



12 April 2016

Our Ref: MT40-16

Codes Review Panel
Advertising Standards Authority Secretariat
P O Box 10-675
WELLINGTON

Email: asa@asa.co.nz

Dear Codes Review Panel

Thank you for the opportunity to comment on the Advertising Standards Authority's (ASA) Code for Advertising to Children (CAC) and the Children's Code for Advertising Food (CCAF). The Royal New Zealand College of General Practitioners (the College) commends the ASA on reviewing these important codes to coincide with the cross-sectoral work under New Zealand's childhood obesity plan.

Summary

The College strongly supports strengthening restrictions on the marketing of unhealthy food to children as part of New Zealand's childhood obesity plan. We consider that protecting children from the marketing of unhealthy food is a crucial element in addressing the obesity promoting food environment in New Zealand. It is the College's view that New Zealand should be moving towards a comprehensive approach that completely eliminates all forms of marketing to children of foods high in saturated fats, trans-fatty acids, free sugars or salt.

We suggest making the following changes:

- Introduce an independent pre-vetting system for advertising to children.
- Strengthen the complaints process to ensure the timely removal of an infringing advertisement, and provide better transparency and independent monitoring of the complaints process.
- Extend the applicability of the CCAF to adolescents as well as children (up to age 18 years of age).
- Remove the limitation of the CCAF that advertisements are required to "influence children".
- Use a nutrient profiling system to identify and restrict advertising of unhealthy foods (such as the WHO Regional Office for Europe Nutrient Profile Model).
- Ensure the CCAF captures all forms of advertising techniques such as packaging marketing and product placement.
- Include restrictions on television viewing times for the advertising of unhealthy foods.
- Include a restriction on sponsorship.
- Make changes to the terminology in the CCAF such as "treat food" and "snacks" and around pester power and promoting a competition.
- Broaden the range of settings where it is inappropriate to advertise unhealthy food to children.

General practice and the College

General practice is the range of values, knowledge, skills, and practices required to provide first level medical services in both community practice and hospital settings. General practice includes the provision of both first contact and continuing care for all ages and both sexes that is comprehensive, person-centred, and takes into account the roles of family, whānau, community and equity in achieving health gains.

GPs comprise almost 40 per cent of New Zealand's specialist workforce and their professional body, the College, is the largest medical college in the country. The College provides training and ongoing professional development for GPs and rural hospital generalists, and sets standards for general practice. The College is committed to:

- Ensuring that New Zealand has a GP workforce that contains sufficient vocationally trained GPs to: ensure appropriate service provision; enable sustainable, safe, high quality primary health care; meet the increased demands of an ageing population and co-morbidity; and to meet the Government's expectations of care that is sooner, better and more convenient.
- Improving patient outcomes with regard to continuity and access to quality care by: promoting better integration between primary care, secondary care and social services; and encouraging innovation and the development of new models of care.
- Achieving health equity in New Zealand through: a greater focus on the social determinants of health; reducing the rates of smoking and increasing health food options for low-income families; better integration of health and social services; and ensuring that funding for primary care is targeted to the most disadvantaged.
- Improving health outcomes for rural communities through the work of high quality, well trained medical generalists working within multidisciplinary teams.
- Achieving health equity for Māori. Health equity for Māori will be achieved when Māori have the same health outcomes as other New Zealanders. For this to occur, service delivery to Māori needs to be appropriate and effective and ensure equity of access. This does not mean a reduction in service delivery to other New Zealanders, but rather improving service delivery to Māori to ensure fairness.

ASA's review of the Children's Codes

The College understands that ASA's review considers the operation and content of the two Children's Codes, and the CCAF plays a key part of the review. You explain that it includes requirements about portion size, treat and snack food, nutrient and health claims, promotion of unhealthy lifestyles, the type of audience and the nutritive value of foods. In addition, that the CAC is under review and is a more general code covering any product or service marketed to children. It includes guidelines about pester power, anti-social behaviour, unsafe depictions, sexual imagery, gaming and gambling, and information on what the advertised offer or product includes.

