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Exploring food marketing to children in the context of the UN  
Guiding Principles Reporting Framework:  
a salient human rights issue?

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## **Preface**

The journey writing this thesis has come to an end. Exploring food marketing to children in a human rights perspective and with different methods has been challenging, but highly interesting. I would like to express my sincere gratitude to the people who in different ways have contributed to the thesis.

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- Sigurd, you will be delighted that mum has finally finished writing her book, and so is mum!

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## Summary

**Background:** Childhood obesity is increasing globally, and food marketing targeted to children is an acknowledged risk factor. It has been suggested that a human rights approach may improve food industry marketing conduct.

The United Nations Guiding Principles for Business and Human Rights clarify that businesses must respect all human rights, including rights relevant for child obesity. The principles state that businesses should perform a human rights due diligence process including public reporting to show that they respect human rights, allowing governments and civil society to assess their efforts. The UNGP Reporting Framework is developed to guide businesses in due diligence processes and public reporting. Businesses are asked to identify *salient* human rights issues: the most severe human rights impacts that they can be involved in.

**Purpose:** To explore to what extent marketing of unhealthy foods to children may be regarded as a salient human rights issue that could be considered in human rights due diligence processes and reports under the UNGP Reporting Framework.

Three research questions were developed to explore the objective from different perspectives.

**Methods:** Three methods were used: a document analysis of international human rights documents; a literature review on the extent and effects of food marketing to children; and qualitative interviews with key stakeholders.

**Results and conclusion:** The results suggest that within the human rights system, food marketing to children is considered a relevant human rights issue, but that in practice, there is a lack of health governance actors that address food marketing with a human rights perspective. Results also suggest that it may be challenging to meet the definition of salience under the UNGP Reporting Framework, but that the extent of food marketing to children could meet the definition. Finally, results suggest that key stakeholders at present do not consider human rights due diligence processes and public reports as relevant tools to improve food companies' marketing practices.

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## List of abbreviations

<b>CRBPs</b>	Children’s Rights and Business Principles
<b>CRC</b>	The Convention on the Rights of the Child
<b>FoHRC</b>	Food, Human Rights and Corporations
<b>HFSS</b>	Foods and non-alcoholic beverages high in saturated fat, salt and/or free sugars
<b>ICCPR</b>	The International Covenant on Civil and Political Rights
<b>ICESCR</b>	The International Covenant on Economic, Social and Cultural Rights
<b>INGO</b>	International Non-Governmental Organisation
<b>NCDs</b>	Non-Communicable Diseases
<b>NGO</b>	Non-Governmental Organisation
<b>OHCHR</b>	Office of the High Commissioner on Human Rights
<b>UN</b>	United Nations
<b>UN CESCR</b>	The UN Committee on Economic, Social and Cultural Rights
<b>UN CRC</b>	The UN Committee on the Rights of the Child
<b>UN HCR</b>	UN Human Rights Council
<b>UNICEF</b>	United Nations Children’s Fund
<b>WHA</b>	World Health Assembly
<b>WHO</b>	World Health Organization
<b>WHO EURO</b>	WHO Regional Office for Europe

## Definitions

**Businesses:** all business enterprises, both national and transnational, regardless of size, sector, location, ownership and structure (UN CRC, 2013g). For variation, the terms business, company and corporation will be used interchangeably.

**Children:** a range of definitions to define children in terms of age exist. In the context of restricting food marketing to children, countries apply different age definitions, often focused on younger children e.g. below the age of 12 or 13 years. Most research conducted on food marketing to children also uses a similar cut-off (WHO, 2012). This thesis uses the definition of children in the Convention on the Rights of the Child, which states that children are “*every human being below the age of eighteen years*” (United Nations, 1989, p. 2).

**Food environments:** “*The collective physical, economic, policy and sociocultural surroundings, opportunities and conditions that influence people’s food and beverage choices and nutritional status.*” (Swinburn et al., 2013, p. 2).



**Food marketing:** any commercial marketing of food and non-alcoholic beverages (WHO, 2010), but excluding dietary supplements, breastmilk formula etc.

**Governance:** a political process to achieve policy objectives, involving actors from governments, the private sector and civil society (WHO, n.d.-a).

**Human rights:** human rights are rights inherent to all human beings, whatever nationality, place of residence, national or ethnic origin, sex, colour, religion, language, or any other status. All are equally entitled to their human rights without discrimination. Human rights are interrelated, interdependent and indivisible. Human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law and other sources of international law. International human rights law lays down obligations of governments to act in certain ways or to refrain from certain acts, in order to respect, protect and fulfil the human rights of individuals or groups (OHCHR, n.d.-g).

**Human rights due diligence:** an ongoing risk management process that a company needs to follow to identify, prevent, mitigate and account for how it addresses its adverse human rights impacts. Human rights due diligence includes four key steps: assessing actual and potential human rights impacts; integrating and acting on the findings; tracking responses; and communicating about how impacts are addressed (Shift & Mazars, n.d.-e).

**Human rights documents:** non-legally binding reports, statements and agreements developed within the human rights framework.

**Human rights impact:** in this thesis, this phrase is similar to an “adverse human rights impact”, defined as something that occurs “*when an action removes or reduces the ability of an individual to enjoy his or her human rights.*” (OHCHR, 2012, p. 5).

**Human rights instruments:** legally binding international treaties that are also referred to as conventions or, in the case of ICCPR and ICESCR, Covenants. The Universal Declaration of Human Rights is not legally binding, but is regarded as the foundation of international human rights law (United Nations, n.d.-a).

**Human rights issue:** an issue that is relevant under the human rights system.

**Human rights system:** human rights treaties, mechanisms (councils, offices and monitoring bodies) and documents (International Network for Economic Social & Cultural Rights, n.d.).

**International Bill of Human Rights:** The International Bill of Human Rights consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights (OHCHR, n.d.-a).

**Marketing:** in this thesis, the terms *marketing*, *promotion* and *advertising* all refer to the following definition:

*“‘Marketing’ refers to any form of commercial communication or message that is designed to, or has the effect of, increasing the recognition, appeal and/or consumption of particular products and services. It comprises anything that acts to advertise or otherwise promote a product or service.”* (WHO, 2010, p. 7).

**Overweight and obesity:** overweight and obesity in children refer to the WHO definitions:

- From birth to less than 5 years of age: weight-for-height more than 2 (for overweight) or 3 (for obesity) Standard Deviations above the WHO Child Growth Standards median.
- From age 5 to less than 19 years: BMI-for-age more than 1 (for overweight) or 2 (for obesity) Standard Deviations above the WHO growth reference median (WHO, 2016).

**Salient:** “most noticeable or important, something that stands out as prominent”. Cambridge Dictionary (Cambridge Dictionary, n.d.).

**Special Rapporteurs:** Special Rapporteurs are independent human rights experts appointed by the UN Human Rights Council that advice and report on human rights with thematic perspectives. In 2016, there were 43 thematic mandates. Special Rapporteurs are described as *“highly qualified individuals who possess established competence, relevant expertise and extensive professional experience in the field of human rights.”* (OHCHR, 2016).

**UN Human Rights Council:** the UN Human Rights Council (UNHCR), until 2006 the UN Commission on Human Rights, is a body within the United Nations system responsible for strengthening the promotion and protection of human rights. The UNHCR is made up of 47 UN member states. It addresses situations of human rights violations and make recommendations. It has the ability to discuss all thematic human rights issues and situations that require its attention throughout the year, and works with the UN Special Procedures,

including the UN Special Rapporteurs. The UNHRC meets for three periods a year (OHCHR, n.d.-e)

**Unhealthy foods:** There is no single definition of unhealthy foods. For example, WHO describes unhealthy foods both in broad terms, as “energy-dense, nutrient poor foods and sugar-sweetened beverages” (WHO, 2016), and more specifically as foods high in saturated fats, trans-fatty acids, free sugars or salt (WHO, 2010). The latter definition is often abbreviated as HFSS foods (WHO EURO, 2016). To define and classify unhealthy foods with the purpose of e.g. restricting food marketing, the use of nutrient profiling schemes has been recommended (WHO, 2010). Two main categories of nutrient profiling exist. First, a European nutrient profiling model that sets specified nutrient thresholds for total fat, saturated fat, total sugars, added sugars and salt within different food categories (WHO EURO, 2015). Secondly, a model used in the Americas focuses on thresholds for the abovementioned nutrients, but limited only to processed and ultra-processed foods (PAHO, 2016). In this thesis, the term unhealthy foods comprise foods that would be restricted for food marketing within the European model. For brevity and variation, the term HFSS foods is also applied.

# 1 Introduction

The last decades, the global prevalence of child **overweight** and **obesity** has been increasing up to a point where the situation is described as an obesity epidemic (WHO [World Health Organization], 2016).<sup>1</sup> Little progress has been made in reducing the rising trends in overweight and obesity to date (WHO 2016). Child overweight and obesity is a risk factor for several diseases and conditions such as musculoskeletal and orthopaedic complications; psychological difficulties; and early onset non-communicable diseases (NCDs) like diabetes type 2 (Lobstein, Baur, & Jackson-Leach, 2010). It also increases the risk for adult obesity (WHO, 2016). Overweight and obesity strongly increases the risk of ill health and premature death of individuals, and in addition contributes to an economic burden on societies due to health expenses and lost productivity (Wang, McPherson, Marsh, Gortmaker, & Brown, 2011). In response to the global obesity situation, several international health initiatives have been launched with the aim to halt the rise in overweight and obesity (UN General Assembly, 2016; WHO, 2013, 2014c, 2016).

Global **food environments** have undergone dramatic changes that have impacted the quality, affordability and accessibility of foods, subsequently leading to changing diets (Swinburn et al., 2011). This change in food environments and diets is regarded as an important contributing factor to the rise in obesity worldwide (Swinburn et al., 2011; WHO, 2016).

**Food marketing** is an integral part of food environments and is regarded as one causal factor of the global obesity situation (Cohen, 2010; WHO, 2010). **Children** are considered as being especially vulnerable to food marketing, because they are not mature, lack nutritional knowledge and do not comprehend marketing techniques (Hastings & Cairns, 2010; Swinburn et al., 2011). Food marketing aimed at children mostly promotes **unhealthy foods**, is extensive and utilising an evolving range of marketing channels (WHO, 2010; WHO Regional Office for Europe [WHO EURO], 2013).

The WHO Set of recommendations on the marketing of foods and non-alcoholic beverages to children (WHO Set of recommendations) is a guidance for WHO member states to reduce the extent of marketing of unhealthy foods to children (WHO, 2010). However, the implementation of the WHO Set of recommendations has been slow and inconsistent and has partly been opposed by the food industry (Kraak et al., 2016).

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<sup>1</sup> Words that are set in **bold** throughout the theory section can be found under definitions (pp. vi-ix).

Considering the childhood obesity situation and challenges in implementing restrictions on food marketing, some health advocates and scholars suggest that **human rights** could be used to improve food environments and food **businesses'** marketing conduct (Baytor & Cabrera, 2014; FoHRC, 2016).

A rights-based approach to food marketing builds on international human rights treaties relevant for food and health, and focuses on states' obligations to protect their citizens against harm and exploitation (WHO EURO, 2013).

Human rights are a set of entitlements and protections inherent to all human beings, enshrined in international human right law and thus legally binding on states that have ratified international human rights treaties (OHCHR, n.d.-g). The human rights to food and health are recognized in the International Covenant of Economic, Social and Cultural Rights (ICESCR) and in provisions from the Convention on the Rights of the Child (CRC) (United Nations, 1966, 1989). These rights are seen as relevant for child obesity and food marketing to children (Baytor & Cabrera, 2014).

There has been an increasing focus on the impacts that businesses have on human rights and what responsibilities businesses could have in relation to them (UNHRC, 2011j). The United Nations Guiding Principles on Business and Human Rights (UN Guiding Principles) is a framework endorsed by the UN Human Rights Council in 2011. It clarifies the roles and responsibilities that states and businesses have in relation to human rights (OHCHR, 2011). The UN Guiding Principles set out that states have a duty to protect human rights, and businesses have a responsibility to respect human rights, encompassing all the internationally recognized human rights (OHCHR, 2011). To meet their responsibilities, businesses should perform a **human rights due diligence** process that could include publicly available reports. Such reports could be important tools for governments and civil society to hold businesses accountable for their actions (OHCHR, 2011).

The UN Guiding Principles Reporting Framework (Shift & Mazars, 2015) (UNGP Reporting Framework) is a guidance to help businesses carry out human rights due diligence in line with the UN Guiding Principles. The UNGP Reporting Framework has been adopted by several transnational food companies. It asks businesses to identify and prioritise for reporting **salient** human rights issues; that is, the human rights at risk of the most severe negative impact through the company's activities (Shift & Mazars, n.d.-k).

It has been suggested that the UNGP Reporting Framework could be used as an accountability tool to improve the food sectors' marketing practices (Eide, Torheim, Løvhaug, & Eide, 2017; Handsley & Reeve, in press).

The aim of this thesis is to explore whether marketing of unhealthy foods aimed at children could be regarded as a salient human rights issue, applicable for inclusion in food companies' human rights reports under the UNGP Reporting Framework.

The thesis is outlined as follows: Chapter 2 lays out in more depth the content that has been introduced above and presents study objective and research questions. Chapter 3 describes the methods used to answer the research questions, chapter 4 presents the results and chapter 5 discusses the results, followed by a conclusion in chapter 6.

## 2 Theory

The theory chapter establishes the background and conceptual framework for the thesis. The first part of the chapter focuses on child obesity and food marketing, while the second part (from section 2.4) focuses on human rights relevant for child obesity and food marketing. Study objective and research questions are presented in section 2.6.

### 2.1 Childhood overweight and obesity

During the last decades, the global prevalence of overweight and obesity in children has increased to reach alarming proportions. The swiftness of the rise has established the description *the obesity epidemic* (WHO, 2016).

In 2014, approximately six percent or 41 million children under five years globally were overweight or obese, a 30 percent increase since 1990 (UNICEF, WHO, & World Bank Group, 2015). Concerning older children, Abarca-Gómez et al. (2017) estimate that for children between five and 19 years, the global prevalence of obesity has increased from 0.8 percent in 1975 to 6.7 percent in 2016. In 2016, 50 million girls and 74 million boys were obese, while 213 million children were overweight (Abarca-Gómez et al., 2017). The global estimate conceals national prevalence that can be much higher than the global mean. For example, in China and Egypt about 11 and 17 percent of children between five and 19 are obese, respectively, while in the USA the obesity prevalence in this age group is about 21 percent (NCD Risk Factor Collaboration, 2017). WHO EURO (2014) estimates that in Europe, one in three 11-year olds is overweight or obese. In the Pacific region, some nations have markedly high obesity prevalence in children between five and 19 years. For example, obesity prevalence in Nauru, Palau and Cook Islands was over 30 percent in 2016 (Abarca-Gómez et al., 2017).

According to WHO (2016), high-income countries have higher prevalence of overweight and obesity in children less than five years compared with low- and middle-income countries. For example, while the European region has over 12 percent overweight or obesity in this age group, the African and South-East Asia WHO regions have a prevalence of less than six percent (WHO, 2016).

However, low- and middle-income countries experience a faster increase in prevalence compared to high-income countries. In Africa, the prevalence of overweight and obesity in children less than five years has almost doubled since 1990, while Asia has seen a 22 percent

increase (Unicef et al., 2015). In absolute numbers, low-and middle-income countries have the higher proportion of overweight or obese children less than five years, with almost three quarters of these children living in Africa or Asia (WHO, 2016).

Plateauing overweight levels have been observed in some high-income countries the last decade (Abarca-Gómez et al., 2017), but only two countries have observed declining numbers (Lobstein & Jackson-Leach, 2016). If the present trend continues, the number of overweight children less than five years is expected to be 70 million by 2025 (Unicef, WHO, & World Bank Group, 2015). For children between five and 17 years, Lobstein and Jackson-Leach (2016) estimate that in 2025, overweight prevalence will have increased from approximately 14 to 16 percent, translating into 268 million children.

In addition to the regional differences in overweight prevalence described above, there are differences within countries, with socioeconomic status being recognised as one important predictor (WHO, 2016). In high-income countries, children from lower socioeconomic groups tend to have a higher risk of being overweight, while in low- and middle-income countries, children from higher socioeconomic groups have the higher risk. Besides these differences there are emerging subgroups within countries, e.g. ethnic minorities and indigenous groups, that often have markedly higher risk of being overweight or obese (WHO, 2016).

### 2.1.1 Consequences of child obesity

Childhood obesity is a concern because it increases the risk for serious health effects in childhood and into adulthood (WHO, 2016).

Obese children have a strong and significantly higher risk of adult obesity compared with normal weight children (WHO, 2016). The risk increases along with the child's advancing age and even more if one or two parents are also obese (Lobstein et al., 2010). Also, child overweight is associated with adult obesity (WHO, 2016).

In childhood, obesity is a cause of orthopaedic and musculoskeletal complications and early onset of NCDs like cardiovascular disease and type 2 diabetes. In addition, obese children may suffer from stigmatisation and psychosocial problems like depression (WHO, 2016). A study among European countries suggests that among obese children, hypertension or raised blood cholesterol could affect as many as 25 percent; one third could have non-alcoholic fatty liver; and 12 percent could have hyperinsulinaemia (Lobstein, Baur, & Jackson-Leach, 2010).



Even though obesity is the main concern, WHO (2016) argues that BMI cut-offs are not absolute and that overweight children can also suffer from negative health consequences.

The present trend of rising obesity prevalence in children is projected to lead to a significantly larger share of populations that have to live with chronic disabilities in the future (WHO, 2010). Further, obesity tends to transfer to the next generation via behavioural and genetic pathways, which is a major concern given the global increasing overweight and obesity prevalence (WHO, 2016).

The health burden for individuals as a result of obesity may thus both include increased morbidity and premature mortality (WHO, 2016). In adulthood especially, this may lead to loss of productivity and negative economic consequences. The health costs for societies include increased health expenditure as a result of increased population morbidity, but also loss of income due to factors like reduced productivity and disability pensions (Wang, McPherson, Marsh, Gortmaker, & Brown, 2011).

The present prevalence and trends of childhood obesity and their negative present and future impacts have urged WHO (2016) to call for immediate action. A number of global health initiatives have a focus on obesity or child obesity, either as an overarching aim or included as one of more objectives (UN General Assembly, 2016; United Nations, n.d.-c; WHO, 2013, 2014c, 2016). However, the global progress in reducing childhood overweight has been slow and inconsistent (WHO, 2016). The Global Nutrition Report 2017 notes that the international progress to meet global nutrition targets relating to overweight in both children and adults is off track (Development Initiatives, 2017).

### 2.1.2 Diet as a cause of childhood obesity

In the simplest sense, overweight and obesity is a result of expending too little energy in relation to how much energy is consumed (UNICEF, WHO, & World Bank Group, 2015). Multiple factors contribute to obesity, including physical inactivity, societal and cultural factors, and to some extent genetic predisposition (Swinburn et al., 2011). The focus in this thesis is on the contribution of unhealthy diets, which is regarded as one of the major causes to obesity worldwide (WHO, 2016).

Unhealthy diets are described as diets low in fruit and vegetables but high in unhealthy foods like fast food and sugar-sweetened beverages (WHO, 2015, n.d.-c). Unhealthy foods are high in energy and frequently low in fibre and protein, so that they are less satiating than healthy,

low-energy foods. Because they are often highly palatable, they challenge the intake of healthy foods and contribute to increased energy intake. Children are particularly susceptible to unhealthy foods because they have a strong preference for sweet tastes (Roberto et al., 2015). Thereby, unhealthy diets contribute to a positive energy balance that subsequently causes overweight and obesity in adults and children (WHO, 2010, 2016).

### 2.1.3 Food environments as determinants of unhealthy diets

The food environment is an important determinant for unhealthy diets (Cohen, 2010; Swinburn et al., 2011; Swinburn et al., 2013; WHO, 2010). In this thesis, the concept of food environments and their consequences on diets builds on a conceptual framework developed by Swinburn et al. (2013), where food environments are defined as:

*“The collective physical, economic, policy and sociocultural surroundings, opportunities and conditions that influence people’s food and beverage choices and nutritional status.”* (Swinburn et al., 2013, p. 2).

Food environments interact with individual factors to affect food choices and diets (Swinburn et al., 2013). Unhealthy food environments are characterised by widely available, heavily promoted, inexpensive unhealthy foods (Swinburn et al., 2011; Swinburn et al., 2013). Unhealthy food environments are also referred to as obesogenic because they promote unhealthy diets, excess energy intake and subsequently drive overweight and obesity in populations (Swinburn et al., 2011; WHO, 2016).

Food environments encompass four dimensions: 1. *Physical*: the availability, accessibility and promotion of food; 2. *Economic*: the cost of food; 3. *Policy*: rules and regulations concerning food; and 4. *Socio-cultural*: populations’ norms and beliefs concerning food. Figure 1 depicts how food environments are mainly formed by the actions of three groups of **governance** actors: food industry, governments and society. A dotted line not originally included in the model by Swinburn et al. has been added to suggest that food marketing may also have an impact on individual factors like preferences.

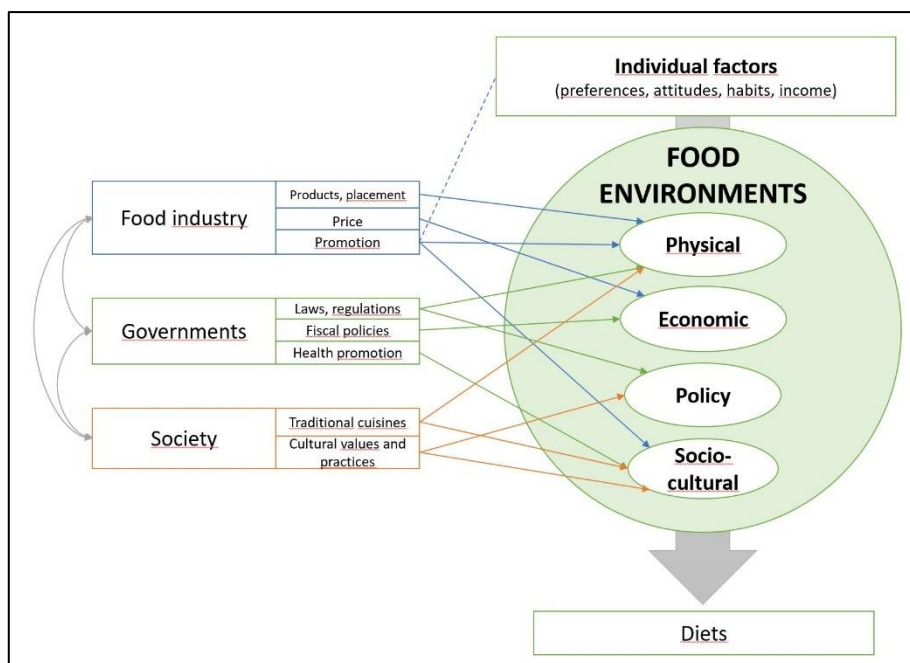


Figure 1. Conceptual framework of factors influencing food environments and diets. The figure is adapted from Swinburn et al. (2013)

Swinburn et al. (2013) state that the private food industries have a central role in forming food environments by determining the food supply, marketing their food and affecting social norms. Governments, from global to local levels, provide laws and regulations that set the limits for the food industries' operations. Governments can also impact societies and social norms by e.g. health promotion. Last, societies establish cultural norms for food and cuisines. The three actors also interact at several levels, for example when the food industry lobby to impact food policies that affect them (Swinburn et al., 2013).

Children have several characteristics that make them susceptible to unhealthy food environments, e.g. an innate preference for sweet tastes and a lack of nutritional knowledge (Roberto et al., 2015; Swinburn et al., 2011). In the context of child obesity and unhealthy diets, it is often maintained that parents have the responsibility to take healthy nutritional choices for their children (Lobstein et al., 2015). However, Lobstein et al. (2015) argue that food environments should support and enable parents to take healthy choices and that current food environments often are barriers to choose and buy healthy foods. It can also be argued that food environments target children directly, for example in the case of food marketing.

This thesis focuses on food marketing to children as an integral part of food environments (Swinburn et al., 2013). Food marketing to children is presented in section 2.2.

### 2.1.4 Different perspectives on the causes of obesity

There are different perspectives on what causes obesity, and several governance actors object to the concept of food environments as a structural factor that contributes to unhealthy diets and obesity.

Jenkin, Signal, and Thomson (2011) describe how different actors frame obesity and its causes differently. Public health actors tend to describe obesity as a structural problem where overweight and obesity in populations is a normal response to unhealthy or obesogenic food environments (Jenkin et al., 2011). On the other hand, food industry and marketing actors commonly explain causes of obesity as issues of self-control, individual lifestyles and especially lack of physical activity (Jenkin et al., 2011). Policies and interventions to tackle obesity have often focused on individual factors, e.g. by aiming to educate individuals or populations (Swinburn et al., 2011; WHO EURO, 2016). However, there is strong evidence that unhealthy food environments undermine the ability of individuals to choose healthy foods (WHO, 2016). For example, Cohen (2010) explains that unhealthy food environments stimulate automatic responses that increase energy intake without peoples' conscious awareness, thereby driving the obesity epidemic.

Even if important organisations like WHO apply a systems approach to obesity, obesity seems to be a challenging policy issue with political and moral implications, being referred to as for example “a wicked policy problem” (Baker, Gill, Friel, Carey, & Kay, 2017).

## 2.2 Food marketing aimed at children

Food marketing constitutes an important factor that contributes to food environments and unhealthy diets (Swinburn et al., 2013; WHO, 2010, 2016).

According to Hastings and Cairns (2010), children is an important target group for food marketers. They can affect product sales positively in three ways; by influencing household food expenditure, by having independent purchasing power, dependent on age, and by constituting a future adult market. Thus, building brand loyalty from early age is a valuable investment for food companies (Hastings & Cairns, 2010). WHO (2010) describes food marketing as extensive and that different marketing techniques are widespread across the world.

A distinct majority of food marketing to children promotes foods high in fats, sugar or salt (HFSS foods), like sugar-sweetened soft drinks, sweet or savoury snacks and fast foods

(Cairns, Angus, & Hastings, 2009; WHO, 2010). Food marketing has been internationally acknowledged as an important, modifiable risk factor for childhood obesity due to its ability to change children's dietary behaviour, purchase requests and consumption patterns (Cairns et al., 2009; WHO, 2010, 2016). Children are regarded as susceptible to food marketing because they do not have the cognitive capacity to understand the intent behind food marketing and to resist such marketing. Also, children cannot take informed choices regarding nutrition and will often prioritise short-term enjoyment over long-term negative health impacts (Swinburn et al., 2011). WHO (2016) also suggests that food marketers, particularly in digital media, employ strategies that stimulate emotional responses that are processed differently than cognition and that are subsequently harder for children to recognise and resist.

The effectiveness of marketing depends on interaction of two factors: *exposure* and *power* (WHO, 2012). *Exposure* includes the reach and frequency of a marketing message, meaning how many of the target group are exposed to the marketing and how often they are exposed to it. Exposure will also depend on the choice of the communication channel, e.g. television, product placement or computer games. *Power* means how well the marketing affects the target audience, and is influenced by the marketing content and creative strategies used to promote the product, e.g. colours, imagery and branded toys (WHO, 2012). Power is sometimes equated with persuasiveness or persuasive power (Kraak & Story, 2015)

Food marketing to children is a global phenomenon that uses a mix of communication channels. TV advertising has traditionally been the most widely used channel, while marketing via the internet and social media has increasingly gained popularity. Other communication channels include e.g. printed marketing in comics and magazines, packaging, free samples, sponsorships and in-school marketing (Cairns et al., 2013). Commonly used creative strategies include for example characterization (e.g. cartoon characters), use of animation, humour, taste appeal, competitions and gifts. Such strategies may utilise what some call "pester power", where children badger parents into purchasing products they normally would not buy (Cairns, Angus, & Hastings, 2009). Digital food marketing strategies include interaction and social media content generated by the users themselves, extended reach of advertisements on social media platforms through "liking", "sharing" and commenting, and paid partnerships with bloggers that are popular with children (WHO, 2016).

### 2.2.1 WHO Set of recommendations

To prevent child obesity, international initiatives concerning nutrition and health have included recommendations on the development of regulations of food marketing targeted to children (WHO, 2008). In 2010, WHO published a *Set of recommendations on the marketing of foods and non-alcoholic beverages to children* which were endorsed by the World Health Assembly in WHA Resolution 63.14 (WHO, 2010). The WHO Set of recommendations has subsequently been included in several international nutrition and health strategies and initiatives (WHO, 2013, 2014a, 2016).

The purpose of the WHO Set of recommendations is to guide states in developing or strengthening national policies on food marketing to children (WHO, 2010). In short, states are encouraged to implement policies that restrict marketing of foods high in saturated fats, trans-fatty acids, free sugars or salt that is aimed at children. Both the exposure and power of such marketing should be reduced. States may choose different approaches to how they develop policies, e.g. in relation to how comprehensive the policy will be and in the setting of definitions that decide the scope of the restrictions, for example age group, channels for marketing and for which foods the restrictions will cover. Implementation of the policies may take different forms, from legally binding regulations to government-led self-regulation, and should be carried out within an established policy. In addition, States should set up mechanisms for monitoring the policy implementation and evaluate its impacts (WHO, 2010).

Following the WHO Set of recommendations, technical support to help states implement the recommendations has been published. In 2012, *A framework for implementing the set of recommendations on the marketing of foods and non-alcoholic beverages to children* was published (WHO, 2012). This document operationalises how governments can develop policies on food marketing in a step-by-step framework, covering actions from situation analysis to indicators for monitoring (WHO, 2012). Further, technical support in the form of nutrient profiles have been developed by WHO regional offices (Kraak et al., 2016). Such nutrient profiles can be used to assist the identification of foods that are or are not permitted to market to children, based on nutrient thresholds (WHO EURO, 2015).

