

EU Pledge Implementation Guidance Note



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The new EU Pledge commitments

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The EU Pledge commitment

I. Restricting high fat/sugar/salt product marketing to children

EU Pledge members commit to:

- Only advertise products to children under the age of 13 years that meet the EU Pledge Nutrition Criteria [1]; or
- Not advertise their products at all to children under the age of 13 years.

The above policy covers food and non-alcoholic beverage product marketing communications [2] that are primarily directed to children under 13 [3] in all covered media, offline and online (including contracted influencers) [4].

EU Pledge member companies further commit not to engage in food or beverage product marketing communications to children in primary schools [5], except where specifically requested by, or agreed with, the establishment's administration for educational purposes.

Nutrition criteria

EU Pledge member companies who choose to advertise some of their products to children will apply the updated and strengthened [EU Pledge Nutrition Criteria](#). These further limit the type of products that can be marketed to children. EU Pledge member companies further agree to review the nutrition criteria on a regular basis.

II. Responsible food and beverage marketing

EU Pledge members further commit to abiding by:

- The International Chamber of Commerce (ICC) [Code of Advertising and Marketing Communication Practice](#); and
- The ICC [Framework for Responsible Food and Beverage Marketing Communications](#)

in all their marketing communications [6], regardless of the age of the audience or the nutritional profile of the product, with regard in particular to rules that go beyond or are more specific than EU law, such as:

- Food and beverage marketing communications should not encourage or condone excess consumption and portion sizes should be appropriate to the setting portrayed.
- Marketing communications should not undermine and wherever possible promote the importance of balanced diets and healthy lifestyles.
- Copy, sound and visual presentations in marketing communications for food and beverage products should accurately represent the material characteristics of the product featured, such as taste, size, content, nutrition or health benefits, and should not mislead consumers concerning any of those characteristics.
- Food products not intended to be substitutes for meals should not be represented as such.

Member companies will abide by this enhanced commitment across the EU by 1 January 2022.

^[1] The [EU Pledge Nutrition Criteria](#) apply to those member companies that use nutrition criteria. Those companies that do not currently advertise any of their products to children will continue to apply that policy. The EU Pledge Nutrition Criteria have been updated and strengthened in 2021.

^[2] “Marketing communications” means paid advertising or commercial sales messages for food and beverage products, including marketing communications that use licensed characters, celebrities and movie tie-ins. Company-owned, brand equity characters are not covered by the policy.

^[3] Primarily directed to children under 13 means advertising in measured media where 30% or more of the audience is under 13 years of age. Where adequate data are unavailable, companies will consider other factors as appropriate, which may include the overall impression of the advertising, and the target demographic based on the company’s media plan. For targeted media, for which reliable age-targeting or age-gating techniques are available, companies will seek to apply, where appropriate, one or several of the following demographic targeting tools and topic controls, to minimize the chances that an ad will be served to children under 13 years of age: (1) Selecting specific ages, in all cases excluding U13s based on cookie data or other age indicia; (2) Applying age filters on social media platforms aimed at minimizing the chances that brands’ social media posts are shown to U13s; (3) Excluding ‘unknown audiences’ (i.e., audiences whose age is unknown because they are not logged into an account); (4) Excluding specific sites, channels or other content that is primarily appealing to children under 13 (e.g., certain child-appealing movies or cartoons, nursery rhymes, influencers, games or YouTube channels).

^[4] “Covered media” means TV, radio, print, cinema, online (including social media and other online platforms and sites, including company-owned websites and video-sharing platforms such as YouTube), direct marketing, product placement, interactive games, outdoor marketing, mobile marketing and contracted influencers or content creators. Packaging, in-store and point of sale as well as forms of marketing communications which are not under the direct control of the brand owner, such as user-generated content, are not covered by this policy.

^[5] The following are not covered: menus or displays for food and beverage products offered for sale, charitable donations or fundraising activities, public service messages, government subsidized/endorsed schemes, such as the EU School Milk Programme, items provided to school administrators for education purposes or for their personal use, product availability and unbranded vending machines.

^[6] Compliance with ICC related provisions and complaints received through the EU Pledge Accountability Mechanism will be deferred to national self-regulatory organisations/ad standard bodies as applicable.