The College's response

While the College recognises the importance of both Codes, our submission primarily focuses on the principles and guidelines around the advertising of food to children.

The College strongly supports strengthening restrictions on the marketing of unhealthy food to children as part of New Zealand's childhood obesity plan. Our members had strong views that the advertising of unhealthy food to children should be eliminated. You will be well aware that New Zealand has one of the highest rates of obesity in the OECD, and with the rising rate of child obesity in New Zealand in particular, tackling obesity in children is a high priority for Government. Health care providers, families, individuals, and government as well as industry all have an important role to play.

It is the view of the College that in tackling the obesity epidemic, individual responsibility can only have its full effect where people have access to a healthy lifestyle. Supportive environments are essential to shaping people's choices, diet and physical activity habits. Any significant reduction in the prevalence of obesity is unlikely until the environment changes to make healthier choices of foods and regular physical activity easier and cheaper for all.¹ We consider that protecting children from the marketing of unhealthy food is a crucial element in addressing the obesity promoting food environment in New Zealand.

Evidence from systematic reviews on food marketing to children has shown that advertising is extensive and most marketing is for foods with a high content of fat, sugar or salt.² Moreover, evidence has also shown that marketing unhealthy foods to children influences their food preferences, purchase requests, and consumption.^{3,4,5,6} Reducing the advertising of unhealthy food and beverages to children is a highly cost-effective intervention in childhood obesity.^{7,8} This evidence underpins the set of recommendations on the marketing of foods and non-alcoholic beverages to children endorsed by New Zealand and other WHO Members States in 2010. The document calls for "global action to reduce the impact on children of marketing of foods high in saturated fats, trans-fatty acids, free sugars or salt" and urges Member States to implement the recommendations.⁹

Recently, the report of the Commission on Ending Childhood Obesity (ECHO), which is based on evidence and global consultations, recommended reducing the exposure of children and adolescents to, and the power of, the marketing of unhealthy food.¹⁰ The report states:

"There is unequivocal evidence that the marketing of unhealthy foods and sugar

sweetened beverages is related to childhood obesity. Despite the increasing number of voluntary efforts by industry, exposure to the marketing of unhealthy foods remains a major issue demanding change that will protect all children equally. Any attempt to tackle childhood obesity should, therefore, include a reduction in exposure of children to, and the power of, marketing."

The College strongly supports strengthening the CCAF to eliminate advertising of unhealthy foods to children in line with the recommendations of the ECHO report and WHO.

The College's feedback on the specific questions raised in the consultation paper are set out below.

¹ World Health Organization. Obesity and overweight: fact sheet No. 311, May 2014.

² World Health Organization. Set of recommendations on the marketing of foods and non-alcoholic beverages to children. Geneva; 2010. Available from: http://apps.who.int/iris/bitstream/10665/44416/1/9789241500210_eng.pdf

³ Hastings G, Stead M, McDermott L, et al. Review of research on the effects of food promotion to children: Final report prepared for the Food Standards Agency, Glasgow. Centre for Social Marketing, University of Strathclyde; 2003.

⁴ McGinnis JM, Gootman J, Kraak VI (eds). Food marketing to children: Threat of opportunity. Institute of Medicine of the National Academies. Washington, DC; The National Academies Press; 2006.

⁵ Shaw C. (Non)regulation of marketing of unhealthy food to children in New Zealand. NZ Med J. 2009 January 23;122(1288):76-86.

⁶ Vandevijvere S, Swinburn B. Getting serious about protecting New Zealand children against unhealthy food marketing. NZ Med J. 3 July 2015;128(1417):36-40.

⁷ Haby MM, Vos T, Carter R, et al. A new approach to assessing the health benefit from obesity interventions in children and adolescents: The assessing cost-effectiveness in obesity project. International Journal of Obesity. 2006;30(1):1463-1475.

