinating Board to fight overweight and obesity, created by Decree No. 369/018, can also be considered. Furthermore, it is necessary to develop rules for operations, such as announcements, frequency, integration, and approach to the issues in this plan. It is also necessary to prepare reports and communications in all communications media about information on healthy products, complaints, and regulations of the marketing of unhealthy products.

Participants analyzed the steps to develop a national plan targeted at regulating or improving regulation of the marketing of unhealthy food products. First, a report should be prepared that details the information (laws, regulations, complaints, etc.) that exists in the country. This report will serve as a foundation for the plan. Then, it would be necessary to propose to national authorities the benefit of creating a committee to manage food and beverage advertising aimed at children. Finally, authorities should plan coordination at the international level, which includes the technical committee's plan, clear labeling of package content, product regulation on flights, at movie theaters and in schools, and communications with population-relevant information.

Conclusions

The workshop provided a space to learn about different policies that exist to regulate the marketing of unhealthy food products in the participating countries and other countries. Furthermore, it allowed government staff members and officials, subregional organizations and international organizations to share existing national and international regulatory mechanisms, instruments and frameworks that are already in use or could be used to prevent excessive or illegal advertising practices for unhealthy food products and that could serve to develop new policies or amend other existing policies.

Participants proposed a road map for regulating the marketing of unhealthy food products in their countries and identified the actors, structures, processes, and mechanisms needed to effectively enforce the restrictions imposed on the advertising and promotion of unhealthy food products. There were numerous points in common across the countries' road maps. The most relevant are intersectoral coordination (e.g., health authorities, consumer protection authorities), review of existing policies, execution of these policies in the country and other countries, improved communication about existing legislation (e.g., campaigns and reports), an improved monitoring and evaluation system (e.g., expand and improve complaint mechanisms), and the creation of plans or platforms that can support specific regulatory mechanisms to restrict advertising for unhealthy products.

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Annexes

Concept note

Regional workshop on regulation of the marketing of unhealthy food products

15-17 October 2019

Pan American Health Organization
Washington, D.C. (United States of America)

Background

Noncommunicable chronic diseases (NCDs) are the leading cause of death in the world, represent 80% of all deaths in the Region of the Americas, and are considered to be a threat to the development and well-being of the Region's countries. The primary causes of this significant burden of disease in the Americas are overweight and obesity, hypertension, and diabetes.

Latin America is experiencing a rapid food transition, which has led to high rates of overweight and obesity in the Region. Estimates show that more than 50% of men and 60% of women will be overweight or obese by 2030. At present, the prevalence of overweight varies from 18.9% to 36.9% in children ages 5 to 11 and from 16.6% to 35.8% in adolescents. It is important to point out that there has been a continuous increase in the prevalence of obesity in children, which is considered to be a public health problem.

For this reason, the Region of the Americas has moved forward with the implementation of cost-effective measures to prevent and control obesity. These measures are aimed at child audiences in particular, with the goal of forming eating habits during childhood that will also impact adulthood. They also consider children's vulnerability when making healthy food choices and the rapid increase in obesity in this phase of the life course in comparison with other age groups.

This approach aligns with the strategic lines of action for comprehensive public health interventions whose goal is to contain the progression of the obesity epidemic, as outlined in the Pan American Health Organization (PAHO) *Plan of Action for the Prevention of Obesity in Children and Adolescents*, which was unanimously signed by the countries of the Americas during the

53rd PAHO Directing Council. The plan's lines of action, in addition to primary health care and surveillance, include: application of fiscal policies such as taxes on sugar-sweetened beverages and food that has high energy density and low nutritional quality; regulation of food advertising; nutritional labeling of food to promote healthier food choices; improvement of food settings and promoters of physical activity, in particular school settings in favor of healthier diets; facilitation of opportunities to increase the consumption of nourishing food and physical activity; and promotion of breastfeeding and an adequate, healthy diet.

