

Development of Legal Measures to Regulate Online Advertising of High Fat, Sugar or Sodium Foods and Beverages for Protecting Children and Youth

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Abstract

Overweight and obesity among children and youth is one of the major problems in Thailand largely due to advertising, especially online advertising that inequitably uses strategies and formats which induce children and youth to consume foods and beverages containing high fat, sugar, or sodium (HFSS). This article studies concepts and theories that support the government to create legal measures necessary to regulate advertising in order to protect children and youth's right to health. This article further studies legal measures according to the United Nations Convention on the Rights of the Child, World Health Organization and European Union as well as those in other countries, namely the United States of America, the United Kingdom and Republic of Korea, including the limits of Thai laws together with data from in-depth interviews. The study finds that online advertising is not covered by the existing advertising regulations in Thailand. Therefore, this article suggests the laws be amended as follows: (1) Food Act 1979 be amended by increasing fine and criminalizing relevant actors; (2) Announcement of the Food and Drug Administration Re: Criteria for Food Advertisement 2018 be amended by adding regulations of food advertising that shall display label of nutrition and energy value of sugar, fat and sodium in form of GDA (Guideline Daily Amounts); (3) Consumer Protection Act 1979 be amended by redefining "advertising media" and increasing fine. By such amendments, regulations of HFSS food and beverage advertising would be applicable to advertising on online platform and their effectiveness would be enhanced.

Keywords: Consumer Protection Law, High Fat, Sugar and Sodium Food and Beverage, Advertising, Children and Youth

Introduction

Health of Thai citizens is one of the essential national strategies according to Twenty-Year National Strategy (2018-2037). Study reviews that consumption problem of young Thais results in prevalence of overweight and obesity in young children and teens (school-aged children and adolescents), an important public health issue of Thailand which continues to be on the rise. Information on the situation of nutritional status of children age 6-14 years from the report of Health Data Center, Ministry of Public Health dated 31 March 2020 shows that 13.1 percent are at risk of becoming overweight and weight over KPI (no more than 10 percent) and as reported on 2 March 2021, 12.1 percent are at risk of becoming overweight and obese (Department of Health, 2021). Such facts are in accordance with global trends recognized by the research showing that children and youth worldwide are getting more overweight and obese, namely the fact that the rate of children age 5-19 years with

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overweight and obesity increase from 4 percent in 1975 to 18 percent in 2016 (NCD Risk Factor Collaboration, 2017). Overweight and obesity have impact on physical, intellectual, emotional and social development of the children. Major factors that cause Thai children and adolescents to be overweight and obese are food consumption (Poomthavorn & Mahachoklertwattana, 2013) and advertising that induce consumption of HFSS foods and beverages.

Advertising in present has greatly differed from the past. The age of online allows us to advertise in various ways through internet such as using online platforms, advertising via website, free web, notifications or advertising via Line or other applications, ranking of merchandise's popularity, bloggers or influencers, examples of merchandise review, tie-in advertising, advertising by ranking merchandise's popularity, photos posting, taking personal videos to show pictures of food and its consumption, merchandise recommendation including gathering of information to produce marketing strategy to target young consumers such as asking for information from users, downloading to get discount, advertising via games, gathering of information via website entrance or other applications without consent from the guardians, etc. Furthermore, online advertising can be specifically employed to target a certain group, including recognition of types and desires of a specific group of consumers in order to covertly send food advertisements in the form of tie-in to children. Proliferation of online advertising matches with the increasing tendency of internet usage by children and youth (National Statistical Office of Thailand, 2018). Thus, in order to safeguard their health, it is essential that online advertising of foods and beverages be regulated.

At present, there are numerous Thai laws and regulations concerning consumption of children and youth, namely Consumer Protection Act 1979, Ministerial Regulation No. 5 (1979) issued under Consumer Protection Act 1979, Food Act 1979, Announcement of the Food and Drug Administration Re: Criteria for Food Advertisement 2018, Advertising Code of Ethics and Advertising of Food and Snack Products Targeting Children Guideline by Advertising Association of Thailand. Nonetheless, there is no legal measure to control strategies or formats of online food advertising that induce or encourage children and youth to consume HFSS foods and beverages. In concern with such problem, this article sets out to find the suitable course to develop legal measures to regulate online advertising that induce or encourage children and youth to consume HFSS foods and beverages.

