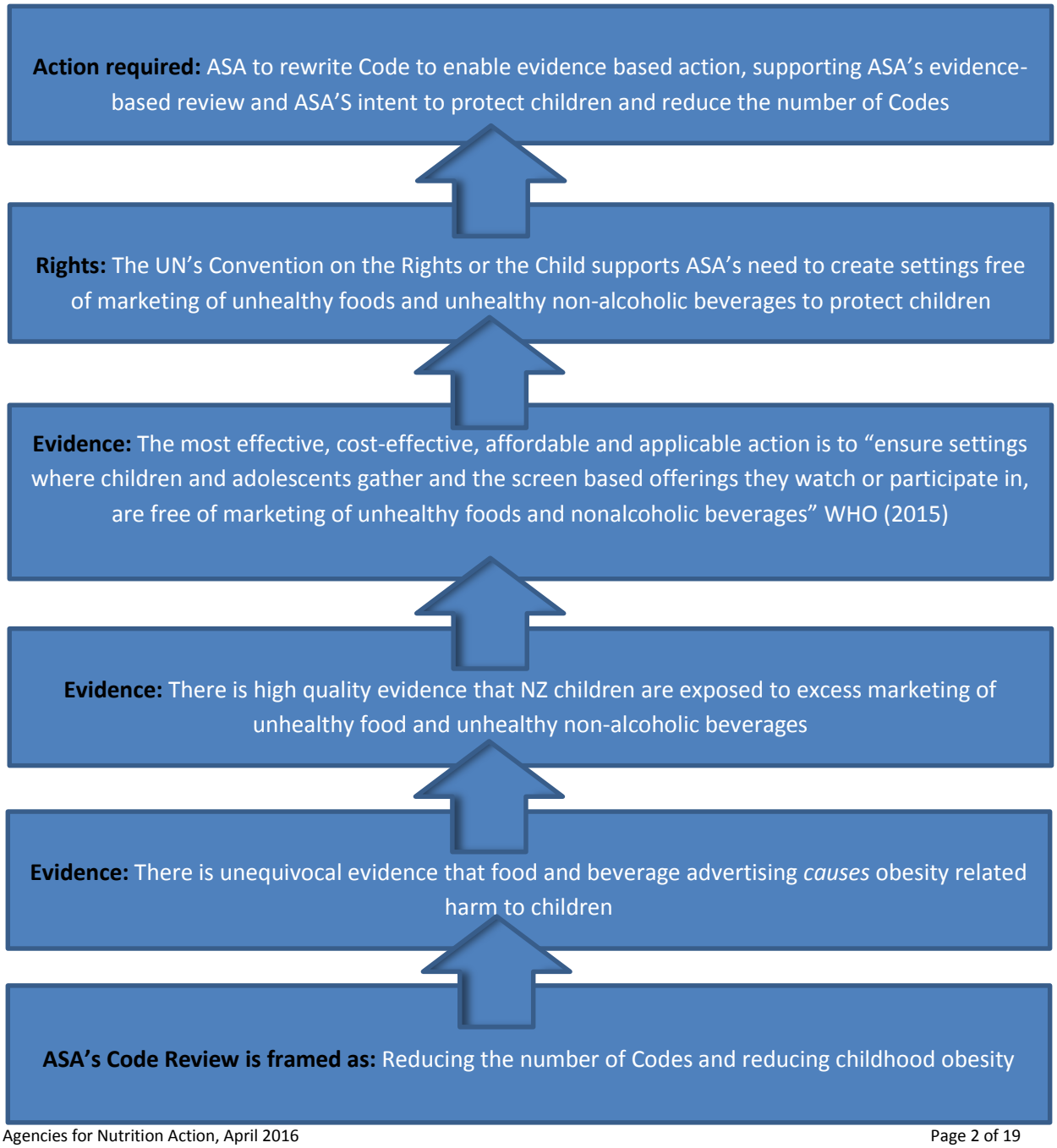
Submission: The review of the *Code of Advertising to Children* and the *Children's Code for Advertising Food*.