1. Overall guidance

• How do we define “advertising to children”?

- For the purposes of the EU Pledge, “advertising to children under 13 years” means advertising to media audiences with over 30% of children under 13 years. This is a minimum common benchmark for all EU Pledge member companies.
- Some EU Pledge member companies apply a more stringent definition, e.g. a maximum 25% threshold for the share of children under 13 in media audiences.
- Some EU Pledge member companies do not advertise any products to children under 13 (on the basis of their corporate definition of “advertising to children”). Others have committed only to advertise products that meet the EU Pledge common nutrition criteria to children under 13.
- For targeted media, for which reliable age-targeting or age-gating techniques are available, companies will seek to apply, where appropriate, one or several of the following demographic targeting tools and topic controls, with the aim of minimizing the chances that an ad will be served to children under 13 years of age: (1) Selecting specific ages, in all cases excluding U13s based on cookie data or other age indicia; (2) Applying age filters on social media platforms to minimize the chances that an ad will be served to children under 13 years of age; (3) Excluding ‘unknown audiences’ (i.e., audiences whose age is unknown because they are not logged into an account); (4) Excluding specific sites, channels or other content that is primarily appealing to children under 13 (e.g., certain child-appealing movies or cartoons, nursery rhymes, appealing influencers, games, YouTube channels).
- For media that is neither measured (because adequate audience data are unavailable) nor targeted (because reliable age-targeting or age-gating techniques are unavailable), companies will consider other factors as appropriate, which may include the overall impression of the advertising (i.e., whether the content/creative appears to be designed to appeal primarily to children under

13), the nature of where the advertising is being placed, and the target demographic based on the company's media plan.

- **What media are covered?**

- The EU Pledge commitments apply to the following media: TV, radio, print, cinema, online (including company-owned websites and company-owned social media profiles), DVD/CD-ROM, direct marketing, product placement, interactive games, outdoor marketing, mobile marketing and contracted influencers or content creators.
- While the above list covers all major media, individual member companies' policies may go further.

- **What products are concerned?**

- The EU Pledge commitments apply to all products marketed or distributed by member companies, including their subsidiaries and joint ventures across the EU-27.
- There is no distinction between products meant for children and other products – the commitments apply to all products except plain bottled water, sugar-free gum and sugar-free mints which are exempted from the EU Pledge restrictions.
- Common nutrition criteria apply to those companies that use criteria. It is not necessary to make public which products can and cannot be advertised to children on the basis of the common nutrition criteria.
- In case of mergers or acquisitions, an adequate transition period – up to two years - will be allowed for the implementation of measures taken under the EU Pledge.

- **What about brand advertising?**

- The commitments concern product advertising; brand advertising, i.e. "generic" advertising for a brand or company, which does not feature specific products, is not covered. However, member companies should seek to respect the spirit of the commitment when engaging in such advertising.

- **What happens if other rules are in place?**

- The EU Pledge is no substitute to the law or industry-wide self-regulation. Where tougher legal or industry self-/co-regulatory rules are in place (e.g. UK), these must be applied.

2. Addressing creative execution

In non-measured, non-targeted media (i.e. print, cinema, online - including company-owned websites and company-owned social media profiles -, direct marketing, product placement, interactive games – whether online or on DVD/CD-ROM -, outdoor marketing, mobile marketing and contracted influencers or content creators), companies will consider, in addition to placement, the overall impression of the advertising, actions taken to restrict child access (where appropriate) and the target demographic based on the company's media plan.

The following checklist is intended as a decision-tree for assessing compliance in this regard on all platforms listed above and is referenced as appropriate in platform-specific sections below.

Criterion 1 and 2 below should be used to determine whether the commercial communication is within the scope of the commitment. If the commercial communication does not promote products – as opposed to generic brand promotion – or only promotes products that meet the common nutrition criteria, it is not in scope.

1. **Marketing communications:** Does the medium feature one or several marketing communications?
 - If not, out of scope

- If yes, in scope
- 2. **Product: a)** Is the marketing communication promoting a food/beverage product (as opposed to generic brand promotion), i.e. does it feature not only a brand logo or character, but actual products?
 - If not, out of scope.
 - If yes, is the marketing communication promoting a food/beverage product that meets the common nutrition criteria (wherever these are applied by the advertiser in question)?
 - If yes: compliant.
 - If not, check following criteria.