In a broader context, application of the *Plan of Action for the Prevention of Obesity in Children and Adolescents* converges with the commitments anticipated in the Rome Declaration, assumed under the framework of the Second International Conference on Nutrition (ICN2) and the United Nations Decade of Action on Nutrition (2016-2025), related to the eradication of all forms of malnutrition.

Regulation of marketing is one of the most cost-effective measures for reducing the demand for unhealthy products, including ultra-processed products. However, in the majority of countries in the world and the Region, such policies are absent or lack more rigorous implementation, monitoring, and compliance.

During the 56th PAHO Directing Council, the midterm review of the *Plan of Action for the Prevention of Obesity in Children and Adolescents* was presented. The review highlighted the progress achieved during the Plan's execution. However, the application of regulatory measures to restrict promotion and advertising for sugar-sweetened beverages, fast food, and other unhealthy food products has been adopted by only four countries in the Region, much lower than the goal established by the Organization's Member States.

As a result, although the majority of countries do not have specific laws and regulations that restrict the promotion and advertising of food products, many have regulatory frameworks that protect childhood and adolescence, ensure consumers' rights, and prevent unfair marketing practices. These frameworks would make it possible for many countries to restrict promotion and advertising, including those for unhealthy food products. As a result, it is necessary to mobilize the structures and stakeholders involved in the monitoring and execution of these rights protection frameworks in order to effectively enforce restrictions on marketing, including for unhealthy food products.

Goals of the meeting

The goals of the meeting were as follows:

- To identify international legal frameworks that would make it possible to prevent excessive or illegal practices related to the advertising and promotion of unhealthy food products.
- To identify the national regulatory rights protection frameworks that exist in the Region's countries that would make it possible to restrict the advertising and promotion of unhealthy food products.
- To identify and discuss the structures and stakeholders that are involved and needed to effectively enforce the restrictions on advertising and promotion within existing legal frameworks.
- To discuss the mechanisms needed to make the execution, monitoring, and compliance with restrictions on advertising and promotion more effective.
- To present successful cases of restrictions and applications of sanctions to advertising and promotion of unhealthy food products.

Participants

Meeting participants were as follows:

- Government staff and officials responsible for the regulation of food products.
- Government staff and officials from the judicial branch responsible for advocating in defense of the State.
- Government staff and officials from childhood and adolescence protection institutions.
- Government staff and officials from consumer protection institutions.
- Representatives of academic institutions and civil society organizations that act in protection of children and adolescents and in defense of consumers.

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Program

Regional workshop on regulation of the marketing of unhealthy food products

15-17 October 2019

Pan American Health Organization

525 Twenty-third Street, NW, Washington, D.C. (United States of America)

15 October 2019 (Room C)

Day 1		
08:45 – 09:15	Participant registration	
09:15 – 09:25	Welcoming remarks	Anselm Hennis
09:25 – 09:35	Group photo	
09:35 – 09:45	Structure of the workshop (goals, methods, and expected results)	Fabio Da Silva Gomes
09:45 – 10:30	Existing international regulatory frameworks that permit the regulation of marketing	Alejandro Morlachetti
10:30 – 10:50	Break	
10:50 – 11:50	Summary and activity: Existing international regulatory frameworks that permit the regulation of marketing	All participants
11:50 – 12:30	Promotion and communication to support regulation of the marketing of unhealthy food products	Global Health Advocacy Incubator (GHAI)
12:30 – 14:00	Lunch	
14:00 – 14:45	Group activity on existing national regulatory frameworks that could permit regulation of the marketing of unhealthy food products	All countries
14:45 – 15:00	Break	
15:00 – 17:00	Country presentations and discussion about existing national regulatory frameworks	All countries

