

**SUBMISSION ON THE CODE FOR ADVERTISING TO CHILDREN AND THE  
CHILDREN'S CODE FOR ADVERTISING FOOD**

**To: Codes Review Panel**

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PAN Otāgo does not wish to be heard with regard to this submission.

**OIA:** We do not object to the release of any information from our submission

Thank you for the opportunity to make a submission on the Code for Advertising to Children and the Children's Code for Advertising Food. This submission is presented on behalf of Physical Activity and Nutrition (PAN) Otāgo.

PAN Otāgo is a network of people working within nutrition and physical activity health promotion in the Dunedin area. Members of PAN Otāgo work together to create supportive environments that enable our community to lead healthier lives. The PAN Otago network comprises representatives from various organisations including, but not limited to Public Health South, WellSouth, the Cancer Society and Heart Foundation.

We have structured this submission around the questions from the Panel in the consultation document, although we have not answered every question.

**Background**

Childhood obesity has become a growing problem in all countries. The estimated number of overweight and obese children recorded in 2010 was 43 million<sup>10</sup>. This number has been steadily increasing since 2010, and by 2020, the number of obese children is projected to reach 60 million worldwide<sup>10</sup>. One in nine children in New Zealand are obese with Māori and Pacific children over-represented in the statistics; obesity-related health problem place a huge burden on our health system<sup>14</sup>. PAN Otago commends the ASA for reviewing these codes as children's exposure to advertising, marketing and sponsorship of unhealthy food and beverages is linked to an increased childhood obesity rate<sup>22</sup>.

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

The current codes are inadequate to protect children from advertising and marketing of unhealthy food and beverages despite wide coverage of advertising media in the current Codes. We regard the points below as some of the weaknesses:

- The Code does not include 'free from marketing' viewing times, when children are likely to be engaging with various media types.
- The current Codes apply to children aged 14 years or younger, with only a 'duty of care' for food advertisements directed at those older than 14 years, and do not protect impressionable youth aged 14 – 17 years old.
- Sponsorship is not considered in either code.
- Newly emerging media, electronic and online such as Facebook and games are not considered by either Code.
- Advertising within children's environments should be considered in the Codes and not just advertising to children.

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

The current complaints process has some weaknesses that undermine the Codes' aim to maintain a high standard of social responsibility in advertisements<sup>1</sup>. Therefore it fails to protect children from unhealthy food and beverage advertising and marketing. Evidence shows that the current complaints process:

- Demonstrated inconsistent decision making and lack of Code application<sup>2</sup>
- Is time consuming and the public find it hard to navigate. By the time the Panel upholds complaints, the advertisements may have completed their advertising cycle<sup>15 20</sup>.
- Is reactive and does little to prevent unhealthy food advertisements being developed<sup>15 20</sup>.
- Does not impose a penalty on companies that developed unhealthy food advertisements<sup>20</sup>.

We recommend a new complaints system that requires shorter processing time (measured as the timeframe between when a complaint was laid and the outcome of the complaint) for the new 'free from marketing' children's food advertising code.

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

- Introduction of evidence-based settings for children that are free from marketing<sup>6</sup>.
- Introduction of prohibition on unhealthy food and beverages marketing and advertisements up to at least 8.30pm<sup>2</sup>.
- Incorporation of the Food and Beverage Classification System initially developed by the Ministry of Health and now managed by the Heart Foundation to determine unhealthy food and beverages<sup>13</sup>
- The Codes need to specify that only those foods and beverages in the 'everyday foods' category are allowed to be advertised and marketed to children. This includes children's environments or children's event sponsorships.
- Development of an independent panel to screen and classify proposed advertising and marketing of food and beverages<sup>2</sup>.
- Establish a complaint process that is completely independent and user friendly, with penalties against those found in breach of the Codes<sup>2</sup>.
- Require advertisements for children to be vetted before screening otherwise it leaves the onus of responsibility on the public. A timely mechanism to ensure that advertisements that are subject to a genuine complaint are removed while the Advertising Standards Complaint Board (ASCB) is processing the complaint.

***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 should apply to all advertising and marketing of food and beverages on all media channels including social media and sponsorships involving settings and environments frequented by children and young adults such as events, in and around schools, sports grounds etc<sup>7 8</sup>. These settings and various social media platforms, including downloadable electronic games need to be considered in the Code to reduce exposure of unhealthy food and beverages marketing to Children.