The following criteria should be checked one by one, but an overall judgment on whether the product marketing communication(s) is/are designed to be primarily appealing to children under 13, should be taken at the end, having reviewed criteria 3-8.

- 3. **Age-screening:** Does the marketing communication have an age-screening/parental consent mechanism aimed at verifying the age of visitors before allowing them access?
 - If yes: Describe the type of age-screening/parental consent mechanism used (e.g. request for date of birth, requirement for parental consent...).
- 4. **Licensed characters/tie-ins:** Does the marketing communication feature “licensed characters” (i.e. characters acquired externally, linked to movies/entertainment, e.g. Shrek, Harry Potter, Indiana Jones) or movie tie-ins used as a means to promote a food/beverage product?
 - If yes, are the characters or tie-ins targeted primarily at an under-13 audience? [e.g. ages 6-12: non-compliant; ages 13 and above: compliant]. Refer wherever possible to age guidance/ratings in relevant licensing agreements. The context in which the characters are used should also be considered.
- 5. **Games:** Does the marketing communication feature games used as a means to promote a food/beverage product?
 - If yes: is the game designed (level of difficulty) for younger children (below 13)?
- 6. **Animation and sound effects:** Does the marketing communication feature animation (e.g. cartoons, animations depicting fantasy situations) and or music/sound effects?
 - If yes, are the animation and/or sound effect used clearly designed to appeal primarily to young children and used as a means to promote a food/beverage product? (not all animation is designed for young children)
- 7. **Toys:** Does the marketing communication feature toys used as premiums to promote a food/beverage product (as opposed to toys that are an inherent part of the food product) and designed to appeal primarily to young children (under 13)?
- 8. **Creative execution:** Does the marketing communication use language/text/navigation other aspects of design that are clearly intended to make the marketing communication(s) appealing primarily to young children (under 13)?

If yes: Describe the features of the marketing communication design that you consider primarily targeting children under 13 (simplicity of language, use of font size and typeface, use of colours etc.) This criterion should be used in conjunction with criteria 4, 5, 6 and 7 above, in order to aid an overall assessment. It should not be used as a stand-alone criterion to judge compliance/non-compliance.

3. Guidance for TV and radio advertising

- **How do we ensure compliance?**
 - Member companies should under all circumstances adhere to the absolute minimum requirement of the EU Pledge, i.e. avoiding programmes with an audience profile of >30% children under 13 for advertising of products that do not meet common nutrition criteria/all products (depending on company policy).

- Member companies should at all times adhere to corporate policy on marketing communications to children, with particular regard to:
 - The corporate definition of what constitutes “advertising to children under 13”. This definition may be based on the applicable audience profile: e.g. 30% or 25% children <13, or equivalent audience indexing system.
 - Where applicable, common nutrition criteria determine which products may be advertised to children under 13 and which may not.
- In order to minimise non-compliance, it is advisable for media planners/buyers to apply a safety margin, based on the historical audience of a programme/media channel. If in doubt, do not place spots in/around said programme/media channel.
- **What if we wanted to go beyond the letter of the EU Pledge?**
 - The following additional guidance, developed with the expertise of Accenture Media Management, is intended to enable companies to go beyond compliance with the EU Pledge. In practice, following this guidance will enable companies to avoid advertising in what might commonly be understood as “children’s programming”, as opposed to the audience threshold-based definition of “advertising to children under 13” contained in the EU Pledge. To achieve the above, it will be *advisable* to implement the following additional guidance:
 - Do not use a children's audience as a media planning optimisation mechanism: products that your company has decided not to advertise to children under the age of 13 should ideally have an adult-based planning audience.
 - For those products that your company has decided not to advertise to children under the age of 13, avoid both children's genre programmes and the concentrated day-parts where they appear.

4. Guidance for print and 3rd party internet advertising

Since audience measurement data is not available or reliable for these media, companies should use the following guidance:

- Media buyers should not purchase advertising space for those products that your company has decided not to advertise to children under the age of 13, in print media or third-party websites that are targeted at this age group.
- Media buyers should use local guidance based on print title readership data and net ratings where available.
- Where target audience figures are unavailable, an informed assessment of whether the title/third-party website is targeted at children under 13 should be made. Media buyers should exclude any site or content which, by its nature, appears to be primarily directed to children under 13, or which has been designated by platform owners or content developers as being primarily directed to children under 13. The above guidance on using targeting tools, where available and appropriate, also applies.

