

# **Code for Advertising to Children and Children's Code for Advertising Food**

**A submission to the Advertising Standard Authority's  
Codes Review Panel**

**From**

**McDonald's Restaurants (New Zealand) Limited**



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## **1.0 Introduction**

- 1.1 This submission from McDonald's Restaurants (New Zealand) Limited (McDonald's) was prepared in response to the Advertising Standards Authority (ASA) Codes Review Panel's invitation for submissions on the Code for Advertising to Children and the Children's Code for Advertising Food. Should the Review Panel decide to hear oral submissions, McDonald's would welcome an opportunity to appear before it to speak to this submission and to answer any questions panel members may have.
- 1.2 We noted the questions posed by the Review Panel and, while we have not directly addressed each question, we have endeavoured to cover the matters prompted by the questions in the body of our submission.

## **2.0 Executive Summary**

- 2.1 The current codes and the processes supporting them work in the best interests of the public, advertisers and the Advertising Standards Complaints Board charged with adjudicating complaints.
- 2.2 McDonald's operates in more than 100 countries around the world. Almost all of those countries have some form of advertising standards and codes of practice administered by regulatory or self-regulatory bodies. Our experience leads us to believe self-regulation is an efficient and cost-effective approach to the maintenance of ethical standards in advertising in the public interest and the protection of consumers.
- 2.3 The codes underpin McDonald's own commitment to high ethical standards in advertising which goes beyond the requirements of the codes.
- 2.4 We support the definition of a child being under the age of 14 years.
- 2.5 We do not believe the two codes should be combined for two reasons. First, it is difficult to see how combining the codes would improve their individual effectiveness. Second, the combination may dilute the importance of a specific code on advertising food to children at a time when the Government, the public health sector and the food and beverage sector are working on strategies to counter obesity in New Zealand's children.
- 2.6 We propose two definitional improvements to the current codes which we consider will add clarification, assisting the public, advertisers, and adjudicators alike with their interpretation of the code. They are:
  - Defining advertising in the wider context of being one element in the marketing mix. As sponsorship would not be embraced in a sharper definition, it would not be included in the advertising codes.

- Moving to a more objective definition of food types. We suggest the Review Panel considers a nutritional profiling approach like the High Fat, Salt, Sugar system advised by the UK's Committee of Advertising Practice. This would underscore the point that quick service restaurants, like McDonald's are not a food type, and offer a range of food and beverage choices.

### **3.0 About McDonald's**

- 3.1 McDonald's is a fully owned subsidiary of the international quick service restaurant company, McDonald's Corporation. In New Zealand, quick service restaurants make up around 20 percent of the country's informal eating out occasions market.
- 3.2 McDonald's is New Zealand's most recognised family restaurant brand with 164 restaurants nationwide.
- 3.3 McDonald's has been part of the New Zealand community for 40 years. Our first restaurant opened in Porirua in 1976. More than 80 percent of our restaurants are franchised – owned and operated by local business people.
- 3.4 We serve around 1.5 million customers every week and we employ more than 9,000 staff. Statistically, out of the more than 90 meals a person eats every month, between one and two meals come from McDonald's.

### **4.0 McDonald's and advertising standards**

- 4.1 The McDonald's Corporation operates 36,000 restaurants in more than 100 countries. Almost all of those countries have advertising standards and codes of practices administered by regulatory or self-regulatory bodies. Our global experience leads us to believe that self-regulation is an efficient and cost effective approach to the maintenance of ethical advertising standards in the public interest and for the protection of consumers.
- 4.2 In fact the codes serve to underpin our own commitment to the maintenance of high ethical standards in advertising which goes beyond the requirements of advertising codes of practice. For example, we have our own global guidelines for children's marketing based in seven important pledges. They are:
  - The food we promote to children will fit within a child's nutritional needs and will include a fruit, vegetable and/or low/reduced fat dairy items, where available.