13 April 2016

Executive Summary

1. Agencies for Nutrition Action's (ANA) vision is for "all New Zealanders to live, work, learn and grow in environments that support healthy eating and physical activity". Agencies for Nutrition Action is an NGO with 12 member organisations (Cancer Society of New Zealand; The National Heart Foundation of New Zealand; Dietitians New Zealand; Home Economics and Technology Teachers Association of NZ; New Zealand Nutrition Foundation; New Zealand Recreation Association; The Asian Network Inc; Toi Tangata; Pacific Island Food and Nutrition Action Group; Stroke Foundation of New Zealand; Kidney Health New Zealand; and The Asthma and Respiratory Foundation NZ.
2. This document presents Agencies for Nutrition Action's submission on the review of the Code of Advertising to Children and the Children's Code for Advertising Food. The logic of our submission is captured in the following graphic (please read from the bottom to the top).



3. In support of the ASA preamble, the majority of points raised in this submission are based on evidence. Where they are not, that is signaled. Furthermore, ANA provides evidence to:
   - Support the use of ‘everyday foods’ in the Fueled for Life: Food and Beverage Classification System as the basis for identifying healthy foods that can be advertised.
   - Supports the need to identify settings/timing where children and adolescents consume media. Use of viewing data (not programming/planning data) is required.
   - Supports raising the age at which the Code applies to 18 years.

4. ANA also provides evidence that the existing complaints process requires substantial review. Finally, ANA believes the quality of the Code(s) is more important than number of Codes.

Introduction

5. The Advertising Standards Authority (ASA) is undertaking a review of the two children's advertising codes. The purpose is twofold. Firstly, the review is part of a wider process by ASA to reduce the number of codes to six (from 14).

6. Secondly, the ASA has agreed with Government to undertake their review to coincide with the Ministry of Health's *Childhood Obesity Plan*. In particular, this review is initiative nine of the Plan and is the only opportunity for affecting any change on advertising to children within that plan. The *Childhood Obesity Plan* acknowledges the importance of multiple interventions to tackling childhood obesity, thereby underlining the importance that this review has in the overall *Childhood Obesity Plan* for New Zealand. This is a bold move by the ASA and clearly signals the importance of the Codes to obesity prevention for New Zealand. ASA are to be congratulated for 'grasping the nettle' and wanting to play their part in obesity prevention in New Zealand.

7. Consequently, ASA has described how the review will consider the operation and content of the:

    a. Code for Advertising to Children (a general code) and
    b. Children's Code for Advertising Food.

8. ASA has set out 13 questions that it requests submitters consider.

9. The purpose of this submission is to present an evidence-based response to the 13 questions, of which we have answered the majority. ANA has also included an opening section covering issues not asked by ASA, but critical to ensuring the review achieves its purpose.

10. Agencies for Nutrition Action (ANA) vision is for "all New Zealanders to live, work, learn and grow in environments that support healthy eating and physical activity". Agencies for Nutrition Action is an NGO with 12 member organisations:
    - Cancer Society of New Zealand
    - The National Heart Foundation of New Zealand
    - Dietitians New Zealand
    - Home Economics and Technology Teachers Association of NZ
    - New Zealand Nutrition Foundation
    - New Zealand Recreation Association
    - The Asian Network Inc
    - Toi Tangata
    - Pacific Island Food and Nutrition Action Group
    - Stroke Foundation of New Zealand
    - Kidney Health New Zealand
    - The Asthma and Respiratory Foundation NZ.