5. Guidance for company-owned websites and company-owned social media profiles

Under the EU Pledge commitment, companies need to ensure that they are not designing company-owned websites and company-owned social media profiles that promote products which do not meet the EU Pledge common nutrition criteria in a way that appeals primarily to children under 13.

6. Guidance for cinema and movies on DVD/CD-ROM

Member companies should not place marketing communications for products which do not meet the EU Pledge common nutrition criteria during or around movies primarily targeted at children under 13.

- For international releases, this means that movies rated “U” or “PG” should be avoided.
- For movies released locally the decision should be based on guidance by media sales houses and/or movie producers.

Primary target audience indicated for the purpose of licensing/merchandising related to the movie should also be considered.

7. Guidance for interactive games and apps

Marketing communications for products which do not meet the EU Pledge common nutrition criteria should not feature in interactive games (whether on any online platform or physical platform, e.g. DVDs/CD-ROMs) primarily targeted at children under the age of 13.

- Computer and video games with the PEGI labels 3 and 7 fall under this definition.

In the case of interactive games that are not PEGI-rated or games developed by or for companies, companies are responsible for determining whether they believe that an interactive game is primarily appealing to children under 13. The Guidance on Creative Execution should assist in this regard.

Since no appropriate age rating system exists for apps, media buyers should be informed of this commitment and use their judgment or local guidance where available. The Guidance on Creative Execution should also assist in this regard.

8. Guidance for direct marketing

Companies should not promote products which do not meet the EU Pledge common nutrition criteria directly to children under 13, e.g. through email, telemarketing, mobile, SMS or direct mail and other forms of direct promotions. Sampling (outside the school environment) remains outside the scope of this commitment.

9. Guidance for product placement

Audiovisual content: In accordance with EU law (Audiovisual Media Services Directive) member companies will not engage in any product placement in children’s programming, as defined at national level.

Other editorial content: In addition, member companies should not actively seek to place products in other editorial content aimed at children under 13 in exchange of payment or other promotional consideration.

10. Guidance for influencer marketing

Influencers: For the purposes of the EU Pledge commitment, the EASA definition applies, i.e.: an influencer is an independent third-party endorser who shapes audience attitudes through blogs, posts, tweets, and the use of other social media, including gaming streaming platforms.

Influencer marketing: Is a form of social media marketing involving endorsements and product placements from influencers. Influencer marketing usually involves elements of identification of such individuals by the advertiser and engaging them in marketing activities and promotion of the brand and/or its products. In

order to determine whether the communication in question is a commercial communication (influencer marketing), as opposed to user-generated content, companies should follow the [EASA Best Practice Recommendation](#), with regard in particular to the two defining conditions of editorial control and compensation.

Companies should not: Use influencers whose primary target audience is children under the age of 13 in relation to products which do not fulfil the EU Pledge common nutrition criteria.

To determine if an influencer’s primary target audience is under the age of 13, EU pledge members should use the same standard as used for all marketing channels and communications as outlined in Section 1 Overall Guidance and Section 2 Creative Execution.

Responsible Influencer Training Programmes: In jurisdictions where [EASA’s AdEthics programme](#) is in place, when brands are partnering with professional influencers in those jurisdictions, brands are encouraged where feasible to choose such influencers or content creators who have undergone training and obtained a certificate. In jurisdictions where [EASA’s AdEthics programme](#) is in place, when brands are partnering with professional influencers in those jurisdictions, brands are encouraged where feasible to choose such influencers who have undergone training and obtained a certificate.

Disclosure: Companies working with influencers whose primary target audience is children under the age of 13 (in relation to products that do meet the EU Pledge common nutrition criteria) will use clear disclosure to avoid confusion among children regarding the promotional nature of a post. Companies will comply with national guidance or, in the absence of such a guidance, request that influencers use #advertising (no shortcut such as #ad) in their own language and always place the hashtag upfront, i.e. at the beginning of a post (EASA’s definitions of influencer marketing and commercial communication apply).