Research Objectives

- (1) To study concepts and theories regarding the protection of children and youth from advertising of food and beverage products, namely Social Learning Theory, Elaboration Likelihood Theory, concept of food sovereignty, concept of Economic Interventionism to protect consumers, concept of tie-in advertising and Social Responsibility Theory.
- (2) To study consumer protection pursuant to Thai laws which are Consumer Protection Act 1979, Ministerial Regulation No. 5 (1991) issued under Consumer Protection Act 1979, Food Act 1979, Announcement of the Food and Drug Administration Re: Criteria for Food Advertisement 2018, Advertising Code of Ethics and Advertising of Food and Snack Products Targeting Children Guideline by Advertising Association of Thailand.
- (3) To study legal measures regulating food and beverage advertising to protect children and youth according to international and regional instruments which are UNCRC, WHO, regulations of food and beverage advertising within EU to protect children and youth as consumers (EU Pledge, 2018) as well as national laws and regulations of the United States of America, the United Kingdom and Republic of Korea.
- (4) To analyze and recommend the course to develop legal measures to regulate online advertising of food and beverage products which induces and encourages children and youth to consume HFSS food and beverage.

Research Methodology

This article is a qualitative study through document research and interviews of experts, specialists and relevant participants which proceeds as follows:

(1) This article studies backgrounds, concepts and theories concerning the protection of children and youth from online advertising of food and beverage products by employing document research, namely studying and collecting relevant data both in Thai and English from books, research, statues, textbooks, journals and online data such as Google, Google Books, Google Scholar, Thailis, Scopus and Springer Link; including those recommended by experts. Such documents are retrieved from the originals and copies, references via hand search and analysis of data through interpretation.

(2) This article studies consumer protection regarding advertising pursuant to Thai laws by employing document research, namely studying and collecting relevant data both in Thai and English from books, research, statues, textbooks, journals and online data such as Google, Google Books, Google Scholar, Thailis, Scopus and Springer Link; including those recommended by experts. Such documents are retrieved from the originals and copies, references via hand search and analysis of data through comparison.

(3) This article studies international instruments and cooperation in advertising regulations to protect children and youth as well as measures of the chosen countries concerning regulations of food and beverage advertising on online platforms to protect children and youth as consumers by employing document research, namely studying and collecting relevant data both in Thai and English from books, researches, statues, text books, journals and online data such as Google, Google Books, Google Scholar, Thailis, Scopus and Springer Link; including those recommended by experts. Such documents are retrieved from the originals and copies, references via hand search and analysis of data through thematic analysis, then compare their similarities and differences.

(4) This article analyzes and proposes legal measures, which cover online advertising of food and beverage products in Thailand to particularly protect children and youth as consumers, resulting from collection of data and analysis of document research (step 1 -3) together with data collected from interviews, details of which are as follows:

(4.1) Research Participants: Data was collected by interviewing 15 selected research participants who can be divided into 4 groups, namely representatives from public sectors, representatives from private sectors affiliated with advertising or children, nonprofit organizations (NGOs) and academics in the field of law, communication arts and economics.

(4.2) Sample Groups: Sample groups of this study were selected by purposive sampling to be the key-information providers and snowball sampling was used in order to recruit potential samples that are truly specialized in the researched subject via referrals of other interviewees. Such process of referral continued until data saturation was reached.

(4.3) Tools employed for in-depth interviews: The article selected structured interview, accordant with concepts and purposes of the study, by using open-ended questions which were synthesized from the research and analysis of data and academic document. From in-depth interviews, data were collected from notes and records, which were later filed into computer, which was encrypted, and used in analysis and checking the accuracy of the data.

(4.4) Tools examination: The questionnaire created by the author was examined by experts in order to achieve standardized open-ended interview question, which was then used for tryout interviews.

(4.5) Reliability Test: When the questionnaire was adjusted according to validity measurement, its reliability was tested by employing such questionnaire in tryout interviews with some of sample groups to assess their understandings of each question. The questionnaire was then adjusted accordingly and used as the instrument in the complete in-depth interviews.

(4.6) Data Analysis: Data collected via in-depth interviews were recorded, descriptively summarized and then analyzed by the method of interpretation.