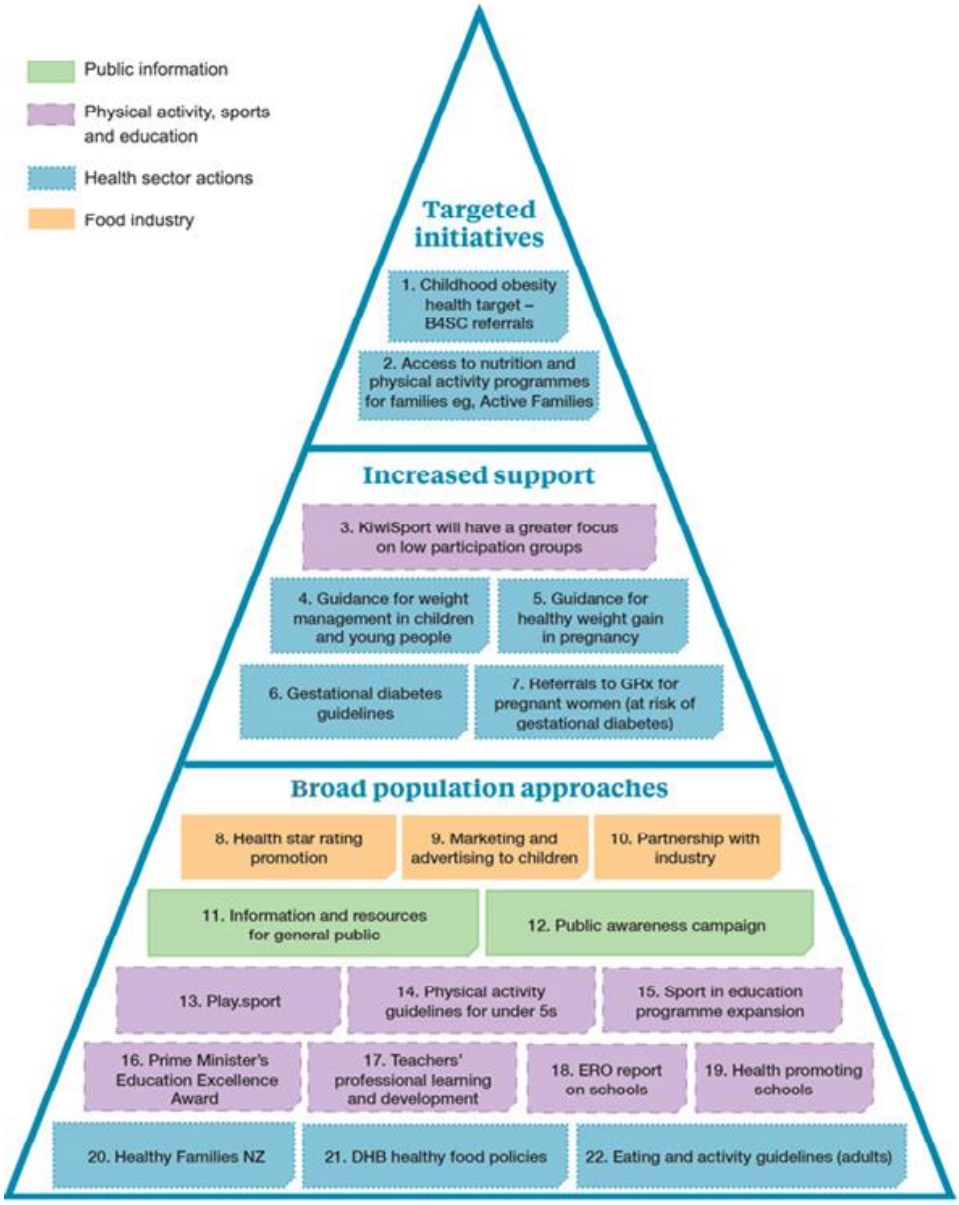
Issues of importance not covered by ASA questions.

11. The framing of the review.
    We strongly support the intent of the ASA in the framing of this review.

    As set out in ASA's consultation document (ASA, 2016) the review's frame is described as twofold:
    - to reduce the number of Code's from 14 to six
    - to coincide with the Government's Childhood Obesity Plan.

    Under the Childhood Obesity Plan there are 18 targeted initiatives, of which ASA's review of the Codes is initiative nine (see Figure 1 below).

Figure 1. The Childhood Obesity Plan (Ministry of Health, 2016)



12. What is clear from the Childhood Obesity Plan, is that there is just one opportunity to affect change regarding advertising to children – and this review is that opportunity. We congratulate the ASA for putting this review squarely into a childhood obesity frame. It allows the review panel to answer the question: Does advertising contribute to obesity? If the answer turns out to be yes, the next question is, what is the best evidence base for action? The ASA can then seek to implement those actions. Importantly, the Ministry of Health's Childhood Obesity Plan has also been developed using an evidence based approach, in particular it lists WHO (2015) as its main source of evidence. To tie into this and ASA's desire for an evidence based response, we have also drawn on the same WHO (2015) evidence base for some of our evidence, and NZ specific evidence in other situations.

13. Regarding the number of Codes, ASA describe a desire to make the complaints process more accessible, which is a laudable goal. We agree that an accessible complaints process is important and we have a separate comment on that in question 2. As to whether they are two codes or one, the issue for ANA is the quality of the code (or codes) rather than the number of codes. ANA is agreeable to there being one Code if the quality is high (i.e. the protection of children is achieved).

