



The Royal Australasian
College of Physicians

New Zealand

13 April 2016

Codes Review Panel
ASA Secretariat
PO Box 10 675
Wellington

Via email: asa@asa.co.nz

Dear Sir Bruce

Review of the Code for Advertising to Children and the Children's Code for Advertising Food

The Royal Australasian College of Physicians (RACP) welcomes the Advertising Standards Authority (ASA) review into the Code for Advertising to Children and the Children's Code for Advertising Food, as Action 9 in the Ministry of Health's Childhood Obesity Plan¹. The College acknowledges this review as a key activity contributing to the broad population-based approaches to combating childhood obesity.

The RACP trains, educates and advocates on behalf of more than 15,000 physicians – often referred to as medical specialists – and 7,500 trainees, across Australia and New Zealand. It represents more than 32 medical specialities including paediatrics and child health, cardiology, respiratory medicine, neurology, oncology and public health medicine, occupational and environmental medicine, palliative medicine, sexual health medicine, rehabilitation medicine, geriatric medicine and addiction medicine. Beyond the drive for medical excellence the RACP is committed to developing health and social policies which bring vital improvements to the wellbeing of patients.

The RACP's submission to the ASA responds primarily to the Children's Code for Advertising Food. RACP members, including adult medicine physicians, paediatricians and public health physicians, encounter children and adults who are overweight and obese in their clinical practice on a daily basis. Physicians and paediatricians frequently provide clinical management for non-communicable diseases linked to overweight and obesity, including type-2 diabetes, cardiovascular disease, obstructive sleep apnoea and several cancers^{2,3}.

¹ Ministry of Health (2015) Childhood Obesity Plan

² Reilly R, Kelly J (2011) Long-term impact of overweight and obesity in childhood and adolescence on morbidity and premature mortality in adulthood: systematic review. *Int J Obes (Lond)* Jul 35(7):891-98 DOI: [10.1038/ijo.2010.222](https://doi.org/10.1038/ijo.2010.222)

³ Song SH. Early-onset type 2 diabetes: high lifetime risk for cardiovascular disease. *The Lancet*. 2016 February 4;2:87-88 DOI: [http://dx.doi.org/10.1016/S2213-8587\(15\)00390-3](https://doi.org/10.1016/S2213-8587(15)00390-3)

The RACP supports the findings and recommendations of the World Health Organization's (WHO) Commission on Ending Childhood Obesity (ECHO), including recommendation 1, calling for member states to "implement comprehensive programmes that promote the intake of healthy foods and reduce the intake of unhealthy foods and sugar-sweetened beverages by children and adolescents"⁴. It supports changes to food environments, labelling, and implementing the Set of Recommendations on the Marketing of Foods and Non-alcoholic Beverages to Children⁵ are recommended evidence-based actions which would have significant impact on food environments, and in turn positive effects on the prevalence of childhood obesity.

The RACP's submission focusses on responding to the questions in the consultation relating to the content and operation of the Code.

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

Strengths

That the existence of the Children's Code for Advertising Food being separate from the Code for Advertising to Children is a strength of the current system. The separate code for the advertising of food acknowledges that foods and beverages are different from other products and commodities that may be marketed to children, such as toys or games.

Weaknesses

The Code for Advertising Food is advertising and marketing-centric rather than child-centric. The Code makes reference to the rights of the child in the introduction section but these are not translated to the principles or the guidelines. Similarly, the guidelines make reference to social responsibility, but this is not defined beyond a statement noting that the concept is "embodied in the principles and guidelines of the Code and is integral to the consideration of the Advertising Standards Complaints Board".

Another weakness of the current Code is the absence of reference to the context and environments in which advertisements are situated, given the evidence of the impact of food environments on health and wellbeing^{6 7 8}. Food environments, including the advertising of food within mediated environments, are driven by global food systems interacting with local environmental factors. Food environments are complex, and consumers are exposed to a variety of advertising and marketing techniques, from direct-to-consumer television advertising, print and billboard advertising and advertising on social media and the internet. Energy-dense and nutrient-poor foods and beverages are widely available, and marketed to be desirable to broad sections of the population, including children, young people and adults. One recent television campaign for KFC depicts a family group (mother and two children) eating a picnic of KFC in the back of a car⁹. In this example, the targeted group is the 'family unit' rather than children explicitly, though children remain complicit as the key audience.