(4.7) Sample Groups Protection: For in-depth interviews, information sheet for sample groups was created and attached with the questionnaire. Details in the information sheet were explained once more to the sample groups before asking for their consent which was given by signing in the informed consent form. It is agreed that names of the sample groups will remain confidential. Results of the study shall be reported only in general. When the study finished, information concerning research participants consisting of summary documentations and voice records of in-depth interviews were to be destroyed. Besides, each member of sample groups had the right to resign from the study whenever desired without having to inform any reasons. Such resignation had no implications for the sample groups in any way.

Research Results

By integrating data from document research and in-depth interviews to analyze legal measures aiming to regulate online advertising of food and beverage products which induce or encourage children and youth to consume HFSS foods, it is reviewed as follows:

Concepts and theories regarding protection of children and youth from food and beverage products on online platform

According to the concept of Economic Interventionism (Ratana-Olarn, 1992: 11) the government should protect consumers by having legal measures to regulate advertising in the area of foods and beverages which are harmful to health in order to protect their rights to food and health in accordance with the concept of food sovereignty (Torpanyacharn, 2020: 101-106). Especially when it comes to children, Social Learning Theory (Jennifer & Samantha, 2012: 212-222) shows that advertising influences their consumption behavior and since children are still unable to properly evaluate the media, pursuant to Elaboration Likelihood Theory (Kim, Lee, Hong, Ahn, & Lee, 2015), particularly in tie-in advertising on online media, regulation of food and beverage advertising on online platforms is therefore currently necessary and important. Moreover, for business and private sections, the concept of social responsibility (Yoonprathom, 2007: 26) asserts that entrepreneurs recognize social expectations and partake in solving social problems. When problems occur to children and youth, namely overweight and obesity, advertising producers and media industry should therefore strictly abide by the laws regulating food and beverage advertising whereas entrepreneurs should partake in solving the problems by creating self-regulatory measures to control and be implemented among fellow entrepreneurs to support advertising regulations, a great way to be responsible to the society.

Thai laws concerning the regulations of HFSS food and beverage advertising

Analysis of Thai laws concerning the regulations of HFSS food and beverage advertising reviews as follows:

(2.1) Limitations of Consumer Protection Act 1979: Advertising regulations according to Consumer Protection Act 1979 which prohibit the use of statements regarded as unfair in advertisement are not sufficient. Advertisers employ various techniques to induce and encourage children and youth to consume unhealthy foods and beverages, including strategies and formats of advertising which do not fall into the category of unfair statements. Thus, protection of children from food and beverage advertising pursuant to Consumer Protection Act 1979 is limited.

(2.2) Limitations of Food Act 1979: The main principle of food advertising regulations according to Food Act 1979 is to prohibit false or deceptive advertising of the quality, usefulness, or indication of a product. However, the issues of quality, usefulness or indication of foods and beverages are not being used by manufacturers, sellers and marketing officers as parts of the contents to promote the consumption of HFSS foods. As a result, to solely

regulate advertising contents, namely quality, usefulness or indication of a product as provided in Food Act 1979 cannot solve the current problem of food advertising.

(2.3) Limitations of Announcement of the Food and Drug Administration Re: Criteria for Food Advertisement 2018: According to Announcement of the Food and Drug Administration Re: Criteria for Food Advertisement 2018, statement presented in food advertisement shall not be in an unfair manner to consumer or may have disadvantage to common society and advertising of benefit, quality or property of food shall be applied for food advertisement approval. Nonetheless, the formats of advertising that influence children and youth to consume HFSS foods and beverages do not fall into the category of statement presented in an unfair manner to consumer or may have disadvantage to common society or advertising of benefit, quality or property of food. Therefore, protection of children from food and beverage advertising pursuant to the Announcement is limited.

(2.4) Limitations of the laws concerning online media: Contents of food and beverage advertising that induces consumption are not regulated by Broadcasting and Television Businesses Act 2008. Moreover, Cybersecurity Act 2019 and Computer-Related Crime Act 2007 do not contain any provisions regarding consumer protection or advertising regulation. Thus, Thailand has no consumer protection laws particularly on online platform, constituting legal gap concerning regulations of food and beverage advertising.