⁸ Gortmaker SL, Swinburn BA, Levy D et al. Changing the future of obesity: science, policy, and action. The Lancet. 2011 Aug 27;378(9793):838-47. doi:10.1016/S0140-6736(11)60815-5.

⁹ World Health Organization. Set of recommendations on the marketing of foods and non-alcoholic beverages to children. Geneva; 2010.

¹⁰ Report of the Commission on Ending Childhood Obesity. Geneva; 2016. Available from: http://apps.who.int/iris/bitstream/10665/204176/1/9789241510066_eng.pdf?ua=1

1. Strengths and weaknesses of the two current Children's Codes (Question 1)

The College notes the strengths of the Codes include the flexibility and ability to deal efficiently with individual advertisements. The CCAF also highlights the need to protect children, and support the Government's food and nutrition policies and the Ministry of Health's food and nutrition guidelines.

However, the College considers the weaknesses of the Codes mean that children are not adequately protected from the advertising of unhealthy food. One of our members noted that advertisers clearly "push the boundaries" so "boundaries have to be tighter". We acknowledge the findings of the University of Otago's Health Promotion & Policy Research Unit in 2012 following an analysis of complaints to the Advertising Standards Complaints Board (ASCB). Their report states that despite minor improvements, the ASA Codes still fail to adequately protect children from exposure to unhealthy food marketing, and therefore fail to adequately protect the rights of children under the United Nations Convention on the Rights of the Child (UNCRC).¹¹

The College considers the following aspects to be weaknesses of the CCAF and we make suggestions for changes under section 3 (Question 3).

- The application of the CCAF is limited to persons below the age of 14 years. Although the CCAF's definition of 'child' is in line with the Children, Young Persons and their Families Act 1989 and the Broadcasting Standards Authority's definition of a 'child', it is inconsistent with Article 1 of the UNCRC, which defines a child as a person below 18 years of age. While the obesity rate in New Zealand adolescents is lower than in younger children (20% in those aged 15-24 years¹²), it cannot be ignored.

The ASA's Code for Advertising Food states: "Advertisers are also required to exercise a particular duty of care for food advertisements directed at young people aged 14 to 17 years of age." However, there are no specific guidelines relating to the advertising of unhealthy food in this age group. Therefore, the College considers that those aged 14 to 17 years are not afforded adequate protection. Furthermore, this puts younger children at risk because they might be exposed to advertising targeted at older children and/or adults.

- The CCAF does not clearly specify the foods that should be subject to advertising restrictions.
- The College considers that the use of the terms "treat food" and "snacks" are ambiguous and inconsistent with terminology used by the WHO and ECHO.
- The CCAF states that an "advertisement" is to be taken in its broadest sense to embrace any form of advertising or marketing communication. However, some marketing techniques such as packaging marketing or product placement are not specifically mentioned.
- The CCAF is limited in its application to advertisements "that influence children" (opening sentence). Therefore, it appears that a determination on whether a particular advertisement "influences children" is required before the CCAF's principles and guidelines may be applied. The College is of the view that this is an unnecessary hurdle to the application of the CCAF. Moreover, it is unclear where an advertisement will have met the requirement to have "influenced" children. We are of the view that the CCAF should apply to all advertising of unhealthy food to children. We also note that "Parents and caregivers are increasingly the target of marketing for foods and beverages high in fats and sugar aimed at their children."¹³

¹¹ Health Promotion and Policy Research Unit. Does current industry self-regulation of food marketing in New Zealand protect children from exposure to unhealthy food advertising: Report prepared for the Cancer Society of New Zealand. University of Otago; Wellington: 2012. Available from:

<http://www.otago.ac.nz/heppru/research/otago076602.html>

¹² Ministry of Health. Annual Update of Key Results 2014/15: New Zealand Health Survey. Wellington; December 2015.