Kraak et al. (2016) have reviewed the progress of implementing the Set of recommendations/WHA resolution 63.14. The investigation showed that so far, no WHO member state had implemented comprehensive legislation or mandatory regulation concerning food marketing to children but rather preferred industry self-regulation. Likewise,

WHO EURO (2013) showed that by 2013, many European WHO member states had no policy to restrict food marketing to children in place at all, and that only six countries had fully implemented the recommendations.

### **2.2.2 Industry-led initiatives to restrict food marketing to children**

Many actors from the food industry have engaged in sector-led initiatives or pledges to restrict food marketing to children from 2004 onwards (WHO EURO, 2013). While such initiatives are considered a step forward towards protecting children against marketing of unhealthy foods, critics point to several weaknesses in industry-led pledges (WHO EURO, 2013). For example, the criteria to define marketing channels tend to be limited in scope; nutrition criteria are often weaker than regulatory proposals; age criteria may be limited to children less than six years old; there is a lack of monitoring and enforcement mechanisms; and last, many businesses do not commit to any pledge or voluntary initiative (WHO EURO, 2013).

In a review on food marketing by Boyland and Whalen (2015), findings showed that the marketing conduct of signatories to self-regulatory initiatives on food marketing did not differ significantly from non-signatories. Jensen and Ronit (2015) found similar results in a study that assessed how well signatories to an industry-led pledge on food marketing in the EU adhered to their commitments. For example, this study showed that the interpretations of age limits and nutrient criteria differed widely between companies, so that the effectiveness of the pledge was difficult to assess (Jensen & Ronit, 2015). Some food industry actors have actively lobbied against planned public restrictions on food marketing, leading to government inaction (Kraak et al., 2016).

#### *The role of civil society in the context of food marketing*

Civil society organisations, NGOs and academics can have important roles in monitoring marketing practices among food businesses (Kraak et al., 2016). Such actors have for example addressed weaknesses in self-regulatory initiatives and emphasised the lack of accountability mechanisms for business marketing conduct. Also, civil society may have important roles in supporting governments to restrict food marketing, advocate for strengthened accountability systems, and building public support for regulations that limit food marketing (Kraak et al., 2016).

### 2.2.3 A rights-based approach to food marketing?

As a response to the slow progress in implementing the WHO Set of recommendations and limitations seen in self-regulatory initiatives to limit food marketing to children, some scholars and health advocates turn to the human rights system for an alternative or complementary approach to improve marketing practices in the food sector (Baytor & Cabrera, 2014; FoHRC, 2016; Swinburn et al., 2008).

A *rights-based approach* to food marketing to children builds on international human rights treaties that are relevant for health and nutrition, and the duties that societies have to protect its citizens, particularly vulnerable groups, against harm and exploitation (WHO EURO, 2013). An alternative approach (and according to WHO (2013), the traditional approach) in international and national health policy is *risk-based*. Simply put, a risk-based approach attempts to balance the likelihood of harm against the benefits inherent to the issue at hand. In the context of food marketing restrictions, benefits in terms of health gains would be balanced against commercial and economic interests of marketing businesses (WHO EURO, 2013). It is suggested that a rights-based approach to food marketing would be more favourable for the protection of children and would in nature be more comprehensive than risk-based approaches (Handsley, Nehmy, Mehta, & Coveney, 2014; WHO EURO, 2013).

Section 2.3 will focus on the **human rights system** and the potential of using human rights in the context of food marketing to children.

## 2.3 Human rights, child obesity and food marketing

*Human rights* are a set of entitlements and protections inherent to all human beings, regardless of factors like sex, age, race or nationality (OHCHR, n.d.-g). Human rights may be regarded as moral values, based on human dignity. However, human rights are also enshrined in international human rights law which imposes legal obligations on State Parties, meaning the states that have ratified international human right treaties (OHCHR, n.d.-c). In the human rights system, states or governments have the obligation to respect, protect and fulfil the human rights of its citizens (OHCHR, n.d.-c). The obligation to *respect* imply that states must refrain from interfering with the human rights of individuals or groups. The obligation to *protect* means that states must prevent third parties, like corporations, from violating human rights. Finally, the obligation to *fulfil* requires states to establish systems that enable the enjoyment of human rights (Baytor & Cabrera, 2014).



There has been growing recognition of the fact that states are not the only actor that may violate human rights. The business sector has a potential to impact human rights negatively for individuals or groups in a variety of ways (UNHRC, 2011j). There is no international treaty that lays legally binding obligations on businesses in this respect. However, several international **human rights instruments and documents**, like the Universal Declaration on Human Rights and the International Covenant on Economic, Social and Cultural Rights, set out that the private sector has responsibilities with regards to human rights (MacLeod, 2012). The United Nations Guiding Principles on Business and Human Rights (UN Guiding Principles) (2011) is currently the most comprehensive framework to define the role of businesses with regards to human rights (Collins, 2014). The UN Guiding Principles will be presented in section 2.4.

The subsequent structure of the section on human rights is as follows. Section 2.3.1 presents treaty articles and related UN documents that are regarded as relevant for nutrition and diet-related health, including obesity. Section 2.3.2 presents some suggestions to how human rights may be used in relation to NCD and obesity, including food marketing.

### 2.3.1 Human rights instruments relevant for child obesity

The human rights instruments that are most commonly referred to in the context of child obesity are:

- The International Covenant on Economic, Social and Cultural Rights (ICESCR) (United Nations, 1966).
- The Convention on the Rights of the Child (CRC) (United Nations, 1989).

Both treaties are legally binding and have been ratified extensively.<sup>2</sup> The treaties are overseen by their respective United Nations Committees: The Committee on Economic, Social and Cultural Rights (UN CESCR) and the Committee on the Rights of the Child (UN CRC). The Committees monitor how State Parties implement the treaties. In addition, they develop and publish General Comments, where treaty content is interpreted and explained in more detail. General Comments are not legally binding but are regarded as authoritative interpretations of treaty content (Buergenthal, Shelton, & Stewart, 2009). In the next section, treaty articles relevant for child obesity and associated General Comments are presented.

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<sup>2</sup> ICESCR has been ratified by 165 countries, CRC has been ratified by every country in the world except USA.

### **The Right to Adequate Food**

Article 11 of the ICESCR contains what is known as the Right to Adequate Food. Article 11.1 states that:

*“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”*  
(United Nations, 1966).<sup>3</sup>

Article 11 of the ICESCR is regarded as the most comprehensive article concerning the human right to food. However, the articles’ content is described in general terms, and a clarification of the normative content is necessary (Eide & Kracht, 2005). General Comment 12 was issued by UN CESCR in 1999 and defines the normative content of article 11.

Paragraph 6 of the General Comment defines the right to food as:

*“The right to adequate food is realized when every man, woman and child, alone or in community with others, have physical and economic access at all times to adequate food or means for its procurement.”* (UN CESCR, 1999).

According to UN CESCR (1999), adequate food should be available and accessible, in a quantity and quality to satisfy dietary needs throughout the life cycle and according to gender and occupation, and culturally acceptable within a given culture. To achieve the right to adequate food, States may need to develop measures to e.g. *“(…) strengthen dietary diversity and appropriate consumption and feeding patterns”* (UN CESCR, 1999).

As mentioned previously, the obligation to respect, protect and fulfil the right to adequate food lies with the state. However, in paragraph 20 of General Comment 12, UN CESCR (1999) establishes that all members of society, including the business sector, have responsibilities to realize the right to adequate food.

Malnutrition in the form of obesity is not mentioned in General Comment 12. However, later UN documents concerning the right to food do so. For example, a fact sheet on the Right to Adequate Food states that *“Food that is energy-dense and low-nutrient, which can contribute to obesity and other illnesses, could be another example of inadequate food.”* (OHCHR,

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<sup>3</sup> Where page numbers are not given in relation to direct citations, this is because some UN documents are not numbered.

2010). Also, scholars argue that the right to adequate food should take into consideration state obligations to protect consumers and address obesity, given the global increase in diet-related NCDs and obesity (Baytor & Cabrera, 2014; Priest, Swinburn, & Waters, 2010).

### **The right to health**

Article 12 of the ICESCR contains what is known as the Right to Health. Article 12.1 states: *“The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”* Article 12.2 explains that to achieve the right to health, states are obliged to e.g. prevent, treat and control epidemic, endemic, occupational and other diseases (United Nations, 1966).

The content of article 12 is interpreted by UN CESCR (2000) in General Comment 14 on the right to health. The right to health encompasses a right to *“the enjoyment of a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health.”* (UN CESCR, 2000). The right to health depends on underlying determinants of health like safe water, food and nutrition. Children as a group are given extra attention, and in paragraph 24 it is stated that *“in all policies and programmes aimed at guaranteeing the right to health of children and adolescents their best interests shall be a primary consideration.”* (UN CESCR, 2000).

As in General Comment 12, the responsibility of non-state actors like the private sector to respect the right to health is highlighted. In para 51, when describing state violations of the obligation to protect, two examples focus on the business sector. First, a violation to the right to health occurs if a state fails to “to protect consumers and workers from practices detrimental to health, e.g. by employers and manufacturers of medicines or food”. Secondly, the same would be true if a state fails to “discourage production, marketing and consumption of tobacco, narcotics and other harmful substances” (UN CESCR, 2000). Baytor and Cabrera (2014) suggest that these examples may be extended to unhealthy foods.

### *Convention on the Rights of the Child - CRC*

The CRC contains several articles that may be interpreted in relation to childhood obesity and marketing of unhealthy foods.

First, in article 3 it is stated that: *“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”* (United

Nations, 1989, p. 3). In article 6, children's right to life, survival and development is recognized. Article 24 and 27 concern health and nutrition. In article 24.1, State Parties "*recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health.*" (United Nations, 1989, p. 7). To achieve this, State Parties must take measures against disease and malnutrition, for example by provisioning adequate, nutritious food and clean drinking water (para 24.2 c.). Article 27.1 states the right of the child to a standard of living "*adequate for the child's physical, mental, spiritual, moral and social development.*" (United Nations, 1989, p. 8). Last, Article 32 recognizes children's right not to be economically exploited.

**Summarising** section 2.3.1, two legally binding international human rights treaties and related General Comments set out that states are obligated to respect, protect and fulfil human rights that are related to health and adequate food, as well as the principles of the best interest of the child and the right to life, survival and development. These rights are considered relevant in the context of child obesity. Further, General Comments 12 and 14 make clear that the private sector has a responsibility to respect human rights.

In addition to the treaty articles and General Comments introduced above, two more recent UN CRC General Comments discuss food marketing in the context of health and NCDs (UN CRC, 2013a, 2013g). These documents will be presented in the results section of this thesis.

### 2.3.2 Possible applications of human rights in relation to food marketing

In the context of nutrition, human rights have historically been interpreted and used in relation to hunger (FIAN International, 2017; Priest et al., 2010). With a changing nutrition situation and the recognition of obesity as a global challenge, several academics now discuss how the human rights system can be used in the context of obesity, NCDs and unhealthy diets. Most of these contributions focus on the human rights obligations of states, suggesting that international human rights treaties can be used for example to stimulate national regulation of the tobacco, alcohol and food industries (Baytor & Cabrera, 2014; Handsley et al., 2014; Ó Cathaoir, 2016a; Priest et al., 2010).

A few academics also propose that the human rights system can be used to hold commercial actors responsible for their food marketing conduct, especially when targeted to children (Eide et al., 2017; FoHRC, 2016; Handsley & Reeve, in press). These contributions consider two relatively recent human rights documents that concern the roles and responsibilities of

businesses in relation to human rights: the United Nations Guiding Principles on Business and Human Rights (UN Guiding Principles) and the corresponding UN Guiding Principles Reporting Framework (UNGPR Reporting Framework) (OHCHR, 2011; Shift & Mazars, 2015). Sections 2.4 and 2.5 introduce these documents, which are the focal points of this thesis.

## 2.4 UN Guiding Principles

During the last four decades, there has been increasing focus on the need to clarify the content of business responsibilities relating to human rights. However, attempts to develop a legally binding human rights treaty for the business sector have been unsuccessful (Business & Human Rights Resource Centre, n.d.-c). At present, a working group established by the UN Human Rights Council (UNHRC) has a mandate to elaborate an internationally legally binding instrument (UNHRC, 2017). However, a binding treaty for the business sector is at present an uncertain future possibility and will not be discussed further.

The UN Guiding Principles were introduced after an extensive consultancy process and were endorsed by the Human Rights Council in 2011 (OHCHR, 2011). The UN Guiding Principles are a framework that clarifies the roles and responsibilities that states and businesses have in relation to human rights. They do not constitute a legally binding instrument, but draw on and interpret international, legally binding treaties (OHCHR, 2011). In an interpretative guide developed by OHCHR (2012, p. 1), the UN Guiding Principles are described as “(...) *the global standard of practice that is now expected of all States and businesses with regard to business and human rights.*”. OHCHR (2012) declares that the UN Guiding Principles are pertinent to all business in all situations. However, there is no enforcement mechanism related to the guidelines (Handsley & Reeve, in press).

The UN Guiding Principles are based on three pillars:

1. *The State duty to protect human rights.* States have obligations under international human rights law to protect against human rights abuse by third parties, including businesses.
2. *The corporate responsibility to respect human rights.* Businesses should avoid infringing on the human rights of others and should address negative human rights impacts with which they are involved.

3. *Access to remedy*. States must take steps to ensure that human rights abuse caused by business may be remediated for the ones affected (OHCHR, 2011).

This thesis focuses on the responsibility of businesses. Thus, the emphasis is on the second pillar of corporate respect.

The UN Guiding Principles set out that businesses should respect all human rights, at a minimum the **International Bill of Human Rights** and the principles concerning fundamental rights set out in the International Labour Organization's Declaration on Fundamental Principles and Rights at Work. In addition, other standards could be considered depending on circumstances and operational context. Children's rights are exemplified as one such additional standard (OHCHR, 2011). Thus, human rights treaties that are relevant for child obesity as described in section 2.3.1 are relevant under the UN Guiding Principles.

To meet their responsibility to respect all human rights, businesses must have in place certain *policies* and *processes*. This will enable them to "know and show" that they take efforts to respect human rights. *Policies* refers to a policy commitment to respect human rights, while *processes* refer to a human rights due diligence process, as well as processes to enable remediation for human rights impacts that the business have caused or contributed to (OHCHR, 2011).

A human rights due diligence is a process that companies carry out to identify the information it needs to prevent and mitigate negative human rights impacts, and to account for how they address such impacts (OHCHR, 2012). Key elements of the human rights due diligence process are:

- *Identification*, where a business assesses how it may cause or contribute to human rights impacts. The identification should be done through consultation with e.g. human rights experts and affected groups or stakeholders.
- *Integration*, where the business acts upon the findings from the assessment.
- *Tracking*; where the business measures how well human rights are implemented and acted upon.
- *Communication*, where businesses show how they address their human rights efforts, thereby providing transparency and accountability to different stakeholders.

Communication can take different forms, ranging from meetings with affected groups to public reports depending on the purpose (OHCHR, 2011).

The UN Guiding Principles acknowledge that large and complex corporations might need to prioritize which **human rights issues** to include in the due diligence process. In these situations, corporations should identify areas where the risk for adverse human rights risks is most significant. Here, the sector and operational context must be considered (OHCHR, 2011). The gravity of the human rights impact should also be considered: “(...) *some small and medium-sized enterprises can have severe human rights impacts, which will require corresponding measures regardless of their size. Severity of impacts will be judged by their scale, scope and irremediable character.*” (OHCHR, 2011, p.15).

OHCHR (2012, p. 8) elaborates what “significant” means, described as **salient** human rights issues: “*The most salient human rights for a business enterprise are those that stand out as being most at risk. This will typically vary according to its sector and operating context.*”. For example, for a food and beverage company, salient human rights issues could be related to “*labour rights and impact on water and/ or land use and consumer health.*” (OHCHR, 2012, p. 28). In a list of examples of how businesses can contribute to adverse human rights impacts, one example is “*targeting high-sugar foods and drinks at children, with an impact on child obesity*” (OHCHR, 2012, p. 17).

OHCHR (2014) asserts that the UN Guiding Principles can be used as a tool by civil society to address corporate abuse via several mechanisms, for example the Universal Periodic Review, lobbying and advocacy work, or to monitor and assess businesses human rights performance. According to Handsley and Reeve (in press), the UN Guiding Principles provide a framework showing measures that businesses should take to protect children against unhealthy food marketing, that can be used to hold businesses directly accountable for impact on human rights. Based on this and the example in the paragraph above, it could be proposed that under the UN Guiding Principles, food marketing to children is a relevant issue to consider for food businesses.

According to OHCHR (2012), the UN Guiding Principles have been positively received by businesses, states and civil society. Business & Human Rights Resource Centre (2016) writes that eight governments have developed national action plans on business and human rights based on the UN Guiding Principles, and that many businesses have public policy commitments on human rights. The UN Guiding Principles have also stimulated the

development of regional, national or federal laws that have created new legal obligations for businesses regarding human rights, primarily concerning supply chain issues (Wood, 2016).

However, the UN Guiding Principles have also met criticism. For example, they have been criticised for a weakening of business duties, reflected in a vague terminology where businesses “should” rather than “must” (MacLeod, 2012). Collins (2014) accuses the UN Guiding Principles specifically for a lack of focus on children’s rights. In addition, several civil society actors and NGOs have addressed the lack of accountability and enforcement mechanisms, which they argue result in continued human rights abuse by businesses (Business & Human Rights Resource Centre, n.d.-a).

After the UN Guiding Principles were introduced, several guidance tools on their implementation have been developed by non-governmental institutions and initiatives (OHCHR, 2014). One such tool, the UNGP Reporting Framework (Shift & Mazars, 2015), has been referenced to in governmental action plans and acts and has been adopted by significant multinational corporations, including food businesses (Shift & Mazars, n.d. -x). The seemingly growing importance of this framework may affect how companies report on their human rights efforts, which may allow governments, civil society and other stakeholders to monitor corporate human rights performance. The focus in the remaining part of this section is thus on the UNGP Reporting Framework.

## 2.5 UNGP Reporting Framework

The UNGP Reporting Framework was launched in 2015, co-developed by the organisations Shift and Mazars (Shift & Mazars, n.d.-a). The rationale behind the UNGP Reporting Framework is to enable businesses to carry out human rights due diligence processes in line with the UN Guiding Principles, and to respond to a demand for formal human rights reporting from stakeholders like governments, investors and other actors, in a manner that is feasible for companies (Shift & Mazars, n.d.-u). The UNGP Reporting Framework addresses the policy commitment, due diligence and remediation concepts of the UN Guiding Principles, and by using the framework, businesses have complied to the communication element of the UN Guiding Principles (Shift & Mazars, n.d.-u).

The UNGP Reporting Framework consists of 31 questions organised in three parts: part A relates to the policy commitment; part B concerns the human rights issues that are salient for



the company's activities and business relationships, and part C focuses on the management of each salient issue, including remediation.

### 2.5.1 Salient human rights issues

The key concept of the UNGP Reporting Framework is the identification of salient issues in part B (Shift & Mazars, n.d.-k). Salient issues are defined as: “(...) *those human rights that stand out because they are at risk of **the most severe negative impact** through the company's activities or business relationships.*” (Shift & Mazars, n.d.-k) (authors' emphasis). This definition differs from the use of salience in the UN Guiding Principles, where the focus is on the issues that stand out as being most at risk, or significant issues for the business and its activities (OHCHR, 2012) . In the UNGP Reporting Framework, the concept of severity is defined by the following parameters (Shift & Mazars, n.d.-k):

- **Scale:** how grave the impact would be.
- **Scope:** how widespread the impact would be.
- **Remediability:** how hard it would be to put right the resulting harm

When using the UNGP Reporting Framework, companies are asked to answer four questions regarding salient human rights issues. First, companies should state the salient human rights issues that are associated with the company's activities. The defining parameters of salience may be used to prioritise e.g. the most widespread issues. Secondly, companies should describe how the salient issues were determined, including input from stakeholders. Thirdly, if salient issues concern specific geographies, this should be explained. Fourthly, additional severe impacts that have been identified but that fall outside of the salient human rights issues should be identified.

To help companies reflect on how businesses can impact human rights, the UNGP Reporting Frameworks' website provides a table that briefly explains internationally recognised human rights and how businesses may impact them, based on the ICCPR and ICESCR (Shift & Mazars, n.d.-g). Examples of possible human rights impact by the food industry include loss of land in relation to the right to food, and child labour in relation to children's rights (Shift & Mazars, n.d.-g). However, there are no examples that concern consumer health or marketing issues.

In addition to being a reporting tool, the UNGP Reporting Framework web page contains a Reporting Database which can be used by different stakeholders to assess how businesses

report on their human rights issues (Shift & Mazars, n.d.-c). In September 2016, 40 companies were represented in the reporting database, ten of which were from the food and beverage sector. By October 2017, the number of represented companies had increased to 94, while there were still ten companies from the food and beverage sector, including Coca-Cola, PepsiCo, Nestlé and Unilever (Shift & Mazars, n.d.-s).

The disclosures in the Reporting Database are drawn from information published on company websites, either within annual reports or as standalone human rights reports (Shift & Mazars, n.d.-c). In August 2016, salient human rights issues in the Reporting Database identified by the food sector concerned topics like child labour, working conditions and freedom of association, land and water rights, with child labour gaining the most attention. Rights concerning consumer health in relation to products or marketing was mentioned only by Nestlé, that listed food marketing in relation to “other” potential human rights issues but not as a salient issue.<sup>4</sup>

**In summary**, the UNGP Reporting Framework gives businesses guidance on how to report on their human rights efforts in line with the UN Guiding Principles. The pertaining Reporting Database may be a tool for stakeholders that wish to monitor business human rights performance. The identification of salient issues is a key concept in the UNGP Reporting Framework, focusing on the *severity* of the issues. Initial reports from food businesses as disclosed in the Reporting Database do not recognise food marketing to children as a salient issue.

It has been suggested that the UNGP Reporting Framework may become a tool to improve food sector marketing practices aimed at children (Eide et al., 2017; Handsley & Reeve, in press). However, a potential inclusion of food marketing to children under the UNGP Reporting Framework would depend on food marketing to children being identified as a salient human rights issue as defined by Shift & Mazars (n.d.-k).

This thesis aims to explore to what extent food marketing to children can fit into the definition of a salient human rights issue in the UNGP Reporting Framework. The next section presents the study objective and research questions for this thesis.

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<sup>4</sup> The Reporting Database was explored August 28, 2016. Disclosures can be accessed here: <http://www.ungpreporting.org/reportingdatabase/explore-disclosures/>

## 2.6 Study objective and research questions

**Study objective:** *To explore to what extent the marketing of unhealthy foods to children may be regarded as a salient human rights issue that could be considered in human rights due diligence processes and reports under the UNGP Reporting Framework.*

Three research questions were developed to explore the objective from different perspectives. Below, the research questions and their rationale are presented. In the methods chapter, additional subsets of research questions are presented, when applicable.

**Research question 1:** *To what extent could marketing of unhealthy foods to children be regarded as a human rights issue?*

**Rationale:** To meet the research objective, it was necessary to explore whether food marketing to children is established as a human rights issue within the human rights system, beyond the references to food and health in the ICESCR and the CRC.

**Research question 2:** *To what extent could marketing of unhealthy food to children be regarded as a salient human rights issue in terms of scale, scope and remediability?*

**Rationale:** A potential identification of food marketing to children as a salient human rights issue would depend on how the scientific evidence on food marketing to children responds to the defining parameters of salience:

- Scale: how grave the impact is.
- Scope: how widespread the impact is.
- Remediability: how hard to put right the impact is.

**Research question 3:** *What are the viewpoints of key stakeholders on research questions 1 and 2; and what are their viewpoints on human rights reporting as an accountability tool?*

**Rationale:** The UNGP Reporting Framework states that identification of salient human rights issues should be informed by consulting stakeholders. A potential identification of food marketing to children under the UNGP Reporting Framework therefore depends on stakeholders that regard this issue as both relevant and salient. In addition, the concept of corporate human rights reporting needs to be recognised and appraised as relevant. Therefore, viewpoints of stakeholders that could potentially be involved in consultation or that could have an interest in using corporate human rights reporting can add valuable perspectives to the research questions and objective.

### 3 Methods

In this thesis, methods triangulation was used to investigate the study objective and research questions from different perspectives.

Research question 1 was explored with a document analysis of international human rights documents. Research question 2 was explored with a literature review of scientific evidence on the extent and effects of food marketing to children. Research question 3 was explored by performing qualitative interviews with key stakeholders. Research question 3 encompassed three dimensions: first and secondly, qualitative perspectives on research questions 1 and 2, and thirdly, viewpoints on human rights due diligence processes.

Table 1 shows how the different methods were used in relation to the research questions and objective.

*Table 1. Overview of methods used to explore the research questions and objective*

<b>Study objective</b>		To explore to what extent the marketing of unhealthy foods to children may be regarded as a salient human rights issue that could be considered in human rights due diligence processes and reports under the UNGP Reporting Framework.		
<b>Research questions</b>		1. To what extent could marketing of unhealthy foods to children be regarded a human rights issue?	2. To what extent could marketing of unhealthy food to children be regarded as a salient human rights issue in terms of scale, scope and remediability?	3. What are stakeholders’ viewpoints on human rights reporting as an accountability tool? <sup>1</sup>
<b>Methods</b>	Document analysis	<b>X<sup>2</sup></b>		
	Literature review		<b>X</b>	
	Interviews	X	X	<b>X</b>

<sup>1</sup> The parts of research question 3 that concerned research questions 1 and 2 have been omitted to illustrate how the interviews informed all the three research questions.

<sup>2</sup> A bold X means this was the main method to answer the research question.

The organisation of this chapter is as follows. The following section sets out the role of the researcher. Then, the three methods that were used to answer the research questions are described in sections 3.2-3.4. Ethical considerations are discussed in relation to the qualitative interviews in section 3.4.5, while section 3.5 considers factors that are relevant for the validity of the methods and results.

### 3.1 The role of the researcher

In qualitative research, the role of the researcher may affect decisions made throughout the research process, from design issues and sample, to interpretations and results (Sanjari, Bahramnezhad, Fomani, Shoghi, & Cheraghi, 2014). In the context of this thesis, this is particularly relevant for the document analysis and qualitative interviews. As will be described in section 3.3, the literature review applied a predefined protocol which to a less extent should be influenced by the researcher.

The researcher of the present study is a Master's student with an interest in improving food environments with a focus on the role of the food industries. During her Master's program, the student has undertaken a subject on Nutrition and Human Rights. She is involved in Food, Human Rights and Corporations (FoHRC), a research and action network focusing on the potential of using human rights instruments and mechanisms to promote corporate respect for human rights in the food sector.<sup>5</sup> She finds food marketing to children a problematic practice.

This thesis is an independent project where the greater part of the research process was carried out by the Master's student, but with tuition throughout the process.

### 3.2 Document analysis (research question 1)

***Research question 1:***  
*To what extent could marketing of unhealthy foods to children be regarded a human rights issue?*

To answer research question 1, a document analysis of international human rights documents was performed.

The term *documents* may refer to a range of written, visual or physical material that are relevant for a study at hand but are produced for other reasons than for the study (Merriam, 2014). The use of existing documents as a source of data may give valuable information and represents a source of material that is stable because the data is not altered by the researcher (Bryman, 2016; Merriam, 2014).

The present document analysis broadly applied the research design steps described in Merriam (2014): formulating the research question; selecting a sampling strategy; retrieving

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<sup>5</sup> <https://www.jus.uio.no/smr/english/research/projects/fohrc/>

relevant documents and perform quality assessment; qualitative content analysis; and writing up the results.

### 3.2.1 Sampling strategy

Inclusion criteria for documents were defined as:

- Official documents published after 2010.
- Publicly and digitally available, written material developed by international organisations<sup>6</sup> or bodies within such organisations, particularly within the UN system, to ensure a professional standing anchored in human rights.
- Documents should have a focus on human rights exceeding a reference to or acknowledgement of human rights.
- Documents should discuss marketing or food marketing, exclusively or as a sub-issue.
- Documents should include references to children.

Finding relevant material when using existing documents is generally a systematic procedure, guided by the research objective (Merriam, 2014). Based on the search strategy in a document analysis on human rights provisions by Mikkelsen, Engesveen, Afflerbach, and Barnekow (2016), expert opinion was used as the primary sample strategy. Contributions at the conference “Ending Childhood Obesity – a challenge in the crossroads of international trade and human rights law”, at the Liverpool University in London, July 2016 were used as starting points to identify relevant documents.<sup>7</sup> The following search strategies were also applied:

- Google searches for the search terms “business” + “human rights” + “children”.
- The Business & Human Rights Resource Centre web site<sup>8</sup> was searched, using the topic “Children”.
- Browsing in content lists in articles and books that discuss human rights in the context of unhealthy diets, food marketing or health.
- Utilising the master student’s own network and information.

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<sup>6</sup> International organisation is a term that consists of two types of organisations: internationally operating nongovernmental organisations like Save the Children or Oxfam, or intergovernmental organisations that are made up from member states, like the UN or WHO.

<sup>7</sup> <https://www.liverpool.ac.uk/law-and-social-justice/conferences-and-events/archive/ending-childhood-obesity/>

<sup>8</sup> <https://business-humanrights.org/en>

### 3.2.2 Included documents

Six documents were identified that met the inclusion criteria (Table 2). The documents include three types of documents:

**General Comments:** General Comments are developed by the expert bodies that oversee international human rights treaties to interpret the normative content of treaty articles (Buerghenthal et al., 2009). Two General Comments developed by the Committee on the Rights of the Child (UN CRC) were included: General Comment 15 and 16. Their target groups are primarily governments, policy-makers and other stakeholders that are active in a children's rights context, for example in public health (UN CRC, 2013a, 2013g).