⁴ World Health Organization (2016) Report from the Commission on Ending Childhood Obesity. Geneva: World Health Organization.

⁵ World Health Assembly (2010) Marketing of food and non-alcoholic beverages to children. Resolution WHA63.14. Available from http://apps.who.int/gb/or/e/e_wha63r1.html

⁶ Swinburn B, Sacks G, Hall KD, Finegood DT, Moodie ML, Gortmaker SL. (2011) The global obesity pandemic: shaped by global drivers and local environments Lancet Aug 27;378:804-14.

⁷ Ni Mhurchu C, Vandevijvere S, Waterlander W, Thornton LE, Kelly B, Cameron AJ. (2013) Monitoring the availability of healthy and unhealthy foods and non-alcoholic beverages in community and consumer retail food environments globally. Obesity Rev. 14(Suppl. 1):L108-119. DOI: [10.1111/obr.12080](https://doi.org/10.1111/obr.12080)

⁸ Suglia SF, Shelton RC, Hsiao A, Wang YC, Rundle A, Link BG (2016) Why the neighbourhood is critical in obesity prevention. J Urban Health Feb;93(1):2016-12. DOI: [10.1007/s11524-015-0017-6](https://doi.org/10.1007/s11524-015-0017-6).

⁹ KFC celebrates rugby and family ties (2016) StopPress. Feb 26. Available from <http://stoppress.co.nz/news/kfc-celebrates-rugby-fandom-and-family-ties>

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

Both Codes refer to the United Nations Convention on the Rights of the Child (UNCROC), namely

- Article 3: The best interests of the child shall be a primary consideration.
- Article 13: The child's right to freedom of expression.
- Article 17(e): The child's right to protection from information and material injurious to his or her wellbeing.

The RACP believes both Codes would be strengthened significantly if Article 24 is included as the central guiding principle:

- States Parties recognise the right of the child to the enjoyment of the highest attainable standard of health¹⁰.

The child's right to health encompasses physical, mental, spiritual and emotional health domains. The sub-clauses of Article 23 state the child's right to adequate nutritious foods, clean drinking water; and protection from disease and malnutrition. Childhood obesity (obesity being a form of malnutrition) significantly increases the risk of children developing chronic diseases¹¹. Preventative measures to protect children from disease and malnutrition must involve all sectors of society, including media and the food industry.

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)

RACP members are concerned at the prevalence advertising and marketing of foods and beverages high in fat, sugar and salt across a range of media. Advertising and marketing is increasingly pervasive, with campaigns actively targeting consumers through different media platforms, allowing messages and themes to be reinforced in these environments¹². A television advertisement, a digital/online advertisement and a billboard for the same product, running as a concurrent campaign builds recognition and association in the audience through integration and convergence, as the same material and advertising narratives are experienced via different platforms and technologies.

5. If the content of advertisements is a concern, can you please give examples and supporting evidence?

Television advertising for fast food chains is increasingly involves recognisable sporting figures, teams and competitions¹³. Fast food is incorporated as part of the ritual of sporting fandom, for example, in KFC's recent campaign, "#ForTheFans" to promote their sponsorship of the Super Rugby franchise^{7 14}. The intention is to promote KFC products as a "great match" for the spectacle of a "great match" of rugby. Imagery used (rugby) creates positive associations for viewers around camaraderie and fandom: rugby spectatorship and consuming KFC products are best experienced and enjoyed with friends. Both activities

¹⁰ UN General Assembly, Convention on the Rights of the Child. 1989 20 Nov, United Nations, Treaty Series, vol. 1577. Available at: <http://www.refworld.org/docid/3ae6b38f0.html>

¹¹ Wells JKC (2013) Obesity as malnutrition: the dimensions beyond energy balance. Eur J Clin Nutr. 67(5):507-

12. DOI: [10.1038/ejcn.2013.31](https://doi.org/10.1038/ejcn.2013.31)

¹² Vandevijvere S, Swinburn B. (2015) Getting serious about protecting New Zealand children against unhealthy food marketing. NZ Med J. 128(1417):36-40.