¹³ World Health Organization. A framework for implementing the set of recommendations on the marketing of foods and non-alcoholic beverages to children. Geneva; 2012. Available from:

<http://www.who.int/dietphysicalactivity/MarketingFramework2012.pdf>

- The Introduction to the CCAF states that food advertisements should “not undermine” the food and nutrition policies of Government and the Ministry of Health Food and Nutrition Guidelines. We consider that the use of the word “undermine” is vague.
- Under the CCAF, advertisements promoting a competition, premium or loyalty/continuity programme that encourage repeat purchases of unhealthy foods are permissible. Guideline 2(f) states that “care should be taken” to ensure frequent repeat purchases are not encouraged by advertisements. We consider that merely “taking care” and the allowance for “repeat purchases” albeit not frequent repeat purchases, are a weakness of the CCAF.
- The Codes do not provide guidelines on restrictions on advertising unhealthy foods during television viewing times.

Television is commonly used as an advertising technique and it can result in high exposure. Evidence has shown that television advertising influences children’s food preferences, purchase requests and consumption patterns, and a large number of children experience marketing even when they are not the only intended audience.¹⁴

The Ministry of Health’s data show that nearly half of children aged 5 to 14 years usually watch two or more hours of television a day. Further, the University of Auckland Youth’12 survey of secondary school students found that 28% of students watched television for three or more hours each day (and 35% of students used the internet for three or more hours each day).¹⁵

The College understands the Children’s Food (CF) Classification System (applied for school-age children’s programming times) and the policies of the free-to-air television broadcasters on advertising in pre-school and school-age children’s television programming times addresses, to some extent, the advertising of unhealthy food to children. However, the College is concerned that the current restrictions do not adequately protect children. Children might watch television outside of the programming times defined by the broadcasters, and we understand that the programming times set by broadcasters are flexible and can change (eg, during school holidays).

Defining child-directed advertising as advertising during specific programming times does not necessarily reflect the complexity of children’s viewing patterns, and might not cover programmes for both children and adults, or those programmes popular with children, such as sporting events. It has been noted that children more commonly watch outside the industry designated ‘children’s viewing hours’ than they do within.¹⁶

2. Strengths and weaknesses of the current complaints process and sanctions imposed (Questions 2 and 11)

The College understands that the current complaints process offers an efficient (average time of 13 days), accessible way of dealing with complaints from members of the public without the complexities and delays of a judicial process. On the other hand, one of the drawbacks is that compliance with the CCAF is not independently assessed. The lack of independence present a conflict of interest between the rights of children and the interests of industry.

We consider that a major weakness of the current process is its reactive nature and the reliance on members of the public to make a complaint. Complainants are likely to need sufficient time, knowledge and motivation to bring a complaint to the ASCB. In a letter to the *New Zealand Medical Journal* in 2015, Katherine Rich

¹⁴ Ibid.

¹⁵ Ministry of Health. Activity levels in New Zealand. 9 October 2015. Accessed from: <http://www.health.govt.nz/your-health/healthy-living/food-and-physical-activity/physical-activity/activity-levels-new-zealand>

¹⁶ Shaw C. (Non)regulation of marketing of unhealthy food to children in New Zealand. *NZ Med J.* 2009;122(1288):76-86.

noted that there had been only nine complaints about advertising food to children in the past five years (about 0.2% of complaints received), and none were upheld.¹⁷

A further weakness is that complaints are not dealt with until after advertisements have been published or broadcast. Therefore, a considerable time lag may arise between the publication or broadcast of an advertisement and the decision of the ASCB requesting for its withdrawal. The College strongly supports a pre-vetting system to help overcome this weakness (discussed in the next section).

The College understands that if a complaint is upheld by the ASCB, the ASA requests for the voluntary removal of the advertisement. However, there are no other penalties for the advertiser, and although there is a high level of compliance with standards, it is not full compliance.