Development of laws to regulate advertising of HFSS foods and beverages

From the study, legal measures to regulate advertising of HFSS foods and beverages can be developed as follows:

(3.1) Responsible Officials: In Thailand, government agency directly in charge of regulating food advertising is Food and Drug Administration, established pursuant to Food Act 1979. According to Announcement of the Food and Drug Administration Re: Criteria for Food Advertisement 2018, advertising of foods that must be labeled in the form of GDA (Guideline Daily Amounts) shall display the statement of "Eat less and exercise for health." Such provisions review that the Announcement specifically aims to control advertising of HFSS foods and beverages. Nevertheless, they do not encompass the strategies or formats of online advertising. Therefore, in order for the law to be amended and applied accordingly to the structure and authority of the existing body, this article finds that additional regulations in concern with advertising of HFSS foods and beverages should be added in accordance with opinions of relevant sample groups.

(3.2) Amendment of definition of "advertising media" in Consumer Protection Act 1979: To achieve clarity and better protect consumers, the definition of "advertising media" in Consumer Protection Act 1979 should be amended. This article suggests that examples be removed from the definition to avoid issue of legal interpretation and encompass every type of media in present or future. Such change is accordant with opinions of all sample groups.

(3.3) Provision of definition of HFSS foods and beverages in the Announcement of the Food and Drug Administration Re: Criteria for Food Advertisement: Comparative study of legal measures in the selected countries reviews as follows. In the USA, self-regulatory measures of private sector are CARU: Self-Regulatory Program for Children's Advertising and Children's Food & Beverage Advertising Initiative (CFBAI) which provides nutrition criteria for each category of foods and beverages such as yogurt, cereal, etc. (Food and Agriculture Organization, 2021) In Republic of Korea, HFSS foods are called Energy- dense Low-Nutrient density Foods (EDLF) which refers to children's favorite foods which incline to cause obesity or nutritional imbalance by having higher calorie but lower nutrition than the standards determined by the Ministry of Food and Drug Safety (Lee, Park & Choi, 2014: 27). Comparative study of legal measures in the USA and Republic of Korea reviews that categorization and grouping of foods and beverages allow us to sort out types of foods and beverages, advertising of which aimed to be regulated, and avoid the issue of legal

interpretation of how to consider a product as HFSS foods. As for Thailand, HFSS foods should be legally defined in refer to products that shall display nutrition labeling and energy value, sugar, fat and sodium in form of GDA, pursuant to the Announcement of the Food and Drug Administration. To define as such is agreed by the majority of sample groups as it would match the law to the purpose of advertising regulations of the Announcement of the Food and Drug Administration. Besides, sample groups further suggested that categories of foods and beverage be reviewed occasionally to keep up with trends and marketing of food industry.

(3.4) Provision of age of children and youth protected from advertising of HFSS foods and beverages in the Announcement of the Food and Drug Administration Re: Criteria for Food Advertisement: In Thai laws, there is no provision defining age of children and youth in order to protect them as consumer. Special measures, however, are needed to protect children and youth from advertising since equity for the young must be analyzed from perspective of children who may lack experience and still be underdeveloped compared to adults (Federal Trade Commission, 1983). This article suggests that children and youth who are under 18 years old should be protected from advertising, as agreed by the sample groups. The reasons are that Thailand is party to UNCRC and such provision would be accordant with Child Protection Act 2003. Moreover, the maximum age of 18 is also applied to advertising restriction by some countries.

(3.5) Provision of definition of advertising which targets children in the Announcement of the Food and Drug Administration Re: Criteria for Food Advertisement: Pursuant to EU Pledge, marketing communications on website designed to be primarily appealing to children under 12 years are considered “advertising to children” by taking into account of game, motion pictures, copyrighted characters and toys, including overall creative designs of websites such as simplicity of language, use of font size and typeface, use of colors etc. (EU Pledge, 2018) As for the USA’s self-regulatory measures of private sector, advertising intended for children under the age of 12 can be broadly determined by considering factors, namely content, format, audience demographics and extent of other advertising. (CARU: Self-Regulatory Program) Similarly, “Child-directed” advertising means communication media which is most appealing to children (The Children’s Food & Beverage Advertising Initiative (CFBAI)). This article is of view that to define advertising which primarily targets children, one must consider the formats of such advertising because advertisers often create ads with format, content and various methods most appealing to the target groups: children. Such consideration is in accordance with concepts concerning analysis of contents and television programs according to their purposes, contents, presentation methods and production techniques (Biggins, 2008), the same way to determine television ratings are decided for the programs directing at children used in many countries. All sample groups also agreed.