**Special Rapporteur's reports:** reports from **Special Rapporteurs** are presented to the UNHRC, and constitute one of the means these expert individuals use to communicate their opinions and recommendations. Three reports submitted by two thematic Special Rapporteurs were included in the analysis: Two reports by the former and present Special Rapporteur on the right to food (UNHRC, 2011a, 2016), and one report by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Special Rapporteur on the right to health) (UNHRC, 2014).

**Children's Rights and Business Principles (CRBPs):** this document is co-developed by the UN Global Compact, UNICEF and Save the Children. It is targeted to businesses and consists of ten principles, i.e. recommendations, that companies should follow to respect and support children's rights (UNICEF, Global Compact, & Save the Children, 2012).

#### *Quality assessment*

According to Bryman (2016) and Merriam (2014), quality assessment of official documents should consider *authenticity*, regarding the origin of the document; *credibility*, concerning that documents should be free from error or distortion; and *meaning*, regarding how comprehensible the document is. All the documents were judged as meeting the criteria, as they were developed by and downloaded from credible sources.

Table 2. Human rights documents included in the document analysis.

<b>Title</b>	<b>Organisation</b>	<b>Year</b>	<b>Document type</b>	<b>Legal status</b>
<i>General Comment 15 on the right of the child to the enjoyment of the highest attainable standard of health (art. 24)</i>	UN CRC	2013	General Comment	Not legally binding
<i>General Comment 16 On State obligations regarding the impact of the business sector on children's rights</i>	UN CRC	2013	General Comment	Not legally binding
<i>Report submitted by the Special Rapporteur on the right to food, Olivier De Schutter</i>	UN Special Rapporteur	2011	Report to the UNHRC	Not legally binding
<i>Report of the Special Rapporteur on the right to health, Anand Grover</i>	UN Special Rapporteur	2014	Report to the UNHRC	Not legally binding
<i>Interim report of the Special Rapporteur on the right to food, Hilal Elver</i>	UN Special Rapporteur	2016	Report to the UNHRC	Not legally binding
<i>Children's Rights and Business Principles</i>	Global Compact, UNICEF, Save the Children	2012	Recommendations	Not legally binding

### 3.2.3 Qualitative content analysis

Qualitative content analysis was performed using the description in (Merriam, 2014) as a guide. The aim of the analysis was to give a relatively straightforward description of the documents' content, applying a basic level of interpretation.

The process started by reading the documents through to identify data units that could contribute to answer the research question. The documents mostly consisted of short, numbered paragraphs concerning specific issues, and the identified units of data were mainly segments from, or whole, paragraphs.

The data units were organised in a Microsoft Excel spreadsheet. Each document was assigned four columns: one column to identify the location of quoted data in the original document (page and paragraph number); one column for data units, and two columns for codes and categories, respectively. The data units with their respective codes and categories were



entered in separate rows. *Codes* consisted of short sentences that described the content of specific data units, with the language being kept close to the original text. Merriam (2014) describes *categories* as conceptual, mutually exclusive elements that span many individual units of data, and that cut across the dataset. After assigning some codes to the data units, three categories were constructed by grouping codes that were considered to cover similar issues.

During the analysis, the codes and categories were continually assessed and revised in relation to the data units and the research question. Two examples of the coding process are given in Appendix A. The final part of the document analysis was to analyse the findings and write up the results. The results from the document analysis is presented in section 4.1.

### 3.3 Literature review (research question 2)

***Research question 2: To what extent could marketing of unhealthy food to children be regarded as a salient human rights issue in terms of scale, scope and remediability?***

To answer research question 2, it was decided to assess the existing evidence on the extent and effects of food marketing to children. To do this, a literature review of systematic literature reviews and grey literature on food marketing to children was performed.

Systematic literature reviews can be defined as “*a review of research literature using systematic and explicit, accountable methods*” (Gough, Oliver, & Thomas, 2012, p. 2). Grey literature can be defined as “*that which is produced on all levels of government, academics, business and industry in print and electronic formats, but which is not controlled by commercial publishers (...)*” (Godin, Stapleton, Kirkpatrick, Hanning, & Leatherdale, 2015, p. 2).

Several different review designs and methods exist. When establishing a predefined search strategy, assessing and synthesizing the identified literature, and ensuring transparency by documenting the research process, bias should be reduced and the research should be replicable for other researchers (Uman, 2011). However, a proper systematic literature review is generally a prolonged process carried out by a research team (Gough et al., 2012). In this

thesis, comprehensiveness had to be balanced against capacity limits. It was therefore decided to limit the scope of the review with regards to study types and time limits for the search.

Study types were set to systematic literature reviews and grey literature to limit the number of potential publications. A time limit was added that restricted the time frame to literature published between 2009 throughout 2016. The time frame was chosen because a comprehensive, systematic literature review by Cairns et al. (2009) assessed the literature on food marketing to children up to 2008. It was assumed that this study would be included in the literature review and that it therefore was unnecessary to search for earlier systematic reviews or reports.

Stages described in Uman (2011) were used as a starting point to guide the review process: 1) Formulate the research question; 2) Define inclusion and exclusion criteria; 3) Develop search strategy and locate studies; 4) Select studies; 5) Extract data; 6) Assess study quality; 7) Analyse and interpret findings.

### 3.3.1 Formulate research questions

A subset of research questions was developed to explore the three factors that constitute salience in the UNGP Reporting Framework: scale, scope and remediability.

As seen in section 2.5.1, Shift & Mazars (n.d.-m) define scale as “how grave the impact is”. In this thesis, scale was interpreted as the effects of food marketing to children. Scope, or “how widespread the impact would be”, was interpreted considering the extent of food marketing to children. The concept of remediability, or “how hard it would be to put right the resulting harm” (Shift & Mazars, n.d.-m), was interpreted in relation to effects on children’s attitudes, preferences, diets and health. The subset of research questions was mainly adapted from Cairns et al. (2009). Table 3 presents research questions pertaining to the three factors.

### 3.3.2 Inclusion and exclusion criteria

Initial inclusion criteria were set to: systematic literature reviews or reports published between 2009 throughout 2016, in English, Norwegian, Swedish or Danish, concerning all forms of commercial food marketing of food and non-alcoholic beverages to children under the age of 18 years. The systematic literature reviews could include different study types, from observational to experimental studies. Systematic literature reviews should constitute most of the literature assessed.

To include papers of a certain quality, secondary inclusion criteria for systematic reviews and grey literature (reports) were developed in line with Uman (2011) and Penn Libraries (2016), respectively. Secondary inclusion criteria are available in Appendix B.

*Table 3. Subset of research questions relating to research question 2.*

<b>Salience concept/interpretation</b>	<b>Research questions</b>
<b>Scale/</b> The effect of food marketing	<ul style="list-style-type: none"> <li>- How do children respond to food marketing?</li> <li>- What are the effect from food marketing on children's food preferences?</li> <li>- What are the effects of food marketing on children's food intake?</li> <li>- What are the effect from food marketing on children's health or dietary health?</li> </ul>
<b>Scope/</b> The extent of food marketing	<ul style="list-style-type: none"> <li>- What proportion of children are exposed to food marketing?</li> <li>- What creative strategies and channels are used by food marketers to reach children?</li> <li>- What foods are promoted to children?</li> <li>- How much money does the food industry invest in food marketing?</li> </ul>
<b>Remediability:</b> how hard it is to put right the impact	How hard is it to change children's attitudes, preferences, diets and health, once affected?

### 3.3.3 Search strategy

The search strategy was developed by consulting a reference librarian at the Oslo and Akershus University College of Applied Sciences, who also overlooked parts of the searches. Three different search strategies were applied and carried out in October and November 2016:

1. Searches for systematic literature reviews in academic databases.
2. A citation search for systematic literature reviews.
3. Search for grey literature.

Search terms and details regarding the search strategies are available in Appendix C.

### 3.3.4 Study selection

#### *Systematic literature reviews*

The search in academic databases for systematic literature reviews resulted in 357 titles which were checked for duplicates, read and assessed against initial inclusion criteria. 24 titles that passed the criteria were retrieved for secondary assessment. A list of the 24 articles that were assessed, including whether articles were included or excluded and rationale for exclusion is available in Appendix D. Finally, five articles were included in the literature review.

### *Grey literature*

The search for grey literature resulted in 13 reports that were assessed against secondary inclusion criteria. Because almost all reports passed the criteria and the number of reports had to be limited to less than five, additional inclusion criteria were set up. First, it was decided to prioritise for inclusion reports that were produced within the last 5 years and that covered large populations (e.g. USA rather than Ireland). This resulted in five reports. To reduce the number further, it was decided that grey literature should consist of one report each from USA or Europe, and the report with the latest dates should be included. Appendix E shows the grey literature that was assessed and the two reports that were finally included.

#### 3.3.5 Data extraction

The following data was extracted from the systematic literature reviews: reference; purpose of the study; search strategy; inclusion criteria; study population and setting; quality assessment; measurement and outcomes; key findings; discussion; and quality of evidence.

For the reports, the following data was extracted: Reference; purpose of the report; and key findings.

#### 3.3.6 Assessment of study quality

A 9-item checklist for quality assessment of systematic literature reviews was used to evaluate and grade the systematic literature reviews (Knowledge Centre for the Health Services, 2014) (Appendix F). Quality was defined as high, moderate or low based on scoring of nine questions regarding search strategy and data analysis. Questions could be answered by “yes”, “unclear” or “no”. The “high” grade was only assigned when all or most of the checklist criteria were met. “Moderate” was assigned when some items were not met or were marked by “unclear”. “Low” was used if only a few of the criteria were met or if one or more of three critical questions regarding search strategy were answered by “no”.

#### 3.3.7 Analyse and interpret findings

The findings were analysed by grouping the results by research question in an Excel sheet. When writing the results, a narrative presentation of the findings was carried out, emphasising the papers with the highest quality.

### 3.4 Qualitative interviews with key stakeholders (research question 3)

***Research question 3:***

*What are the viewpoints of key stakeholders on research questions 1 and 2; and what are their viewpoints on human rights reporting as an accountability tool?*

#### 3.4.1 Research design

There is very little available knowledge about different stakeholders' viewpoints on food marketing as a human rights issue and their viewpoints on human rights reporting. It was decided that research question 3 should be answered by performing qualitative interviews with key informants, using a qualitative descriptive approach. Qualitative description (QD) is a research approach that seeks to give a rich, straight description of a phenomenon in a language close to that of the participants, and which to a less extent apply theoretical perspectives (Sandelowski, 2000). This approach is especially pertinent in mixed methods research and when the aim is to gain first-hand knowledge for example of professionals' experiences (Neergaard, Olesen, Andersen, & Sondergaard, 2009).

#### 3.4.2 Sample

The sample was a purposive sample, intentionally consisting of about 10-11 participants from the following sectors: food industry; national policy makers or implementers; human rights experts; intergovernmental organisations; non-governmental organisations (NGOs) and multi-stakeholder initiatives. Appendix G describes the rationale behind the choice of the different stakeholder sectors. Further inclusion criteria were that participants should be familiar with one or more of the following areas: food marketing, food and/or nutrition policy work, human rights or corporate social responsibility. It was decided that participants from policy-making could come from a Norwegian context while otherwise, participants could be internationally based. Appendix H describes the recruitment process. Appendix I presents the information sheet that was sent to the participants.

Recruitment started 6 January and lasted until 8 March 2017. In total, 8 persons were included in the study, representing food industry (1 participant); policy makers or implementers (1 participant); human rights experts (2 participants); intergovernmental organisations (1 participant); NGOs (2 participants) and multi-stakeholder initiatives (1 participant). All the

participants were based in Western/Northern Europe or in the United States. Three were from Norway, representing food industry, policy making/implementing and NGOs.

### 3.4.3 Data collection

Semi-structured interview guides were developed and pilot tested on one person. With the participant's acceptance, the pilot interview was later included into the interviews. Interview guides included the following themes: If or how the participants worked with human rights in their professional lives; views on food marketing as a human rights issue; views on the salience of food marketing; and viewpoints on human rights reporting as an accountability tool. One example of an interview guide is available in Appendix J.

Ahead of the interviews, the interviewer attempted to become familiar with the working setting of the different interviewees, as suggested by Bryman (2016), by reading relevant documents or articles that the participants had contributed to and by browsing websites of relevant organisations.

The interviews were carried out by the master's student from 3 February to 16 March 2017, and were audio-recorded with an Olympus VN-405PC digital voice recorder. Interviews lasted from 20-52 minutes. For the internationally based participants, interviews were conducted by Skype, while for the informants based in Norway the interviews were carried out in person.

The interviews started with an introduction of the thesis, followed by a short description of the issues of confidentiality and anonymization. The participants gave their verbal assent to participate in the study. The first, introductory question regarded how the participants worked in general. Then, open-ended questions from the interview guide were asked, for example: "what is your experience in working with businesses on food marketing?". In some cases, narrow questions were asked, like: "are you familiar with the United Nations Guiding Principles on business and human rights?". In these cases, follow-up questions like "how do you use them in your work?" were asked (given that the first question was answered with a "yes"). Probes were used when there was a need to further explore inputs from the participants. For example, a probing question could be "you mentioned earlier that human rights are contested. Could you build more on that?".

The themes that concerned the salience of food marketing and human rights reporting needed some explanation from the interviewer. All the participants were offered the possibility to

read through a draft for the results chapter to check that their input had been interpreted correctly.

Immediately after the interviews ended, the first impressions from the interview were noted down. In addition, the researcher listened to the audio recording and tried to evaluate her own performance. This process helped to improve the interviewing skills, especially the ability to follow up answers, and to listen and tolerate pauses, which are listed as success criteria for interviewers by Kvale and Brinkmann (2009).

### 3.4.4 Data analysis

#### *Transcription*

The audio recordings were transcribed word by word by the master student as soon as possible after the interviews were finished. If sentences were very discontinuous, words or parts of sentences were omitted to make the content more coherent. Words that were incomprehensible were marked in the transcript with brackets and a question mark.

#### *Qualitative data analysis*

The interviews were analysed using qualitative content analysis, using Bryman (2016) as a guide. When three interviews had been conducted, the transcripts were read throughout to get an understanding of the content. The texts were then re-read and the data units that were meaningful for the research questions were highlighted. To help guide the analytic procedure, questions were continually asked to the text in line with Bryman (2016), for example “what is this item of data about?”.

The analytical process started by assigning codes to the highlighted data units. In the Word comments tool, the highlighted data units were rewritten in a condensed form so that the content of that passage got clearer, but still close to the participant’s own language, in line with the qualitative descriptive method (Neergaard et al., 2009). Subsequently, each condensed sentence was assigned a shorter sentence, or a code, that seemed to capture the content of that condensed sentence. Each condensed sentence was assigned a number to help keeping track of where the data units could be found in the interview transcripts. Examples of the process from data units to code is available in Appendix L.

Most of the coding process was data-driven, i.e. codes were developed based on the text. In a few instances, however, data units and codes were chosen based on preconceived categories, for example the category “Food marketing and NCDs as HR issues is an emerging agenda”

which was an issue the researcher had asked specific questions about. As more interviews were read and analysed, the codes were compared and continually revised. Codes were merged if two codes had only slight differences, or separated if it was necessary to distinguish between viewpoints on a similar issue. The last revision was done during the write-up of the results.

An Excel spreadsheet was set up to organise the content analysis. Columns were assigned to the three research questions: Food marketing as a human rights issue, the salience of food marketing, and viewpoints on due diligence processes. The eight interviews, labelled by participant, were sorted in rows. Condensed text passages from each participant were placed in columns under the different codes. At this point, such similar codes were regarded as a category. When the initial categories could be grouped in a meaningful manner, a new level of category was constructed. For example, the initial categories “Food marketing has negative implications on children” and “Human rights provisions are relevant for food marketing to children” were grouped under the category “Food marketing to children is a human rights issue”, and under the research question “food marketing as a human rights issue”. In the end, up to three levels of categories were constructed under each research question. Appendix M shows the construction of levels of categories, with examples of condensed text passages from three interviews.

### *Writing up results*

It was decided to present the results organised by the three themes that formed research question 3: views on food marketing as a human rights issue; views on the salience of food marketing; and viewpoints on human rights reporting as an accountability tool, using the three levels of categories that were constructed. Citations were used to illustrate the results.

The participants received and read a draft of the results chapter with their specific input highlighted. One person had a comment regarding the interpretation of the interview. That section was revised and rewritten and eventually the participant approved of the interpretation. Other participants had either minor comments regarding phrasing or simply approved of the text.



### 3.4.5 Ethical considerations

Ethical considerations concern how researchers treat people on whom they conduct research, and revolve around four overlapping areas: harm to participants; lack of informed consent; invasion of privacy; and deception (Bryman, 2016).

In the context of these interviews, there seems to be little risk of deception or invasion of privacy. However, anonymization issues were important for several participants.

Confidentiality of records, meaning that the participant's identities and documents where their contributions are presented are maintained as confidential, may reduce the chances of participants being identified (Bryman, 2016). In this thesis, confidentiality of records was maintained in line with the requirements from NSD (Norwegian Centre for Research Data), that considered and approved the study (Appendix K). Informed consent was maintained by providing the participants with information in the initial e-mail, in the information sheet, and verbally at the start of the interviews. Participants were told that they could withdraw from the study at any time, and gave their informed consent verbally. In addition, the participants read and approved the results chapter and how they were presented.

### 3. 5 Factors concerning validity

This section presents relevant issues concerning the validity of the methods that were used, mainly based on Thagaard (2013).

Validity assessment in qualitative studies are not as highly standardised as in quantitative studies, and there is not a universally agreed set of quality criteria that are used across the different qualitative research approaches (Bryman, 2016; Thagaard, 2013). Whereas the literature review in this thesis is not a qualitative approach, most of the criteria listed below will be relevant also for this method, particularly concerning transparency which is a key concept in review methodology (Uman, 2011).

Thagaards' approach to quality assessment mainly uses the same concepts as in quantitative research, but it adapts the criteria to the nature of qualitative methods (Thagaard, 2013).

#### 3.5.1 Reliability and validity – trustworthiness and credibility

Reliability and validity are key concepts in assessment of research quality (Thagaard, 2013).

Factors concerning external validity, or transferability, are preseted in section 3.5.2.

**Reliability** concerns whether the research process has been carried out in a trustworthy and convincing manner. Replicability is not seen as a valid criterion in qualitative studies, because factors like dynamic social settings and the more prominent role of the researcher do not facilitate replication of research findings by other researchers (Thagaard, 2013). Rather, reliability is assessed by the extent to which the researcher can account for the methods that have been applied and how the data have been collected and handled (Thagaard, 2013).

**Internal validity** concerns whether the research findings represent the reality that has been studied, and to what extent the interpretations made by the researcher are credible (Thagaard, 2013).

Strategies to enhance reliability and internal validity in qualitative studies often overlap, and **transparency** is a key concept that apply to both (Thagaard, 2013). Researchers can strengthen transparency and enable critical assessment of the process and findings by being as specific as possible when accounting for how the research has been carried out, including decisions that have been made in the analytic process (Thagaard, 2013). In the methods sections above, the researcher has attempted to document the research process to facilitate critical assessment. In the results chapter, excerpts from documents and interviews have been used to document the original data that the analyses and interpretations rest upon. However, considerations of transparency have had to be weighed against the scope of the thesis. Even within the limitations of a master's thesis, accounting for every aspect of the research process of three individual methods is not feasible.

Another strategy that can be used to strengthen the reliability and validity of the research process and findings is to include other researchers in the process (Thagaard, 2013). As this is an independent project, the major part of the work has been carried out by the master student. However, two supervisors have been involved in the research process from the planning stages (e.g. planning inclusion and exclusion criteria for document analysis, literature review and interviews, development of interview guide), the analysis (e.g. commenting on coding process) to the results stage (e.g. commenting on interpretations in results chapters).

Techniques like respondent validation and triangulation can also be used to confirm the conclusions that have been made (Bryman, 2016; Thagaard, 2013). In the context of the overall objective of this thesis, triangulation of methods was used to explore different perspectives. In the context of the qualitative interviews, respondent validation was used to check that the participants' input was interpreted and presented properly.

Lastly, internal validity can be strengthened by comparing the studies' findings with research that explores the same issue (Thagaard, 2013). To the extent possible, the results in this thesis were compared with findings from academic papers that discuss similar issues (in discussion sections 5.1-5.3). However, there is a relatively limited number of researchers that investigate the specific issues that were explored in this project.

### 3.5.2 External validity - transferability

External validity concerns whether the theoretical interpretations in a study may be transferable to other settings (Thagaard, 2013). In this study, the aim was to give a relatively straight description of the findings from data in the context of quite specific issues, while theory or concept development was not strived for. Nonetheless, a certain level of interpretation has been applied. Neergaard et al. (2009) and Thagaard (2013) suggest that low-inference approaches are not appropriate for generalizing or transferring the results to other contexts. The results in this thesis should therefore not be transferred to other contexts, but findings may be used as a basis for further research (Neergaard et al. 2009), for example regarding key informants' viewpoints on food marketing and human rights.

## 4 Results

This chapter presents the thesis' results. Sections 4.1-4.3 present results according to the three research questions, organised per method. Section 4.4 presents the main findings and shows how the methods triangulation contributed to answer the study objective.

### 4.1 Results from the document analysis (research question 1)

This section presents the results from the document analysis that was carried out to answer research question 1: *“To what extent could marketing of unhealthy foods to children be regarded a human rights issue?”*. The analysis was based on six international human rights documents (also described in section 3.2.2 and Table 2):

Two UN CRC **General Comments**. General Comment 15 interpreted children's right to health. General Comment 16 considered state obligations concerning the potential impact of business on children's rights considering all rights (UN CRC, 2013a, 2013g).

Three **Special Rapporteur reports**. The reports analysed linkages between food systems and malnutrition and give policy recommendations (UNHRC, 2011a, 2014, 2016).

The **Children's Rights and Business Principles (CRBPs)**. The CRBPs are built on the CRC and other business principles including the UN Guiding Principles (UNICEF et al., 2012).

Briefly, all the documents discussed private sector marketing practices in relation to human rights. General Comment 15 and the three Special Rapporteur reports discussed food marketing to children *explicitly*, meaning that food marketing to children was covered several places in the documents including in recommendations sections (Table 4). General Comment 16 and the CRBPs discussed food marketing to children *implicitly*, meaning that food marketing was mentioned a limited number of times and only in parts of the documents. General Comment 16 mentioned food marketing to children in an introductory paragraph but not in its recommendations section. In the CRBPs, food marketing was included via a footnote.

All the documents discussed several human rights issues so that food marketing was one out of many issues covered. The General Comments and the CRBPs had a specific focus on children, while the Special Rapporteur reports mentioned children as a vulnerable group. Table 4 gives an overview of findings and whether food marketing to children was discussed explicitly or implicitly.

Table 4. Overview of findings from document analysis.

Author, Short title, Year	Categories of findings			Food marketing discussed explicitly or implicitly?
	The impact of marketing on health and human rights	State obligations concerning food marketing	Business responsibilities concerning food marketing	
UN CRC, General Comment 15, 2013	Not mentioned	In the context of the state obligation to combat malnutrition and ensure access to nutritious foods, states should address obesity, by limiting children's exposure to fast foods, and regulate and control fast food marketing (para 47).	Businesses should limit marketing of energy-dense, nutrient-poor foods (para 81). Businesses should undertake children's rights due diligence concerning their impacts on children's right to health (para 80).	<b>Explicitly</b>
UN CRC, General Comment 16, 2013	Marketing of unhealthy foods may impact children's health in the long term (para 19). Children may regard marketing as truthful and may consume products that are harmful (para 59).	States are required to regulate and monitor marketing industries and encourage businesses to adhere to codes of conduct (para 20, 59). States should require businesses to undertake child's right due diligence (para 62).	Not mentioned	<b>Implicitly</b>  Food marketing mentioned in the context of business impact, but not spelled out as a recommendation.
Special Rapporteur on the right to food, Olivier De Schutter Report, 2011	Food marketing to children promote unhealthy foods, is extensive, and changes behaviour (para 36).	States are obliged to implement the WHO Set of Recommendations and enforce mandatory food marketing regulations. In addition, states should go further and prohibit food marketing to protect children and other vulnerable groups (para 41, 42, 50).	Food businesses must respect the right to adequate food and prevent negative impact they may cause to this right (para 1).  Businesses should comply with the WHO Set of recommendations, also in contexts where legislation is absent (para 51).	<b>Explicitly</b>

<p><b>Special Rapporteur on the right to health, Anand Grover Report, 2014</b></p>	<p>Food advertising is associated to dietary shifts linked to NCDs (para 4).</p>	<p>States are obliged to prevent NCDs (para 13). States are obliged to put in place laws and regulations to limit marketing of unhealthy foods. Children are a vulnerable group that need protection of their right to health (para 22, 25, 38, 64).</p>	<p>Businesses have a responsibility to respect the right to health and must refrain from advertising foods to children in accordance with national law (para 11, 12). Food businesses should refrain from marketing unhealthy foods, especially to children (para 66 b).</p>	<p><b>Explicitly</b></p>
<p><b>Special Rapporteur on the right to food, Hilal Elver, Interim report, 2016</b></p>	<p>Persistent food marketing practices foster unhealthy diets and contribute to child obesity (para 2, 14, 32).</p>	<p>Governments should impose regulatory measures to protect the right to food and nutrition from food business violations (para 97). States should implement international standards on food marketing. The UNGPs should be implemented to ensure food industry responsibility (para 99).</p>	<p>According to the UDHR and UN Guiding Principles, businesses have the responsibility to respect human rights, which includes the right to food (para 67, 68). Businesses should comply with international standards, e.g. WHA's 2016 resolution on ending inappropriate promotion of foods for infants and young children (para 69).</p>	<p><b>Explicitly</b></p>
<p><b>UNICEF, Global Compact, Save the Children, Children's Rights and Business Principles, 2012</b></p>	<p>The impact businesses have on children may be long lasting and irreversible.</p> <p>Businesses may impact children's rights through their products, services, marketing methods and distribution practices.</p> <p>Adequate food is essential for children's development and health (introduction, p.3).</p>	<p>Not mentioned</p>	<p>Businesses should ensure that products are safe and do not cause physical harm (principle 5, p. 24)</p> <p>Businesses should use marketing that respect and support children's rights. This includes to comply with WHO standards on marketing, business and health, including the WHO Set of recommendations (principle 6, p. 26)</p>	<p><b>Implicitly</b></p> <p>Food marketing is included via the listing of the WHO Set of Recommendations.</p>

The document analysis identified three categories of findings:

1. *The impact of marketing on health and human rights*, regarding how the documents described the impact of private sector marketing practices on food environments, diet-related health and human rights.
2. *States' human rights obligations concerning food marketing to children*. This category encompassed interpretations and recommendations on state duties regarding marketing or food marketing.
3. *Business responsibilities concerning food marketing to children*. This category concerned interpretations of business responsibilities in relation to human rights and food marketing.

#### 4.1.1 Results by category

Below, the results are presented organised by the three categories that were identified.

Citations from the documents are included to illustrate the results, and are set in *italics*.

Sentences that were irrelevant for the research questions were removed from the citations to avoid overly long citations, and marked with: (...).

##### *The impact of marketing on health and human rights*

As seen in Table 4, in General Comment 15 and in the Special Rapporteur reports, food marketing to children was discussed explicitly. In these documents, food marketing was described as worrying because it impacts health negatively by contributing to overweight, obesity and NCDs. These conditions were defined as forms of malnutrition, and thereby relevant in a human rights context under both the ICESCR and the CRC (UN CRC, 2013g; UNHRC, 2011a, 2014, 2016). The linkage between nutrition, obesity and human rights was elaborated particularly in the report by the Special Rapporteur on the right to health (UNHRC, 2014).

In General Comment 16, para 19, *the principle of the right to life, survival and development* (art. 6 of the CRC) was discussed. Several ways that businesses could affect this principle were mentioned:

*“The activities and operations of business enterprises can impact on the realization of article 6 in different ways. For example, environmental degradation and contamination arising from business activities can compromise children’s rights to health, food security and access to safe drinking water and sanitation. (...) The*

*marketing to children of products such as cigarettes and alcohol as well as foods and drinks high in saturated fats, trans-fatty acids, sugar, salt or additives can have a long-term impact on their health. (...)*” (UN CRC, 2013g, pp. 6,7).

The interpretations in the Special Rapporteurs’ reports clearly regarded the food industry’s marketing practices as a human rights issue with negative impact on diet-related health and human rights. In these reports, a distinct criticism of the food industry and its marketing practices were expressed. For example, food marketing was described as *aggressive, persistent* and *pervasive* (UNHRC, 2014, 2016).

In General Comment 15 and the CRBPs, food marketing was not discussed in the context of business impact. However, in the CRBPs, the broader range of impacts that businesses might have on children’s rights were discussed, including the right to adequate food. In the introduction, the roles of businesses with regards to human rights were set out, explaining that human rights impacts should be interpreted beyond the well-established issue of child labour, and that business can cause negative impacts on children’s rights by overall business operations, like products, services and marketing practices (UNICEF et al., 2012).

#### *State obligations concerning food marketing*

This category concerned interpretations and recommendations on the obligations that states have in relation to marketing or food marketing.

All the documents except the CRBPs were targeted to governments and contained interpretations and recommendations for what governments should do to meet their human rights obligations with regards to private sector marketing practices. For example, in General Comment 16, it was recommended that States should adopt regulations to ensure “*that marketing and advertising do not have adverse impacts on children’s rights*” (UN CRC, 2013g, pp. 16,17).