16 October 2019 (Room C)

Day 2		
09:00 – 09:15	Summary of day 1	Fabio Da Silva Gomes.
9:15 – 10:15	Activity: Use of national legal frameworks to restrict the marketing of unhealthy food products, actors, and structures	Chile Observatorio de Publicidad de Alimentos (Brasil)
10:15 – 11:15	Activity: Road map on the use and/or improvement of national legal frameworks to restrict the marketing of unhealthy food products, actors and structures	All countries
11:15 – 11:40	Break	
11:40 – 12:30	Country presentations and discussion about the road map to use and improve existing mechanisms	All countries
12:45 – 14:00	Lunch	
14:00 – 15:30	Country presentations and discussion about the road map to use and improve existing mechanisms (cont.)	All countries
15:30 – 15:45	Break	
15:45 – 17:00	Activity: Road map on the use and/or improvement of national legal frameworks to restrict the marketing of unhealthy food products, processes, and mechanisms	All countries

17 October 2019 (Room C)

Day 3		
09:00 – 09:15	Summary of day 2	Fabio Da Silva Gomes
9:15 – 10:30	Country presentations and discussion about processes and mechanisms for the road map to use and improve national legal frameworks	All countries
10:30 – 11:30	Cases of legal controversies related to food product marketing	All countries
11:30 – 11:45	Break	
11:45 – 12:45	Activity: National plan to regulate or improve regulation of the marketing of unhealthy food products	All countries
12:45 – 14:15	Lunch	
14:15 – 15:30	Country presentations and discussion of a national plan to regulate or improve regulation of the marketing of unhealthy food products	All countries
15:30 – 15:45	Break	
15:45 – 16:45	Conclusions	Fabio Da Silva Gomes
16:45 – 17:00	Closing remarks	Adriana Blanco

Participants

Country, institution, or international organization	Name and surname	Position
Brazil	Luisete Moraes	<i>National Consultant, Health Determinants, Noncommunicable Chronic Diseases and Mental Health Technical Unit, Pan American Health Organization</i>
	Tatiane Nunes Pereira	<i>Representative, Ministry of Health</i>
	Jacqueline Salme Raffoul da Costa	<i>Chief of the Division of Administrative Sanctions, National Secretariat for Consumers, Ministry of Justice and Public Safety</i>
Chile	Karla Carmona Araya	<i>International Affairs Area, Ministry of Agriculture</i>
	Jean Pierre Couchot Bañados	<i>National Assistant Director, National Consumer Service</i>
Colombia	Adriana Herrera Beltrán	<i>Assistant to the Ombudsman for Childhood, Adolescence and the Family</i>
	César Augusto Méndez Becerra	<i>Director of National Defense, National Agency for Legal Defense of the State</i>
El Salvador	Sandra Carolina Quintanilla de Guevara	<i>Specialist in Early Childhood and Technical Assistant, Salvadoran Institute for the Integral Development of Childhood and Adolescence</i>
	José Luis Rodríguez Miranda	<i>Legal Collaborator I, Environmental Health Bureau, Ministry of Health</i>
	Ricardo Arturo Salazar Villalta	<i>President, Consumer Protection Agency</i>
	Boris Rubén Solorzano	<i>Legal Counsel, Ministry of Agriculture and Livestock</i>
México	Julia Pantoja Peschard	<i>Assistant Director of Federal Authorities, Executive Secretariat of the National System of Comprehensive Protection for Children and Adolescents</i>
Perú	Rosanna Bautista Zeremelco	<i>Executive, Commission for the Supervision of Unfair Competition</i>
Uruguay	Álvaro Fuentes	<i>Consumer Protection, Ministry of Economy and Finance</i>
	Luis Galicia	<i>Consultant, Noncommunicable Diseases Program Area, Ministry of Public Health</i>