For influencers using videos to promote a product or brand we recommend disclosure to be embedded in written format in the space for video title and description, in addition to a hashtag to help track the video.

These guidelines on disclosure go beyond EU Pledge compliance, which will be assessed solely on whether companies use influencers whose primary target audience is children under the age 13 to promote products that do not meet EU Pledge Nutrition Criteria.

Detailed disclosure guidance (the following guidance is without prejudice to applicable national guidance, which should take precedence):

Example	Is disclosure needed?	Guidance
Paid endorsements: Company works with an influencer on a contract-basis	YES	Marketers should request that influencers use #advertising (no shortcut) in their own language, or follow other applicable national guidelines.
Gifted items: Company sends a product to an influencer for a trial without any specific request to post about the product	YES	As above. Marketers should request that influencers use #advertising (no shortcut) in their own language, or follow other applicable national guidelines, if they decide to post about the product.
Experiences/Events: Company invites an influencer to a private event to see new products	YES	Marketers should recommend including: ‘thanks to X brand for inviting me’ or ‘I’m at X event with X brand’, “my participation at X event has been paid by X brand”.
Replies or direct messages to a “follower”: A follower asks the influencer a question about the brand she/he posted.	NO	When responding to someone’s questions about the endorsement via email, text, or direct message that person should already see the previous disclosure - thus a disclosure is not necessary in this context.

Testimonials with no material connection: Company has not sent any product to the influencer and has no contractual relationship with her/him.	NO	Such practice falls outside the scope of influencer marketing as the brand has no link with the post/influencer.
Tagging brands: “I received products from a brand, so I’ll tag the brand in my Instagram post and assume my audience knows it was given to me”	YES	If there’s a material connection between the brand and influencer, it needs to be specifically mentioned.
Non-contractual brand mentions: “I’m doing a photoshoot with a brand and want to show my audience a sneak peek of me on set with the brand.”	YES	If the influencer is working in a material relationship with the brand and creates content, even if it wasn’t a contractually obligated post, they are obligated to disclose.
Paid, but genuine endorsements: “Sure I’m getting free products from the brand, but I REALLY like them and would post about them even if I wasn’t paid”	YES	The audience has the right to know that there is a material connection between the brand and the influencer, even if the influencer genuinely loves and endorses the brand.
Ongoing relationship: Company has not sent a product or provided other incentives to the influencer on this specific occasion but regularly sends her/him products.	YES	Marketers should inform influencers they (have) work(ed) with (any material connection) that future communication regarding their brands should be labelled accordingly as they will likely be considered promotional activities.

For further guidance see the [EASA Best Practice Recommendation](#).

11. Guidance for communications in primary schools

The commitment covers all products, regardless of nutritional composition.

“**Communication related to products**” is intended to cover all marketing communications, which includes advertising as well as promotions and direct marketing, and should be interpreted broadly to mean any form of communication produced directly by or on behalf of marketers intended primarily to promote products.

- The provision of branded vending machines and sales promotions such as the distribution of coupons, collector schemes, free products and/or product merchandise falls within the above definition of ‘commercial communications’ and is therefore not permitted.
- The following are not considered marketing communications within the scope of the EU Pledge:
 - On-pack communication: messages which are on the packaging of a product sold in school canteens/shops/vending machines.
 - In-pack communication: messages which are in the packaging of a product sold in school canteens / shops / vending machines.
 - Communication on brands or products in independent media that pupils may have access to in schools such as internet, newspapers, magazines, television, software packages, videogames etc.

Communications “specifically requested by or agreed with the school administration for educational purposes” cover instances where schools may have requested or agreed to the supply of any materials to be used for educational purposes that feature product-related communications as described above. Examples include:

- Advertising copy used to teach children media literacy
- The use of a company logo or a product logo on sponsored materials *with a clear educational purpose*, e.g. when the purpose is to promote healthy eating habits and physical activity among children.
- The simple provision of branded equipment (e.g. footballs, computers, school diaries etc.) does not qualify as “materials with an educational purpose”. Such branded equipment may only be provided as part of a broader educational programme within the meaning of these guidelines.
- Those responsible for relations with schools should always keep a paper trail that demonstrates the existence of such requests by or agreements with schools.