(3.6) Restrictions of contents in HFSS food and beverage advertising: According to Elaboration Likelihood Theory, children are still not capable of evaluating the media. As for Social Learning Theory, it is asserted that food and beverage advertising shall decrease factors that encourage children to copy consumption behavior of unhealthy products. Pursuant to concept of good sovereignty and Economic Interventionism to protect consumers, the government shall encourage and lessen the factors that have negative impacts on children’s health, including tie-in advertising that children are not aware of. Further, the article conducted a comparative study of Thai laws, self-regulatory measures of Advertising Association of Thailand and legal measures of selected countries, namely CARU: Self-Regulatory Program for Children’s Advertising and the Children’s Food & Beverage Advertising Initiative (CFBAI): an advertising self- regulation program of the USA; CAP rules on advertising food to children of the UK; and Special Act on Safety Management of

Children's Dietary Lifestyle of Republic of Korea. It is found that restrictions on HFSS food and beverage advertising should emphasize tie-in advertising as well as advertising that use strategies or formats which induce children and youth to increase their consumption based on the following criteria:

1) Principle: Advertisement shall suggest audience to consume the products in a proper quantity. Advertising of foods and beverages shall encourage health development and good nutrition of children.

2) Unfair advertisings of HFSS foods and beverages are those that do not suggest audience to consume the products in a proper quantity. Suggested quantity shall not be too much or more than reasonable amount or more than usage or consumption of a person in an apparent situation. Further, unfair advertisings of HFSS foods and beverages include those that encourage consumption of HFSS foods and beverages instead of a proper meal as well as food with low nutrients or unhealthy routines. Moreover, they may feature celebrity; copyrighted cartoon or persons appealing to children whether those persons have consumed the product in the past or present. They may advertise to give away HFSS foods or beverages, feature child actor/actress, give warning "Eat less and exercise for health," or even aim more at sale promotion than the product itself. In addition, manufacturer, processor, importer, distributor and seller of HFSS food advertising may give away toys, processed food and other gifts for free in order to encourage children to buy their products. They may induce in the way that instructs the children to beg their parents to buy the products for them or mislead children into thinking that parents who buy them products are better, smarter and nicer than those who do not. Furthermore, they may deceive or misguide children about the product's nutrition benefit, make children feel devalued and uncourageous when they are unable to buy the products. They may encourage consumption of low nutrition foods, unhealthy lifestyle or negative mindset towards healthy routine such as skipping meals, keeping secret about food consumption from their parents, promoting lifestyle without exercise and demoting consumption of healthy food, etc. Additionally, they may publish, confirm or give opinions to invite children to consume the products without clarifying that this is advertisement or give personal opinions which do not reflect experience or true belief of the speaker. They may be proposing that consumer will get a reward but do not specify what it is. Unfair advertisings also include tie-in in the movies and spam advertising online.

Unfair food and beverage advertising on online media can be inspected from website of entrepreneurs, account profile that entrepreneurs are members of as well as various platforms displaying such business including company's website, third person's website, application, and online media sharing. Such criteria are agreed by all sample groups who are of view that to use aforementioned formats or strategies of advertising to induce children and youth, including various forms of tie-ins, are unfair.

(3.7) Increase of fines in case of violation of HFSS food and beverage advertising regulations pursuant to Consumer Protection Act 1979: Recommendation from WHO suggests that there be a monetary sanction. Majority of the sample groups are of view that violation of HFSS food and beverage advertising regulations is proportionate to a fine rather than incarceration because components or ingredients of HFSS foods themselves are not dangerous or poisonous, but they can be unhealthy when excessively consumed. This article therefore finds that there should be a provision of maximum fine according to Consumer Protection Act 1979 Section 48 when there is a violation of measures regulating strategies or formats of HFSS food and beverage advertising pursuant to the Announcement of the Food and Drug Administration.

(3.8) Additional measures to relieve constraints of media without borders: According to the amendment in 2017, Section 11 paragraph two and three of Computer-Related Crime Act 2007 provides that:

“Whoever sends computer data or electronic mail to another person in a manner that disturbs the recipient, without giving the recipient an easy opportunity to cancel or notify his/her wish to deny receipt of such computer data or electronic mails, shall be liable to a fine not exceeding two hundred thousand Baht.