Does advertising contribute to childhood obesity?

14. Over the years an argument between public health/medical vs some parts of industry has occurred about whether advertising contributes to childhood obesity. However the evidence has substantially tipped in the favour of public health/medical in the last decade and particularly in the last two years. The evidence base explicitly underpinning the Childhood Obesity Plan (to which the ASA Code Review is an initiative) is the best source and it states:

    "Development of this initial [Childhood Obesity Plan] package drew on recent New Zealand and international evidence including the interim report from the World Health Organization's Commission on Ending Childhood Obesity. (Ministry of Health, 2016)"

15. The WHO (2015) report is unequivocal.

    "Obesity arises from a combination of exposure of the child to an unhealthy lifestyle (the so called obesogenic environment) and inadequate behavioural and biological responses to the obesogenic environment, which vary among individuals and which are strongly influenced by developmental or life course factors. The risk of obesity can be passed from one generation to the next – so "obesity begets obesity". This can be due to behavioural and/or biological influences."

    "None of these upstream causal factors are in the control of the child, and childhood obesity therefore should not be seen as a result of lifestyle choices by the child"

    "Given that childhood obesity is influenced by biological and contextual factors, governments must address these issues by providing public health guidance, education and establishing regulatory frameworks to address developmental and environmental risks, in order to support families' efforts to change behaviours."

    "No single intervention can halt the rise of the growing obesity epidemic."

"Obesity prevention and treatment requires a whole of government approach, in which all policies systematically take health into account, avoid harmful health impacts, and so improve population health and health equity."

"There is unequivocal evidence that the marketing of unhealthy foods and non-alcoholic beverages is related to childhood obesity. Despite the increasing number of voluntary efforts by industry, exposure to marketing of unhealthy foods remains a major issue and there is a need for change that will protect all children equally."

16. However the overwhelming majority of high quality evidence does support an association. The same is true between advertising to children and multiple negative outcomes, including childhood obesity. For example, a 2016 systematic review and meta-analysis of 22 high quality studies about the effect of advertising on cues to consume 'unhealthy food' found a 'significant effect of moderate magnitude' (Boyland et al, 2016).

17. Many other meta-analyses and/or systematic reviews have also reached the same conclusions as WHO (2015) regarding the negative effects of advertising food and drinks on children. They include:
    - Boyland E, Nolan S, Kelly B, 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. American Journal of Clinical Nutrition, 103: 519-33.
    - 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. Geneva: World Health Organization.
    - Gorton D (2011). Advertising Food to Children: Background Paper. Auckland: The National Heart Foundation of New Zealand.
    - Hastings G, Stead M, McDermott L, et al (2003). Review of research on the effects of food promotion to children – final report. Report to the Food Standards Agency. Glasgow: University of Strathclyde, Centre for Social Marketing .
    - Institute of Medicine, 2006. Food marketing to children and youth: threat or opportunity? Washington, DC: National Academies Press.
    - Kelly B, Halford J, Boyland E, et al (2010). Television food advertising to children: A global perspective. Research and Practice 100:9 pp1730
    - Lyon J (2013). Food and beverage marketing to children. An evidence snapshot. Wellington: Agencies for Nutrition Action.
    - Ofcom (2006). Television Advertising of Food and Drink Products to Children: Final Statement.
    - World Health Organization (2012). A framework for implementing the set of recommendations on the marketing of foods and non-alcoholic beverages to children. World Health Organization, Geneva.
    - Zhang G, Wu L, Lu W et al (2015). Television watching and risk of childhood obesity: a meta-analysis. European Journal of Public Health. DOI: http://dx.doi.org/10.1093/eurpub/ckv213

What level of advertising of unhealthy foods are children exposed to in New Zealand?

18. Given advertising of unhealthy foods is an '*unequivocal*' health risk for children, what can we say about the level of exposure to advertising for NZ children? A recent editorial in the NZ Medical Journal (Wilson et al, 2015) summed up the current situation.

    '*The problem of marketing of unhealthy food in New Zealand remains a long term, unresolved problem with significant consequences for health*'.