¹³ Carter MA, Signal L, Edwards R, Hoek J, Maher A. (2013) Food, fizzy and football: promoting unhealthy food and beverages through sport – a NZ case study. BMC Public Health Feb 11;13:126. DOI: [10.1186/1471-2458-13-126](https://doi.org/10.1186/1471-2458-13-126).

¹⁴ KFC New Zealand (2016) #ForTheFans advertisement. Available from <https://www.youtube.com/user/kfcnz>.

(consuming KFC products and viewing sport) are largely passive and sedentary when compared to the physical activity of rugby.

Wendy's Hamburgers have frequently used New Zealand Warriors players to promote their products in both television advertising and internet-based advertising, and their YouTube channel shows Warriors players in over half of the videos available¹⁵. The Wendy's New Zealand website states it is the "official restaurant" of the rugby league franchise, and offers a number of tie-ins designed to appeal to children, including face-painting and free ice-cream promotions at restaurant locations¹⁶.

The use of recognisable sporting figures and teams may contravene Principle 3 of the Children's Code for Advertising Food, which states that persons of characters well-known to children should not be used to endorse food high in fat, salt and/or sugar. The RACP believes that sporting figures should not be associated with energy-dense, nutrient poor foods. Advertisements for these products create powerful brand recognition and association for children and young people, and equates sporting prowess with consuming these products.

6. If the placement of advertisements is a concern, can you please give examples and/or supporting evidence?

Television advertising

Television advertising for takeaway foods has increased visibility on television after 5pm, particularly for products which can be ordered for delivery, such as pizza. The RACP recommends restrictions on advertising mirrors that of content programming for consistency and clarity. Advertisements and marketing for energy-dense, nutrient poor foods should be restricted to after the 'watershed' of 8:30pm when adult-oriented content can be broadcast.

Timebands for children's television content are either free from any advertising in pre-school viewing times, or limited advertising in school-age children, usually between 6am-9am and 2pm-4:30pm during weekdays; and 6am-10am and 2pm-5pm on weekends¹⁷. A significant proportion of children aged 6-14 years (65 percent) reported watching television after 5pm and into the evening, with substantial drop-off in children 11 years and younger watching television after 8:30pm¹⁸. Children's programming times are determined by individual channels (for both free-to-air and pay services) rather than the Broadcasting Standards Authority. The RACP is concerned that extending advertising restrictions to the 8:30pm would prioritise the interests of children and young people rather than basing decisions on screening of 'children's television content'.

Online advertising – including social media

Research into advertising and marketing to children and adolescents on the internet, particularly via social media, is an emerging field. The internet is an integral component of the contemporary media landscape and advertising and marketing material on social media platforms, particularly Facebook, YouTube and Instagram, has expanded as access and availability increases¹⁹. In 2014, two thirds of children and adolescents aged 6-14 years

¹⁵ Wendy's New Zealand YouTube Channel. 2015-2016. Available from <https://www.youtube.com/channel/UCPVeVibomEvgwhx7LU35IdA>

¹⁶ Wendy's New Zealand (2016) Wendy's News. Available from <http://www.wendys.co.nz/news>

¹⁷ ThinkTV (2011) Children's television policies: Advertising in pre-school and school-age children's television programming times. Available at <http://www.thinktv.co.nz/thinktv/standards-and-regulations/children-an-tv/>

¹⁸ Colmar Brunton (2015) Children's Media Use Study: How our children engage with media today. Wellington: Broadcasting Standards Authority. Available from: <http://bsa.govt.nz/publications/research>

¹⁹ Heine C. (2014) Instagram marketing is quickly catching up to Facebook. Adweek. Aug 3. Available from <http://www.adweek.com/news/technology/instagram-marketing-quickly-catching-facebook-159249>

accessed the internet daily, with YouTube the most popular site (32 percent reach), equalling the reach of free-to-air channel TV2¹⁶.

