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Codes Review Panel
ASA Secretariat
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To whom it may concern

CHILDREN'S CODES

Thank you for the opportunity to submit on the consultation process on the review of the Code for Advertising to Children and the Children's Code for Advertising Food.

The focus of Hawke's Bay District Health Board (HBDHB) is the health of the whole population of Hawke's Bay. By supporting health and wellbeing we aim to work collaboratively with other sectors impacting on health of our community including government agencies to improve health, wellbeing and reduce inequities in health outcomes for the people of Hawke's Bay.

As an organisation providing promotion, prevention, primary and secondary health services we understand the role Codes, such as those used in advertising, have in improving health outcomes for our community. We also have a strong focus on early intervention and the first five years of life, because of the known and critical vulnerabilities of developing children. Healthy food choices and maintaining a healthy weight as a child is influential in having a healthy weight as an adult.

The aim of this submission is to support the review of Codes and increase protection for children, as they are more vulnerable to the persuasion of advertising¹ and in the case of high fat, sugar and salt foods, these increase their risk of long-term health issues.

Overall we:

- Support the linkages to the United Nations Convention on the Right of the Child and "the best interest of the child be a primary consideration"
- Seek the inclusion of children and young people up to 18 years
- Support the adherence with the Food and Nutrition Guidelines and other Government messaging
- Support the broad definition of "advertisement", as children acquire consumer information from a range of sources including; internet, merchandising and these will increase as technology changes

¹ Institute of Medicine (US) 2006 Committee on Food Marketing and the Diets of Children, Journal for Consumer Research

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- Support the combining of the Codes, as long as the significance of food advertising is not undermined

We provide the following feedback for your consideration under the key questions posed in the review document:

1. What are the strengths and weaknesses of the two current Children's Codes?

The strengths of the Codes are the broad definition for "advertising", which offers children protection from a range of influencing sources.

The clear outline of the range of children's developmental needs, and use of the Convention and Government guidelines to support decision-making.

Provides a decision-making tool to assess material used to "advertise" to children and a mechanism to respond when material breaches the Code.

2. What are the strengths and weaknesses of the current complaints process?

The strength is that complaints can be made by anyone.

The weakness is that the process relies on complaints being made to activate change. There are barriers to using formal processes, including not having the awareness, skills and confidence to follow the process. As a result, the most vulnerable in society are least likely to engage with the process even if they are adversely affected by advertising. Also those in the community with poor literacy skills are not likely to be aware of the code or have the skills to write a complaint.

Terms such as "excess" [Code for Advertising to Children 2010 2(j)] and Children's Code for Advertising Food 2010 1(c)] and "frequent repeat" [Children's Code of Advertising Food 2010 2 (f)] need to be defined in terms of the product being advertised. In the case of food "treat food" should refer to 'once a month consumption' and anything over that is excessive and could result in short and long-term harm to a child.

3. What changes, if any, are necessary to protect the rights of children and their health / wellbeing?

Clearly include all advertising targeting children irrespective of the timing and location of the advertising. Children's main viewing times are between 5.00pm–9.00pm and this is not always associated with "children's programming".

A consistent age range which aligns with other legislation and guiding documents, in this case including children and young people under 18 years.

4. Please comment on any concerns you have with different media formats in relation to advertising to children (for example: magazines, television, social media, websites).

The Codes need to be flexible enough to cope with the changing landscape for advertising. While there is broad definition this may need to be reviewed to respond to these developments. Members of the Complaints Board need to have good knowledge of the tools and format used in advertising and particularly advertising to children, so they are able to assess the impact and risk to children.

There are areas which need greater visibility within the Codes; including sponsorship, branding, point of sale, product placement and packaging. These all have marketing impact and are forms of advertising, but are not readily understood as such by parents and society.

5. If the content of advertisements is a concern, can you please give examples and / or supporting evidence? A product name and ad description would be helpful so we can source the advertisements.

Advertisements such as McDonald's Monopoly "game", contravene the Code under section Children's Advertising Code "2(j) Care should be taken with advertisements promoting a competition, premium or loyalty/continuity programme to ensure that advertisements do not encourage excessive repeat purchase." and Children's Code for Advertising Food 2(f). In this "game" children are required to collect sets of Monopoly real estate which require repeat purchases.

6. If the placement of advertisements is a concern, can you please give examples and/or supporting evidence? For broadcast media it would be helpful to have the time/date/channel or programme, for other media, a link/publication title/outdoor location would be appreciated.