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

We do not support the definition of a child in the Children's Codes. The United Nation Convention of Rights of the Children (UNCROC) defines that a child is anyone below the age of eighteen years<sup>21</sup>. We recommend extending the age in the Children's Codes' definition of a child from under fourteen to under eighteen as this would align New

Zealand with international efforts<sup>19</sup>. In addition, youth aged 14 to 17 are highly impressionable, look to role models and are exposed to significant levels of food and beverage advertising that influences their choices<sup>5 18</sup>.

***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?***

Yes. We suggest the use of the Food and Beverage Classification System<sup>13</sup> as the nutrient profiling system. We support the use of this system to classify food and beverages for several reasons:

- This system is based on the New Zealand Ministry of Health Food and Nutrition Guidelines and it is tailored to the age range of children and young adolescents in this review.
- This system provides a clear distinction between healthy and unhealthy foods.
- This system supports links between initiatives within the Childhood Obesity Plan.

To effectively protect children from unhealthy food and beverages advertising, the Codes need to specify that only those foods and beverages in the 'everyday foods' category are allowed to be advertised and marketed to children. This includes children's environments or children's event sponsorships.

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

We support the establishment of a specific guideline on sponsorship because evidence shows that children are exposed to a substantial level of unhealthy food and beverages advertising and marketing through sports and event sponsorship<sup>17</sup>. For example: New Zealand Junior Football illustrated in figure 1.

Promotional giveaway (figure 2) from these events not only affects the child participated, it may have spillover effect on their family members.

Figure 1. Example of sponsorship by unhealthy foods and beverages in children's environment



Source: <http://www.nzfootball.co.nz/mcdonalds-junior-football/>



Figure 2. Example of promotional giveaway from McDonalds

In contrast, sports clubs and sports tournaments can be and should be free from unhealthy food and beverages sponsorship.

We acknowledge the importance of income in the form of sponsorship from food companies to sports clubs and events<sup>7</sup>. However, protecting children from exposure to unhealthy food and beverages advertising should be our top priority. Adding to that, sponsorship sometimes involves famous role models such as athletes to promote

unhealthy food and beverages<sup>5</sup>. By introducing a guideline on sponsorship, we can limit the exposure of unhealthy food and beverages to children at events and sport venues. This is achievable using the same model used to substitute tobacco sponsorship in sport in the 1990's.

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

We favour the introduction of completely independent, evidence-based monitoring and evaluation of the compliance of the Codes. The current self-regulatory system is ineffective in protecting children from exposure to unhealthy food and beverages advertising, marketing and sponsorship<sup>2</sup>.

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

The sanctions under the current complaints system (which involves only withdrawal of advertisements by the ASA) does not prevent future development of advertisements that breach the Codes as the sanctions have no real penalty to the party who is found to be in breach of the Codes<sup>2</sup>. Therefore, we recommend the new Codes rectify this problem with sanctions that would dissuade advertisers and marketers to breach the Codes.

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

Yes. As mentioned in question four, we consider advertising, marketing and presence of sponsorship involving unhealthy food and beverages in children's environments are proven to influence children's diet<sup>9</sup>. Hence, all settings and environments frequented by children or mediums which they have access to, should not contain unhealthy food and beverages food advertisements. These include:

- Internet <sup>4</sup>
- Sports venues/settings<sup>7 8</sup>
- In and around schools<sup>16</sup>
- Magazines aimed at children and young people <sup>18</sup>
- TV<sup>3 4</sup>
- Games<sup>12</sup>

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

We do not support nor oppose combining the two current codes because our interest lies in the quality of any Codes for advertising to children. The number of Codes is of

little importance compared with the quality that provides protection to children from advertising, marketing or sponsorship.

## **Conclusion:**

PAN Otāgo recommends the following changes to the Codes:

- Children's environments need to be free from advertising, marketing and sponsorship of unhealthy foods and beverages.
- A completely independent system that monitors and evaluates compliance with and complaints against these Codes to be introduced.
- The age of a child is raised to 18 years, to protect youth between 14 - 17 years old from advertising, marketing and promotion of unhealthy foods and beverages.
- The Food and Beverage Classification System rates foods and beverages that are to be advertised.
- Places children visit regularly are free from advertising, marketing, and sponsorship of unhealthy food and beverages.

Raymond Siew  
On behalf of PAN Otāgo

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