- We will feature water, milk, and juice as beverages for children. We will not advertise soft drinks to children or feature them on our Happy Meal menu boards.
- Marketing communications to children will deliver a fun nutrition or children's well-being message.
- In addition to promoting the fun of the brand, we will use licensed characters, Happy Meal characters, and packaging to generate excitement for fruit, vegetables, low/reduced-fat dairy and water options for children.
- We will not engage in communications related to our food and beverage menu items in schools with children, except where specifically requested by or agreed with the school for educational or charitable fundraising purposes.
- We will provide nutrition information about our food to help parents and families make informed food choices.
- We will engage the support of informed third parties to help guide efforts for children and families.

4.3 In New Zealand, McDonald's has an internal policy of not screening any of its food television commercials in the times the New Zealand Television broadcasters' Council formally identifies as children's viewing time.

4.4 The Panel has asked for our views on the age definition for a child. McDonald's is a member of the International Food and Beverage Alliance (IFBA) – a worldwide organisation of major food and non-alcoholic beverage manufacturers voluntarily committed to supporting the World Health Organisation's Global Strategy on Diet, Physical Activity and Health. The IFBA pledge defines a child as being under the age of 12. Our global guidelines must reflect the standards applying in individual countries. Thus, in New Zealand, our global guidelines apply to children under the age of 14. We note this definition is in line with the Children, Young Persons and their Families Act 1989 and the Codes of the Broadcasting Standards Authority. We see no compelling reasons for change.

4.5 Globally, McDonald's is partnering with the Alliance for a Healthier Generation (AHG). AHG was founded by the Clinton Foundation to increase people's access to fruit and vegetables and help families and children to make informed food choices in keeping with balanced lifestyles as a key step in the fight against obesity.

- 4.6 Our commitment to high ethical standards in advertising food to children is not simply reflected in words and membership of international bodies. It is reflected in the way we act in a practical sense, as the following example demonstrates.
- 4.7 Beyond the internal policy of not screening food advertising during children's viewing times, McDonald's has led the advertising industry in its approach to responsible digital advertising. Following an ASA complaint (not upheld), McDonald's noted that the use of a parent's digital device by a child could mean McDonald's advertising was seen by the child. We deemed it unacceptable that for instance a child could see a Big Mac advertisement, while watching children's content on Youtube. Working with our media agency we believe our solution offers a benchmark for New Zealand advertisers in digital advertising. This decision was not made under regulatory threat, but because we believe it is the responsible thing to do under a self-regulatory system. It also reflects the ability for advertisers to evolve their approach over time with changing media consumption habits, without the need for onerous regulation.
- 4.8 We have highlighted our own commitment to the maintenance of high standards in advertising to demonstrate how a self-regulatory advertising regime can encourage advertisers to go beyond the minimum in the interests of parents and their children and the wider community which is so important to the future of all advertisers.
- 4.9 McDonald's New Zealand also has rigorous internal sign off process for all marketing collateral, including advertising. All collateral is required to be approved by a cross functional group including our general counsel, quality assurance, operations, communications and marketing leads.

## **5.0 The current Codes**

- 5.1 It is not axiomatic that change to the status quo must follow a review. In fact, a review may confirm the status quo works well. We believe, by and large, the current codes for advertising to children and advertising food to children serve the public well.
- 5.2 The ASA's statistics confirm that complaints under the two Codes specific to children are low when compared with the other Codes. This suggests the current Codes reflect the community's views on advertising to children, while providing clear guidance to advertisers on the standards expected of them.
- 5.3 We consider the codes' principles are sound and clearly expressed for the benefit of the public, advertisers and members of the Advertising Standards Complaints Board charged with the resolution of formal complaints. The complaints process is

rigorous, fair on all parties, complaints resolution is prompt and judgements are consistent.

5.4 The Panel has asked for our view on whether the two codes should be combined. We do not believe such a move is either necessary or desirable. It is unnecessary because it is difficult to see how combining the two Codes would improve their individual effectiveness. It is undesirable because combining the two codes may dilute the importance of a specific Code on the advertising of food to children at a time when the Government, the public health sector and the food and beverage sector are working on strategies to counter obesity in New Zealand's children.