Brazilian Institute of Consumer Defense	Igor Britto	<i>Director of Institutional Relations</i>
Global Health Advocacy Incubator (GHA)	Kyra Berasi	<i>Legal Advisor</i>
	Ch'uyasonqo Lane	<i>Director of Advocacy</i>
	Kathy Shats	<i>Associate Legal Director</i>
	Claire Wingfield	<i>Director of Advocacy</i>
Pan American Health Organization	Anselmi Hennis	<i>Director, Noncommunicable Diseases and Mental Health Department</i>
	Ignacio Ibarra	<i>Regional Legal Advisor, Health-related Law</i>
	Alejandro Morlachetti	<i>Regional Advisor on Human Rights, Office of Legal Affairs</i>
United Nations Children's Fund	Yvette Fautsch	<i>Specialist in nutrition</i>
	Jo Jewell	<i>Specialist in nutrition and prevention of childhood overweight and obesity</i>
Virginia Polytechnic Institute and State University	Sofía Rincón Gallardo	<i>Doctoral Student, Department of Human Nutrition, Foods, and Exercise</i>
Vital Strategies	Funke Ajenikoko	<i>Program Assistant, RESOLVE</i>
	Nandita Murukutla	<i>Vice President, Global Policy and Research</i>

Pre-workshop questions

- 1.** Does your country have a law or regulation to regulate marketing? Does it also cover food and beverages? Describe the law or regulation, if one exists, and provide the links to the laws related to any type of marketing restrictions for any specific or general issue (e.g., pornography, weapons, tobacco, alcohol and misleading advertising of any kind).
- 2.** Describe which marketing techniques and instruments are restricted (e.g., television, radio, Internet, and sponsorship).
- 3.** Who is responsible for implementation of the law or regulation that addresses marketing?
- 4.** Describe the monitoring and compliance mechanisms (e.g., systematic monitoring, complaints, and actors responsible).
- 5.** What are the sanctions or penalties for those who do not comply?
- 6.** What other application mechanisms does your country have to guarantee compliance with the policies?
- 7.** Do you think that your country's legislation on the regulation of marketing could improve? If so, explain which aspects can be improved and possible actions toward improvements.

Activities during the workshop: questions

- 1.** Are there national or subnational laws and regulations in your country that can restrict marketing in general or for specific products (e.g., consumer protection, child protection, unfair market competition, and weapons) and could be used to restrict the marketing of unhealthy food products?
- 2.** How does the accountability system work? (e.g., complaints, monitoring, and sanctions)
- 3.** How could these existing mechanisms be used to restrict the marketing of unhealthy food products?
- 4.** Which actors should be involved?
- 5.** What structures are needed?
- 6.** How can the use of current legislation be improved in your country to restrict the marketing of unhealthy food products?
- 7.** What processes and mechanisms could be explored? Which ones could be improved and how?
- 8.** How could the processes and mechanisms be made friendlier for the population?

The regulation of marketing is one of the most cost-effective measures for reducing the demand for unhealthy products, including ultra-processed products. Nevertheless, in the majority of countries in the world and the Region of the Americas, such policies are absent or lack rigorous implementation, monitoring, and compliance. During the 56th Pan American Health Organization Directing Council, the midterm review of the *Plan of Action for the Prevention of Obesity in Children and Adolescents* was presented. The review emphasized that advances in the plan's execution have been achieved. However, the application of regulatory measures to restrict the promotion and advertising of sugar-sweetened beverages, fast food, and other unhealthy food products has been adopted by only four of the Region's countries—much lower than the goal established by the Organization's Member States. Although most countries still lack specific laws and regulations to restrict the promotion and advertising of food products, many have regulatory frameworks to protect children and adolescents, ensure consumers' rights, and prevent unfair marketing practices. These frameworks can contribute to many countries' restrictions on promotion and advertising of unhealthy products, including food products, and establish and strengthen the specific laws and regulations needed to effectively eliminate the advertising and promotion of unhealthy food products. This report presents the experiences of countries in the Region when taking action in this field and the paths that could be outlined to strengthen existing regulatory frameworks and develop additional needed frameworks.

PAHO



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