In the three Special Rapporteur reports and in General Comment 15, food marketing was addressed explicitly. These documents set out that governments should implement national policies to limit food marketing. For example, UN CRC wrote:

*“States should also address obesity in children, as it is associated with hypertension, early markers of cardiovascular disease, insulin resistance, psychological effects, a higher likelihood of adult obesity, and premature death. Children’s exposure to “fast*



*foods” that are high in fat, sugar or salt, energy-dense and micronutrient-poor, and drinks containing high levels of caffeine or other potentially harmful substances should be limited. The marketing of these substances – especially when such marketing is focused on children – should be regulated and their availability in schools and other places controlled.” (UN CRC, 2013a, p. 12).*

In the Special Rapporteurs’ reports, the importance of implementing legislation or mandatory regulations rather than voluntary initiatives was emphasized. Such industry-led initiatives, it was argued, have proven inefficient (UNHRC, 2011a, 2014, 2016). For example, the present Special Rapporteur on the right to food wrote:

*“Recognizing that industry self-regulation is ineffective, Governments should impose strong regulatory systems to ensure that the food industry does not violate citizens’ human rights to adequate food and nutrition. It is recognized, however, that such efforts may face formidable resistance from a food industry seeking to protect its economic interests.” (UNHRC, 2016, p. 22).*

In General Comment 16 and in the Special Rapporteurs’ reports, it was further recommended that states should implement internationally agreed standards on marketing, business and health. The International Code of Marketing of Breast-milk Substitutes and the Framework Convention on Tobacco Control were most often referred to in these documents (UN CRC, 2013g; UNHRC, 2011a, 2014, 2016). The WHO Set of recommendations was referred to by the Special Rapporteur on the right to food, who wrote:

*“States, in accordance with their obligation to respect, protect and fulfil the right to adequate food for all, should: (...) (b) Transpose into domestic legislation the International Code of Marketing of Breast-milk Substitutes and the WHO recommendations on the marketing of breast-milk substitutes and of foods and non-alcoholic beverages to children, and ensure their effective enforcement; (...)” (UNHRC, 2011a, p. 21).*

The Special Rapporteur reports included recommendations for development of a legally binding international treaty to regulate the food and beverage industry, similar to the WHO Framework Convention on Tobacco Control, with the aim to protect people from the adverse health effects of unhealthy foods (UNHRC, 2011a, 2014, 2016).

The concept of due diligence was mentioned in the context of state obligations by three documents: in the two General Comments, it was suggested that states, in line with their obligation to hold businesses responsible for their human rights actions, should require businesses to undertake human rights due diligence (UN CRC, 2013a, 2013g). These statements did not explicitly mention food marketing. However, the Special Rapporteur on the right to food recommended that states should implement the UN Guiding Principles, wherein due diligence is a key concept, to ensure corporate responsibility of the food and nutrition industry (UNHRC, 2016).

### *Business responsibilities concerning food marketing*

This category concerned the documents' interpretations of the responsibilities that businesses have in relation to human rights and food marketing.

As shown in Table 4, the responsibility of the business sector regarding food marketing was addressed in five documents. The exception, General Comment 16, was first and foremost focused on state obligations (UN CRC, 2013d).

In the five documents, it was set forth that businesses have a responsibility to limit food marketing, especially to children. General Comment 15 was representative in stating that private companies should: “(...) *limit advertisement of energy-dense, micronutrient-poor foods, and drinks containing high levels of caffeine or other substances potentially harmful to children (...)*” (UN CRC, 2013a, p. 18). The documents referred to different human rights treaties or standards that defined business responsibilities. For example, the Special Rapporteur on the right to health declared that under the ICESCR, non-state actors, including the private sector, have a responsibility to respect the right to health, a responsibility that exists independently of state obligations (UNHRC, 2014). In the same report, the UN Guiding Principles were referred to as a standard that defines how businesses and transnational companies have responsibilities to respect human rights (UNHRC, 2014). The present Special Rapporteur on the right to food referred to the Universal Declaration of Human Rights and set forth that the private sector, including the food industry, has a responsibility to respect human rights and to contribute to access to nutritious foods. In addition, she wrote that:

*“The Guiding Principles on Business and Human Rights, endorsed by the Human Rights Council in 2011, formally recognize the responsibility of enterprises to avoid infringing on the human rights of others and to address adverse human rights impacts*

*with which they are involved. Logically, this responsibility includes the adverse impacts of the food industry with respect to the right to adequate food.”* (UNHRC, 2016, p. 17).

Likewise, the former Special Rapporteur on the right to food remarked that *“Agrifood companies also have a responsibility to respect the right to adequate food. They must avoid infringing upon this right, and seek to prevent any adverse impact their activities might have on the enjoyment of this right.”* (UNHRC, 2011a, p. 3). Further, the Special Rapporteur declared that the private sector, in line with its responsibility to respect the right to adequate food, should comply with the WHO Set of recommendations, also if local enforcement is weak or non-existent (UNHRC, 2011a).

In the CRBPs, it was also argued that businesses have a responsibility for human rights that extends to marketing practices. Principle 6 says: *“all business should use marketing and advertising that respect and support children’s rights.”* (UNICEF et al., 2012, p. 26). In the context of principle 6, *respect* means that businesses should ensure that marketing does not have an adverse impact on children’s rights, and when companies assess whether there may be an adverse impact on children’s rights, factors like children’s susceptibility to manipulation must be considered. Principle 6 b elaborates that businesses should comply with standards of business conduct in World Health Assembly instruments that are related to marketing and health. In a footnote, The WHO Set of Recommendations is one of four specified standards (UNICEF et al., 2012).<sup>9</sup>

**In summary**, the findings from the document analysis indicated that in the documents analysed for this study, marketing of unhealthy foods to children was identified as a human rights issue based on the negative impact that such marketing had on children’s diet and diet-related health. In the documents, it was set out that the food industry plays an important role for children’s health. Food marketing to children was described as a contributor to unhealthy diets, connected to the right to food and health under the ICESCR and provisions under the CRC. Further, most of the documents set out that states had an obligation to put in place policies to restrict food marketing, especially when targeted to children. Last, five out of six documents set forth that businesses had an independent responsibility to respect human rights,

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<sup>9</sup> The other standards mentioned are the International Code of Marketing of Breast-Milk Substitutes, the WHO Framework Convention on Tobacco Control; and the WHA Global Strategy to Reduce the Harmful Use of Alcohol.

including the rights to food and health, and that businesses should limit food marketing and comply with international standards on marketing and health, including the WHO Set of Recommendations which was mentioned in two documents.

## 4.2 Results from the literature review (research question 2)

The literature review was used to answer research question 2: *“To what extent could marketing of unhealthy food to children be regarded as a salient human rights issue in terms of scale, scope and remediability?”*. In this section, the results from the literature review on five systematic literature reviews and two reports concerning food marketing to children are presented as a narrative review, organised by the three factors that constitute salience in the context of the UNGP Reporting Framework: scale, scope and remediability.

As described in section 3.3.1, scale was interpreted as the effects of food marketing to children; scope was interpreted as the extent of food marketing to children, and remediability, or “how hard it would be to put right the resulting harm” was interpreted in relation to effects on children’s attitudes, preferences, diets and health from food marketing.

Table 5 presents key characteristics of the five included systematic literature reviews, including a quality assessment based on the number of items met from the check list mentioned in section 3.3.6. Table 6 presents key characteristics of the two included reports.

*Table 5. Study characteristics and quality assessment of systematic literature reviews.*

<b>Reference/ Year</b>	<b>Salience concept covered / interpretation Aim of study</b>	<b>No of studies included/ No of participants</b>	<b>Quality assessment/ Items met'</b>
<b>Cairns et al. 2013/2009*</b>	<b>Scale and scope</b> / effect and extent  To review the international evidence on a) the nature and extent of food promotion to children, b) the effects of child oriented food promotion on diet, dietary determinants and health.	201 studies, including 46 studies on effect  n=?	High  8 items met, 1 item unclear <sup>1</sup>
<b>Jenkin et al. 2014</b>	<b>Scope</b> / extent  To identify the most frequently documented techniques to promote unhealthy food to children	38 descriptive studies  Combined, the studies covered more than 24.000 hours of TV programming	Low  6 items met, 3 items unclear <sup>2</sup>
<b>Kraak and Story 2015</b>	<b>Scale</b> / effect  To investigate what experimental studies show about the influence of cartoon brand mascots and	11 experimental studies  Total n= 1701	Moderate  7 items met,

	media characters on children's diet-related cognitive, behavioural and health outcomes	Mean n= 131	2 items unclear <sup>3</sup>
<b>Boyland et al. 2016</b>	<b>Scale / effect</b> To assess experimental studies that have manipulated the acute exposure to unhealthy food advertising (on TV or internet) and measured food intake. Systematic review and meta-analysis	22 experimental studies, 18 articles included in meta-analysis  Total n= 2463 Mean n= 107	High  8 items met, 1 item unclear <sup>4</sup>
<b>Sadeghirad et al. 2016</b>	<b>Scale / effect</b> To assess RCTs that evaluated the impact of unhealthy food and beverage marketing compared with non-active control on dietary intake and preference (exposure: TV/movies, advergaming, packaging) Systematic review and meta-analysis.	29 RCTs, 26 included in meta-analysis  Total n= 5814 Median sample size= 105	High  9 items met

<sup>1</sup> Quality assessment is based on the number of items from the checklist that was met (Appendix F).

\* Cairns et al. (2013) is based on a report by Cairns et al. (2009) that was consulted to gain detailed insight.

<sup>1</sup> Descriptive studies on the nature and extent of food marketing was not assessed against quality criteria.

<sup>2</sup> Parts of the requirements for the search strategy were not met; methods used to synthesise results only partly described; the narrative presentation of results did not synthesise results into a coherent whole.

<sup>3</sup> Criteria for internal validity are not set out in detail; because of heterogeneity of outcomes, there is no coherent synthesis of results.

<sup>4</sup> Quality criteria for internal validity in the included studies are broad and not explained in detail

*Table 6. Study characteristics of reports*

Reference, year	Which part of salience is covered Aim of report	Main methods applied
<b>WHO Euro (2016)</b>	Scope = extent  To summarise the evidence on children's exposure to HFSS in digital media and the persuasive power of that exposure.	An expert review method was selected, where experts on relevant areas (e.g. HFSS marketing, public health, regulation, child's rights) were consulted to obtain the most recent research evidence available.
<b>Harris et al. (2013)</b>	Scope = extent  To quantify changes in nutrition and marketing of fast food to children and teens in the USA.  The report is a follow-up from a 2010 report made by the same research centre (Yale Rudd Center for Food Policy and Obesity). The report focuses on 18 fast food restaurants.	Marketing analyses: 1. Menu items data from the restaurants were collected and assessed against several nutrition criteria. 2. Analyses of advertising spending and marketing on (national) TV and digital media (restaurant websites, display advertising on other websites, social media and mobile devices). Methods applied are Nielsen and ComScore data on media exposure and spending data; content analysis of children's TV advertising; additional analyses of collected material from company websites, and monitoring of business and consumer press.

#### 4.2.1 Scale: the effects of food marketing to children

Four systematic literature reviews concerned the effects of food marketing to children on a range of outcomes. The results will be presented according to the subset of research questions that was developed and presented in Table 3: How do children respond to food marketing? What are the effect from food marketing on children's food preferences? What are the effects of food marketing on children's food intake? What are the effect from food marketing on children's health or dietary health? Table 7 gives a simplified overview of the findings on scale.

##### *How do children respond to food marketing?*

The systematic literature reviews by Kraak and Story (2015) and Cairns et al. (2009) could be used to answer this research question

Cairns et al. (2009) reviewed 40 qualitative or observational studies that reported on a range of children's responses to food marketing. This systematic literature review was rated as having high quality, but it should be noted that it did not assess observational studies against quality criteria.

The results showed that food marketing stimulate liking of and demand for products; that children buy food without parental oversight; and that parents frequently accept children's purchase requests. For example, several studies that were included in the review reported that children had good recall of and enjoyed food adverts, that children discussed such adverts with their peers and asked their parents to buy products they had seen advertised. Several studies found that free gifts stimulated purchase of the advertised products, also after the campaign period ended.

Further, several studies that were reviewed by Cairns et al. (2009) found that exposure to food marketing increased children's preference for and purchase of commercial foods. One Chilean study reported that almost all children "always" or "sometimes" had money with which they could buy whatever food they wanted. Cairns et al. (2009) note that these studies cannot demonstrate an exact correlation between food marketing exposure and food preference or intake, but that such qualitative or observational studies provide useful contextual data.

The study judged as having moderate quality by Kraak and Story (2015) explored the influence of cartoon brand mascots and media characters on cognitive outcomes: children's character recognition, recall and brand association. Five of the studies included in the review

Table 7. Simplified overview of findings on scale, or effects, of food marketing to children. The table is organised according to the subset of research questions developed to explore scale.

<b>Reference/ Quality assessment</b>	<b>Children's responses to food marketing</b> <i>Evidence base</i>	<b>Effects on children's food preferences</b> <i>Evidence base</i>	<b>Effects on children's food intake</b> <i>Evidence base</i>	<b>Effect on children's diet- related health</b> <i>Evidence base</i>
<b>Cairns et al., 2009/2013</b>  High	↑ recall, preferences and purchases  <i>40 observational studies</i>	10 studies SS ↑ preferences 7 studies SS ↑ purchase/ purchase behaviour  <i>20 experimental studies</i> <i>6 observational studies</i>	14 studies ↑ food intake: 6 studies SS, 8 studies NS.  <i>12 experimental studies</i> <i>6 observational studies</i>	4 studies SS ↑ dietary quality <sup>1</sup> , 2 studies (1 SS) ↑ obesity, 1 study SS ↑ blood cholesterol.  <i>7 observational studies</i>
<b>Kraak and Story, 2015</b>  Moderate	↑ recognition, recall and brand association  <i>10 experimental studies</i>	↑ character preference, purchase requests and food choice, mostly favouring HFSS  <i>14 experimental studies</i>		
<b>Boyland et al., 2016</b>  High			Meta-analysis: SS ↑ food intake in children  <i>13 experimental studies</i>	
<b>Sadheghirad et al., 2016</b>  High		Meta-analysis: SS ↑ preference scores, SS ↑ risk for choosing unhealthy foods, both regarding children ≤8 y  <i>20 randomized, controlled trials</i>	Meta-analysis: SS ↑ food intake in kcal, SS ↑ food intake in grams  <i>9 randomized, controlled trials</i>	

↑=Exposure to food marketing has an effect on outcome. SS=Statistically significant. NS= non-significant. <sup>1</sup> The nutritional quality of food marketing was associated with dietary quality.

measured recognition and found a high recognition (60 to 90 %). One study measured recall of a character matched with food, and 78 % of the children remembered the character (a mouse) while only half remembered the food (cheese).

Another study included in Kraak and Story (2015) measured recall of content with media characters and demonstrated good recall, although the outcome is not quantified. Three studies measured character and brand association and outcomes suggested that children responded well to well-known or congruent characters.

**In summary**, the high-quality systematic review of observational studies by Cairns et al. (2009) indicated that food marketing stimulates children with an impact on their recall, preferences and purchases. The results on recall were supported by the medium quality review of experimental studies by Kraak and Story (2015).

#### *What are the effects from food marketing on children's food preferences?*

Three systematic reviews could be used to elucidate this research question (Cairns et al., 2009; Kraak & Story, 2015; Sadeghirad, Duhaney, Motaghipisheh, Campbell, & Johnston, 2016) (Table 7). Food preferences has been interpreted to also include purchase behaviours, as this outcome is often theoretically measured (e.g. children's intention to purchase a product).

Cairns et al. (2009) reviewed 18 studies that were found to be capable of inferring causality. Out of 16 experimental studies, nine found significant changes in food preferences after exposure to food marketing, while the results in six studies were either non-significant or found no evidence on effect. One out of two cross-sectional studies likewise found significant changes in food preferences after exposure to food marketing. Overall, the weight of evidence was assessed as modest, and on balance the results indicated that exposure to food marketing can influence food preferences in children.

Cairns et al. (2009) also included eight studies on children's food purchase or purchase-related behaviour (defined as behaviour intended to influence parents' food purchases). Seven out of eight studies found significant effects that could be attributed to marketing, while one study found no association. The results indicated that the nutritional quality of purchased or requested foods is correlated with nutritional quality of promoted foods. The weight of evidence was assessed as strong and indicated that food marketing can directly influence purchasing choice and requests.



The included study assessed as having moderate quality by Kraak and Story (2015) included five studies that explored the influence of cartoon brand mascots and media characters on children's character preference or taste/snack preference. Two studies found that children preferred food packages with characters over no character. One study found that familiar and unfamiliar characters increased preference for fruit more than for candy. Three studies found that branded healthy foods were less popular than branded unhealthy foods when the same character was used, so that healthy foods “lost” for unhealthy. Of the five studies, three were rated medium and two were rated low for the quality assessment criteria “causal inference validity”<sup>10</sup>. All the five studies were rated as medium for “ecological validity”<sup>11</sup>.

The review by Kraak and Story (2015) also included studies that examined the effect of characters on children's intention to eat, presented as *purchase requests* and *food choice*. Results from three studies on purchase requests showed that children preferred foods presented with a character rather than without a character. Results from six studies that examined food choice showed that in four out of six studies, the effect of branded characters was stronger for unhealthy than for healthy foods. The studies were rated as either medium (4 studies) or low (3 studies) regarding causal inference validity, while all the studies were rated as medium concerning ecological validity.

The systematic literature review and meta-analysis judged as having high quality by Sadeghirad et al. (2016) assessed food preference measured by preference score or the percentage of participants who selected specific foods or beverages. The study assessed 12 randomised trials on dietary preference scores. A standardised measure of effect was calculated to be used across all the studies: standardised mean difference (SMD). The meta-analysis of these trials showed that exposure to food marketing led to a small, non-significant increased effect that favoured preference for unhealthy items (SMD 0.23). In a subgroup analysis based on two age groups ( $\leq 8$  years or  $> 8$  years) the groups with younger children showed a small to moderate significant effect size (SMD 0.46), while the older children had a small, non-significant decreased effect size (SMD -0.28). The quality of evidence for dietary preference scores was rated as low because of risk of bias and unexplained heterogeneity, based on GRADE quality assessment.

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<sup>10</sup> The strength of evidence for an associative or causal inference being made between marketing exposure and diet-related outcome.

<sup>11</sup> The degree to which the investigator can generalise the results to daily life.

The study also assessed eight trials that assessed food preference by percentage of children who preferred specific foods or beverages. Results showed that children that were exposed to unhealthy food marketing had a higher risk of selecting foods that were associated with a commercial character compared to children that had not been exposed to food marketing; with a non-significant relative risk of RR 1.1. Subgroup analysis showed that children  $\leq 8$  years had a significantly increased risk of selecting the advertised products (RR 1.2). The overall quality of evidence was assessed as moderate (Sadeghirad et al., 2016).

**In summary**, results from the two systematic reviews rated with high quality (Cairns et al., 2009; Sadeghirad et al., 2016) indicated that exposure to food marketing can influence children's food preferences and purchase requests. The reviews assess the evidence base as moderate. The systematic review rated as having moderate quality on effects of brand mascots and cartoon characters on children's preferences and purchase requests (Kraak & Story, 2015) showed less clear results, but indicated that food marketing that uses characters may affect children's food choices, possibly in favour of unhealthy foods.

#### *What are the effects of food marketing on children's food intake?*

Three systematic reviews could be used to answer this research question (Boyland et al., 2016; Cairns et al., 2009; Sadeghirad et al., 2016).

Cairns et al. (2009) assessed 18 studies that measured different outcomes of food intake after exposure to food marketing. Twelve studies were experimental, five were cross-sectional and one was a prospective observational study. Of these, 14 studies reported positive associations between food marketing and food intake. Six studies showed significant outcomes, eight were non-significant and four studies were inconclusive. The weight of evidence was assessed as moderate and suggested that food marketing can influence food consumption behaviours.

The systematic literature review and meta-analysis assessed as having high quality by Boyland et al. (2016) measured the effects of manipulated acute exposure to food marketing in children and adults. Thirteen studies concerned children alone. Because the included studies assessed different measurements like ounces, grams and kilocalories (kcal), a standardized effect size measure was used: Standardized Mean Difference (SMD). The analysis found no effect on SMD in adults, but subgroup analysis showed that advertising exposure had a significant effect on food intake with children, where participants that had been exposed to food marketing consumed a greater amount of snack food compared with the

control condition. For children, SMD was 0.56, described by Boyland et al. (2016) as a moderate effect.

Sadeghirad et al. (2016) assessed nine randomised studies that reported food intake in kcal or grams. Six studies (665 participants) reported results in kcal. The meta-analysis showed a significant increase of about 30 kcal favouring exposure of unhealthy food marketing vs. the control groups who were exposed to non-dietary advertising. Four studies (395 participants) measured food intake in grams. Meta-analysis showed a significant increase of 4.8 grams among those that had been exposed to unhealthy food marketing. The overall quality of evidence for dietary intake was assessed as moderate based on indirect evidence, where dietary intake is seen as a surrogate for direct outcomes like weight gain or obesity.

**In summary**, results from three systematic reviews with high quality (Boyland et al., 2016; Cairns et al., 2009; Sadeghirad et al., 2016), mainly from experimental settings, indicated that exposure to food marketing can influence and increase food intake in children, with an evidence base that was assessed as moderate and showing small to moderate effect.

#### *What are the effects from food marketing on children's health or diet-related health?*

Only one study could be used to elucidate this research question. Cairns et al. (2009) assessed seven cross-sectional studies that reported on health outcomes. One of these studies was assessed as higher quality, five were assessed as medium quality and one got lower scores for quality. The studies used TV viewing as a proxy for exposure to TV advertising. Four studies reported statistically significant positive correlations between food marketing and dietary quality. Two studies reported positive correlations between food marketing and obesity. One of these were had significant results. One study reported a significant positive correlation with blood cholesterol. The weight of evidence was assessed as modest, and indicated that food marketing can influence diet-related health.

**Summarising the results section on scale**, the results showed that the findings in the comprehensive systematic literature review by Cairns et al. (2009) has been strengthened by more recent, systematic reviews of experimental studies (Boyland et al., 2016; Sadeghirad et al., 2016). The paper by Kraak and Story (2015) included studies with varied outcomes and did not quantitate effects. Therefore, this paper to a less extent added to the evidence. The papers indicated that food marketing had an effect on children's recall and other cognitive

outcomes, that food marketing affected their food preferences, their food intake and their diet-related health.

In the context of the UNGP Reporting Framework, salience depends on the severity of the scale, scope and/or remediability of food marketing to children (Shift & Mazars, n.d.-m). The limited evidence linking food marketing to health outcomes, and the small effect sizes that were found, may suggest that the findings on scale as described above can be questioned in relation to severity. This will be discussed in section 5.

#### 4.2.2 Scope: the extent of food marketing to children

Two systematic literature reviews and two reports could contribute on the issue of the scope, interpreted as extent, of food marketing to children (Cairns et al., 2009; Harris et al., 2013; Jenkin, Madhvani, Signal, & Bowers, 2014; WHO EURO, 2016). The results will be presented according to the subset of research questions that was developed: What proportion of children are exposed to food marketing? What creative strategies and channels are used by food marketers to reach children? What foods are promoted to children? How much money does the food industry invest in food marketing?

##### *The proportion of children that are exposed to food marketing/ Creative strategies and channels used by food marketers to reach children*

None of the papers that reported on extent directly quantitated the number of children exposed to food marketing. Therefore, results concerning the channels and strategies used to target children, have been used to illustrate the proportion of children that are exposed to food marketing.

The literature review by Cairns et al. (2009) included studies from the 1970ies up to 2008 that assessed the nature and extent of food marketing to children. About half of the studies were carried out in the United States and most assessed TV marketing. The results showed that times when children watch television are “*heavily used by food marketers to promote foods to children*” (Cairns et al., 2009, p. 12). Results also showed that food was marketed to children through a variety of channels, including children’s magazines; in-store advertising; sponsorship; premiums or free samples; mobile phone messaging; and in-school marketing (Cairns et al., 2009). The systematic review included 12 studies that explored food marketing on the Internet, mainly content analysis of food companies’ websites. Results showed that most of such websites included marketing of unhealthy foods targeted to children (Cairns et

al., 2009). In addition, the study found that food marketing strategies were similar in low- and middle-income countries (Cairns et al., 2009).

The systematic review by Jenkin et al. (2014) assessed the most frequently documented persuasive marketing strategies used in food marketing targeted to children on television. The systematic literature review was rated as having low quality, and included content analyses of television food marketing targeted to children in USA, Australia, UK and Canada. The most frequently reported persuasive marketing techniques found in the 38 studies were: 1) *Premium offers*, e.g. when foods are accompanied by free products such as toys, competitions or vouchers; 2) *Promotional characters*, i.e. when foods are advertised using brand characters such as Tony the Tiger or licenced characters like Sponge Bob Square Pants; 3) *Health and nutrition claims*, where advertisements claim that products are for example “healthy” or “promoting strength”; 4) *Taste*, and 5) *Fun*, when words or non-verbal display focus on fun and happiness, or mood alteration.

Harris et al. (2013) explored fast food marketing in the USA with a focus on 18 large fast food restaurants (e.g. McDonald’s, Burger King, Starbucks and Taco Bell), and compared the results with a similar study published in 2010. Results showed that children frequently were exposed to fast food marketing from the 18 restaurants on television. In 2012, US children between 2 and 11 years watched about three fast food per day, or about 1000-1200 ads per year, while teens watched almost five ads per day, about 1750 ads per year. For example, children watched around 200 ads for McDonald's kids' meals (the ad most frequently viewed) per year in 2012.

Harris et al. (2013) also assessed fast food marketing to children on the Internet. Fast food adverts placed on *third-party websites* for youth and children had decreased since 2009, but averaged 87,5 million ads viewed per month, often placed on child websites like Lego, Disney and Cartoon Network. Facebook was the primary website for fast food advertising placements to youth. As an example, McDonald's Happy Meal ads were viewed more than 25 million times on Facebook in 2012. Regarding *social media*, all the 18 restaurants had a Facebook page by 2013 and their activities almost doubled between 2009 and 2013. The posts frequently encouraged fans to engage with the content, by liking, sharing, or following links, or by arranging competitions. All but one restaurant had YouTube -channels and the three restaurants with the most uploaded videos had between 8 million and 14 million uploads.

WHO EURO (2016) focused particularly on digital food marketing and showed that European children use digital media frequently: results showed that children and adolescents used the Internet 2-5 hours daily. Children were active users of Internet locations like YouTube, Facebook and Instagram, and children that are younger than the age limit frequently had a social media account. The report included an overview of recent research on digital food marketing. Results showed that European food brand websites frequently promoted unhealthy food to children, but the report also established that children probably do not spend much time on these websites. Included studies from Ireland and Australia showed that the brands on Facebook with the greatest reach in age groups 13-14 years were all for unhealthy foods or beverages. The adverts used strategies like engagement, humour and emotion; and very frequently prompted users to interact (e.g. to *like*, *comment*, or *share*). Studies on children's exposure to digital food marketing on Facebook showed that engagement with food brand ads resulted in 80-130 paid advertisements for weeks after the interaction. One study showed that food portrayals were shared by 85% of adolescent Instagram users. Almost 70 % of these depicted unhealthy foods and about half had visible brand imagery, influenced by food marketing campaigns.

WHO EURO (2016) also focused on the strategies used in digital marketing to target children and adolescents. Digital marketing employs technology that collects, sells and distributes deep personal information about individual users' online behaviour to create personalised marketing. Many companies internationally have applied an US act that is set out to protect children under 13 years against their information being collected, but according to WHO EURO (2016), this act has several limitations relating to the protection of children, and notably does not encompass adolescents. In addition, many companies do not adhere to this regulation. The report suggested that the strategies used to develop and spread digital HFSS food marketing to children have negative implications for children in relation to several human rights, for example children's right to have their privacy protected and not be economically exploited, and under children's right to health.

**In summary**, results from the high-quality systematic review by Cairns et al. (2009) showed that food marketing was frequently targeted to children in a wide variety of channels. This overview was supported by the more recent US report, showing that children's exposure to fast food marketing on TV was extensive, and that children and youths were also exposed to fast food marketing on line (Harris et al., 2013). The updated report by WHO EURO (2016) gave insight into the sophisticated strategies employed to develop digital food marketing, and

suggested that European children and youth were frequently exposed to marketing for unhealthy foods online. The low-quality systematic review by Jenkin et al. (2014) suggested that persuasive strategies were frequently employed in food marketing to children, but added less to the evidence since the results were not quantitated.

#### *What foods are promoted to children?*

The systematic review by Cairns et al. (2009) and the report by Harris et al. (2013) could be used to answer this question. In addition, some input from WHO EURO (2016) was mentioned in the section above.

Cairns et al. (2009) assessed 84 studies that investigated food products that were marketed to children. Results showed that food marketing targeted to children mainly promoted unhealthy food items, characterised as the “Big Five”: Pre-sugared breakfast cereals, soft drinks, savoury snacks, confectionery and fast foods. These products constituted between 60-90% of marketing targeted to children.

Harris et al. (2013) analysed the nutrient content of the fast food TV adverts most frequently seen by children and adolescents, based on the 18 restaurants that were assessed in the report. The report showed that between 2009 and 2013, the nutritional content of adverts viewed by children and adolescents had improved in that total calories, sodium, and the proportion of calories from sugar and saturated fats had decreased. But overall, three-quarters of the adverts viewed most often were assessed as having poor nutritional quality based on e.g. high calorie content, a high proportion of calories from sugar and saturated fat, and high levels of sodium.

**In summary**, the high-quality systematic review by Cairns et al. (2009) supported by the more recent US report by Harris et al. (2013) indicated that most of food marketing targeted to children promoted unhealthy foods high in saturated fat, salt and/or free sugars.

#### *How much money does the food industry invest in food marketing?*

Harris et al. (2013) presented information on advertising spending by the fast food restaurant industry in the USA (not only the 18 restaurants featured in the report). In 2010, fast food restaurants spent in total \$4.2 billion on advertising in TV, radio, outdoors and on the Internet. By 2012, the amount of money spent on food advertising was \$4.6 billion, or an 8% increase. Marketing by ten fast food restaurants constituted over 70% of the total spending, and McDonald's, as the largest spender, accounted for nearly 25% of the total amount. The report did not quantify the proportion of money spent on fast food marketing to youth.