The Minister shall prescribe and announce the characteristic and method of sending computer data or electronic mail, including the characteristic and size of the computer data or electronic mail which shall not be considered as disturbing the recipient, as well as the manner in which the recipient can easily cancel or notify his/her wish to deny receipt of such computer data or electronic mails.”

Example of methods considered as disturbing, which online entrepreneurs shall carefully employ, are tie-in advertisement in social media posts of other people, sale promote of products or service via emails, direct messages, or SMS on mobile phones without consents of the receivers, etc. These techniques can be construed as disturbing and therefore violate the law.

This article is of view that penalty which aims at producers, advertisers and service providers or platform users shall be the measures that relieve constraints of media without borders. Thus, it is crucial that the law criminalize both producers, advertisers and service providers or platform users because there would then be persons to impose sanction upon when advertising regulations are violated. When study current Thai law concerning media which is Cyber Security Act 2019, it is reviewed that there are definitions about advertisement distributors on online platforms that can be applied to online advertising regulations, namely “service provider” and “service user” so both could participate in overseeing each other as agreed by all sample groups.

Conclusion and Suggestions

Conclusion

Thailand has no laws that can be applied to restrict strategies and formats of HFSS food and beverage advertising that induce children and youth to increase their consumptions. Thus, there should be a development of legal measures to regulate HFSS food and beverage advertising that include online media as well as amend other relevant legal constraints so that the government can have legal tools to practically protect children and youth’s health and nutrition from consumption of HFSS foods and beverages.

Suggestions

(1) Amendments of Food Act 1979:

1) Fine according to Section 71 of Food Act 1979 shall be amended to “producers, advertisers, advertising business, owner of advertising media, sale representative or service provider or service user who violates Section 41 shall be liable to a fine three times of the benefits expected to be received from such advertisement and shall publish statement of responsibility and court judgement in the media and formats as the court orders. Legal representative of a legal person and agent in Thailand shall also be responsible.” Moreover, there should be a definition of persons who are liable, namely “service provider” and “service user” as follows.

2) “Service provider” means:

2.1) A person who provides service to others access to the internet or other mutual communication via a computer system, whether on his own behalf or in the name of, or for the benefit of another person

2.2) A person provides service of storage of computer data for the benefit of another person.

3) “Service user” means a person who uses the service provided by service provider, with or without fee.

(2.2) Amendment of the Announcement of the Food and Drug Administration Re: Criteria for Food Advertisement 2018

This article suggests amendment of the Announcement of the Food and Drug Administration Re: Criteria for Food Advertisement 2018 as follows:

1) Amending the provision of advertising regulations of foods that shall display nutrition labeling and energy value, sugar, fat and sodium in form of GDA.

The following provision of the Announcement of the Food and Drug Administration Re: Criteria for Food Advertisement 2018 shall be amended.

“Clause 9 (11) Food shall display nutrition labeling and energy value, sugar, fat and sodium in form of GDA (Guideline Daily Amounts) as described in the Notification of the Ministry of Public Health (No.374) 2016 include;

(a) Snack food: French fried or potato chip, popcorn or corn flake, fried or baked rice cracker or extruded snacks, fried or baked or salted or flavored glazed peas or nuts, fried or baked or flavor glazed seaweed and fried or baked flavored fish sticks and similar products.

(b) Bakery products: Crispy baked bread or cracker or biscuit, stuffed wafer, cookie, cake, pie and pastry with or without fillings.

(c) Shall present statement of “Eat less and exercise for health” in the advertisement.”

Abovementioned provision shall be amended to:

“Foods that shall display label of nutrition and energy value of sugar, fat and sodium in the form of GDA (Guideline Daily Amounts) pursuant to the Notification of the Ministry of Public Health (No.374) 2016 are snack, chocolate, chocolate flavored sweet, bakery product, instant food, processed food that need keeping in the refrigerator or frozen state during the entire time of distribution, beverage in sealed container, instant tea and coffee both in form of liquid or powder, flavored milk, yoghurt, dairy product, soy milk and ready-to-eat ice cream. Advertising of such foods which primarily targeting children shall comply with the following regulations:

(11.1) Advertisement shall suggest audience to consume the products in a proper quantity. Advertising of foods and beverages shall encourage health development and good nutrition of children.