19. Wilson et al (2015) references 11 studies to evidence their conclusion. The 11 studies cover magazines, internet, sport, around schools, in schools, on front of pack of food products and TV advertising. All showed excess marketing of unhealthy food to children was occurring in New Zealand. This is not a new phenomenon. A comparison of 13 countries in 1999 showed that New Zealand had the third-highest rate of food advertising, the highest-rate of confectionery and drink advertising and the second-highest rate of restaurant advertising (including fast food restaurants) (Hammond et al, 1999). In 2005, children in New Zealand who watched TV for two hours each day would see 7,134 advertisements for food in the year (Wilson et al, 2006). This figure excludes advertisements from non-TV sources.

20. Public health/medical advocates have long argued that such results show the current Codes are ineffective for protecting the health of New Zealand children. The ASA's review of the Code, with the central function to protect child health, is therefore a welcome step on the journey to preventing childhood obesity.

But what to do?

21. So there is high quality evidence showing advertising is associated with childhood obesity, and high quality evidence that New Zealand children are exposed to excess advertising of unhealthy foods across multiple media. But is there high quality evidence about what to do?

22. The WHO (2015) report also describes evidence based policy directions that are known to be effective. The policy directions in the report

    "*have been developed following the review of feedback from the consultations, the scientific evidence and an analysis of the effectiveness, cost-effectiveness, affordability and applicability of potential policies and interventions*".

23. Such an evidence based approach (for action) matches directly with ASA's call for evidence based action. WHO (2015) consequently recommend:

    "Reduce the exposure of children and adolescents to, and the power of, the marketing of unhealthy foods, such as sugar-sweetened non-alcoholic beverages and energy-dense, nutrient-poor foods by:

    i. implementing the Set of Recommendations on the Marketing of Foods and Non-alcoholic Beverages to Children;

    ii. developing clear definitions of age categories and types of marketing, to facilitate uniform implementation;

iii. ensuring settings where children and adolescents gather and the screen based offerings they watch or participate in, are free of marketing of unhealthy foods and nonalcoholic beverages;

iv. developing nutrient profiles to help Member States to identify unhealthy foods and nonalcoholic beverages;

v. cooperating with other Member States to reduce the impact of cross border marketing of unhealthy foods and nonalcoholic beverages; and

vi. developing and implementing monitoring and compliance mechanisms, with clearly defined sanctions."

24. The WHO's evidence base on appropriate action is borne out of similar attempts to stimulate action, all based on strong evidence. Examples include:
    - WHO (2013). Global action plan for the prevention and control of non-communicable diseases 2013-2020. Geneva: WHO
    - WHO (2013). NCD global monitoring framework. Geneva: WHO
    - NZ Medical Association (2014). NZMA Policy Briefing: Tackling obesity. Wellington: NZMA.

25. Regarding what to do, there is also agreement between public health and medical experts that regulating the marketing of unhealthy food to children is a top priority (NZ Medical Association Policy Briefing, 2014; Swinburn et al, 2014; Swinburn et al, 2013).

The direction for ASA

26. So there is evidence that advertising affects childhood obesity; there is evidence about the most effective approaches to address the harm caused by advertising and such approaches are considered a top priority for effective action. Moreover ASA wish to take an evidence based approach.

27. Therefore the actions required are clearly evidenced above. To achieve the purpose of the review, the central function of the new Code needs to enable "*settings where children and adolescents gather and the screen based offerings they watch or participate in are free of marketing of unhealthy foods and nonalcoholic beverages*".

Hold on. Don't '*children have the right to receive all kinds of information, including advertisements?*'

28. This statement is in the opening paragraphs of the consultation document (ASA, 2016). The consultation document quotes the United Nation's Convention on the Rights of the Child (United Nations, 1990), Article 13, saying "*This right shall include the freedom to seek, receive and impart information and ideas of all kinds.*" However this is not actually the full sentence from the United Nations, and nor does the quote contain Article 13 in full, which is below:

*"**Article 13.***

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
(a) For respect of the rights or reputations of others; or
(b) For the protection of national security or of public order or of public health or morals."

29. The Article expressly says this right '*may be subject to certain restrictions*' and of the small number of reasons to restrict this right, '*public health*' is one.

30. *Article 17 of the Convention "Parties* recognise the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health***".*** *It goes on to say:*

"To this end parties shall encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18."