### 4.2.3 Remediability: how can food marketing consequences be put right?

Remediability concerns how hard it is to put negative consequences right (Shift & Mazars, n.d. -m). As seen in section 4.2.1, the papers on scale, or effects, in this literature review concerned children's preferences, food intake and diet-related health. Results that directly concerned the remediability of the effects of food marketing were not found in the included papers. The following part of this section mainly consists of data from the discussion sections from the included papers, and concerns policy implications of the research findings.

Sadeghirad et al. (2016) discussed their findings in relation to implications for public policy. The authors noted that evidence linking food marketing and children's poor dietary behaviour should lead to restrictions in food marketing targeted to children, and cited a modelling study showing that a ban on food marketing could reduce overweight and obesity in children by 18% and 2.5%, respectively. Likewise, Boyland et al. (2016) concluded that policy-makers should take immediate action to reduce children's exposure to unhealthy food marketing.

Cairns et al. (2009) wrote that a convergence of scientific evidence is indicating that food marketing is a modifiable factor that influence children's health, and that global implementation of the WHO Set of Recommendations would reduce children's exposure to risk actors for obesity and NCDs. Jenkin et al. (2014) commented that food marketing to children is a key modifiable determinant for unhealthy diets and obesity. Further, Jenkin et al. (2014) claimed that regulations on food marketing to children should consider not only the quantity of food marketing but also the persuasive content of such marketing, and that rules and regulations should be extended to also cover common persuasive techniques.

Kraak and Story (2015) wrote that brand mascots and licenced characters were used to develop brand loyalty, a phenomenon consisting of e.g. brand awareness, trust and preference, to *"build an emotional relationship with children and cultivate brand loyalty that persists into adulthood"* (Kraak & Story, 2015, p. 109). The paper suggested that the effects of food marketing exposure could take place without children being consciously aware of it.

The report by WHO EURO (2016) raised the question if children could resist food marketing methods. It was argued that advertising restrictions were based on dated cognitive-focused models which assume that children over a certain age cut-off can cognitively recognize and understand the intent behind marketing and consequently protect themselves against marketing effects. These models do not consider the unconscious, emotional and social effects



of current food marketing strategies. To be able to resist marketing, WHO EURO (2016) argued that children and youth must understand, but more importantly also be consciously aware of the marketing, and be motivated to resist it, factors that are often not present in children and youth. The report concluded that to protect children from the exposure of HFSS marketing, action must be taken to implement WHO's Set of Recommendations, including on digital domains.

**In summary**, most of the papers included in this literature review assessed the consequences of food marketing to children to be of a degree that necessitates policy action and a subsequent limitation of food marketing of HFSS foods to children. The impact of food marketing on children's diets and health was the main argument, while WHO EURO (2016) and to a certain extent also Kraak and Story (2015) also considered the implicit exploitative strategies employed by food marketers.

### 4.3 Results from interviews with key stakeholders (research question 3)

This section presents the results from the qualitative interviews with key stakeholders, for variation called interviewees and participants.<sup>12</sup> The results are organised by the three themes that formed research question 3:

- Viewpoints on to what extent food marketing to children could be regarded a human rights issue.
- Viewpoints on to what extent food marketing to children could be regarded as a salient human rights issue.
- Viewpoints on human rights reporting as an accountability tool.

Further, the categories that were constructed based on the interviews will be used to present the results. To give an overview, the categories relevant for the three themes are presented in tables below each theme subheading. Citations are set in *italics*. Where needed, information added to make a sentence more intelligible is set in [brackets]. Where content has been omitted from a citation this is marked by (...).

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<sup>12</sup> The results reflect the personal viewpoints of the interviewees, and do not represent the official views of the organisations where they are employed, where applicable.

**Participant abbreviations used in this section:**

Food industry association employee (FIA)

Human rights expert 1 (HRE 1)

Human rights expert 2 (HRE 2)

Intergovernmental organisation employee (INGO)

Multi-stakeholder initiative employee (MSI)

Non-governmental organisation employee 1 (NGO 1)

Non-governmental organisation employee 2 (NGO 2)

Public servant (PS)

All the participants except from the food industry association employee had some experience with human rights either from education or work experience.

#### 4.3.1 Viewpoints on whether food marketing to children is a human rights issue

In the first parts of the interviews, the participants discussed if food marketing could be regarded as a human rights issue. Table 8 gives an overview of the categories that were constructed based on the interviews.

*Table 8. Key informants' viewpoints on food marketing (FMKT) as a human rights (HR) issue.*

<i>Main categories</i>	<i>Food marketing to children is a human rights issue</i>		<i>Enablers and barriers to a full recognition of food marketing to children as a human rights issue</i>	
<b>Categories</b>	<b>Human rights provisions are relevant for FMKT to children</b>	<b>FMKT has negative implications for children</b>	<b>Enabling factors</b>	<b>Barriers</b>
<i>Subcategories</i>	-	-	<i>1. Food marketing and NCDs as HR issues is an emerging agenda</i>	<i>1. Businesses do not regard FMKT as a HR issue</i>
	-	-	<i>2. Political context may strengthen the case for FMKT as a HR issue</i>	<i>2. Governance actors do not apply a HR approach to FMKT</i>
	-	-	-	<i>3. There is a lack of supporting documents and guidance on FMKT in a HR context</i>

The responses diverged in two directions: on the one hand, the participants' own viewpoints on food marketing as a human rights issue and on the other hand, their perceptions of how food marketing to children was discussed as a human rights issue by nutrition governance actors, categorised as “enablers and barriers to a full recognition of food marketing as a human rights issue”.

### *Food marketing to children is a human rights issue*

No participants disagreed that food marketing to children could be a human rights issue. The food industry association employee was not familiar with the human rights system and was uncertain about the issue. Two main arguments were found that supported food marketing as a human rights issue, and are presented with bold headings below.

#### **Human rights provisions are relevant for food marketing to children**

Six out of the eight participants referred to provisions from the human rights system that they saw as relevant for food marketing to children, mostly referring to articles under the CRC. The rights to food and to health under the ICESCR were also mentioned. One NGO employee emphasised that available tools on business and human rights together with state obligations to protect children and health, should be sufficient to argue that food marketing could be regarded a human rights issue. One of the human rights experts explained how several human rights could be relevant for food marketing:

*“(...) I absolutely think it is a human rights issue and it actually relates to a number of human rights, because if you as a company use marketing to entice consumers to buy things without having the right knowledge it can have impacts on the right to health, the right to information, the right to food, even on the right to life if consumers are misled and are consuming things that can be harmful for them. I guess that it affects a number of human rights issues. And then (...) you also have the children's rights.”*

HRE1

#### **Food marketing has negative implications for children**

Four participants argued that food marketing to children has negative implications for children, and that these implications could be related to human rights. Three of the participants described food marketing as *exploitative*, given that children do not have the capability to understand marketing:

*“It is precisely because the marketing is to children. They [the children] can’t be blamed for that behaviour because they don’t have the possibility to resist the marketing.”* NGO 1

The exploitation issue was discussed particularly by the intergovernmental organisation employee. This interviewee explained that whereas a risk-based approach would mostly focus on food marketing as a risk factor for unhealthy diets and overweight/obesity, a human rights-based approach would broaden the perspective to also include factors like exploitation and privacy issues.

The implications of food marketing on children’s diets and health were mentioned by three participants. They argued that food marketing could be misleading and result in bad health, especially in the case of children who could not make informed choices and who also could be physiologically more vulnerable when consuming unhealthy food.

As mentioned, the food industry association employee was unfamiliar with the human rights system and was hesitant to define food marketing as a human rights issue. However, this participant described food marketing as problematic and exploitative in a language similar to that used by the other participants and this persons’ input is therefore presented here. The interviewee emphasised that food marketing should be responsible and should consider children’s limited capability to understand marketing messages and intent:

*“Everyone understands that touting communication to children that they are not capable of sorting out...that isn’t OK. (...) Selling products has to be allowed, but saying to a child that you’ll be happier if you buy them, that should be avoided.”* FIA

### *Enablers and barriers to a full recognition of food marketing to children as a human rights issue*

Input given under this main category concerned participants’ viewpoints on how food marketing to children was addressed as a human rights issue by different actors in health governance. The participants described factors that enabled, or that were barriers for, a full recognition of food marketing as a human rights issue. More perceived barriers than enabling factors were described.

#### **Enabling factors**

Two subcategories of enabling factors were identified:

### *1. Food marketing as a human rights issue is an emerging agenda*

Four interviewees, the intergovernmental organisation employee, the two human rights experts and one of the NGO employees, described that food marketing as a human rights issue was an emerging agenda in health and nutrition governance. They explained that several actors, from academics, consumer groups, health organisations and NGOs to bodies within the UN system, were discussing food marketing, or NCDs in a broader sense, in a human rights perspective. UN Special Rapporteurs for food and health were mentioned by three participants as important conveyors of food marketing in a human rights context.

One of the human rights experts had experience from human rights consultancy work with the food industry, and described preliminary signs that broad issues concerning food products was starting to emerge onto a business and human rights agenda, mostly for big multinational companies. According to this participant, the focus of discussions had started to shift to product-related issues:

*“So, we are starting to look more at the core of the business – what is the business actually doing and not how, but what, so when it comes to food and beverage companies it comes down to the products that they produce and the ingredients of the products. This is an emerging area for organizations working on human rights issues with companies (...) so it’s a learning process from both sides.” HRE 1*

### *2. Political context may facilitate a human rights approach to food marketing*

Two Norwegian interviewees, the public servant and the food industry association employee, suggested that the national political context could be a facilitating factor for a human rights approach to food marketing. These participants emphasised that in their national context, the political climate was less liberalistic and described food industry actors and marketing practices as less aggressive than internationally. This was regarded as important for responsible marketing conduct in general, but also for a potential implementation of a human rights-based approach to food marketing. The food industry association employee said:

*“In Norway, we don’t have that ultra-capitalism. And the big multinationals also understand that... Even though, some of them you must tell several times that “here, we do it this way”, and then they get it after a while. (...) You can just look at how marketing conduct is in other countries. In a lot of countries there are very liberalistic attitudes to these issues.” FIA*

## Barriers

The interviewees described three factors that could be viewed as barriers for a full recognition of food marketing to children as a human rights issue. The first and second factors concerned a lack of different governance actors that applied a human rights-based approach to food marketing, and the third factor concerned a lack of guidance to interpret food marketing in the context of human rights.

### *1. Businesses do not regard food marketing as a human rights issue.*

Six out of eight participants expressed that businesses did not consider food marketing as a human rights issue. The two human rights experts and the multi-stakeholder initiative employee, who had all assessed food industry human rights reporting through their work, gave the most comprehensive inputs on this issue and explained that food businesses in their reporting seldom discussed food marketing in the context of human rights. For example, the multi-stakeholder initiative employee had rarely encountered food companies that reported on marketing practices to children:

*“(...) I can count on my two hands the number of companies that we’ve screened who have actually said something about this.” MSI*

The three interviewees found that when food companies discussed food marketing or food products, for example in an obesity context, it was typically done within a nutrition or corporate social responsibility context, where companies e.g. showed how they reformulated products to comply with national regulations. It seemed that the link between food marketing and human rights had not been made by businesses. Three different reasons for this gap were suggested:

- Lack of relevant human rights expertise within the company.
- Lack of interest or acknowledgement in the issue.
- Lack of external pressure.

The food industry association employee had never experienced that food marketing had been discussed in the context of human rights, neither within the food industry association nor in discussions with the government or civil society. This person was thus uncertain about what human rights could imply for food producers and how the food industry would respond to a human rights approach to food marketing.

## *2. Governance actors do not apply a human rights approach to food marketing*

Six out of eight participants found that besides food industry actors, there was also a lack of other governance actors that applied a human rights approach to food marketing. National governments and international organisations, NGOs and the public were examples of such missing actors. Three participants mentioned that they found UNICEF as missing from this arena.

The interviewees had several suggestions about why human rights were not applied in the context of food marketing. One proposal was that relevant actors were unfamiliar with the human rights system. For example, the person working in an intergovernmental organisation said:

*“(...) most people working in health organisations are not lawyers or human rights lawyers, and don’t really know what it means to fulfil obligations under human rights treaties or human rights conventions. So, I think that there’s a disconnect in the sense that it [human rights] is included, often in the preambles to strategies, action plans etc. But it doesn’t sit at the core, partly because people don’t know how to leverage it. Either through international organisations or even in national legislation.”* INGO

Another proposal, mentioned by one of the NGO representatives, was that engagement with the human rights system is a prolonged and difficult process so that many actors prefer to engage on other arenas.

The intergovernmental organisation employee expressed that for many states, human rights were not seen as the strongest argument, so that governments would rather focus on the risks that food marketing to children has on diet and health. This view was supported by the public servant, who had been working with food marketing nationally and internationally. This person had experienced that a risk-based approach to food marketing was regarded as less sensitive than to apply human rights-based arguments:

*“(...) it was safer, it was more likely that we succeeded with these recommendations [on food marketing to children] if the human rights perspective was not strong.”* PS

Likewise, one NGO employee and one human rights expert described a human rights approach as contentious and politicised. The NGO representative explained that for many NGOs, including this persons’ own, taking up human rights arguments was not very relevant:

*“(...) there is a huge amount of risk in engaging with human rights, actually. (...) There are particular organisations that are heavily involved with campaigning and advocacy (...). And they are very, very different beasts to what we are. So, I can’t see in even the medium-term future that we would want to fully embrace an advocacy, campaigning mentality, and for that mentality, include a human rights mentality.”*  
NGO 2

One of the human rights experts and one NGO employee argued that a lack of public engagement around obesity was a challenge for governance actors like NGOs and governments. According to these interviewees, a lack of public acceptance of obesity and NCDs as public concerns made it challenging for governance actors to pursue these issues, not only in a human rights context but also in general. For example, the NGO representative had experienced that health societies avoided nutrition issues like obesity and food marketing because they were worried it would affect their fundraising base:

*“(...) the public – does not resonate with it. Therefore, they [health societies] are very scared of engaging with it and they don’t quite know what to say and what to do.”*  
NGO 2

The human rights expert said:

*“(...) the lack of public mobilisation is a problem. I think with obesity it is very complicated because people have an opinion on this, and it is often not based in science, it is based on their own opinion about rearing children and how they were as a child, and I think it is quite emotional for some people. (...) So, if you think that children have obesity because they have bad parents or they are not exercising or are eating too much sweets, then you’re usually not in favour of intervention. But when people (...) believe that the food industry has a role, then they are usually more in favour of the government getting involved.”* HRE 2

### *3. There is a lack of supporting documents and guidance on food marketing in a human rights context*

The two human rights experts and the intergovernmental organisation employee argued that there was a lack of interpretations, in the form of written documents, to help leverage food marketing or nutrition in a human rights context. The human rights expert with experience in working with companies addressed the need for guidance documents and tools developed for business audiences. Such documents could make the link between human rights and food



marketing, and could help operationalise what companies should do to handle food marketing as a human rights responsibility. The intergovernmental organisation employee focused on the need to translate how human rights provisions could be used in nutrition policy at the international or national level. This person pointed to the lack of international standards on nutrition that could be used to frame national legislation:

*“(...) if you look at tobacco, the most important one is obviously the Framework Convention on Tobacco Control, where governments can introduce something and refer to the FCTC, the various articles in the FCTC (...). They have something that we don’t have in nutrition and I’m not saying that we necessarily need it, but I think it is important that human rights lawyers are thinking about how to translate international treaties and conventions down into national legislations and how governments can use them in framing legislation and justifying action.” INGO*

4.3.2 Viewpoints on whether food marketing to children can be regarded as a salient human rights issue

The second theme that was brought up in the interviews concerned viewpoints on the salience of food marketing to children. In general, the participants seemed rather hesitant while discussing this theme. The categories based on the interviews are presented in Table 9.

Table 9. Key informant’s viewpoints on whether food marketing to children can be regarded as a salient human rights issue.

<i>Main categories</i>	<i>Arguments supporting the assumption that food marketing to children can be regarded as salient</i>		<i>Arguments challenging the assumption that food marketing to children can be regarded as salient</i>	
<b>Categories</b>	<b>Food marketing has an important impact on children's nutrition and health</b>	<b>Salient issues should concern the corporations' core activities</b>	<b>Food marketing is not perceived as an urgent human rights issue</b>	<b>Lack of external pressure to define food marketing to children as salient</b>

*Arguments supporting the assumption that food marketing to children can be regarded as salient*

All the participants except from the food industry association employee found that food marketing could be regarded as a salient human rights issue. Two main arguments were used to support this assumption.

**Food marketing to children has an important impact on children's nutrition and health**

Six participants reasoned that food marketing had an important impact on children's nutrition and health. Mainly, it was argued that food marketing was linked to unhealthy diets, overweight and obesity in children and that these impacts were serious. It varied between participants how specific their reasoning was for this issue. While one of the NGO employees simply stated that food marketing was very widespread and very serious, because it worked, one of the human rights experts was quite assertive that food marketing could be defined a severe human rights issue, given both scale, scope and remediability:

*“I think that if you look at all the three factors, in terms of scale I think you can affect a lot of human rights and some of the severe human rights issues like the right to life. In terms of scope I think it can affect millions of children, all children consumers worldwide. In terms of irremediability, if a child is obese in its childhood there could be health risks in the future and you can't turn that back. And obviously, there are health risks like diabetes and other non-communicable diseases that you can't turn back, as well as early death, that you can't remediate either. So, if you look at the parameters on how to define severity, I think that this can definitively be seen as a severe human rights issue.” HRE 1*

The public servant argued that the scientific evidence on the effects of food marketing on children's food preferences, purchase behaviour and dietary behaviour was very strong, and that this evidence was sufficient to argue that food marketing also influences children's health. The intergovernmental organisation employee focused particularly on the health effects of unhealthy diets, and described how dietary risk factors and overweight/obesity were the most important risk factors for most populations so that food marketing could be described as salient:

*“(...) protecting a vulnerable population which is children in critical periods of life from harmful influences can be justified, I think. (...) once a child becomes overweight it is extremely difficult to lose it across the life course so really, the window for action is quite limited if we're honest (...) and it [food marketing to children] is completely unnecessary, as well. The companies are privileged that they are permitted to do this, currently, and I think it is something that needs to change. So, I think it can be justified, certainly.”*

The multi-stakeholder initiative employee mentioned that the scope factor (i.e. how widespread the impact is) would be particularly relevant in the context of food marketing, given the extent of food marketing globally.

### **Salient issues should concern corporations' core activities**

The intergovernmental organisation employee and one of the human rights experts pointed out that the definition of salient issues should concern the corporations' core activities. The human rights expert argued that for food companies, it should be logical to identify the right to food and the right to health as salient issues, as these issues go to the heart of food companies' functions. The intergovernmental organisation employee said:

*(...) you have to see what is core to that business. Of course, a company that is selling products that are high in fat, salts and sugar have a whole supply chain, they employ people, they move goods across the world... They're bigger than the end product and their social impact is bigger than their end product. But they're all businesses selling unhealthy foods to populations (...). For some companies, it should be quite possible to identify, (...) [that] this is an extremely important element (...) how you market your food to different populations. INGO*

### *Arguments challenging the assumption that food marketing to children can be regarded as salient*

Input given under this category mainly concerned viewpoints on how different governance actors would consider food marketing to children as a salient human rights issue. Two categories of arguments were identified.

### **Food marketing to children is not perceived as an urgent human rights issue**

Five participants thought that it was challenging to identify food marketing to children as urgent or severe, and that the food industry in particular would argue against the assumption. For example, one of the NGO employees thought that the food industry would deny responsibility for children's diet rather than accept food marketing as a severe human rights issue. This was confirmed by the food industry association employee, who explained that typically, the food industry would regard a child's diet both as a parent responsibility and an industry responsibility.

The multi-stakeholder initiative employee and one of the human rights experts emphasised that food marketing had less immediate impacts compared with other human rights abuses. Also, overweight and obesity had multiple causes, making it more difficult to attribute obesity and bad health to food marketing solely. The multi-stakeholder initiative employee suggested that in a prioritising process, companies may not consider food marketing as urgent enough:

*“(...) when it’s a matter of choosing between different issues, they [food companies] are also in a supply chain where agriculture for example is a bottom tier which has severe human rights issues in terms of forced labour and child labour... So, when you start weighing different human rights against each other in that way, it might be easier to go for more hard-core issues, which are in a sense further away from their own, so they have a certain distance (...). Whereas, the marketing issue is considered more of a soft issue, that is what you would call nice to have, but not necessary.” MSI*

### **Lack of external pressure to define food marketing to children as salient**

The two NGO employees thought that some sort of external pressure would be necessary to make the food industry consider food marketing as severe or salient. One of them emphasised that legislation could be one such external factor:

*“The one thing is what one always comes back to: if the states don’t regulate then there is no reason for businesses to regulate themselves; there is no need to take it seriously if the state doesn’t take it seriously. I think that they will say that we adhere to national legislation (...). And therefore, I think that you need legislation. The corporate sector relates to what they are sanctioned for, and not guidelines. Because their job is to sell the products.” NGO 1*

The second NGO employee argued that for food marketing to be considered salient, advocacy from several actors would be needed but that currently, this was not the case:

*“I’m quite certain that if we were to sit down and pull together the reasons for food marketing to children [then it] would be a salient human rights issue. I can’t see that it would be a problem because I do see that the information’s out there, but as I say there are not enough people shouting about it”. NGO 2*

### **4.3.3 Viewpoints on human rights reporting as an accountability tool**

The last main theme of the interviews regarded whether the participants found that due diligence processes and human rights reporting could be a relevant tool to improve food marketing practices.

While seven out of eight participants had heard about the UN Guiding Principles, only a few had any thorough knowledge about human rights reporting and due diligence processes. There were few inputs from each participant on this theme. In many cases, the input did not concern food marketing explicitly but rather concerned due diligence processes and human rights

reporting in general. Table 10 outlines the categories concerning viewpoints on human rights reporting.

*Table 10. Key informants' viewpoints on human rights reporting as an accountability tool.*

<i>Main category</i>	<i>Perceived potential of human rights reporting to improve food marketing practices</i>		
<b>Categories</b>	<b>Stakeholder engagement may stimulate companies to perform due diligence processes</b>	<b>Companies might report voluntarily</b>	
<i>Subcategories</i>	<i>1. NGOs/civil society may use reports</i>	-	
	<i>2. Investors may be drivers for human rights reporting</i>	-	
	<i>3. Public opinion may be a driver for human rights reporting</i>	-	
<i>Main category</i>	<i>Perceived challenges of human rights reporting</i>		
<b>Categories</b>	<b>The UN Guiding Principles are not mandatory</b>	<b>Human rights reporting and due diligence processes have limitations</b>	<b>Food industry tactics may discourage people from engaging in due diligence processes</b>
<i>Subcategories</i>	<i>1. Lack of mandatory requirements to perform due diligence</i>	-	-
	<i>2. Lack of reporting standards for due diligence</i>	-	-

### *Perceived potential of due diligence processes to improve food marketing practices*

The interviewees shared some thoughts on the potential that due diligence processes could have to improve corporate practices. Most of the input given was rather cautiously given. Two categories were identified.

#### **Stakeholder engagement may stimulate companies to perform due diligence processes**

Five participants argued that different stakeholders could make use of human rights reports or stimulate the process of due diligence processes:

##### *1. Human right reports could be used by civil society*

One of the NGO representatives and one of the human rights experts mentioned that civil society could use human rights reports to hold businesses responsible for their actions. While the NGO representative expressed some hesitancy over this issue, the human rights expert was more confident. This person explained how public reports had been used by NGOs and civil society to provide evidence for litigation against companies, and as such was a useful

tool that concerned actors could use to improve corporate behaviour. This interviewee mentioned a concrete example concerning the issue of child labour in the cocoa sector.

*2. Investors may be drivers for due diligence processes and human rights reports.*

The employees from the intergovernmental organisation and the multi-stakeholder initiative thought that investors may become important stakeholders to stimulate due diligence processes and human rights reports. The multi-stakeholder initiative employee argued that investors were becoming more concerned with human rights issues, and that companies could use public reports to become more attractive to investors. The intergovernmental organisation employee had seen that some investors were concerned with the ethical implications of their investments and would divert from sectors like tobacco. This person suggested that issues like alcohol and unhealthy diets were now starting to emerge as a discussion point for some investors, and that public reports that included information on food related issues could become relevant in the context of investors' ethical or human rights concerns.

*3. Public opinion may be a driver for due diligence processes.*

The multi-stakeholder initiative employee and one of the human rights experts thought that public opinion may contribute to corporate due diligence processes. The human rights expert mentioned that consumer boycotts could make companies want to show that they respect human rights. The multi-stakeholder initiative employee argued that the public debate on obesity was starting to consider obesity as a societal issue more than an individual responsibility, and that companies would probably start to consider addressing this in public reports.

**Companies might report voluntarily**

The second category concerning perceived potential of human rights reporting suggested that companies might develop reports voluntarily. It should be noted that this input was very cautiously given. The intergovernmental organisation employee and the public servant suggested that businesses might have a self-interest to show that their marketing behaviour was ethical and therefore may take up due diligence processes and human rights reporting voluntarily:

*“My experience is that they [the food industry] enjoy communicating that they are good and responsible, they don't call it Corporate Social Responsibility anymore, they call it something else, but if they have a good practice, and some have that, they love*

*talking about it. (...) I can imagine someone doing it voluntarily, since it can give them a good reputation.” PS*

### *Perceived challenges of human rights reporting*

The participants pointed to more challenges than opportunities concerning human rights due diligence processes and human rights reporting. Three categories of challenges were identified:

#### **The UN Guiding Principles are not mandatory**

Several interviewees criticised that under the UN Guiding principles, businesses were supposed to initiate and carry out due diligence processes without mandatory requirements, and that there was a lack of reporting standards for human rights reporting.

##### *1. Lack of mandatory requirements to perform due diligence processes.*

Seven participants argued that a lack of mandatory requirements from national governments to perform due diligence made it less likely that businesses would carry out such a process. One NGO representative and the two human rights experts thought that businesses could not be expected to perform due diligence if governments did not impose mandatory requirements or legislation on this. In addition, one NGO representative and one human rights expert argued that governments often neglected their own human rights obligations, so that states could act as barriers for improving corporate human rights conduct. The public servant doubted that the Norwegian government would be interested in demanding that businesses perform due diligence in the context of food marketing:

*“I doubt it - at least now, when there is such a strong spirit of partnership between health authorities and the food industry, that it would be popular to think along those lines (...) Stronger regulations on food marketing to children is a more obvious measure than to impose on the industry something like that [human rights reporting], because the consequences of food marketing we know very well, it’s about children, and it really is rather self-evident to protect children like that. And it is less... clear what effects it [human rights reporting] would have on children’s health in the short and the long term. So, I think we will see some other measures first.” PS*

The food industry association employee acknowledged that intended legislation and political pressure could contribute to strengthen food marketing practices. This participant also

expressed that the food industry adhered to regulations on food marketing so that in theory, mandatory reporting on food marketing would be followed up by the industry:

*“If it had been a requirement... Well, I think that it had, at least in our context it would have been fine, but internationally I think that you have a long way to go.”* FIA

## *2. Lack of reporting standards for human rights reporting*

One NGO employee, the intergovernmental organisation employee and one human rights expert argued that a lack of reporting standards for due diligence processes and human rights reports would challenge the quality of potential human rights reports on food marketing. It was argued that it would be necessary with external guidance and standard criteria, otherwise the criteria might become too weak. The intergovernmental organisation employee said:

*“If a company is saying we are doing lots to reduce the impact of marketing to children, somebody from the outside should come in and say: ‘OK, we consider these criteria to be the standard; do you meet this or not?’ Because all companies can say that they are changing the way they are marketing to children, but one company could be doing it to under-sixteens, another could say we are marketing to everyone over 12, one company could say no products with more than 10 grams of sugar are fine, other companies might say up to 18 is OK. That’s where it needs a sort of benchmark to be established and businesses can’t do that for themselves.”* INGO

The food industry association employee on the other hand thought that the food industry’s response to reporting would depend on the criteria. Too strict criteria would be a challenge. For example, an age limit on 18 years would be very challenging for the food industry. A potential definition of design and packaging as marketing would also be problematic:

*“If you start removing the product, then you enter into a... Isn’t it allowed to have a drawing? (...) You would be tampering with a lot then, it isn’t exactly plain packaging, but... (...). Then you enter into regulating product design. And then you are in another country; what is a drawing, what colours are allowed, how... A regime that is rather thoroughly controlled (...) I believe that if that should happen, the industry would say “you had better prepare the law”.”* FIA

## **Due diligence processes and human rights reporting have limitations**

The multi-stakeholder initiative employee and the human rights expert with experience from working with companies expressed some doubts concerning the potential of due diligence processes and human rights reporting. These participants found human rights reporting an



important tool, but they described certain limitations. The multi-stakeholder initiative employee said that human rights reporting was a tool for businesses that already had an interest in human rights:

*“I think that it’s not the human rights reporting in itself that makes them change, that’s a tool that they can use to help them structure the way they think and the way they work on these issues. From what I’ve seen the companies that report on this are the companies that have established a stance on these issues or have an interest of working with human rights, no matter if they would report on it or not, the reporting comes as a secondary tool that helps them do that.” MSI*

The human rights expert emphasised that even for companies that were engaged in human rights work and due diligence, this would not necessarily lead to public reporting:

*“(…) for me there is a step that comes before reporting and that is the assessing part. Reporting is very important, but a lot of companies conduct all kinds of due diligence processes such as assessment and studies but don’t necessarily report on it because they don’t want this to be public – and even though I am a proponent of reporting and publishing, the first step is obviously assessing and addressing. If a company assesses what their human rights [responsibilities] are in the area in nutrition, and address these, then that’s already a huge step before the whole reporting piece. Even if you would have some questions and indicators in human rights reporting on this issue, it wouldn’t necessarily mean that companies could or would report on it.” HRE 1*

This participant also emphasised that the UNGP Reporting Framework at present had been used by a very limited number of companies and that there was a long way to go before corporate human rights reporting would become the norm.