(11.2) Following manners of HFSS food and beverage advertising are considered unfair:

11.2.1) Advertising that do not to provide audience the suggestion of proper amount of product consumption. Such amount shall not be too much or more than reasonable or more than usage or consumption of a person in an apparent situation. For example, if an advertisement shows the picture of the product being consumed or suggests that it will be consumed, the quantity of such product shall not appear to be more than the amount provided by nutritional details and if there is no such amount, the quantity of such product shall not appear to be more than amount appropriate for persons featuring in the advertisement.

11.2.2) Advertising that encourage consumption of HFSS foods and beverages instead of a proper meal;

11.2.3) Advertising that encourage consumption of food with low nutrients or unhealthy routines such as display of receiving prestige or popularity due to consumption of the product, etc.;

11.2.4) In case of advertising that features celebrity, copyrighted cartoon or persons appealing to children, it shall employ such feature if those persons have consumed the product in the past or present;

11.2.5) Advertising that gives away HFSS foods or beverages;

11.2.6) Advertising that features child actor/actress;

11.2.7) Advertising that do not display warning “Eat less and exercise for health”;

11.2.8) Advertising that aims at sale promotion rather than the product itself such as advertising which highlights giveaway, etc.

- 11.2.9) Advertising that its manufacturer, processor, importer, distributor and seller of HFSS foods give away toys, processed food and other giveaways for free in order to encourage children to buy their products;
- 11.2.10) Advertising that induces in the way that instructs the children to beg their parents to buy the products for them;
- 11.2.11) Advertising that misleads children into thinking that parents who buy them products are better, smarter and nicer than those who do not;
- 11.2.12) Advertising that deceives or misguides children about nutrition benefit of the product;
- 11.2.13) Advertising that makes children feel devalued and uncourageous when they are unable to buy the product;
- 11.2.14) Advertising that encourages consumption of low nutrition foods, unhealthy lifestyle or negative mindset towards healthy routine such as skipping meals, keeping secret about food consumption from their parents, promoting lifestyle without exercise and demoting consumption of healthy food, etc.;
- 11.2.15) Advertising that publishes, confirms or gives opinions to invite children to consume the products without clarifying that this is advertisement;
- 11.2.16) Advertising that gives personal opinion which does not reflect experience or true belief of the speaker;
- 11.2.17) Advertising which proposes that the consumer will get a reward but does not specify what such reward will be;
- 11.2.18) Tie-in advertising via movies which includes tie-in via product's trademark, interactive activity, music streaming service, podcast, game, download of screensaver wallpaper, sticker, etc.;
- 11.2.19) Spam advertising via online platforms.

Unfair food and beverage advertising on online media can be inspected from website of entrepreneurs, account profile that entrepreneurs are members of as well as various platforms displaying such business including company's website, third person's website, application and online media sharing.

(2) Revision provision of the Announcement of the Food and Drug Administration Re: Criteria for Food Advertisement 2018 to keep the law up to date.

“Clause The Committee shall revise regulations of types of foods, contents and formats of advertising to keep them up to date by consistently considering context of advertising.”

(2.3) Amendments of Consumer Protection Act 1979

1) Amendment of definition: Section 3 of Consumer Protection Act 1979 which provides that “advertising media” means a thing used as a medium for advertisement, such as a newspaper, printed matter, radio broadcasting, television broadcasting, post, telegrams, telephone or signboard,” shall be amended to “advertising media” means those employed as media for advertising.”

2) Increase of fine when there is a violation of ministerial regulation issued under Consumer Protection Act: Section 48 of Consumer Protection Act 1979 provides that “any person who, in an advertisement, uses a statement under section 22 (3) or (4) or a statement prescribed in the Ministerial Regulation issued under section 22 (5) or contravenes or fails to comply with section 23, section 24, section 25 or section 26 shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding thirty thousand Baht or to both.” The maximum amount of fine provided herein is too little compared to current economic context. Therefore, it should be increased.

All of aforementioned amendments of laws and regulations will give the government necessary instruments to regulate advertising of foods and beverages that have negative impacts on children and youth. Moreover, it would endorse children's right to health and

more practically respond to national strategy with respect to development of Thailand citizens.

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