31. Article 24 states "*Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.*" While *Article 36* states "*Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.*" Both articles further support the goal of ASA to protect children from childhood obesity, rather than exposing the child to advertising of unhealthy foods.

32. Article 3 is explicit:

"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.****"*

"Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures."

33. The advice of the UN Committee on the Rights of the Child consistently highlights the interconnectedness of the articles and emphasises the importance of considering them as a whole (Hodgkin and Newell 2002). The overarching purpose of the Convention is to protect children. Therefore quoting a part of a single line in support of an action (advertising) for which there is *'unequivocal'* evidence of harm to children is in direct opposition to the Convention. ASA puts forward no other argument for the need for advertising, and given this is an evidence based review by the ASA, we submit that the Convention also supports advertising can be restricted for public health reasons and for the protection of the child.

34. In summary, it is ANA's opinion that advertising is not a 'right' for a child to receive, and as such gives the ASA the freedom it needs to enable effective actions to achieve the purposes of the ASA's review of the Codes. Furthermore, the Convention supports the ASA's review purpose to protect children and opens the way for effective action by the ASA.

OK, but doesn't that mean there'll be no adverts for unhealthy foods at all, anywhere?

35. No, a secondary role of the ASA will be to determine '*settings where children and adolescents gather and the screen based offerings they watch or participate in.*' These are the only situations that will require restrictions on adverts for healthy foods. All other settings can be assumed to be occupied by adults. For example, the ASA will likely need to determine the hours children do not watch TV, using TV viewing data. We note the previous 'children's TV viewing hours' were problematic as they coincided with programming sessions rather than actual viewing data (Thornley et al, 2010). Another example is that certain print material and websites have a predominantly adult readership. Determining appropriate cut-off points across the media channels will be important to uphold the principles of the review.

Responses to specific questions Raised by ASA

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

36. At present, the evidence shows the Code does not protect children from a known harm. The only evidence based action available is to create settings which are free of marketing of unhealthy foods and nonalcoholic beverages for children. The Code needs to create a mechanism to achieve that.

37. Both codes state "advertisements should be clearly recognisable as such by children". However, children are more susceptible to marketing messages than adults, therefore it is likely younger children, in particular, will be less aware of the persuasive nature of the advertisements and less likely to define what they are viewing as an advertisement per se.

38. There is no comment on timing in the code. I.e. when are the times children are engaging with various media and the consequent advertising in that media. The Television Advertising Code does not acknowledge that many children watch television during regular viewing hours, as opposed to programmed children's time.

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

39. The issues with the past complaints process are retrospective. If anything, a new complaints process will be required to deal with the new reality of 'free from marketing' of unhealthy foods and nonalcoholic beverages to children.

40. Regardless, the evidence shows substantial changes to the current process is required. This is based on two studies which reviewed ASA complaints and decisions (Thornley et al, 2010; Bowers et al, 2012):

    "Implementation of the codes includes partial, unjustified and inconsistent decision making by the complaints board; failure to implement changes to codes; and failure to prevent unhealthy food advertisements being developed and aired. The ASA system is found to be reactive, to have limited sanctions, to provide little incentive for restraint by advertisers, and to lack independent monitoring. This analysis suggests the New Zealand advertising standards system does not protect the rights of children by failing to enact the spirit of UNCROC and specifically by not adequately addressing Articles 3, 6 and 13." (Thornley et al, 2010)

41. The identified particular issues in the complaints process include:
    - Failure to implement the code
    - Failure to acknowledge targeting of children to 'pester' parents
    - Failure to prevent unhealthy food advertisements being shown
    - Increased screening out of complaints by the Chair.

42. The study by Bowers et al (2012) was carried out after the 2009 revision of the ASA Codes and stated:

    "The current industry self-regulatory advertising system, despite some minor improvements to the ASA codes, still fails to adequately protect children from exposure to the unhealthy food marketing. It therefore fails to adequately protect children's right to health as stipulated by UNCROC. Although there are a number of improvements that could be made to the current ASA codes, such as the inclusion of restrictions on the advertising of unhealthy foods when children are watching television (i.e. until 8.30pm at the very least) this does not solve the

other problems related to the partial, unjustified and inconsistent decision making characteristics of the current complaints system."