We are also concerned with the research findings in the 2012 HePPRU report on complaints relating to the advertising of food to children that were made to the ASCB. The report states: "There continues to be clear evidence of partial, unjustified and inconsistent decision making by the ASCB."¹⁸

3. Changes to protect the rights of children and their health and wellbeing (Question 3)

It is the College's view that New Zealand should be moving towards a comprehensive approach that completely eliminates all forms of marketing to children of foods high in saturated fats, trans-fatty acids, free sugars or salt. Such an approach would extend the restriction on marketing from exclusively child-centred environments and media to those environments shared with adults (eg, shopping malls and prime-time television). The WHO's assessment of a comprehensive approach is that it would help to eliminate any opportunities for children to be exposed to marketing, and prevent the food industry from increasing marketing through other unrestricted means.¹⁹ We also note it is the cumulative effects on children of advertising that is concerning rather than a single, isolated advertisement.²⁰

The College recommends making the following changes to the CCAF to better protect the rights of children and their health and wellbeing. The discussion addresses the weaknesses identified above (section 1).

(a) Definition of 'child' and extending the Code to adolescents (Question 7)

The College suggests broadening the CCAF so that it applies to the advertising of food to adolescents as well as children. A "Code for Advertising Food to Children and Adolescents" would enact the spirit of the UNCRC in protecting the rights of those aged 14 to 17 years. The change would also overcome the vague requirement in the Code for Advertising Food of exercising a particular duty of care for food advertisements directed at people aged 14 to 17. It would also mean that maintaining the definition of 'child' is consistent with other definitions used in New Zealand as discussed above.

We note factors that caution against a policy approach that focuses solely on younger age groups:²¹

- There is no conclusive evidence of a definitive cut-off age at which children understand the persuasive intent of marketing and adopt the necessary critical stance. Children can be influenced by marketing beyond their understanding of the persuasive intent.
- Most studies on the influence of advertising on children focuses on those under the age of 14 years, but this does not mean that no effect exists in older children.

¹⁷ Rich K. Comment on: Getting serious about protecting New Zealand children against unhealthy food marketing. NZ Med J. 25 September 2015; 128(1422):85-87.

¹⁸ Health Promotion & Policy Research Unit. Does current industry self-regulation of food marketing in New Zealand protect children from exposure to unhealthy food advertising? University of Otago: Wellington; 2012.

¹⁹ World Health Organization. A framework for implementing the set of recommendations on the marketing of foods and non-alcoholic beverages to children. Geneva; 2012.

²⁰ Ibid.

²¹ Ibid.

- There is evidence showing that children react differently to marketing messages based on socioeconomic status, gender, the wider environment and other factors.
- Marketing targeted at teenagers and young adults often reaches younger children.
- Adolescents may remain vulnerable and continue to need protection.

(b) Role for nutrient profiling in the Children's Codes (Question 8)

The College is of the view that the CCAF should include clear, independent criteria to determine the foods that are subject to advertising restrictions by way of nutrient profiling. Nutrient profiling can distinguish and classify foods, and provide highly precise specifications on food products available.²²

The use of nutrient profiling would enable a comprehensive approach to restrictions on advertising, yet allow for the advertising of healthy foods to children. Moreover, the system can be applied universally, rather than arbitrarily to selected food categories.²³ Recommendation 1.4 of the ECHO report states:

“Clarity on the range of healthy products that can be marketed without restriction is needed, as is consideration of both direct and indirect marketing strategies, including pricing, promotion (including portion size promotion) and placement. Such approaches require identifying healthy and unhealthy foods using independent nutrient profiling.”

A suitable nutrient profiling model is the WHO Regional Office for Europe Nutrient Profile Model, which has been developed specifically to underpin the regulation of food marketing to children.²⁴ This model could be adopted to identify and restrict advertising of unhealthy foods under the CCAF.

The Health Star Rating system which is aligned with Australian and New Zealand Dietary Guideline uses a nutrient profiling model.²⁵ However, we note problems identified with using the Health Star Rating for this purpose: the system was not developed to support the restriction of food marketing to children and has been found to give both healthy and unhealthy foods similar ratings. Moreover, the Health Star Rating applies only to packaged foods.²⁶

(c) Remove use of ‘treat food’ and ‘snacks’

The College suggests replacing the ambiguous terms, “treat food” and “snacks” with “unhealthy foods” or “foods high in saturated fats, trans-fatty acids, free sugars, or salt”. This is consistent with the terminology used by the WHO and in the ECHO report.