5.5 While the current codes serve the public well, we believe some definitional sharpening may assist the public, advertisers and adjudicators alike. In particular, we refer to the definition of advertising and the need for an empirical definition of food types in the children's code on food advertising.

#### The definition of advertising

5.6 On the surface, the definition of "advertisement" applied in interpreting the codes appears adequate but it does not describe advertising in the context of the wider marketing discipline. That is, advertising is a distinct and identifiable part of marketing – a mix of activities (including advertising) designed to bring buyers and sellers together in the marketplace.

5.7 This amendment would answer one of the questions posed by the panel: do you support or oppose a specific guideline on sponsorship? Sponsorship may be part of the marketing mix, but it is not, by definition, advertising. We suggest sponsorship has no place in a self-regulatory framework for advertising.

5.8 We are aware some public health advocates would like to see sponsorship included in the codes because they fail to understand the difference between the brand (e.g. McDonald's Golden Arches) and a product (e.g. a Big Mac). Generally, sponsorship is used to build brand awareness, to foster a relationship between people and the organisation. Advertising sells products, services or concepts. Because of the vulnerability, innocence and susceptibility of children, it is appropriate that there are controls governing the advertising of products like food. However, brands in the food industry should not be singled out for particular attention for building relationships through sponsorship designed to raise brand awareness. It is a business activity well used by other sectors – banking and automotive for example – and the commercial environment should be a level playing field.

5.9 We acknowledge particular legislative restrictions preventing tobacco and alcohol companies from undertaking sponsorship activities. In specific instances, the Government through legislation will regulate in what it sees to be the public interest.

That is any government's prerogative, but such measures have no place in a self-regulatory standards regime.

#### The definition of food types

- 5.10 The Review Panel has asked whether there is a role for a nutrient profiling system, such as the health star rating system, in the Children's Codes.
- 5.11 We believe there can be a case made for more objective descriptions of particular food types within a meal which, of course, will contain a number of food types. The children's food code refers to treat food, snacks or fast food. The only definition is the one for "treat foods" which is defined as "food high in fat, salt or sugar intended for occasional consumption. Food high in fat, salt or sugar is also known as energy dense and nutrient poor food." A Ministry of Health background paper is suggested as a guideline as to what might fall into the treat foods, snacks or fast food categories.
- 5.12 The first and most obvious point is that quick service restaurants, like McDonalds, offer a wide range of food and beverages. Within any McDonald's meal there are a number of food types ranging from those that meet nutritional guidelines as healthier choices, through to those that are HFSS. In the code, all these food items are bundled together under the pejorative "fast food" label. McDonald's is not a food type, it is a brand. The use of the term fast food interchangeably with treat food and junk food is both inaccurate and unfair.
- 5.12 We draw the Review Panel's attention to the advice of the UK's Committee of Advertising Practice. The Committee writes and administers the UK's advertising codes on behalf of the Advertising Standards Authority. In its code governing food and soft drink product advertising to children, the code refers only to "HFSS products" and defines them as follows:
- "...those food or drink products that are assessed as High in Fat, Salt or Sugar in accordance with the nutrient profiling scheme published by the Food Standards Agency (FSA) on 6 December 2005. Information on the nutrient profiling scheme is now available on the Department of Health website at <http://www.gov.uk/government/publications/the-nutrient-profiling-model>*
- "For avoidance of doubt, HFSS product advertisements may make nutritional or health claims in accordance with rule 13.4."*<sup>1</sup>
- 5.13 We consider replacing the terms "treat food," "snacks" and "fast food" by HFSS products as defined by the FSA (or a similar food profiling system) would improve

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<sup>1</sup> Committee of Advertising Practice (16 August 2010) *The BCAP Code – the UK Code of Broadcast Advertising*, Pub. TSO (the Stationery Office), P. 60.

the Children's Code for Advertising Food in the best interests of the public, advertisers and the adjudicators.

## **6.0 Conclusion**

- 6.1 Social mores and public expectations change over time. That is why code reviews like this one are important and timely. We thank the Review Panel for the opportunity to contribute to the process.