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

43. The evidence based action available to the ASA is to create settings which are free of marketing of unhealthy foods and nonalcoholic beverages for children. The Code needs to create a mechanism to achieve this. It is recommended that guidelines be developed by the Government and then enforced by both the Government and industry using a co-regulation model.

44. Incorporated into the guidelines should be a pre-vetting system outlining the specific type(s) of food(s) to be advertised, specific media channels and, if relevant, the time of day to which the advertisement will be viewed. The pre-vetting process should be conducted independently of the industry or industry associations (unlike existing pre-vetting schemes for therapeutic advertising and liquor advertising undertaken by the (non-independent) industry body – Association of New Zealand Advertisers).

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).

45. Given the framing of the review, the weight the ASA has given to the Child Obesity Plan and the Plan's reliance on the WHO evidence base, it seems sensible to adopt the WHO definition for marketing (note, not advertising, which is important):

    "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, 2012)

46. Generally, the included list in the submission (p13/14) is quite comprehensive. The only obvious exclusion that should be added is promotional giveaways e.g. player of the day award by McDonalds at children's sports; Red Bull at Wellington's Round the Bays run. Sometimes promotions are not 'sanctioned' by the event promoter e.g. the Round the Bays event organisers did not know Red Bull were giving away free product including to children; whereas in the McDonalds situation the promotion is sanctioned by the organisation.

47. Given the previous evidence related to where New Zealand children are exposed to marketing and advertising (magazines, internet, sport, around schools, in schools, on front of pack of food products and TV advertising), substantial effort is required across multiple media to protect children.

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.

No comment.

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.

No comment

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

48. We oppose the definition of a child being under the age of 14 years. We recommend below the age of 18 years as the age to which *child* should be defined.

49. As previously quoted by ASA, the United Nation's Convention of Rights of the Child states:
"For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier."

50. This is in alignment with relevant international guidelines and will help to protect older children who are the subject of targeted advertising focused on foods high in fat, sugar and salt (see earlier section in this submission: *What level of advertising of unhealthy foods are children exposed to in New Zealand?*)

51. In New Zealand there is no particular age at which a person is deemed to be a child, young person or adult. For example, at 16 years, a person may leave school and have sexual intercourse, but they cannot marry without parental consent. At 17 years, people under state guardianship are no longer deemed wards of the state. At 18 years or older, people are able to vote and to purchase alcohol. People are still deemed dependent on parental financial support up until the age of 25 years. Government draws on a wide range of age-based statistical data and definitions, and no particular age category represents children. None of these ages match the existing ASA definition of less than 14 years.

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?

52. Yes there is a role for nutrient profiling system because a definition is required for *'unhealthy foods and nonalcoholic beverages'*.

53. ANA supports 'everyday foods' within the Fueled for Life: Food and Beverage Classification System, itself based on the Ministry of Health's Food and Nutrition Guidelines. Note we do not recommend 'sometimes foods' be allowed to be advertised in a Code that protects the health and wellbeing of children. In support of this system:
    - Unlike the health star rating system, the Food and Beverage Classification System is specifically designed for the age range of this review - children and young people.
    - Being based on the Ministry of Health's guidelines (and commissioned by the Ministry of Health), this classification system further supports the link to multiple initiatives within the Childhood Obesity Plan.

- Importantly, the Food and Beverage Classification System provides a clear distinction on what foods are healthy, or not. The food is either an everyday food or it is not. This is unlike the health star rating system which simply gives a rating, not a cutoff, and the Children's Food Classification System which is based on 'professional judgement'.
- The Food and Beverage Classification System criteria is owned by the Ministry of Health and the system is currently being contracted to the National Heart Foundation of New Zealand. The Foundation has the necessary skills to manage the use of the system for such a broader purpose within the Code.
- It may also present an opportunity for the National Heart Foundation to perform an aspect of the independent monitoring and surveillance which is also needed, especially given their independence.

