

# Submission to the Privacy Act Review Report

**Response to consultation  
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## About Dietitians Australia

Dietitians Australia is the national association of the dietetic profession with over 8500 members, and branches in each state and territory. Dietitians Australia is the leading voice in nutrition and dietetics and advocates for food and nutrition for healthier people and healthier communities.

The Accredited Practising Dietitian (APD) program provides an assurance of safety and quality and is the foundation of self-regulation of the dietetic profession in Australia. Accredited Practising Dietitians have an important role in the food system to support consumers in making healthy food choices.

## Background

Dietitians Australia welcomes and acknowledges the importance of the Privacy Act Review Report. Dietitians Australia's key focus of the report is on the use of children's data and personal information to market unhealthy foods and diets. Children should be able to use digital media without being exposed to and bombarded with sophisticated digital marketing campaigns for unhealthy food.

There is clear and robust evidence that children's exposure to unhealthy food marketing influences their food choices, influences their diets, and can contribute to poor diets, overweight and obesity.

The Privacy Act has an important role to play in protecting children online and creating an environment that restricts commercial exploitation of children and enables children to participate as digital citizens, while having their best interests protected.

Dietitians Australia strongly supports a strengthened Privacy Act and specifically commends the strengthening of proposals around privacy policies and collection notices (proposal 10.1-10.3), fair and reasonable personal information handling (proposal 12.1-12.3), children (16.1-16.5 – specifically 16.5, the development of a mandatory Children's Online Privacy Code by the Information Commissioner) and enforcement (proposal 25).

Listed below are the recommendations and rationale for the importance of broad government-led regulation to better protect children (and all Australians) from unethical marketing practices, including the collection, exploitation, and disclosure of their personal information to market commodities such as unhealthy foods and beverages.

## Recommendations

This review of the Privacy Act Review is an important opportunity for the Australian Government to create safe digital environments where privacy, health and well-being is upheld.

Protecting children from unethical marketing practices is a human rights issue: governments that are a party to the UN Convention on the Rights of the Child have a duty to protect, respect and fulfil children's right to health.<sup>1</sup> The marketing of unhealthy foods and beverages is a child rights matter, encompassing rights such as the right to health, privacy, and information.

Certain practices should not be permitted in relation to children, including:

- collecting, using, or disclosing children's personal information for the purposes of commercial marketing, particularly marketing by harmful industries, including unhealthy food and beverages. Parental consent should not be an option for enabling this.
- harmful industries, including unhealthy food and beverages, cannot collect, use, or disclose children's personal information for the purposes of analysing or influencing children's

behaviour or decisions in any circumstances. No exceptions should apply, and parental consent cannot be obtained to enable this.

- tracking, profiling, or monitoring the behaviour of children for commercial purposes online.

## Rationale

Half of all global advertising spending is now spent online, making digital media platforms increasingly important spaces for commercial marketing.<sup>2</sup>

Children's screen time has shifted from mainly broadcast media to phones, computers, and tablets, where the main social media platforms are flooding cyberspace with advertising.<sup>3</sup>

There is unequivocal evidence on the extent, nature, and effects of the marketing to children of products high in fats, sugar, and salt, which shows that advertising affects children's eating and drinking behaviour, preferences, requests,<sup>4-5</sup> nutrition knowledge,<sup>6</sup> increase pester power and changes in household purchasing and food intake.<sup>7-8</sup>

Cognitive defences continue to develop through the teenage years, meaning that children require protection from media such as internet gaming and advertising.<sup>9-10</sup>

There is international consensus calling for marketing restrictions to be implemented, including the World Health Organisation's Set of Recommendations on the Marketing of Foods and Non-alcoholic Beverages to Children.<sup>8,11-13</sup>

In 2020, the WHO-UNICEF Lancet Commission on Child Health noted that commercial marketing of products that are harmful to children is one of the most underappreciated risks to their health and wellbeing and called for strengthened action in this area as one of their core recommendations.<sup>14</sup>

Digital marketing models collect, exploit, and disclose large amounts of personal information, including specific information about an individual's online behaviour, purchase preferences, social networks and physical location.<sup>15-17</sup>

This information is being used by marketers, including corporations who market unhealthy food and beverages, to target their marketing directly to particular groups of consumers, including children, based on their individual profiles.<sup>18</sup>

This collection, exploitation and disclosure of personal information and online activity is a significant risk to children's privacy, health and well-being, particularly as it is difficult to monitor and to prevent.

Independent evaluations of policy effectiveness strongly indicate government-led regulation is the most effective.<sup>19-24</sup>

Every child has the right to enjoy the highest attainable standard of health. As a result, the government has an obligation to address the underlying determinants of health and take all measures that are necessary to prevent diet-related non-communicable diseases.<sup>1,8</sup>

## Conclusion

The protection in the digital environment afforded to Australian children lags behind international human rights standards.<sup>2</sup>

Dietitians Australia support reform to better protect Australian children. As well as protecting children, Dietitians Australia support wider reform for all Australians, to better protect individual privacy and reduce the risk of harm, particularly in the digital environment.

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