### **Food industry tactics may discourage people from engaging in due diligence processes**

The third category of challenges to due diligence processes and human rights reporting concerned a lack of engagement around food marketing as a human rights issue. One of the NGO representatives suggested that potentially interested groups might refrain from engaging with the food industry in due diligence processes because of tactics employed by the food industry in the near past:

*“(…) Did you hear what happened in Mexico recently, that companies had been using American military style surveillance and phone tapping and God knows what against these Mexican advocacy individuals and organisations that are trying to promote a*

*sugar tax! (...) I was quite taken aback by the fact that companies around sugar taxes would employ those kinds of tactics. So, it's a difficult one for, I'd like to think that organisations could use it in their advocacy with companies (...). If you had the UN behind you, saying what you're saying and you aren't the only one saying it. At the same time though it seems that these tactics of intimidation are now extending to sugar taxes, it's just crazy. (...) It might mean that less organisations and individuals are willing to even try and engage in this issue.” NGO 2*

#### 4.4 Main results based on methods triangulation

The objective of this thesis was *“To explore to what extent the marketing of unhealthy foods to children may be regarded as a salient human rights issue that could be considered in human rights due diligence processes and reports under the UN Guiding Principles Reporting Framework”*.

As described in section 3, methods triangulation was used to answer the objective. The document analysis and the literature review informed research question 1 and 2, respectively. The qualitative interviews contributed with additional perspectives to research questions 1 and 2, and further concerned viewpoints on human rights due diligence processes and human rights reporting as a tool to improve marketing practices.

In this section, some general conclusions will be summarised based on the methods that were used. Table 11 shows how the three methods and main results have contributed to answering the research questions and objective. The main findings presented below will be discussed in section 5.

Table 11. Overview of main results in relation to research questions and objective.

<b>Study objective</b>	<i>To explore to what extent the marketing of unhealthy foods to children may be regarded as a salient human rights issue that could be considered in human rights due diligence processes and reports under the UNGP Reporting Framework.</i>		
<b>Research questions</b>	<b>1. To what extent could marketing of unhealthy foods to children be regarded a human rights issue?</b>	<b>2. To what extent could marketing of unhealthy food to children be regarded as a salient human rights issue in terms of scale, scope and remediability?</b>	<b>3. What are participants' viewpoints on human rights reporting as an accountability tool?<sup>1</sup></b>
<b>Document analysis</b>	Food marketing to children should be limited by governments and businesses to protect and respect children's rights.		
<b>Literature review</b>		<p><b>Scale:</b> food marketing to children have an impact on children's recall, food preferences and purchase requests; food intake; and diet-related health.</p> <p><b>Scope:</b> children are exposed to extensive food marketing, mostly promoting unhealthy foods, in a wide variety of channels and with a range of creative strategies.</p> <p><b>Remediability:</b> no papers expressively discussed remediation. Papers discussed that policy action and a limitation of food marketing to children to children is necessary.</p>	
<b>Interviews</b>	<p><b>Theoretically:</b> Yes, under the CRC and ICESCR</p> <p><b>In practice:</b> Ambiguous</p> <p><i>Enablers:</i> some indications that food marketing to children as a human rights issue is an emerging agenda.</p> <p><i>Barriers:</i> businesses and health governance actors do not apply human rights to food marketing.</p>	<p><b>Arguments supporting:</b></p> <ul style="list-style-type: none"> <li>- Food marketing to children affects children's nutrition and health negatively.</li> <li>- Definition of salient issues should be directly related to companies' core activities.</li> </ul> <p><b>Arguments challenging:</b></p> <ul style="list-style-type: none"> <li>- Food marketing to children not perceived as an urgent human rights issue.</li> <li>- There is a lack of external pressure to define food marketing to children as salient.</li> </ul>	<p><b>Possibilities:</b></p> <p>Stakeholder engagement may stimulate reporting</p> <p><b>Challenges:</b></p> <p>The UN Guiding Principles are not mandatory</p> <ul style="list-style-type: none"> <li>- Lack of mandatory requirements.</li> <li>- Lack of reporting standards</li> </ul>

<sup>1</sup> The parts of research question 3 that concerned research questions 1 and 2 have been omitted to illustrate how the interviews informed all the three research questions.

Concerning **research question 1**, results from the document analysis on six human rights documents suggested that the human rights system considered food marketing to children a concerning human rights issue that governments and businesses should limit under the CRC and ICESCR. The interviews with key stakeholders showed similar results (Table 11). The interviews also contributed with another perspective: some participants found food marketing in a human rights context to be an emerging agenda, but several participants found a lack of engagement in food marketing as a human rights issue by health governance actors like businesses, civil society and governments.

Concerning **research question 2**, the literature review showed that four systematic literature reviews indicated that food marketing to children affected determinants of children's diet, food intake and diet-related health negatively, interpreted as scale. Results from the literature review also showed that two systematic literature reviews and two reports indicated that food marketing to children was extensive, mainly promoting unhealthy foods, and utilising a range of channels and strategies, interpreted as scope. The literature review did not identify research that expressly concerned remediation, but four systematic literature reviews and one report recommended that food marketing should be limited.

Results from the interviews showed that participants thought that food marketing had a serious effect on children's nutrition and health but expressed some hesitance. The interviews also showed that some participants thought that the definition of salient issues should be related to the core activities of a business. In addition, the interviews suggested that in practice, food marketing to children may not be regarded as an urgent human rights issue, particularly by the food industry, and that there may be a lack of external pressure to identify food marketing to children as a salient human rights issue.

Concerning the part of **research question 3** which related to viewpoints on human rights due diligence and human rights reports, the interviews suggested that participants were unconvinced about the worth of such processes. Some participants suggested that stakeholders such as civil society and investors could stimulate businesses to perform due diligence processes and develop reports. However, several participants were sceptical to human rights due diligence and human rights reporting since they were not mandatory, and because of the current lack of reporting standards to guide human rights reporting. A scepticism towards the willingness of the food industry to acknowledge food marketing as a relevant human rights issue was expressed by many participants throughout the interviews.

## 5 Discussion

The first sections in this chapter (5.1-5.3) discusses the three methods that were used and the main results, organised by methods. Then, section 5.4 discusses the main results in relation to the study objective.

### 5.1 Discussion of document analysis (research question 1)

In this section, the methods and the main findings from the document analysis of six human rights documents will be discussed.

#### 5.1.1 Methods discussion of document analysis

There are certain methodological issues concerning this document analysis that should be discussed.

First, because there is no database for documents published within the human rights system, the applied search strategy was carried out by a mix between expert opinion, Google searches, website and literature list browsing and personal network. This makes the search difficult to replicate for other researchers. Due to the less structured search strategy, there is a possibility that existing documents have failed to be identified. On the other hand, the expert opinion search strategy was informed by researchers specialising in the field of law, human rights and NCDs, which should contribute to identify relevant documents. Further, the additional searches should enable identification of documents that the expert opinion omitted.

Secondly, this document analysis excluded academic research papers and other potentially informative sources of documents on food marketing and human rights. Inclusion of such documents might have given a more comprehensive understanding of this issue. However, to carry out the document analysis within the given time frame, the search strategy had to be limited.

The use of official documents has several advantages. The data material cannot be affected by the researcher like primary sources like interviews can be (Bryman, 2015). Also, publicly available documents enable critical assessment of the analysis and the presented results (Bryman, 2015). Care has been taken to specify where citations can be found in the relevant documents, for example by using numbered paragraphs.

### 5.1.2 Results discussion of findings from document analysis

The document analysis was carried out to answer research question 1: *“To what extent could marketing of unhealthy foods to children be regarded a human rights issue?”*. In this section, the results will be discussed from two perspectives: the documents’ content, and their status and relevance in the context of the UNGP Reporting Framework.

#### *The documents’ content*

As shown in section 4.1.1, the results from the document analysis showed that in the documents included, food marketing to children was described as a human rights issue that states and companies should limit to meet their obligations and responsibilities to protect and respect human rights under the ICESCR and the CRC.

However, none of the documents have an overall focus on food marketing. In general, the sections which concern food marketing to children are relatively limited in number, and two of the documents only discuss food marketing implicitly. This could be a limitation for the strength of the results. On the other hand, although General Comment 16 and the Children’s Rights and Business Principles discuss food marketing to children implicitly, they do set out food marketing as a problematic conduct. Also, the four documents that discusses food marketing explicitly are quite distinct, clearly suggesting that the Committee on the Rights of the Child and UN Special Rapporteurs consider food marketing to children as a practice that is detrimental to children’s nutrition and health, and threatening children’s human rights to food and health.

Some scholars discuss food marketing or broader topics like obesity and NCDs in a human rights perspective and refer to the documents included in this document analysis. For example, Ó Cathaoir (2016c) explores the role of human rights in obesity prevention. She takes her point of departure in principles and articles under the CRC and ICESCR, for example the right to health and the principle of the best interest of the child. To interpret the content of these treaties, Ó Cathaoir (2016c) analyses e.g. UN CRCs General Comment 15 and the report of the Special Rapporteur on the Right to Health from 2014. Likewise, in a paper on unhealthy food marketing to children and the human rights responsibilities of businesses, Handsley and Reeve (in press) use UN CRC General Comment 15 and 16 and the interim report of the present Special Rapporteur on the Right to food to demonstrate how the CRC is relevant to food marketing. They also refer to the Children’s Rights and Business

Principles as a document that gives guidance on how the CRC can be interpreted in the context of food marketing (Handsley & Reeve, in press).

*The documents' status and relevance in relation to the UNGP Reporting Framework*

None of the six documents are legally binding, but are interpretations and recommendations referring to relevant content from legally binding treaties. The case that the documents are non-binding could imply that the strength of the results is weakened.

However, General Comments are recognised as authoritative interpretations of legally binding treaties (Buergethal, Shelton, & Stewart, 2009). Even if they are non-binding, General Comments are described as having a “*highly authoritative character with legal basis*”, and the interpretations contribute to give meaning to otherwise abstract and brief rights outlined in treaties (German Institute for Human Rights, n.d.). On the other hand, the UN CRC has no mandate to sanction non-compliant states parties, and states have a wide margin of appreciation as to whether they will implement policy recommendations from UN Committees (Ó Cathaoir, 2016c).

Special Rapporteurs are regarded as highly skilled individual experts on the themes they are mandated to report and advice on (OHCHR, 2016). Also, the work of Special Rapporteurs is considered important in advocacy work and awareness-raising, as well as providing technical advice (OHCHR, 2016). With a more specific mandate than UN Committees, Special Rapporteurs can go more into detail when analysing a problem (Ó Cathaoir, 2016a). Special Rapporteurs can also be more outspoken, given that they are less politically constrained than the UN Committees (Ó Cathaoir, 2016a). Thus, they can advocate issues to a wider audience, for example the media. When the interim report of the present Special Rapporteur on the right to food was published in 2016, “junk food as a human rights concern” became a news headline (CBS News, 2016; De Graaf, 2016). However, this more outspoken role may also challenge the Rapporteurs’ reputations as UN experts. For example, the appointment of Hilal Elver as Special Rapporteur on the right to food has been criticised due to political statements perceived as controversial (UN Watch, 2014).

The Children’s Rights and Business Principles are developed in recognition of the CRC and the UN Guiding Principles (Unicef et al, 2012). These recommendations could be regarded as an elaboration of what the UN Guiding Principles encompass in a child’s rights context (Handsley & Reeve, in press). Since the CRBPs are targeted to businesses, they could

theoretically reach the private sector more effectively compared to General Comments or Special Rapporteur reports. For example, organisations that work with businesses on children's rights base their work on the CRBPs (Global Child Forum, n.d.), and the CRBPs have been adopted by businesses (Unilever, 2015). However, the principles have also been criticised by civil society and the media, who have addressed a lack of accountability mechanisms, vague wording and the focus on "support" of human rights, rather than compliance with international standards and national laws (Business & Human Rights Resource Centre, n.d.-a; Mephram, 2012). One of the CRBPs co-developers, UN Global Compact, also focuses on *respecting and supporting* human rights (UN Global Compact, n.d.). Critics have accused the Global Compact for facilitating businesses to "decorate" themselves with membership in the Compact while not facing any consequences should they abuse human rights (MacLeod, 2012). A public response to a draft version of the CRBPs concerned that the UN Global Compact, "[that] has been shown to be ineffective, lacking accountability and transparency" was one of the codevelopers (IBFAN, 2011).

The UN Guiding Principles and the UNGP Reporting Framework assert that businesses should respect all human rights, and refer to the International Bill of Human Rights and additional standards like the CRC that could be relevant to the business' context (OHCHR, 2011; Shift & Mazars, n.d.-g). Given that the documents that were analysed in this study are non-binding interpretations of treaty content, their relevance in the context of the UN Guiding Principles and the UNGP Reporting Framework could be questioned.

However, Shift & Mazars (n.d.-g) state that the content of human rights and what they mean for businesses "*need to be understood in light of their subsequent interpretation*". For example, in a table that exemplifies rights and explains how businesses can impact them, the contents of several rights are explained, assumably with reference to General Comments (Shift & Mazars, n.d.-e). This indicates that the use of authoritative, non-binding documents can be justified to interpret relevant human rights issues under the UNGP Reporting Framework. Of the three document types that were analysed in this study, General Comments appear to have the highest status. Since Shift & Mazars (n.d.-e). also refer to General Comments to interpret treaty content, it seems that UN CRC's General Comments 15 and 16 would be the most appropriate documents to interpret food marketing to children under the CRC and in the context of the UNGP Reporting Framework.



## 5.2 Discussion of literature review (research question 2)

The following sections discuss the methods and the main results relating to the literature review on the scale, scope and remediability of food marketing to children.

### 5.2.1 Methods discussion of literature review

The quality and validity of a literature review depends on how systematic, thorough and objective the review process has been (Smith, Devane, Begley, & Clarke, 2011). Throughout the review process, it has been strived to be systematic and transparent. However, some factors that may affect the validity of the results should be discussed.

First, the literature review was for the most part carried out by only one person, which could increase the risk of bias and data entry errors. However, the search strategy was carried out under supervision of a reference librarian. Data concerning the review selection, data selection and quality assessment has been made accessible to enable assessment of decisions and possible bias.

Secondly, the search strategy for grey literature could be difficult to replicate. Also, additional sets of inclusion criteria for grey literature were set up during the review selection. The last criteria applied a time limit to include only the most recent reports, and in the end only two reports were included. This may have increased the risk of excluding more relevant papers. Unfortunately, time limitations had to be balanced against the number of included reports.

Thirdly, some of the included systematic reviews were of a poorer quality than desirable. In particular, the paper by Jenkin et al. (2014) did not contribute to answering the research question to a very great extent. It could be that the inclusion criteria could have applied more strict quality criteria. This would have reduced the number of included systematic reviews to less than five, but this might have made it easier to assess the evidence. In the results section, it was attempted to emphasize the quality of the included systematic reviews so that the reviews rated as having highest quality were given the most weight.

Fourthly, the search strategy relating to the research question on remediability (“How hard is it to change children’s attitudes, preferences, diets and health, once affected?”) did not result in research or reports that explicitly concerned remediability. Should this question have been answered in a manner that better responded to the issue of remediability, it would have been necessary to carry out an additional search strategy. This was not done due to time restrictions. The concept of remediability is discussed further in the next section.

### 5.2.2 Results discussion of findings from literature review

The literature review was carried out to answer research question 2: *“To what extent could marketing of unhealthy food to children be regarded as a salient human rights issue in terms of scale, scope and remediability?”*

The results discussion is organised according to the findings on scale, scope and remediability.

#### *Scale – the effect of food marketing to children*

In the literature review, scale was interpreted as the effects of food marketing to children. As shown in section 4.2.1, three systematic reviews of high quality and one systematic review of moderate quality indicated that food marketing could stimulate children with an impact on their preferences, purchase requests, food intake and diet-related health. Where effect sizes were described, they were small to moderate, and the evidence was on balance described as moderate. Further, the evidence was strongest for preferences, purchase requests and food intake, while the evidence for diet-related health was only based on seven cross-sectional studies. These results question whether the scale of food marketing can be considered salient in the context of the UNGP Reporting Framework.

A report that assessed the evidence base on the effects of digital food marketing to children does question the scale of the effects (Clarke & Svanaes, 2014).<sup>13</sup> The report concludes that the evidence base concerning effects of digital food marketing is limited in scope and with methodological weaknesses (Clarke & Svanaes, 2014). These issues are also relevant for food marketing research in general. For example, Clarke and Svanaes (2014) criticise the use of experimental studies for a lack of ecological validity (the laboratory setting being different from real life situations), whereas correlational evidence is criticised for not establishing a causal relationship between food marketing and health outcomes given the cross-sectional methods applied. The report also addresses the small effect sizes that have been attributed to food marketing, referring to one systematic review which estimated that food marketing accounted for about 2% of children’s food choice and health (Livingstone, 2006 cited by Clarke & Svanaes, 2014).

Several food marketing researchers address the research gaps relating to the effects of food marketing to children. For example, Cairns et al. (2009, p. 36) note that *“the evidence base is*

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<sup>13</sup> The report was not included in the present review after all inclusion criteria was applied.

*not complete and perhaps this will always be the case*”, while Norman, Kelly, Boyland, and McMahon (2016) remark that the lack of a causal link between food marketing and children’s diet and health is one reason for policy hesitance on this issue.

In relation to the methodological issues, Norman et al. (2016) explain that there are several reasons why it is difficult to scientifically quantify the relation between food marketing and childhood obesity. First, obesity is multi-factorial and it is challenging to isolate the effects of food marketing from other exposures and mediating factors. Secondly, there are methodological challenges pertaining to the different types of epidemiologic studies, making it hard to attribute effects to any one cause in observational studies, or to achieve high ecological validity in experimental studies. Therefore, Norman et al. (2016) conclude that it is scientifically appropriate to use evidence on the effects of food marketing on food behaviours to investigate the relationship between food marketing and children’s weight. Cairns et al. (2013) point to the collective evidence of nearly 40 years’ research on the effects of food marketing, where a mix of research methods jointly indicate that food marketing is a modifiable risk factor for children’s health.

In relation to small effect sizes, Cairns et al. (2009) argue that their review probably underestimates the effects of food marketing on children, since the impact of food marketing in real life will have cumulative effects that cannot be quantitated. Likewise, Boyland et al. (2016) assert that even though research show only small effect sizes on children’s food consumption in experimental settings, the effects in populations may be great because almost all children are exposed to food marketing, and since only small but cumulative increases in energy intake lead to an increase in obesity prevalence.

Despite research gaps and methodological challenges, several authoritative documents appraise the evidence on the effects of food marketing on children as sufficiently robust to inform policies on obesity and food marketing. In 2003, WHO (2003, p. 63) categorized “*heavy marketing of energy-dense foods*” as a *probable* cause of obesity based on the available evidence at the time. Since then, the evidence has expanded. The systematic review by Cairns et al. (2009) informed the development of the WHO Set of recommendations (WHO, 2010). The Global action plan for the prevention and control of noncommunicable diseases 2013-2020 recommends implementation of the WHO Set of recommendations as one policy option to halt the rise in overweight and obesity (WHO, 2013). Likewise, the policy recommendations in the Report of the Commission on Ending Childhood Obesity (WHO,

2016) encourages implementation of the WHO Set of recommendations based on “unequivocal evidence that the marketing of unhealthy foods and sugar-sweetened beverages is related to childhood obesity” (WHO, 2016, p. 18). The policy initiatives acknowledge that food marketing is one out of many risk factors for childhood obesity that needs addressing (WHO, 2010, 2016).

Above, the risk-based interpretation of the scientific evidence on food marketing to children made by health authorities is described. In contrast, very little academic research explores food marketing in the context human rights or salient human rights issues. Eide et al. (2017) discuss food marketing as one out of several possible salient human rights issues that food industry actors should consider and report upon under the UNGP Reporting Framework. Likewise, Handsley and Reeve (in press) argue that childhood obesity is an important child health issue, and that food marketing to children should be defined as salient and reported on under the UNGP Reporting Framework to allow stakeholders to assess food companies’ performance on this issue.

#### *Scope – the extent of food marketing to children*

In this literature review, scope was interpreted as the extent of food marketing to children. As shown in section 4.2.2, one high-quality systematic review and two updated reports from the US and Europe indicated that globally, children were exposed to extensive food marketing in a wide variety of channels, mostly promoting unhealthy foods. The papers mainly concerned exposure to marketing in high-income, Western regions, so that the extent of marketing in low- or middle-income countries was less documented.

Similar findings are reported in other papers that assess the extent of food marketing to children. For example, Galbraith-Emami and Lobstein (2013) found that exposure to unhealthy food marketing in several countries had changed little after the introduction of statutory and voluntary codes to limit food marketing. The Federal Trade Commission (2012) assessed food marketing to children in the US in 2009 based on data from 48 food companies. The results were compared to findings from a 2006 report. Results showed that the companies spent \$1.79 billion on marketing to children and youth in 2009. Compared to 2006, this was a reduction on almost 20%. Spending on TV advertising to youth had decreased, but spending on Internet and social media had increased with 50%. The report remarked that:

*“Companies continue to use a wide variety of techniques to reach young people, and marketing campaigns are heavily integrated, combining traditional media, Internet, digital marketing, packaging, and often using cross-promotions with popular movies or TV characters across all of these. Those techniques are highly effective.”* (Federal Trade Commission, 2012, pp. ES-1).

The four papers on extent included in this literature review predominantly assessed the extent of food marketing on television, while exposure to food marketing on the internet was less thoroughly evaluated. There was also less focus on other marketing methods such as children’s magazines; in-store advertising; sponsorship; premiums or free samples; and in-school marketing. In summary, this literature review probably underestimates children’s true exposure to food marketing.

In the context of digital food marketing, Clarke and Svanaes (2014) remark that the evidence on children’s exposure to food marketing in digital media has limitations. For example, there is a lack of evidence concerning the number of children that visit certain websites and what strategies are employed to target them online (Clarke and Svanaes, 2014). WHO EURO (2016) notes that such information is often not accessible for academic researchers. For example, the advertising and food industries demand high charges to give access to rudimentary data on marketing activities and analyses. There are also other methodological challenges associated with collecting information on the exposure to digital food marketing. For example, it is challenging to gain access to individual social media accounts and challenging for parents to monitor their children’s use of tablets or smartphones compared to the monitoring of television viewing (WHO EURO, 2016). In summary, quantitating the sum of food marketing exposure that children meet in their daily life, physically or digitally, is exceedingly challenging.

Despite that obesity is caused by many factors, the prevalence of overweight and obese children globally may contribute to illustrate the number of children that are exposed to food marketing globally. Recent figures show that in 40 years, child obesity has increased in every region in the world, from 30-50 percent per decade in high-income regions up to 400 percent per decade in Africa (Abarca-Gómez et al., 2017). Millions of children around the globe struggle with overweight or obesity.

### *Remediability*

As described in section 4.2.3, the papers that were included in the literature review did not expressively discuss remediation, or “how hard it is to put negative effects right”, so that the results should be very cautiously interpreted.

The main findings on remediability suggested that the effects of food marketing to children could only be mitigated by limiting the power and extent of unhealthy food marketing, for example by implementing the WHO Set of recommendations.

In the UNGP Reporting Framework, businesses are asked to describe how they “*enable effective remedy if people are harmed by its actions or decisions in relation to a salient human rights issue*” (Shift & Mazars, 2015, p. 7). To do this, businesses should have in place e.g. complaint mechanisms. Under the UN Guiding Principles, remediation may range from apologies to rehabilitation and financial compensation, or by companies stopping certain activities (OHCHR, 2011).

However, it should be noted that remediation, as the third pillar of the UN Guiding Principles, is a concept that has not been fully developed and operationalised, whether for states or businesses. After the submission date of this thesis, The Working Group on Business and Human Rights arranges the annual UN Forum on Business and Human Rights, with the central theme of the 2017 Forum being “Realizing Access to Effective Remedy”. In a concept note, the Working Group observes that “*since the endorsement of the Guiding Principles, access to remedy has been regularly described as the ‘forgotten pillar’.*” (OHCHR, 2017). The 2017 Forum will explore and map existing remediation mechanisms and discuss the concept of remediation e.g. in the context of sexual abuse in the workplace, industrial supply chain accidents, and modern slavery in supply chains (OHCHR, 2017a). At present, there is a lack of examples of existing remediation mechanisms that could be references for the issue of food marketing.

The effects of food marketing on children that were found in this literature review concerned children’s preferences, purchase requests, food intake and diet-related health. Albeit remediation mechanisms need further development and operationalising, it could be argued that remediation in the form of apologies, rehabilitation or financial compensation hardly sounds relevant in the context of food marketing effects. This may suggest that remediation,

or “how hard it would be to put right the resulting harm” (Shift & Mazars, n.d.-k), in the context of food marketing, would be challenging.

### 5.3 Discussion of interviews with key stakeholders (research question 3)

This section will first discuss strengths and weaknesses concerning the qualitative interview process. Secondly, main findings from the results section will be discussed.

#### 5.3.1 Methods discussion of qualitative interviews

There are certain methodological aspects concerning the qualitative interviews that could limit the reliability and validity of the results.

From the outset of the project, the aim was to recruit 10-11 participants from different sectors to get information from various perspectives. However, the recruitment of participants from policy-making/implementing and the food sector was challenging. Both these sectors are imperative in the context of due diligence processes and human rights reporting as they are responsible for implementing the UN Guiding Principles. Food producers have a critical role as they decide which salient issues to include in potential human rights reports and processes. With only one participant from each of these sectors included in the sample, the internal validity of the study may be limited. This particularly concerns the food industry association employee, who was not familiar with human rights and whose input concerning the issues at hand may be questionable.

Another limitation concerning the sample is that three participants were recruited from a Norwegian setting. Given that the political context in Norway differs from the international one, some of the results could be less relevant for an international setting. Further, the sample was situated in affluent, Western regions (Europe and the USA), so that the sample does not reflect an international perspective. On the other hand, the sample was well informed and able to respond to the relatively distinct issues that were discussed.

As set out in section 3.1, this thesis and Master’s student takes as a point of departure that present food marketing practices are problematic. There is a question whether the role and the attitude of the researcher may have affected the participants’ input. To this researchers’ experience, to be open about this issue created trust and a platform of understanding between researcher and participants. For example, when talking with the food industry association employee, framing food marketing from the researchers’ point of view seemed to be a conducive point of departure that enabled an exchange of arguments.

### 5.3.2 Results discussion of findings from interviews

In this section, the main findings from the interviews will be discussed, organised by the three main themes of the interviews.

#### *Viewpoints on food marketing as a human rights issue*

The viewpoints on food marketing as a human rights issue showed a distinct divide between what can be described as theory and practice.

As shown in section 4.3.2, all the participants except from the food industry association employee had the opinion that food marketing could theoretically be regarded as a human rights issue. As such, the results from the interviews support the results from the document analysis. Given that nearly all the participants were familiar with the human rights framework and provisions relevant for health and food marketing, this result is maybe not surprising.

The viewpoints are supported by academic contributions from both legal circles (Handsley et al., 2014; Ó Cathaoir, 2017) and public health related circles (Gruskin, Ferguson, Tarantola, & Beaglehole, 2014; Priest et al., 2010; Thornley, Signal, & Thomson, 2010) that discuss food marketing as a human rights issue.

The food industry association employee expressed that food marketing may be exploitative and used arguments in line with a human rights language. However, this person was not familiar with human rights and expressed some uncertainty during the interviews. Several multinational food companies have specialized human rights officers, and it would have been interesting to hear viewpoints on food marketing and human rights from them. Unfortunately, recruitment of international food businesses failed.

A potential identification of food marketing in food industry human rights reports could put economic interests into tension. The food industry has a history of using various tactics to influence and oppose public policies on obesity prevention (Sacks, Swinburn, Cameron, & Ruskin, 2017; Wiist, 2011). Baytor and Cabrera (2014) write that affected industries commonly oppose policies that restrict unhealthy goods, often using human rights-based or human rights-sounding arguments. For example, a nutrition tax on fat was said to restrict a persons' personal liberty (Baytor and Cabrera, 2014). In an international framework for responsible food and beverage marketing, the International Chamber of Commerce [ICC] (2012) on the one hand recognises that children must be treated carefully due to their limited capacity to assess commercial communication, but on the other hand describes children as a



legitimate focus of marketing that have the *right to information* about products that interest them (researcher's emphasis). The document also refers to the "*freedom of commercial speech*" as an important principle for commercial actors on the economic market (ICC, 2012, p. 4). Handsley and Reeve (in press) note that an acknowledgement of food marketing as a human rights issue would not be in food companies' interest, as this would result in a negative impact on profit margins. It seems reasonable to suggest that food businesses should not be expected to identify food marketing as a relevant human rights issue voluntarily or without some external pressure.

Whereas most participants supported the theoretical assumption that food marketing could be regarded as a human rights issue, their perceptions of the more practical application of food marketing and human rights were rather ambiguous.

On the one hand, some participants perceived that governance actors were starting to discuss food marketing, or NCDs more broadly, in a human rights context. For example, three participants mentioned Special Rapporteurs, which may imply that these experts are significant agenda-setters. Other examples that food marketing in a human rights context may be an emerging agenda are for example WHO EURO's report on digital food marketing that applies an explicit human rights approach (WHO EURO, 2016), and that the United Nations Interagency Task Force on NCDs together with the WHO Global Coordination Mechanism on the Prevention and Control of NCDs have organised a seminar on non-communicable diseases and human rights (WHO, 2017).

On the other hand, participants also described a contrary trend: a lack of acknowledgement of and engagement in food marketing as a human rights issue from businesses and a broad range of other governance actors, such as governments, NGOs and the public.