- Advertising high fat, high sugar foods over meal times (5.00pm-8.00pm) as this is a high viewing time for children. This undermines caregivers' role in choosing healthy food to children.
- Sponsorship of children's activities and events, for example, McDonald's supporting school age soccer including 'player of the day' prizes of a free hamburger.
- Point of sale advertising including up-sizing (promoting large portions at purchase), confectionary at supermarket checkout
- Product placement is used to increase brand recognition and products appear in movies, games, toys, where parent are not always aware of the impact.
- Branding that attracts children; bright colours, novelty characters and using movie characters on products, adverts and merchandising

Australian studies have found children develop brand recognition and product preference from as early as two years due to persuasive advertising²

7. The Children's Codes currently define a child as under the age of 14. Do you support or oppose this definition? Why?

For consistency with the guiding documents the age range should be under 18, so this aligns with the Convention and other laws associated with children and young people. The level of peer pressure and marketing aimed at 14–18 year olds warrants protection in the advertising arena. They also have arguably more access to venues for advertising and more income to spend which increases their desirability as a "market" but they are still developing long-term decision-making skills, meaning they are still at risk of not understanding the impact of their consumer decisions.

8. Is there a role for a nutrient profiling system such as the health star rating system in the Children's Codes? If yes, in what way and which system would you suggest?

There is a need for a system to be able to define "healthy" and "treat" food, and also portion sizes, to support parents and others protecting children.

² Kelly, B. et.al. Persuasive food marketing to children: use of cartoons and competitions in Australia on commercial television advertisements. (2008). *Health Promotion International*. Vol. 23 No 4 doi:10.1093. Oxford University Press.

9. Do you support or oppose a specific guideline on sponsorship? Why?

Support - because sponsorship is a form of advertising and key to how marketers promote product. What the “All Blacks” drink matters to children and since they have been sponsored by “Gatorade” this product has seen an increase in consumption in New Zealand. Drinking high energy “sports drinks” has become normalised with sports teams having the advertising on their clothing, in their hand and on the sports fields. Children do not need to drink these products as they should not be training that intensively, but they do what their “heroes” do.

As mentioned above, McDonald’s sponsor junior soccer including free burgers for “players of the day” which means to get their reward children must go to a McDonald’s restaurant. This is targeted advertising.

A New Zealand study found “marketing activities included creating repeated exposures of their unhealthy food and beverage brands to children which suggest policies restricting sponsorship of sports by these manufacturers may help limit children’s exposure to unhealthy food marketing within New Zealand sports settings.”³

10. Do you support or oppose the introduction of independent monitoring and evaluation of the codes? How would this work?

We **support** independent monitoring as a means to strengthen the effectiveness of the Codes. This can ensure reviews are fair and a consistent interpretation of the Codes is being applied to all advertising targeting children. It also means that a complaints process is not needed to remove advertising which does not meet the Codes standards.

This could work as follows:

- Advertisers would submit their advertising for review and a monitoring process would be established for key advertising forums to identify advertisements not submitted. (This is similar to the current system for rating movies, books and music.)
- Fines could apply both to the forum displaying the unreviewed advertisement and the advertiser (i.e. company promoting/selling the product). If advertisements are found to not meet standards the fine would be higher.

11. What is your view of the sanctions imposed by the ASA when a complaint is upheld?

While the commercial sector is influenced by fines, this does not necessarily address the damage done to children or provide information to parents or caregivers about why that product/company has transgressed. This means consumer awareness is not raised and consumers are not able to make informed choices.

When transgressions are identified we need to ensure that clear information about the impact on children (potential and actual) is provided to audiences who have viewed/heard the advertising. Redress for the transgression should include mitigating the impact the advertising has had on children including alternative healthy food messages, education on identifying foods high in sugar, fat and salt.

Fines could be then used to fund programmes which support healthy eating for children.

³ Carter, M. (2013). Food, fizzy, and football: promoting unhealthy food and beverages through sport – a New Zealand case. <http://bmcpublikealth.biomedcentral.com/articles/10.1186/1471-2458-13-126>. 03/2016.

12. Are there environments where you consider it to be inappropriate to advertise to children?

Where it is not possible for parents or caregivers to monitor the content i.e. cell phones, sponsorship and product placement i.e. movies, game and songs.

13. Do you support or oppose combining the two current codes? Why?

Support. This has the potential to simplify the Codes. However the special significance of food advertising for children should not be lost and a combined document needs to include the guidelines dealing with food and be linked to key documents including the Food and Nutrition Guidelines.

Childhood is a key time to promote life-long healthy eating habits and the best people to support children in their eating choice are whānau, so food advertising should be controlled and not undermine the whānau's role⁴. Overall, we believe the Codes have an important purpose in protecting children and this can be enhanced by extending the age covered to under 18 years, having an independent monitoring and review process and being able to respond to the changing world of advertising.

For further information please contact:

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Yours sincerely



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⁴ Nutrition Action, 2013 Food and Beverage Marketing to Children, evidence snapshot