(d) Different media formats for advertising to children (Question 4)

²² Ibid.

²³ Scarborough P, Payne C, Agu CG, et al. How important is the choice of the nutrient profile model used to regulate broadcast advertising of foods to children: A comparison using a targeted data set. *European Journal of Clinical Nutrition*. 2013;67:815–820. doi:10.1038/ejcn.2013.11.

²⁴ World Health Organization. WHO Regional Office for Europe Nutrient Profile Model. Denmark: WHO Regional Office for Europe; 2015 [cited 2016 Apr 6]. Available from:

http://www.euro.who.int/__data/assets/pdf_file/0005/270716/Nutrient-Profile-Model_Version-for-Web.pdf?ua=1.

²⁵ Ministry for Primary Industries. How the Health Star Rating system works. Wellington [cited 2016 April 10]. Available from <http://www.foodsafety.govt.nz/industry/general/labelling-composition/health-star-rating/how-health-rating-works.htm>.

²⁶ Brennan M. Is the Health Star Rating System a Thin Response to a Fat Problem? An Examination of the Constitutionality of a Mandatory Front Package Labeling System. *Univ Notre Dame Aust Law Rev*; 2015 Dec 31;17(1):86-106. Available from: <http://researchonline.nd.edu.au/undalr/vol17/iss1/5>

The College notes the wide range of communication channels and marketing techniques used in advertising, and that advertisers are increasingly using a multifaceted mix of advertising techniques.²⁷ The CCAF's "Definition of Advertisement" states that it "is to be taken in its broadest sense to embrace any form of advertising or marketing communication".

However, some of the direct and indirect marketing strategies not captured in the CCAF include:

- product placement
- packaging marketing and labelling
- sponsorships (eg, sports events)
- promotion such as portion-size promotion and toys
- pricing
- displays at the line of children's vision (eg, supermarket aisles)
- brand mascots
- philanthropic activities tied to branding opportunities.

We are of the view that it is important for the CCAF to include the range of current advertising techniques and allow sufficient flexibility to deal with changes in technology. In particular, we suggest adding in packaging marketing and product placement which occurs in television programmes, films, advergames and music videos, and may not be apparent as advertising to viewers.

(e) Remove limitation of advertisements that "influence"

The College suggests removing the wording "that influence children" so that the Code applies to all advertisements of unhealthy food to children. It is our view that under the CCAF, advertisements of foods that fail to meet the nutrient profiling criteria should not be directed at children or at those purchasing food for children.

(f) Strengthen wording to support food and nutrition policies

We suggest reframing the statement that food advertisements should "not undermine" the food and nutrition policies of Government and the Ministry of Health Food and Nutrition Guidelines. Replacing the wording "not undermine" with "to support" or "to align" would strengthen this requirement.

(g) Restriction in promoting competitions

We suggest strengthening the restriction in Guideline 2(f). Rather than requiring that "care should be taken", we consider that *all* advertisements that promote a competition should not encourage frequent repeat purchases of unhealthy foods.

(h) Television viewing times

We strongly recommend including a restriction on the advertising of unhealthy foods during the television viewing times of children in the CCAF. These times should be robust to minimise any discrepancies between the children's viewing times determined by broadcasters and actual viewing times of children, and between viewing times of individual broadcasters themselves.

²⁷ World Health Organization. A framework for implementing the set of recommendations on the marketing of foods and non-alcoholic beverages to children. Geneva; 2012.