There is a limited number of health-related documents that discuss food marketing and human rights. For example, global health policy documents regarding nutrition, child obesity and/or food marketing do not discuss human rights as an approach to policy development [like WHO (2010, 2013, 2016)]. In addition, NGOs and other initiatives that engage in food marketing to children seem not to apply human rights in their arguments (Food Marketing Workgroup, 2015; NCD Alliance, 2016; Stop Marketing to Kids Coalition, n.d.). Albeit UNICEF and Save the Children are important organisations advocating health and children's rights, their focus

on food marketing to children beyond the marketing principle in the Children's Rights and Business Principles seems relatively limited (UNICEF, n.d.).

Little is known about this apparent avoidance of human rights by health governance actors. The results suggest both a lack of knowledge but also that human rights may be considered sensitive and contentious. Eide and Rosas (2001) notice that economic, social and cultural rights have often been neglected, whereas civil and political rights have received more attention. They also remark that economic, social and cultural rights have been ideologically controversial due to for example the role of the state versus individual freedom. Likewise, a *Lancet* (2008) editorial describes a general lack of understanding of the right to health and what it means in practice in the health sector.

The other way around, some organisations are focusing on economic, social and cultural rights like the right to food with a focus on production issues like land or labour rights, but without considering product or marketing issues that have an impact on obesity (FIAN International, 2017; Oxfam, n.d.). Priest et al. (2010) write that the right to food largely has been interpreted and applied in the context of undernutrition and hunger. This may suggest why obesity and consumer-related issues like food marketing have not been recognised or prioritised within organisations that already work with food-related human rights issues.

Finally, the results suggest that obesity and NCDs are also issues that are regarded as sensitive and controversial, making it challenging for governments and organisations like NGOs to engage in. In a case study from Australia, Baker et al. (2017) describe obesity as a political challenge where policy development and interventions were hindered by e.g. libertarian rhetoric, focus on individual responsibility and opposition against public interference. WHO EURO (2016, p. 5) also mentions that the concept of obesogenic environments has not been acknowledged in policy-making concerning obesity: *“Public and political discourse fails to support policy development by continuing to invoke personal choice and personal responsibility as the solutions to obesity”*.

#### *Viewpoints on the salience of food marketing*

Nearly all the participants found that food marketing to children could be regarded as a salient human rights issue. However, it seemed that it was harder to argue for the concept of salience than to define food marketing as a human rights issue.

The main arguments that participants used to define food marketing as salient were the links between food marketing to children and subsequent unhealthy diets and negative health effects. As such, the results from the interviews support the results from the literature review and the focus on food marketing as one of several modifiable risk factors for child obesity that is applied in WHO (2010, 2013, 2016). Also, one interviewee indicated that the scope, or extent, of food marketing may be a factor that support the assumption that food marketing can be considered salient. As was also discussed in section 5.2.2, the number of children that are exposed to food marketing is very high, and the number of children that are suffering from overweight and obesity is so extensive that global health governance actors are urging for international response, including limiting food marketing (WHO, 2013, 2016).

Two participants discussed the concept of salience and proposed that the definition of salient issues should concern the core activities of food corporations. This opinion is in line with the definition of salience in the UN Guiding Principles, which focus on the human rights issues that are most at risk and relevant for businesses in the context of their specific activities, rather than the most severe issues (OHCHR, 2012). Considering the different definitions, it could be asked if the definition of salience in the UNGP Reporting Framework may be a convenient threshold that allows companies to ignore issues that would be highly relevant for the context of its operations, but that fails to meet the requirements to be defined as salient.

As seen in section 4.3.2, five interviewees mentioned factors that could challenge the idea that food marketing to children can be regarded as salient.

First, it was argued that the food industry would contravene that children's nutrition is an industry responsibility and rather allege that parents are responsible for their children's diets, a view confirmed by the food industry association employee. This seems to be a standard food industry argument in issues concerning unhealthy food and obesity. For example, Moodie (2017) illustrates how parental responsibility is one argument often used by the unhealthy food industry as one tactic to attack public health policies. Lobstein et al. (2015) argue that whereas parents have responsibility over children's diets, food marketing effectively undermines parental efforts to give their children healthy food. The systematic literature review by Cairns et al. (2009) showed that children have independent spending power and that many food purchases are made without parental awareness. One could argue that if parents are seen as responsible for their children's diets, then the food industry should target marketing to adults rather than children. Either way, this finding indicates that the potential

identification of food marketing as a salient human rights issue may be resisted by food industry actors.

Secondly, the multifactorial and slow onset nature of obesity was considered a challenge to the idea that food marketing could be defined as salient. The discussion in section 5.2.2 also concerned similar issues, addressing the lack of a direct link between food marketing and child obesity. Interviewees suggested that this argument in particular could be used by the food industry.

Moodie (2017) writes that the unhealthy industries frequently insist that health problems have many causes, and that addressing only one cause will have minimal impact. On the other hand, global health policy initiatives acknowledge that child obesity has multiple causes and that preventive measures need to be comprehensive, but nonetheless identify food marketing as one of the modifiable causes that should be addressed (WHO, 2016).

In an interpretative guide to the UN Guiding Principles, OHCHR (2012) describes that companies can be involved in adverse human rights impacts in three basic ways: they can *cause directly*, *contribute to*, or *be linked to* negative impacts. Considering this in the context of obesity, food marketing could probably be described as a contributing factor to child obesity, rather than causing child obesity directly, under the UNGP Reporting Framework.

#### *Viewpoints on human rights reporting as an accountability tool*

The participants were relatively tentative when asked for opinions on human rights reporting and due diligence processes, reflecting that this issue is very new.

The main finding which concerned perceived possibilities of due diligence processes, was that companies could be stimulated to perform such processes and reporting due to stakeholder engagement from civil society, investors or public opinion. According to OHCHR (2014, p. 9), a failure to develop human rights reports can “*subject companies to the ‘court of public opinion’*”, which can lead to reputational damage. Civil society organisations that engage with food marketing assess and evaluate self-regulation pledges and reports (Kraak, 2016; WHO EURO, 2013), and human right reports could theoretically be used in a similar manner.

However, as discussed above, engagement with human rights has been relatively limited in organisations that focus on food marketing. On the other hand, some organisations and scholars from sectors beyond health have started assessing corporate human rights reports

with a focus on marketing practices (Global Child Forum & Boston Consulting Group, 2014; Ó Cathaoir, 2017).

Investors were mentioned as one important stakeholder group that could stimulate companies to developing human rights reports. According to Shift & Mazars (n.d.-q), almost 90 investors have signed a statement supporting the UNGP Reporting Framework, expressing that the framework is “*an essential tool that enables investors to review companies’ understanding and management of human rights risks*”. Whether these investors would regard food marketing as a human rights risk is not known. However, there are indications that investors and other finance actors may be starting to pay more attention to nutrition and obesity issues. For example, a group of investors has developed a framework to guide investors to encourage food and drink companies to provide greater transparency on challenges concerning sugar, based on the association between sugar and obesity and to respond to public policies, taxes etc. concerning sugar (Schroders, 2017). Also, the World Bank has published a report where the food industry’s role in obesity is addressed and where marketing restrictions is one suggested measure to prevent obesity (Burrows, 2017).

The main finding concerning perceived challenges of due diligence processes and human rights reporting was that such processes and reports are not mandatory. This is also one of the main criticisms of the UN Guiding Principles, where businesses do not have legally binding obligations but rather responsibilities, exemplified with phrases like “should”, “be encouraged to”, etc. This lack of binding rules and sanctions is criticised for enabling “*human rights abuses to continue unabated*” (MacLeod, 2012). There are no sanctions for companies that fail to comply with the UN Guiding Principles or develop public reports, unless if national governments have translated the principles into law (OHCHR, 2011). According to Shift & Mazars (n.d.-q), some national governments refer to the UNGP Reporting Framework and encourage companies to use them. However, there seems to be only limited evidence that governments adopt mandatory measures for human rights reporting (Business & Human Rights Resource Centre, 2016). In addition, whether nutrition issues like food marketing would be considered appropriate for such mandatory reports is not known.

The lack of standard criteria for potential human rights reporting on food marketing was conceived as another challenge. This criticism is similar to what voluntary initiatives for food marketing has met (WHO EURO, 2013). Voluntary, industry-led initiatives are criticised for having vague objectives, weak nutrition criteria, narrow age cut-offs and weak systems for

monitoring and evaluation, and are frequently seen as ineffective in reducing food marketing pressure to children (Kraak et al., 2016; Kunkel, Castonguay, & Filer, 2015; Reeve, 2016).

The lack of standard criteria for potential human rights reporting on nutrition issues like food marketing indicates that there is a need to develop standards for reporting and indicators to measure performance and progress (Eide et al., 2017; Ó Cathaoir, 2017).

## 5.4 Discussion of main results and thesis objective

This section will discuss the main results in relation to the study objective while considering the methodological strengths and limitations of the study.

***Study objective:***

*To explore to what extent the marketing of unhealthy foods to children may be regarded as a salient human rights issue that could be considered in human rights due diligence processes and reports under the UNGP Reporting Framework.*

As described in sections 3 and 4.4, methods triangulation was used to explore the study objective from different perspectives. Table 11 (page 80) shows the methods and the main results in relation to the objective. Below, the research questions and the methods used to explore them are discussed.

### **Research question 1**

The document analysis and interviews were used to explore **to what extent food marketing to children could be regarded as a human rights issue**. Results from the document analysis showed that the included human rights documents recommended that states and businesses should limit food marketing to children to meet their human rights obligations and responsibilities to protect and respect children's rights under the ICESCR and the CRC. There is a possibility that other international human rights documents on this issue exist that were not identified by the search strategy.

In the context of the UNGP Reporting Framework, it appears that UN CRC's General Comment 15 and 16 are the most authoritative documents to interpret relevant treaty content under the CRC, which is a treaty that is relevant to consider for businesses that operate in children-specific contexts (OHCHR, 2011). This result indicates that *theoretically*, a

foundation that establishes food marketing to children as a relevant human rights issue for food sector due diligence processes is in place. The results are supported by research that discuss food marketing to children in a human rights perspective (Handsley et al., 2014; Handsley & Reeve, in press; Ó Cathaoir, 2016c; Thornley et al., 2010).

To a certain extent, the results from the interviews supported the findings from the document analysis. The sample, mostly familiar with human rights, agreed (or did not object to) that food marketing to children could be regarded as a human rights issue. A limitation to these results was the limited number of participating national policy makers and industry representatives, particularly the latter. An insider view on food marketing from a food industry human rights officer could have enhanced the understanding of the food industry perspective.

However, the interviews also suggested that businesses and governance actors that address food marketing, or NCDs in a broader sense, rarely apply human rights to their work.

Whether the reason for this could be a lack of knowledge about the human rights system or that human rights are considered too sensitive, as results suggested, both suggestions could be areas for further research. Either way, these results indicate that human rights perspectives are currently not well established among stakeholders that potentially could be implementers, consulters or users of the UNGP Reporting Framework. To this researcher's knowledge, there is no current research that has explored stakeholder views on food marketing to children in a human rights perspective.

## **Research question 2**

The literature review and interviews explored **to what extent food marketing to children could be regarded as a salient human rights issue in terms of scale, scope and remediability**. Saliency is a critical concept in the UNGP Reporting Framework and in this thesis. Concerning **scale** or effects, results from the literature review showed that food marketing to children affects children's preferences, food intake and diet-related health. The results reflect the evidence base that informed WHO's Set of recommendations but also include updated, systematic reviews of experimental studies.

In relation to these results, certain factors may challenge the assumption that food marketing to children is a salient human rights issue. The lack of direct evidence that link food marketing to child obesity is one, the small effects on intermediate factors another. Similar

factors were mentioned in the interviews, suggesting that the multifactorial and slowly evolving nature of obesity challenge the assumption that food marketing to children may be regarded a salient human rights issue, not least when compared with issues like child labour or slavery.

To a certain extent, there are methodological factors that can clarify the lack of a direct association between food marketing and obesity (Norman et al., 2016). Concerning small effects, it should be noted that albeit the effects of food marketing on children's diets and health appear to be small, they are with all likelihood genuine and maybe underestimated (Cairns, 2009). Also, even though food marketing is one out of many factors that impact children's diets, it may be argued that food marketing is still a modifiable risk factor that should be addressed, as is for example maintained by WHO (2010, 2016).

Nevertheless, considering that the food industry generally opposes public policies to prevent obesity (Wiist, 2011), it seems reasonable to expect that they might use these factors to oppose a potential identification of food marketing as a salient human rights issue in terms of scale.

Concerning **scope** or extent, the results suggested that food marketing to children is extensive, affecting millions of children around the globe. The search strategy for grey literature had some limitations and these results could have been more robust, for example in relation to the extent of food marketing in low- and middle-income countries. However, findings from the interviews appeared to support the results on scope, suggesting that the extent of food marketing may be considered less questionable than the effects.

Concerning **remediation**, the literature review did not identify research papers or reports that expressively concerned this concept, so that research question 2 was only partly answered. As noted by OHCHR (2017), remediation as the third pillar of the UN Guiding Principles has not yet been fully operationalized. Thus, it is currently challenging to find relevant comparisons to establish whether food marketing to children is remediable. However, a pragmatic view on the effects of food marketing to children suggests that it would be difficult to remediate consequences like children's food preferences, diets or diet-related health.

In relation to how well food marketing to children meets the salience concept in the UNGP Reporting Framework, it could be argued that the scope factor is the strongest argument, showing that millions of children are exposed to food marketing that affects their diets and



health negatively. Also, considering some of the limitations relating to the evidence on effects, food marketing to children should probably be defined as a contributing factor to obesity, rather than a direct cause, in line with how OHCHR (2012) describes the ways that businesses can be involved in adverse human rights impact.

In this regard, the result which suggested that the definition of salient issues should be directly related to businesses' core activities is a relevant point of discussion. Comparing the definition of salience in the UN Guiding Principles (OHCHR, 2011) with that in the UNGP Reporting Framework (Shift & Mazars, 2015), the concept of salience has been transformed from "relevant" to "severe" human rights issues. It could be asked whether this emphasis is in the interest of people or businesses.

However, if food marketing to children may be argued to fall outside of the definition of salient issues, it could still be included in food sector human rights reports. As described in section 2.5.1, part B in the UNGP Reporting Framework includes statements on "additional severe impacts" that the company has identified but that have not been identified as salient. Such issues should also be addressed (Shift & Mazars, 2015).

### **Research question 3**

Concerning the part of research question 3 that addressed **stakeholders' viewpoints on human rights reporting as an accountability tool**, the interviews showed that even though some participants suggested that stakeholders such as civil society and investors could stimulate businesses to performing due diligence processes and reports, most participants criticised the UN Guiding Principles and the UNGP Reporting Framework, particularly in relation to the voluntary nature of due diligence processes and the lack of reporting standards. This criticism is similar to that aimed at industry-led, voluntary food marketing initiatives that are often not considered as efficient tools to protect children against food marketing (Kraak et al., 2016; Reeve, 2016). Again, the interviews had limitations relating to the sample, and these results should not be transferred to other samples or settings.

**Overall**, the main results based on methods triangulation suggest that there may be two broad challenges to a potential identification of food marketing to children as a salient human rights issue under the UNGP Reporting Framework.

The first challenge is related to the salience concept. The results in this thesis suggest that even though it is established that food marketing to children has a negative effect on

children's diets and health, and is very widespread, it can still fall outside of the definition of salience that Shift and Mazars (2015) have defined, with the focus on "the most severe negative impact". It appears that human rights issues that relate to consumer health will struggle to meet this salience threshold, at least when possible impacts on health are progressing slowly as with the effects of food marketing on children, and in relation to multifactorial health conditions, as is the case with obesity. It could be argued that a definition of salience like the one described in the UN Guiding Principles, focusing on the most significant human rights impacts (OHCHR, 2011), could have increased the likelihood of an identification of relevant issues for health and food-related human rights impacts in the food sector.

The second challenge is related to stakeholder engagement. As described in section 2.6, a potential identification of food marketing in due diligence processes under the UNGP Reporting Framework would depend on stakeholders who would regard food marketing as relevant and salient, and who would recognise human rights due diligence processes and public reporting as relevant tools. The results suggest that at present, there is a lack of stakeholders – not least governments and the food industry itself – that consider food marketing to children as a salient human rights issue. Added to this, the results suggest that relevant stakeholders currently do not consider the UNGP Reporting Framework a suitable accountability tool for food marketing.

## 6 Conclusion and suggestions for future work

This thesis indicate that food marketing is interpreted as a human rights issue in human rights documents and in the human rights system. Thus, a theoretic foundation that establishes food marketing to children as a relevant human rights issue for food businesses under the UNGP Reporting Framework is in place. However, results also suggest that businesses and other relevant governance actors rarely use human rights in their work.

The results indicate that it may be challenging to identify food marketing to children as a salient human rights issue, considering the multifactorial and slowly progressing nature of obesity. The results suggest that the scope factor, or the extent of food marketing to children, best meets the concept of salience as defined in the UNGP Reporting Framework. The literature review did not identify research that expressively concerned remediation.

At present, there seems to be a lack of key stakeholders that are interested to use the UNGP Reporting Framework in the context of food marketing to children, according to the interviews with key stakeholders.

In summary, a potential identification of food marketing as a salient human rights issue under the UNGP Reporting Framework could meet challenges, particularly in relation to the salience definition and in relation to stakeholder engagement.

The results of this thesis should be interpreted cautiously. The methods that were applied had some methodologic limitations: there may exist other human rights documents that were not identified by the search strategy; the part of the literature review that concerned extent was less robust than desired; and there was a lack of policy-makers and food industry participants in the interviews. Although the results should not be transferred to other settings or samples, the findings are the first to explore stakeholder views on food marketing in a human rights perspective, which could be relevant for scholars or advocates that are interested in using the human rights system to hold businesses accountable for their marketing conduct.

### 6.1 Implications and suggestions for future work

There are certain areas relating to the results in this thesis that should be addressed.

In order to address the lack of engagement with human rights by key stakeholders in health governance, actors that are engaged in human rights related to food and health issues could work to enhance the knowledge about human rights and their potential in health and nutrition

policy work. This could for example be done with capacity building and knowledge sharing among law and health actors.

In this regard, research that further explore the perceived lack of engagement with human rights by health governance actors would be conducive.

To address the perceived scepticism towards human rights due diligence processes and public reporting by relevant stakeholders, several measures could be taken. For example, reporting standards and indicators to guide corporate human rights due diligence processes in the food sector could be developed. Also, human rights advocates could stimulate national governments to impose mandatory requirements on businesses, including consumer-related human rights issues.

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- WHO EURO. (2014). Data and statistics. Retrieved 13 November, 2017 from <http://www.euro.who.int/en/health-topics/noncommunicable-diseases/obesity/data-and-statistics>
- WHO EURO. (2015). *WHO Regional Office for Europe nutrient profile model*. Retrieved from [http://www.euro.who.int/\\_data/assets/pdf\\_file/0005/270716/Nutrient-children\\_web-new.pdf?ua=1](http://www.euro.who.int/_data/assets/pdf_file/0005/270716/Nutrient-children_web-new.pdf?ua=1)
- WHO EURO. (2016). *Tackling food marketing to children in a digital world: trans-disciplinary perspectives. Children's rights, evidence of impact, methodological challenges, regulatory options and policy implications for the WHO European Region*. Retrieved from [http://www.euro.who.int/\\_data/assets/pdf\\_file/0017/322226/Tackling-food-marketing-children-digital-world-trans-disciplinary-perspectives-en.pdf?ua=1](http://www.euro.who.int/_data/assets/pdf_file/0017/322226/Tackling-food-marketing-children-digital-world-trans-disciplinary-perspectives-en.pdf?ua=1)
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## Appendix A

### Examples on code and category construction from document analysis

<b>Document title</b>	<b>Report of the Special Rapporteur on the right to health, Anand Grover</b>	<b>Children's Rights and Business Principles</b>
<b>Category</b>	Impact of business activities on health and human rights.	Business responsibilities concerning food marketing and human rights
<b>Code</b>	Transnational corporations increase intake of unhealthy foods	Businesses should respect international standards on marketing
<b>Data segment</b>	(...) Changes in the food system are now largely driven by transnational corporations (TNCs), including food and beverage companies and supermarket chains, which have altered diets from traditional and minimally processed foods to ultra-processed ones. (...) TNCs have therefore been a critical link in the transition from minimally processed to ultra-processed foods. They also greatly influence the sale and consumption of unhealthy foods in comparison to promoting the availability and affordability of healthy foods within the food system.	The corporate responsibility to respect includes: b. (...). Complying with the standards of business conduct in World Health Assembly instruments related to marketing and health*. Where national law prescribes a higher standard, business must follow that standard.  * World Health Assembly instruments on marketing and health include: the International Code of Marketing of Breast-Milk Substitutes (1981) and subsequent relevant World Health Assembly resolutions (national measures have been adopted in many countries to give effect to both); the WHO Framework Convention on Tobacco Control (2003); Set of Recommendations on the Marketing of Foods and Non-Alcoholic Beverages to Children; and the World Health Assembly's Global Strategy to Reduce the Harmful Use of Alcohol (2010).
<b>Document location</b>	Part II. Impact of globalization on food systems, para 5, p. 5	Principle 6. Use marketing and advertising that respect and support children's rights, part b, p. 26

## Appendix B

### Secondary inclusion criteria for systematic literature reviews and grey literature

<b>Secondary inclusion criteria for systematic literature reviews, adapted from Uman (2011)</b>	<b>Secondary inclusion criteria for grey literature, adapted from Penn Libraries (2016)</b>
<p>Must be published in peer-reviewed academic journals.</p> <p>To be defined as systematic literature reviews, articles had to:</p> <ol style="list-style-type: none"><li>1. Have stated, clear research questions(s) or a clear, stated purpose</li><li>2. Have an explicit search strategy that included at least two search terms for marketing (e.g. marketing, advertisement, promotion).</li><li>3. Include a quality assessment of studies.</li></ol>	<p>Must be published by academic institutions, international organisations, NGOs or trade organisations.</p> <p>Also,</p> <ol style="list-style-type: none"><li>1. Reports should have named authors</li><li>2. The report's source of origin should be clear</li><li>3. It should be clear and transparent where the data came from.</li></ol>

## **Appendix C**

### **Search strategies for systematic literature reviews and grey literature**

#### **1. Systematic literature reviews**

Searches for systematic literature reviews in academic databases were performed in October and November 2016, using database-specific search terms. Search terms applied were the key words Marketing OR Promotion OR Advertising AND Food AND Children, with some variations according to database. The searches were performed in the following databases: Medline, Embase, Food Science Source and Cinahl.

In addition to the search terms, the limiters time range (2009 - present); systematic literature reviews; and age group 0-18 years were applied. A complete list of the search terms applied in the different data bases is available at the end of this attachment.

#### **2. Citation search for systematic literature reviews**

To further improve the searches for systematic literature reviews, a citation search in the citation database Web of Science was performed, using an article by Cairns, Angus, Hastings, and Caraher (2013) as target article. The specific article was chosen because it is based on the earlier mentioned comprehensive report by Cairns et al. (2009). It could thus be used to identify other journal articles that had been citing it.

#### **3. Search for grey literature.**

The search for grey literature was carried out in November 2016. First, a search on WHO websites for “food marketing to children” was conducted. WHO was chosen as a target organisation because of its focus on food marketing over several years. Second, reference lists in WHO EURO (2016) (which was a result of the website search) and WHO EURO (2013) were browsed for relevant grey literature. The searches were repeated and the results assessed for eligibility in September 2017.



## Searches in databases

Data base/date	Search strategy	Results/ comments
Cinahl 7 October 2016	<ol style="list-style-type: none"> <li>1. "MH Advertising OR MH Marketing"</li> <li>2. "marketing"</li> <li>3. "advertis*"</li> <li>4. "Promot*"</li> <li>5. 1 OR 2 OR 3 OR 4</li> <li>6. MH: Food OR beverages OR Food and beverages OR Fast foods OR Snacks</li> <li>7. "food"</li> <li>8. 6 OR 7</li> <li>9. 5 AND 8</li> </ol> Limiters: <ul style="list-style-type: none"> <li>- published 2008-2016</li> <li>- research article</li> <li>- all child (0-18)</li> <li>- Meta-Analysis, Review; Systematic Review</li> </ul>	91
Medline 7 October 2016	<ol style="list-style-type: none"> <li>1 marketing/ or advertising as topic/ or direct-to-consumer advertising/ (17701)</li> <li>2 advertis*.mp. (20390)</li> <li>3 promoti*.mp. (221978)</li> <li>4 1 or 2 or 3 (242321)</li> <li>5 beverages/ or food/ or fast foods/ (42515)</li> <li>6 food.mp. (439327)</li> <li>7 5 or 6 (446324)</li> <li>8 4 and 7 (14482)</li> <li>9 limit 8 to (yr="2008 -Current" and "all child (0 to 18 years)" and (danish or english or norwegian or swedish) and "reviews (best balance of sensitivity and specificity)") (291)</li> <li>10 limit 8 to (yr="2008 -Current" and "all child (0 to 18 years)" and (danish or english or norwegian or swedish) and "reviews (maximizes specificity)") (70)</li> </ol>	70
Embase 7 October 2016	<ol style="list-style-type: none"> <li>1 marketing/ (25501)</li> <li>2 advertising/ or commercial phenomena/ or direct-to-consumer advertizing/ (47067)</li> <li>3 marketing.mp. (66507)</li> <li>4 advert*.mp. (26253)</li> <li>5 promot*.mp. (990404)</li> <li>6 2 or 3 or 4 or 5 (1108090)</li> <li>7 food/ or fast food/ (140019)</li> <li>8 beverage/ (18581)</li> <li>9 food.mp. (668957)</li> <li>10 7 or 8 or 9 (678152)</li> <li>11 6 and 10 (47209)</li> <li>12 limit 11 to ("reviews (maximizes specificity)" and yr="2008 -Current" and child &lt;unspecified age&gt;) (83)</li> <li>13 limit 12 to (danish or english or norwegian or swedish) (81)</li> </ol>	81
Food Science Source 7 October 2016	<ol style="list-style-type: none"> <li>1. SU marketing OR TI marketing OR AB marketing</li> <li>2. SU advertising OR TI advertising OR AB advertising</li> <li>3. SU promotion OR TI promotion OR AB promotion</li> <li>4. S1 OR S2 OR S3</li> </ol>	67 Had to include children OR adolescents and review etc in the search terms as it has no limiter.  Food Science Source

	<p>5. Food OR beverage  6. 4 AND 5  7. SU children OR SU child OR SU adolescent OR AB children OR TI children OR AB child  8. TI review OR TI systematic review OR ( review of literature or literature review or meta-analysis or systematic review )  9. 6 AND 7 AND 8</p> <p>Limiters:  - 2008-2016  - Peer reviewed journals</p>	Has not got Norwegian, Danish or Swedish as a language option.
Web of Science 16 November 2016	<p>Performed a citation search on the article: Cairns G., Angus K., Hastings G. &amp; Caraher M. (2013) Systematic reviews of the evidence on the nature, extent and effects of food marketing to children. A retrospective summary</p> <p>Applied limiter: Review</p>	6
Medline 16 November 2016	<p>1 Food Industry/ec, sn, td [Economics, Statistics &amp; Numerical Data, Trends] (730)  2 limit 1 to (yr="2006 -Current" and "reviews (maximizes specificity)") (11)  3 marketing/ or advertising as topic/ or direct-to-consumer advertising/ (19087)  4 Food Industry/ (4505)  5 food industr*.mp. (8854)  6 4 or 5 (8854)  7 3 and 6 (502)  8 limit 7 to (yr="2006 -Current" and "all child (0 to 18 years)" and "reviews (best balance of sensitivity and specificity)") (33)</p>	42

## Appendix D

### List of included or excluded systematic literature reviews

Systematic literature reviews retrieved after initial inclusion criteria assessment	Articles included or excluded after secondary inclusion criteria assessment	
	Included	Rationale for exclusion
Boyland EJ, Nolan S, Kelly B, Tudur-Smith C, Jones A, Halford JC, et al. (2016). Advertising as a cue to consume: a systematic review and meta-analysis of the effects of acute exposure to unhealthy food and nonalcoholic beverage advertising on intake in children and adults. <i>American Journal of Clinical Nutrition</i> , 103, 519-33. doi:10.3945/ajcn.115.120022	Yes	
Boyland EJ; Whalen R. (2015). Food advertising to children and its effects on diet: review of recent prevalence and impact data. [Review]. <i>Pediatric Diabetes</i> . 16(5):331-7		Not a systematic review. Methods have not been sufficiently accounted for
Cairns G., Angus K., Hastings G. & Caraher M. (2013). Systematic reviews of the evidence on the nature, extent and effects of food marketing to children. A retrospective summary. <i>Appetite</i> , 62, 209-215. doi:10.1016/j.appet.2012.04.017	Yes, with the authors' 2009 report used as additional reference	
Carter MA, Edwards R, Signal L & Hoek J. (2012). Availability and marketing of food and beverages to children through sports settings: a systematic review. <i>Public Health Nutrition</i> , 15, 1373-9. doi:10.1017/S136898001100320X		Not an explicit search strategy, no quality assessment

<p>Chambers SA, Freeman R, Anderson AS &amp; MacGillivray S. (2015). Reducing the volume, exposure and negative impacts of advertising for foods high in fat, sugar and salt to children: A systematic review of the evidence from statutory and self-regulatory actions and educational measures. <i>Preventive Medicine</i>, 75, 32-43. doi:10.1016/j.ypmed.2015.02.011</p>		<p>The purpose of the review was to assess the <i>effectiveness</i> of policy actions to reduce food marketing to children and as such fails to meet inclusion criteria</p>
<p>Diaz-Ramirez G., Bacardi-Gascon M., Souto Gallardo M.D. &amp; Jimenez-Cruz A. (2011). Effect of television advertising on the food preferences of adults and children: A systematic review. <i>Obesity</i>, 19, S145. doi:10.1038/oby.2011.226</p>		<p>Excluded because full text was not found.</p>
<p>Engler-Stringer R, Le H, Gerrard A &amp; Muhajarine N. (2014). The community and consumer food environment and children's diet: a systematic review. <i>BMC Public Health</i>, 14, 522. doi:10.1186/1471-2458-14-522</p>		<p>Did not assess food marketing but rather other aspects of the physical food environment.</p>
<p>Galbraith-Emami S &amp; Lobstein T. (2013). The impact of initiatives to limit the advertising of food and beverage products to children: a systematic review. <i>Obesity Reviews</i>, 14, 960-74. doi:10.1111/obr.12060</p>		<p>No quality assessment</p>
<p>Guran T; Bereket A. (2011). International epidemic of childhood obesity and television viewing. [Review]. <i>Minerva Pediatrica</i>. 63(6):483-90</p>		<p>Do not satisfy inclusion criteria: No stated research question, search strategy or methods section.</p>
<p>Hawkes, C. (2009). Sales promotions and food consumption. <i>Nutrition Reviews</i>, 67(6), 333-342. doi:10.1111/j.1753-4887.2009.00206.x</p>		<p>Did not concern children</p>

Jenkin G, Madhvani N, Signal L & Bowers S. (2014). A systematic review of persuasive marketing techniques to promote food to children on television. <i>Obesity Reviews</i> , 15, 281-93. doi:10.1111/obr.12141	Yes	
Kelly B; Baur LA; Bauman AE; King L. (2011). Tobacco and alcohol sponsorship of sporting events provide insights about how food and beverage sponsorship may affect children's health. [Review]. <i>Health Promotion Journal of Australia</i> . 22(2):91-6		Not a systematic literature review
Kelly B, King MPsy L, Chapman Mnd K, Boyland E, Bauman AE & Baur LA. (2015). A hierarchy of unhealthy food promotion effects: identifying methodological approaches and knowledge gaps. <i>American Journal of Public Health</i> , 105, e86-95. doi:10.2105/AJPH.2014.302476		Not a systematic literature review
Kraak VI & Story M. (2015). Influence of food companies' brand mascots and entertainment companies' cartoon media characters on children's diet and health: a systematic review and research needs. <i>Obesity Reviews</i> , 16, 107-26. doi:10.1111/obr.12237	Yes	
Kraak, V. I.; Story, M. (2015). An accountability evaluation for the industry's responsible use of brand mascots and licensed media characters to market a healthy diet to American children. <i>Obesity reviews</i> , Volume: 16 Issue: 6 Pages: 433-453		Not a systematic review but a case study on how food business adhere to marketing pledges they have committed themselves to.
Kraak, V.I.; Story, M., Wartella, E.A.; et al. (2011). Industry Progress to Market a Healthful Diet to American Children and Adolescents. <i>American journal of preventive medicine</i> , Volume: 41 Issue: 3 Pages: 322-333		Not a systematic review but a review on food industry progress in restricting food marketing to children.