54. While the Health Star Rating (HSR) system is one such nutrient profiling tool, it has several limitations. These are:

    - The HSR system is designed for profiling packaged foods – it is not intended to be used for unpackaged fresh, fast or restaurant foods.
    - There are various anomalies associated with the HSR system. For example, a breakfast cereal with 27 per cent sugar can receive four stars. This reflects the fact that the health star rating system relies on an algorithm that does not deal well with packaged foods that have a single unhealthy nutrient (such as a product high in sugar, but with low fat, OK salt and OK fibre). Eighteen percent of all packaged foods with the health star rating have a rating that exceeds what might be expected (FSANZ, 2016).
    - The HSR is a continuous scoring system. There is no agreement regarding what score could be used to define a food as 'healthy' and such a decision would be contentious.

55. The existing Children's Food Classification System (ThinkTV, undated) which is currently used to guide whether an advert can be played in children's television hours is a particularly poor classification system and should not be relied upon in any situation. Please note that the name of this system is confusingly similar to the Fueled for Life: Food and Beverage Classification System which ANA is recommending (above). However, the existing ThinkTV system allows 'sometimes foods' to be advertised. 'Sometimes foods' may be 'occasional foods' (the worst rating possible) but in smaller packaging/serving sizes. As such the blanket inclusion of 'sometimes foods' provides little protection to children from advertising of unhealthy foods. Secondly, if a food proposed to be advertised is an occasional food (the worst rating), and is also deemed 'unhealthy' by the FSANZ Nutrient Profiling Model, the ThinkTV system still does not say the food cannot be advertised. Instead it reverts to '*use professional judgement*' to determine whether or not the food/beverage can/cannot be advertised in school-aged children's programming times. We do not consider this a robust system.

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

56. Yes ANA supports a specific guideline on sponsorship. Evidence shows substantial exposure of NZ Children to unhealthy foods and unhealthy non-alcoholic beverages via sponsorship (Carter et al, 2013; Maher et al, 2006; Carter, 2013).

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

57. Yes, the WHO report (2015) is clear that an evidence based response is required, as is the ASA. Consequently, WHO recommend:

    vi. developing and implementing monitoring and compliance mechanisms, with clearly defined sanctions."

58. Studies of the ASA complaints process and studies of ASA's past ability to protect children from advertising of unhealthy foods have shown substantial issues, particularly of inconsistent decision making by the Advertising Standards Complaint Board (Bowers et al, 2012). To maintain faith in the altered system (which ensures settings are free of unhealthy marketing to children), independent monitoring and evaluation is required.

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

59. Unlike other comments made through this review, there is little empirical research to answer this question. The only evidence based research that considers this point is by Thornley et al (2010) who gave this single example from an ASA complaint process:

    "In this case, the Bluebird company withdrew the advertisement voluntarily following several complaints submitted to the ASA. However, it is likely that the advertisement was nearing the end of its media schedule as it had already been shown for six weeks, and the schoolyear was almost over so the school lunch message was no longer as relevant. There was no correctional advertising undertaken."

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

60. Yes, the evidence is clear that all '*settings where children and adolescents gather and the screen based offerings they watch or participate in*' are inappropriate for advertising unhealthy foods and unhealthy non-alcoholic beverages. As described in the section describing the exposure of advertising to New Zealand children, there are 11 studies which provide evidence on magazines, internet, sport, around schools, in schools, on front of pack of food products and TV advertising. All showed excess marketing of unhealthy food to children was occurring in New Zealand. Just taking two settings as examples:
    - Sports and sponsorship of unhealthy food is an area of particular concern regarding placement of advertisements that are seen by children, particularly given the evidence from (Carter et al, 2013; Maher et al, 2006; and Carter, 2013).

    - Maher et al (2005) provides scientific evidence regarding advertising around secondary schools in New Zealand for unhealthy foods. The authors of this review hold similar fears for at/near early childhood and primary school facilities, though no empirical evidence has been gathered on these other two settings.

61. Furthermore, with the existing Code there appears to be little understanding by the public that advertising where children congregate is covered by the existing code. For example, McDonald sponsored basketball hoops in a school playground; Jaffa

advertising prior to a children's movie; billboards near schools, dairy signage near schools, etc.

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

62. ASA has framed the review as protecting child health and as reducing the number of codes. The authors of this submission agree that quality (protecting child health) and quantity (reducing the number of codes) are not mutually exclusive. What is important to this submitter is the quality of the codes(s) in protecting child health, and if that is achieved then fewer codes is also supported.

References

Advertising Standards Authority (2016). Consultation on the review of the code for advertising to children and the children's code for advertising food. Wellington: ASA.

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