We note one way of determining whether an advertisement is directed at children is by defining a “watershed”, a time in the evening after which the child audience is likely to be small. A suitable watershed would be 9.00pm, and is in line with regulatory restrictions in other countries.²⁸ We note in Ireland for example, programmes broadcast after 9.00pm are generally not regarded as children’s programmes. In addition, if a programme that is broadcast between 9.00pm and 10.00pm has audience figures showing that over 5% of those watching are under 18, then the restrictions relating to under age 18 apply.²⁹

(i) Introduce an advertising pre-vetting system and strengthen complaints process (Question 10)

The College supports the introduction of an advertising pre-vetting system for advertising to children as a form of independent monitoring. Such a proactive approach would inform advertisers earlier on whether their advertisements comply with the CCAF, rather than waiting for a complaint to be dealt with through the ASA’s complaints process. Therefore, the system would provide a form of public protection from infringing advertisements before publication or broadcast.

The system could operate in a similar manner to the Liquor Advertising & Promotion Pre-vetting Service (LAPPS) and the Therapeutic Advertising Pre-vetting Service (TAPS) for the advertising and promotion of alcohol and therapeutics, respectively. The pre-approval of advertisements prior to publication or broadcast would assist all advertisers to comply with the Codes.

We support the introduction of independent monitoring and evaluation of the Codes. We are of the view that the complaints process should be made more transparent and monitored by an independent panel of experts. We also suggest a process whereby an advertisement that has been complained about is removed and then only published or broadcast once it has been through the complaints process and determined that withdrawal is not required. A pre-vetting system should minimise this step.

4. Concerning placements of advertisements (Question 6)

Some recent examples where the placement of advertisements is concerning include:

- An advertisement for M&M’s confectionery shown during TVNZ’s “OneNews at Six” on Tuesday 29 March 2016 at 6.30pm. It is an example of a programme where both children and adults can make up the audience.
- An advertisement for Chanui biscuits at 7.06pm during “Country Calendar” on Saturday 2 April 2016 on TVOne. Children may again comprise part of the viewing audience.
- One of our members noted the majority of the supermarket aisles for breakfast cereals contain products high in sugar with visually appealing packaging.

5. Specific guideline on sponsorship (Question 9)

The College supports the inclusion of a restriction on sponsorship in the CCAF. We are particularly concerned of situations where sponsorship is encompassed within children’s sporting events and in-school advertising, as identified by the WHO.³⁰

²⁸ World Cancer Research Fund International. Restrict food marketing. NOURISHING Framework. 2016 Available from: <http://www.wcrf.org/int/policy/nourishing-framework/restrict-food-marketing>

²⁹ World Health Organization. A framework for implementing the set of recommendations on the marketing of foods and non-alcoholic beverages to children. Geneva; 2012.

³⁰ Ibid

Sport is a significant part of New Zealand children's lives, and sponsorship in relation to unhealthy food occurs at all levels of sport in New Zealand.^{31,32} Therefore children are likely to be exposed to high levels of food-related sponsorship of sport. Sports sponsorship has been shown to influence children's food preferences, choices, purchasing and consumption.^{33,34,35,36} Furthermore, there is a conflict of interest between the healthy nature of sport and the generation of income for sporting organisations and food companies from sponsorship.³⁷

In-school sponsorship might include sponsorship of school events or fairs, or sponsorship on school publications, sponsorship of school vehicles.³⁸

6. Environments inappropriate to advertise to children (Question 12)

We consider that the environments where it is inappropriate to advertise to children should be given a wide interpretation. The ECHO report states that settings where children and adolescents gather and the screen-based offerings they watch or participate in, should be free of marketing of unhealthy foods and sugar-sweetened beverages.³⁹

Settings where children commonly gather include nurseries, schools, pre-school centres, playgrounds, and family and child clinics.⁴⁰ There are many additional settings where children gather such as public playgrounds, swimming pools, afterschool and holiday programmes and sporting events. Temporary displays or gathering points for children, such as activity areas in airports, shopping malls, community centres, and churches are further settings.