Montgomery KC; Chester J; Interactive food and beverage marketing: targeting adolescents in the digital age.(includes abstract) Journal of Adolescent Health, Sep2009 Supplement; 45(3): S18-29. 1p. (Journal Article - review) ISSN: 1054-139X		Not a systematic review but a non-systematic review.
Osei-Assibey G., Dick S., MacDiarmid J., Semple S., Reilly J.J., Ellaway A., et al (2012). The influence of the food environment on overweight and obesity in young children: A systematic review. BMJ Open, 2. doi:10.1136/bmjopen-2012-001538		Only one search term for food marketing (“food promotion”)
Paes V.M., Ong K.K. & Lakshman R. (2015). Factors influencing obesogenic dietary intake in young children (0-6 years): Systematic review of qualitative evidence. BMJ Open, 5, no pagination. doi:10.1136/bmjopen-2014-007396		Did not discuss food marketing
Ronit, K.; Jensen, J. D. (2014). Obesity and industry self-regulation of food and beverage marketing: a literature review. EUROPEAN JOURNAL OF CLINICAL NUTRITION Volume: 68 Issue: 7 Pages: 753-759		Discusses industry self-regulation, not its effects.
Sadeghirad B., Duhaney T., Motaghipisheh S., Campbell N.R.C. & Johnston B.C. (2016). Influence of unhealthy food and beverage marketing on children's dietary intake and preference: a systematic review and meta-analysis of randomized trials. Obesity Reviews, 17, 945-959. doi:10.1111/obr.12445	Yes	
Sonntag D, Schneider S, Mdege N, Ali S & Schmidt B. (2015). Beyond Food Promotion: A Systematic Review on the Influence of the Food Industry on Obesity-Related Dietary Behaviour among Children. Nutrients, 7, 8565-76. doi:10.3390/nu7105414		Failed to pass inclusion criteria based on an unclear research question
Smithers LG; Lynch JW; Merlin T. (2014). Industry self-regulation and TV advertising of foods to Australian children. [Review]. Journal of Paediatrics & Child Health. 50(5):386-92		Failed to pass inclusion criteria: Not “systematic” in title + search terms only available on request

<p>Welsh J.A., Lundeen E.A. &amp; Stein A.D. (2013). The sugar-sweetened beverage wars: Public health and the role of the beverage industry. <i>Current Opinion in Endocrinology, Diabetes and Obesity</i>, 20, 401-406. doi:10.1097/01.med.0000432610.96107.f5</p>		<p>Not a systematic review and does not discuss food marketing</p>
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## Appendix E

### List of grey literature assessed and included/excluded based on inclusion criteria

Grey literature retrieved after initial inclusion criteria assessment	Reports included or excluded based on additional inclusion criteria assessment	
	Included	Rationale for exclusion
British Heart Foundation. (2011). The 21st century gingerbread house. How companies are marketing junk food to children online. London: British Heart Foundation.		Excluded based on date (second set of criteria)
Bollars, C., Boyland, E., Breda, J., Gapanenko, K., Halford, J., Klepp, K. I., . . . Xuereb, G. (2013). Marketing of foods high in fat, salt and sugar to children: update 2012–2013. WHO Regional Office of Europe. Retrieved from <a href="http://www.euro.who.int/__data/assets/pdf_file/0019/191125/e96859.pdf">http://www.euro.who.int/__data/assets/pdf_file/0019/191125/e96859.pdf</a>		Excluded based on date (third set of criteria)
Cairns, G., Angus, K., & Hastings, G. (2009). The extent, nature and effects of food promotion to children: a review of the evidence to December 2008. Prepared for the World Health Organization. Retrieved from <a href="http://www.who.int/dietphysicalactivity/Evidence_Update_2009.pdf">http://www.who.int/dietphysicalactivity/Evidence_Update_2009.pdf</a>		Already included in systematic literature review + published 2009
Clarke, B., & Svanaes, S. (2014). Literature review of research on online food and beverage marketing to children. Family Kids & Youth. Retrieved from <a href="https://www.asa.org.uk/asset/CD73763F-8619-4939-BE6421D122566EA7/">https://www.asa.org.uk/asset/CD73763F-8619-4939-BE6421D122566EA7/</a>		Excluded based on date (third set of criteria)
Dembek, C., Harris, J. L., & Schwarz, M. B. (2012). Trends in television food advertising to young people: 2011 update. Newhaven, CT: Yale Rudd Center for Food Policy & Obesity.		Excluded based on date (third set of criteria)
Federal Trade Commission. (2012). A review of food marketing to children and adolescents: follow up report. Federal Trade Commission. Retrieved from <a href="http://www.ftc.gov/os/2012/12/121221foodmarketingreport.pdf">http://www.ftc.gov/os/2012/12/121221foodmarketingreport.pdf</a>		Excluded based on date (third set of criteria)
Harris, J. L., Schwartz, M. B., Munsell, C. R., Dembek, C., Liu, S., LoDolce, M., . . . Kidd, B. (2013). Fast Food FACTS 2013: Measuring Progress	Yes	



in Nutrition and Marketing to Children and Teens. Yale Rudd Center for Food Policy & Obesity. Retrieved from <a href="http://www.fastfoodmarketing.org/media/FastFoodFACTS_Report.pdf">http://www.fastfoodmarketing.org/media/FastFoodFACTS_Report.pdf</a>		
Lupiáñez-Villanueva, F., Gaskell, G., Veltri, G., Theben, A., Folkford, F., Bonatti, L., . . . Codagnone, C. (2016). <i>Study on the impact of marketing through social media, online games and mobile applications on children's behaviour. Final Report</i> . European Commission.		Concerns digital marketing in general
MacKay, S., Antonopoulos, N., Martin, J., & Swinburn, B. (2011). A comprehensive approach to protecting children from unhealthy food advertising. Obesity Policy Coalition. Retrieved from <a href="http://www.opc.org.au/downloads/positionpapers/protecting-children-unhealthy-food-advertising-promotion.pdf">http://www.opc.org.au/downloads/positionpapers/protecting-children-unhealthy-food-advertising-promotion.pdf</a>		Published in 2011 (second set of criteria)
Montgomery, K., & Chester, J. (2011). Digital food marketing to children and adolescents: problematic practices and policy interventions.: National Policy and Legal Analysis Network to Prevent Childhood Obesity. Retrieved from <a href="https://www.foodpolitics.com/wp-content/uploads/DigitalMarketingReport_FINAL_web_20111017.pdf">https://www.foodpolitics.com/wp-content/uploads/DigitalMarketingReport_FINAL_web_20111017.pdf</a>		Published 2011 (second set of criteria)
Persson, M., Soroko, R., Musicus, A., & Lobstein, T. (2012). A junk-free childhood 2012. The 2012 report of the StanMark project on standards for marketing food and beverages to children in Europe. International Association for the Study of Obesity. Retrieved from <a href="https://www.alimentationmouvementvs.ch/fs/documents/2013/c2012_409-pcaAnnexA_Junk-free_Childhood_2012-IASOReportSept2012.pdf">https://www.alimentationmouvementvs.ch/fs/documents/2013/c2012_409-pcaAnnexA_Junk-free_Childhood_2012-IASOReportSept2012.pdf</a>		Focus on self-regulation schemes in Europe rather than food marketing in general
Smits, T., Vandebosch, H., Neyens, E., & Boyland, E. (2015). The Persuasiveness of Child-Targeted Endorsement Strategies: A Systematic Review. <i>Annals of the International Communication Association</i> , 39(1), 311-337. doi: 10.1080/23808985.2015.11679179		Only focus on endorsement as marketing strategy + not a report!
Tatlow-Golden, M., Tracey, L., & Dolphin, L. (2016). Who's feeding the kids online? Irish Heart Foundation. Retrieved from		Scope is on Ireland (second set of criteria)

<p><a href="https://irishheart.ie/wp-content/uploads/2016/12/web__whos_feeding_the_kids_online_report_2016.compressed.pdf">https://irishheart.ie/wp-content/uploads/2016/12/web__whos_feeding_the_kids_online_report_2016.compressed.pdf</a></p>		
<p>WHO Euro (2016). Tackling food marketing to children in a digital world: trans-disciplinary perspectives. Children's rights, evidence of impact, methodological challenges, regulatory options and policy implications for the WHO European Region. Retrieved from <a href="http://www.euro.who.int/__data/assets/pdf_file/0017/322226/Tackling-food-marketing-children-digital-world-trans-disciplinary-perspectives-en.pdf?ua=1">http://www.euro.who.int/__data/assets/pdf_file/0017/322226/Tackling-food-marketing-children-digital-world-trans-disciplinary-perspectives-en.pdf?ua=1</a></p>	<p>Yes</p>	

## Appendix F

### Checklist for quality assessment of systematic literature reviews

The checklist can be downloaded from <http://www.kunnskapssenteret.no/verktøy/sjekkliste-for-vurdering-av-forskningsartikler>

Sjekkliste for systematiske oversikter*		Ja	Uklart	Nei
<b>1</b>	<b>Beskriver forfatterne klart hvilke metoder de brukte for å finne primærstudiene?</b>			
<i>Kommentar</i>				
<b>2</b>	<b>Ble det utført et tilfredsstillende litteratursøk? (bruk hjelpespørsmål på neste side for å besvare dette spørsmålet)</b>			
<i>Kommentar</i>				
<b>3</b>	<b>Beskriver forfatterne hvilke kriterier som ble brukt for å bestemme hvilke studier som skulle inkluderes (studiedesign, deltakere, tiltak, ev. endepunkter)?</b>			
<i>Kommentar</i>				
<b>4</b>	<b>Ble det sikret mot systematiske skjevheter (bias) ved seleksjon av studier (eksplisitte seleksjonskriterier brukt, vurdering gjort av flere personer uavhengig av hverandre)?</b>			
<i>Kommentar</i>				
<b>5</b>	<b>Er det klart beskrevet et sett av kriterier for å vurdere intern validitet?</b>			
<i>Kommentar</i>				
<b>6</b>	<b>Er validiteten til studiene vurdert (enten ved inklusjon av primærstudier eller i analysen av primærstudier) ved bruk av relevante kriterier?</b>			
<i>Kommentar</i>				
<b>7</b>	<b>Er metodene som ble brukt da resultatene ble sammenfattet, klart beskrevet?</b>			
<i>Kommentar</i>				
<b>8</b>	<b>Ble resultatene fra studiene sammenfattet på forsvarlig måte?</b>			
<i>Kommentar</i>				
<b>9</b>	<b>Er forfatterens konklusjoner støttet av data og/eller analysen som er rapportert i oversikten?</b>			
<i>Kommentar</i>				
<b>10</b>	<b>Hvordan vil du rangere den vitenskapelige kvaliteten i denne oversikten?</b>			
<i>Kommentar</i>				
<p>*Basert på EPOC Checklist for Refereeing Protocols for Reviews. EPOC, Effective Practice and Organisation of Care group, Guide for review authors. <a href="http://www.epoc.cochrane.org">www.epoc.cochrane.org</a></p>				

## **Hjelpeliste:**

Del 1 omhandler innhenting av data og er de første seks spørsmålene. Tema er søk, inklusjon og vurdering av validitet til de inkluderte studiene i oversikten. Hvis "uklart" er brukt én eller flere ganger på spørsmål 1–6 bør det vurderes om kvaliteten skal nedgraderes til middels/moderat. Hvis "nei" er brukt på spørsmål 2, 4 eller 6 er det sannsynlig at den metodiske kvaliteten på oversikten er mangelfull.

Del 2 omhandler analyse av data og finnes i spørsmål 7–9. Her er tema kombinerings av data fra flere studier og analysen av funnene i studiene. Hvis "uklart" er brukt én eller flere ganger på spørsmål 7–9, er oversikten av mangelfull eller i beste fall av moderat kvalitet. Hvis "nei" blir brukt på spørsmål 8 er det sannsynlig at oversikten er mangelfull (selv om det er ja på spørsmålene 7 og 9).

Vurderingskategoriene er: Høy – Middels/moderat – Mangelfull

### **Samlet kvalitetsvurdering av oversikten**

Høy kvalitet

Brukes hvis alle eller de fleste kriteriene fra sjekklisten er oppfylt. Dersom noen av kriteriene ikke er oppfylt, må det være veldig lite sannsynlig at studiens konklusjon blir påvirket.

Middels/moderat kvalitet

Brukes hvis noen av kriteriene fra sjekklisten ikke er oppfylt og/eller der kriteriene ikke er tilfredsstillende beskrevet. Samlet vurdering tilsier at det er lite sannsynlig at studiens konklusjon påvirkes.

Mangelfull

Brukes hvis få eller ingen kriterier i sjekklisten er oppfylt og/eller ikke er tilfredsstillende beskrevet. Samlet vurdering tilsier at det er sannsynlig at studiens konklusjon kan forandres.

## **Hjelpespørsmål til spørsmål 2 om søk**

### **Underspørsmål 1, 2 og 3 besvares:**

1. Rapportering
2. Antall databaser
3. Søkestrategi

#### **1. Rapportering**

Er søkeprosessen rapportert slik at søke(ne) kan etterprøves og/eller oppdateres?

Gir oversikten opplysninger om:

- fullstendig søkestrategi eller termer søkt på
- navn på hvilke databaser som er søkt
- databaseleverandør
- databasens tidsspenn
- dato for når søkene ble utført
- eventuelle begrensninger som ble gjort

#### **2. Antall databaser**

Ble et relevant utvalg databaser og eventuelt andre kilder som nettsteder og referanselister søkt?

### 3. Søkestrategi\*

- **Fra spørsmål til strategi**  
Gjenspeiler strategien(e) oversiktens spørsmål (relevante deler av PICO + relevant metodefilter)?
- **Operatorer**  
Forekommer det feil bruk av operatorer mellom de ulike søkekonseptene (mellom P og I) og/eller innen de ulike søkekategoriene (innen P og innen I) (f.eks: AND, OR, ADJ, NEXT, NEAR, NOT)?
- **Indekstermer** (MeSH eller andre)  
Er relevante indekstermer utelatt og/eller er irrelevante blitt brukt?
- **Tekstord og trunkering**  
Er relevante tekstord, synonymer eller tekstordvarianter utelatt og/eller er irrelevante blitt brukt? Er trunkering brukt riktig/optimalt?
- **Stavemåte og syntaks**  
Forekommer det stavefeil, syntaksfeil i forhold til databasen eller feil linjenummer?
- **Avgrensninger**  
Forekommer det uberettigete avgrensninger og/eller er eventuelle berettigete avgrensninger utelatt?
- **Tilpasning**  
Er søkestrategien tilpasset alle databasene som det er søkt i?

#### Konklusjon spørsmål 2:

- Dersom en strategi vurderes til tilfredsstillende ut fra en faglig og skjønnsmessig vurdering av punktene over, vil sjekklistas spørsmål kunne besvares med **Ja**.
- Dersom en strategi vurderes til utilfredsstillende ut fra en faglig og skjønnsmessig vurdering av punktene over, vil sjekklistas spørsmål måtte besvares med **Nei**.
- Dersom søket ikke er rapportert, vil sjekklistas spørsmål måtte besvares med **Uklart**.
- Dersom søket ikke er rapportert, men det henvises til hvor strategien(e) kan skaffes fra, bør sjekklistas spørsmål besvares med **Uklart** dersom den ikke innhentes.

\*Sampson M, McGowan J, Lefebvre C, Moher D, Grimshaw J. PRESS: Peer Review of Electronic Search Strategies. Ottawa: Agency for Drugs and Technologies in Health; 2008

## Appendix G

### Rationale for the choice of stakeholder groups in interviews

<b>Stakeholder group</b>	<b>Rationale</b>
<i>Food producers</i>	Are responsible for implementing the UN Guiding Principles and carry out due diligence processes. The food producers' own viewpoints on food marketing as a human rights issue are pivotal for the potential inclusion of the issue into their human rights reports.
<i>Policy-makers or implementers</i>	As government actors, national policy-makers/implementers will implement the UN Guiding Principles. Depending on the government level, they have power to regulate and set out expectations for companies.
<i>Human rights experts</i>	Can be used as external consultants in due diligence processes. May also provide academic contributions that help interpret food marketing as a human rights issue.
<i>Intergovernmental organisations</i>	May act as agenda-setters, can potentially develop international standards and support states in policy development concerning food marketing.
<i>NGOs</i>	May act as consultants for companies in due diligence processes, and may also have important roles as monitoring bodies and agenda-setters for food marketing.
<i>Multi-stakeholder initiatives</i>	New forms of initiatives have emerged over the last years. They typically cooperate with companies and other stakeholders and may play a role that overlap with NGOs and policy-makers.

## Appendix H

### Qualitative interview recruitment process

Organisations and individuals seen as relevant for the inclusion criteria were identified by browsing participant lists from conferences on human rights and business, by identifying organisations and individuals that had been engaged in human rights or food marketing and health by online searches, and by discussion with academic supervisors. Potential participants were approached by an e-mail with invitation to participate in the study. The e-mail informed briefly about the project and explained the reason why each recipient had been contacted. A reminder was sent after approximately a week without an answer, with a second reminder sent after another week. If participants had signalled interest to participate, they were sent an information sheet that gave further information about the project, how the information would be used and the issue of anonymization (Appendix H).

The most challenging sectors to recruit were policy-makers/implementer and food producers. Two of the multinational food companies that were approached answered the initial mail but in the end, none of these companies took part in the study. To facilitate the recruitment process, it was decided to rather approach Norwegian food sector actors.

<b>Key participants sector</b>	<b>Participants</b>	<b>Non-responders<sup>1</sup></b>
Policy-makers/implementers	1	4
Food producers	1	4
Human rights experts	2	0
NGOs	2	2
Intergovernmental organisations	1	1
Multi-stakeholder initiatives	1	1
<i>Total</i>	8	12

<sup>1</sup>Did not respond, declined to participate or cancelled appointment

## Appendix I

### Information sheet to participants

# *Food marketing and human rights*

## Study information for participants

Thank you very much for agreeing to participate in this study, a Public Health Nutrition master's thesis carried out at the Oslo and Akershus University College of Applied Sciences, Norway. This information sheet explains what the study is about and how we would like you to take part in it.

The purpose of this master's thesis is to explore food marketing to children in the context of human rights, in a global setting. The thesis includes three research questions, one of which concern how key actors from different relevant sectors consider the relationship between food marketing and human rights.

Participants has been purposefully sampled, meeting the criterion that they have insight in one or more of the following areas: human rights/corporate social responsibility/food marketing/food and nutrition policy work.

In order to elicit your views, we would like you to be interviewed by Anne Lene Løvhaug, the master student. The interview will be conducted via Skype at a time convenient for you, if an interview in person cannot be set up. If you agree to this, the interview will be audio-recorded and will last approximately 30 minutes to one hour. Questions will vary by participants' sector and will concern how participants work with regards to food marketing, human rights, food and nutrition policies and their viewpoints on such matters.

The information provided by you in the interview will be used for research purposes only. Confidentiality will be protected by storing a physical name list with identification keys in a separate, secure site. Only the master student and her supervisors will have access to this information. Further, the information gained from the interview will not be used in a manner that will allow identification of any personal information. In the published master's thesis and in any subsequent articles based on the thesis, only a general description of participants' field of work will be used when their views are presented. Participation in the study is voluntary and you can withdraw from the study at any time. If you withdraw, any information about you will be anonymised.

The project is planned to be finished in June, 2017. When the thesis is finalised all data will be anonymised and the audio files deleted. The study has been considered and approved by NSD (Norwegian Centre for Research Data).

Once again, thanks you for your willingness to take part in this study. If you have any questions about the study at any stage, please do not hesitate to contact us.

Kind regards,

**Anne Lene Løvhaug (master student)**

E-mail: annelenelovhaug@gmail.com

Phone: +47 9222 7718

**Liv Elin Torheim (Professor, supervisor)**

E-mail: liv.elin.torheim@hioa.no

Phone: +47 6723 6357





## **Appendix J**

### **Example of questions asked in qualitative interviews**

#### **Human rights in general:**

- Could you give a brief overview on how you work with human rights in your organisation?
- Why is it that you use a human rights-approach to your work?

#### **Food marketing as human rights issue**

- Would you say that food marketing to children can be regarded as a human rights issue? Why/why not?

#### **Food marketing as a salient human rights issue**

- How would you describe the effects of food marketing to children...
  - o Concerning the effects that it has on children?
  - o Concerning how many children that are exposed to it?

#### **The business sector and human rights reporting**

- In your line of work, do you work with the business sector?
- Are you familiar with the UN Guiding Principles on Business and Human Rights?
  - o If so, what do you think of them?
- What do you think of public reporting as a possible a tool to improve business behaviour?
  - o To what extent do you believe that food industry will undertake such reporting?
  - o To what extent do you believe that civil society would use such public reports?
- How do you think that businesses will respond to the idea that food marketing is a human rights risk that should be included in their human rights reports?

## Appendix K

### Receipt from Norwegian Centre for Research Data



Liv Elin Torheim  
Institutt for sykepleie og helsefremmende arbeid Høgskolen i Oslo og Akershus  
Postboks 4 St. Olavs plass  
0130 OSLO

Vår dato: 27.01.2017

Vår ref: 51918 / 3 / IJJ

Deres dato:

Deres ref:

#### TILBAKEMELDING PÅ MELDING OM BEHANDLING AV PERSONOPPLYSNINGER

Vi viser til melding om behandling av personopplysninger, mottatt 04.01.2017. Meldingen gjelder prosjektet:

51918	<i>Exploring marketing of unhealthy foods to children in a human rights perspective: Should food marketing be included in food companies' human rights reporting under the United Nations Guiding Principles on Business and Human Rights?</i>
<i>Behandlingsansvarlig</i>	<i>Høgskolen i Oslo og Akershus, ved institusjonens øverste leder</i>
<i>Daglig ansvarlig</i>	<i>Liv Elin Torheim</i>
<i>Student</i>	<i>Anne Lene Løvhaug</i>

Personvernombudet har vurdert prosjektet og finner at behandlingen av personopplysninger er meldepliktig i henhold til personopplysningsloven § 31. Behandlingen tilfredsstiller kravene i personopplysningsloven.

Personvernombudets vurdering forutsetter at prosjektet gjennomføres i tråd med opplysningene gitt i meldeskjemaet, korrespondanse med ombudet, ombudets kommentarer samt personopplysningsloven og helseregisterloven med forskrifter. Behandlingen av personopplysninger kan settes i gang.

Det gjøres oppmerksom på at det skal gis ny melding dersom behandlingen endres i forhold til de opplysninger som ligger til grunn for personvernombudets vurdering. Endringsmeldinger gis via et eget skjema, <http://www.nsd.uib.no/personvern/meldeplikt/skjema.html>. Det skal også gis melding etter tre år dersom prosjektet fortsatt pågår. Meldinger skal skje skriftlig til ombudet.

Personvernombudet har lagt ut opplysninger om prosjektet i en offentlig database, <http://pvo.nsd.no/prosjekt>.

Personvernombudet vil ved prosjektets avslutning, 28.09.2017, rette en henvendelse angående status for behandlingen av personopplysninger.

Vennlig hilsen

Kjersti Haugstvedt

Ida Jansen Jondahl

*Dokumentet er elektronisk produsert og godkjent ved NSDs rutiner for elektronisk godkjenning.*



### Prosjektvurdering - Kommentar

---

Prosjektnr: 51918

#### INFORMASJON OG SAMTYKKE

Utvalget informeres skriftlig om prosjektet og samtykker til deltakelse. Informasjonsskrivet er godt utformet.

#### INFORMASJONSSIKKERHET

Personvernombudet legger til grunn at student og veileder etterfølger Høgskolen i Oslo og Akershus sine rutiner for datasikkerhet. Dersom personopplysninger skal lagres på privat pc, bør opplysningene krypteres tilstrekkelig. Bruken av Skype til intervjuer må avklares med HiOA.

#### PROSJEKTSLUTT OG ANONYMISERING

Forventet prosjektslutt er 28.09.2017. Ifølge prosjektmeldingen skal innsamlede opplysninger da anonymiseres. Anonymisering innebærer å bearbeide datamaterialet slik at ingen enkeltpersoner kan gjenkjennes. Det gjøres ved å:

- slette direkte personopplysninger (som navn/koblingsnøkkel)
- slette/omskrive indirekte personopplysninger (identifiserende sammenstilling av bakgrunnsopplysninger som f.eks. bosted/arbeidssted, alder og kjønn)
- slette digitale lydopptak

## Appendix L

### Example of coding process from qualitative interviews

The following table gives two examples on how meaningful text passages from two different interviews were condensed into shorter sentences and then assigned a short sentence (a code). These sentences concerned the research question “food marketing as a human rights issue”.

<b>Text passage from transcript</b>	<b>Condensed sentence</b>	<b>Code</b>
<p>They say, what I see is that companies show what they are doing on this issue but not from a human rights perspective. It is really from a perspective that they are redeveloping or reformulating their products to meet certain national laws and regulations on certain issues but the link between ingredients in their products and a how this may be a human rights issue has not been made by companies. (Human Rights expert 1, text passage 9)</p>	<p>Companies show that they are improving food products e.g. to meet national laws and regulations but not from a human rights perspective.</p>	<p>Businesses do not regard food marketing as a human rights issue</p>
<p>I think it is clearly a space and there is clearly a need for someone to go into that space [NCDs and human rights]. There are different organisations that are sort of dipping their toes into it like the UICC doing the assessment and IDLO doing the report and the UN Interagency Taskforce doing their seminars, definitely things are...like people putting their hands into it, but there isn't a dedication yet, to really, really put resources – and when I say resources I am thinking of both financial abut also manpower behind it.  (NGO employee 2, text passage 9)</p>	<p>Some organisations are beginning to engage with NCDs and human rights, but there is a need for more engagement and to put resources into the work.</p>	<p>Governance actors do not apply a human rights approach to food marketing</p>

## Appendix M

### Example of category construction from qualitative interviews

The table gives an example of how up to three levels of categories were constructed, based on text passages with similar codes.

Research question	Food marketing (FMKT) as a human rights (HR) issue			
Main categories	Food marketing to children is a human rights issue		Enablers and barriers to the full recognition of FMKT as a HR issue	
Categories	-		Barriers	Enablers
Subcategories	<i>FMKT has negative implications on children</i>	<i>Human rights provisions are relevant for food marketing to children</i>	<i>Businesses do not regard or acknowledge FMKT as a human rights issue</i>	<i>FMKT in a NCD context as a human rights issue is an emerging agenda</i>
Interview 1 NGO 1	8. FMKT is a HR issue since children can't comprehend or resist marketing.		22. Companies that are already engaged in HR may understand the link but these are very few.	
Interview 2 INGO	17. Food marketing may affect costumers negatively and is a rights issue.			5. Awareness of HR is high in health organisations. 10. Special Rapporteurs has stimulated a human rights-based approach in international organisations
Interview 3 HRE 2		Has done research on FMKT to children in a HR context, focusing on the rights to health and food.	9. Companies show that they are improving food products e.g. to meet national laws and regulations but not from a human rights perspective.	