7. Combining the two current Codes (Question 13)

We understand that during the ASA's review in 2010, the CCAF was established and combined the codes for food and for children. The College is of the view that the two current Codes should not be combined; CCAF provides clarity and highlights the importance of advertising food to children. However, we consider that the current Code should be extended in its application to adolescents. Furthermore, it would be helpful for ASA to clearly state where the CCAF and/or CAC applies to an advertisement. For example, which Code applies to an advertisement about unhealthy food that suggests children will lack social acceptance for not having the advertised product.

³¹ Carter M, Signal L, Edwards R, et al. Food, fizzy, and football: promoting unhealthy food and beverages through sport - a New Zealand case study. *BMC Public Health*. 2013;13:126.

³² Maher A, Wilson N, Signal L, et al. Patterns of sports sponsorship by gambling, alcohol and food companies: an Internet survey. *BMC Public Health*. 2006;6:95.

³³ Kelly B, Baur L, Bauman A, et al. Views of children and parents on limiting unhealthy food, drink and alcohol sponsorship of elite and children's sports. *Public Health Nutr*. 2013 Jan;16(1):130–5.

³⁴ Smith M. Is Junk Food Promoted Through Sport? *Proc Nutr Soc N Z*. 2010;34:58–64.

³⁵ Smith M, Jenkin G, Signal L, et al. Consuming calories and creating cavities: beverages NZ children associate with sport. *Appetite*. 2014 Oct 1;81:209–17.

³⁶ Kelly B, Baur L, Bauman A, et al. "Food company sponsors are kind, generous and cool": (Mis)conceptions of junior sports players. *Int J Behav Nutr Phys Act*. 2011;8(1):95.

³⁷ Carter M, Signal L, Edwards R, et al. Food, fizzy, and football: promoting unhealthy food and beverages through sport - a New Zealand case study. *BMC Public Health*. 2013;13:126.

³⁸ World Health Organization. A framework for implementing the set of recommendations on the marketing of foods and non-alcoholic beverages to children. Geneva; 2012.

³⁹ World Health Organization. Report of the Commission on Ending Childhood Obesity. Geneva; 2016.

⁴⁰ World Health Organization. A framework for implementing the set of recommendations on the marketing of foods and non-alcoholic beverages to children. Geneva; 2012.

8. Concluding remarks

The College is of the view that strengthening the Codes to restrict advertising of unhealthy foods to children is a crucial element in the multifaceted approach to tackling obesity in New Zealand. The Government has expressed the critical importance of taking action on obesity by developing New Zealand's childhood obesity plan. The benefit of the ASA's Codes is the flexibility to adapt quickly to changing societal views. Therefore, the College urges the ASA to strengthen the Codes in line with the Government's policy and the recommendations of WHO and ECHO. By making meaningful changes, ASA can show that it acknowledges the gravity of the issue and it is serious in playing its part.

It is our view that New Zealand should be moving towards a comprehensive approach to completely eliminate all forms of advertising of unhealthy food to children and adolescents. We consider that the changes discussed above would help to strengthen and clarify the restrictions on advertising unhealthy food to children and adolescents.

The advantages of regulation is that it "would provide equal protection to all children regardless of socioeconomic group and ensure equal responsibility by large, regional, multinational and small local producers and retailers."⁴¹ Thus, if following changes to the Children's Codes, self-regulation is still shown to be ineffective, then New Zealand should adopt a quasi-regulatory approach as proposed by Swinburn and Vandevijvere,⁴² where industry self-regulation is encompassed within a statutory framework of comprehensive legislation dictated by government bodies.

We hope you find our comments helpful. If you would like any further information or clarification please do not hesitate to contact the College's policy team (policy@rnzcgcp.org.nz).

Yours sincerely



Michael Thorn
Manager – Strategic Policy

⁴¹ World Health Organization. Report of the Commission on Ending Childhood Obesity. Geneva; 2016.

⁴² Swinburn B, Vandevijvere S. Getting serious about protecting New Zealand children against unhealthy food marketing. NZ Med J:2015;128(1417):37-40.