A Colmar Brunton study also found that children 6-14 are more likely to access the internet by themselves (73 percent) than watch TV by themselves (27 percent), and 85 percent stated they were capable of searching for content online without the assistance or supervision of a parent or caregiver¹⁶. The increased use of the internet by children and adolescents as a source of entertainment and information is significant, and the RACP supports Codes that consider the online environment as influential as the televisual and broadcast environment, and acknowledge the rapidly changing media environment children and adolescents experience.

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

The RACP opposes the definition of a child as being under the age of 14, and is in favour of a definition consistent with Article 1 of the United Nations Convention on the Rights of the Child (UNCROC), namely a child means every human being below the age of 18 years⁸. The RACP acknowledges the need for the Codes to be consistent with New Zealand legislation, which defines a child as being aged under 14 years and a young person aged between 14 and 17 years²⁰. The RACP recommends that the ASA amends the Children's Code for Advertising Food to cover children and young people aged 17 years and under.

This change would include children and young people under a single code for advertising food. This change would enable greater consistency with the Ministry of Health's Healthy Food and Nutrition Guidelines, which in 2015 were combined into a single document for children and young people aged 2-18 years²¹.

RACP members note there is an evidence base for adolescents having varying levels of maturity and understanding, including cognitive functioning, reasoning and susceptibility, and while adolescents may understand the persuasive intent of advertising, they infrequently attempt to counter this knowledge and influence^{22 23}. Amending the Code to cover children and young people strengthens the statement, and would acknowledge that children are not a homogenous group but have varying levels of maturity and understanding. Extending this statement to cover children and young people reinforces the concept that children's and young people's understanding, development and maturity is on a continuum and cannot be bracketed against tighter age ranges.

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 what system would you suggest?

The RACP strongly supports a nutrient profiling system being integrated into food and beverage advertising. The RACP notes the New Zealand government introduced a voluntary front-of-pack labelling system, the health star rating (HSR) in 2014, which uses a

²⁰ Children, Young Persons and their Families Act (1989) s2(1). Available from <http://legislation.govt.nz/act/public/1989/0024/latest/DLM147094.html>

²¹ Ministry of Health (2015) Food and nutrition guidelines for healthy children and young people. Wellington: Ministry of Health. Available from: <http://www.health.govt.nz/news-media/news-items/food-guidelines-updated-children-and-young-people>

²² Zelazo PD, Carlson SM. (2012) Hot and cool executive function in childhood and adolescence: development and plasticity. *Child Dev Perspectives* 6(4):354-360. DOI: [10.1111/j.1750-8606.2012.00246.x](https://doi.org/10.1111/j.1750-8606.2012.00246.x)

²³ Harris JL Graff SK. (2015) Protecting children from harmful food marketing: options for local government to make a difference. In *The Childhood Obesity Epidemic: Why Are Our Children Obese and What Can We Do About It?* Vash PD (ed.), Oakville: Apple Academic Press and Centres for Disease Control.

scale of .5 – 5 stars to rate the nutritional value of the product²⁴. The HSR may not be suitable for all advertising types, particularly multimedia and televisual advertising; however where products are advertised in static images, the corresponding HSR should be clearly visible to consumers. The HSR is applicable to packaged foods only, and would not be suitable for some food products including fresh foods and fast foods.

The HSR may be difficult for some children to interpret, and the RACP recommends a traffic-light system is utilised to effectively and efficiently communicate the nutritional value of a food or beverage. Green, amber and red are used to denote the nutritional value of the product's contents, and the WHO's Codex Alimentarius Commission has recommended that systems using colour or pictorial representations are the simplest to interpret²⁵.

The RACP notes the WHO Regional Office for Europe has an appropriate model to determine the nutrient profile of foods and beverages, and operate as a framework when developing policies to advertise to children²⁶.

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

The RACP supports a specific guideline on sponsorship which would incorporate both alcoholic and non-alcoholic beverages as well as energy-dense, nutrient-poor foods. Sport coverage and sporting teams (both in stadium environments and on television broadcasts) are increasingly associated with brands that promote these types of foods and beverages, and the RACP has cited examples of rugby union and rugby league above.

Sponsorship is prevalent in all levels of sport, including in children's sport. Several major fast-food chains sponsoring junior and development levels; for example, McDonald's sponsors junior football, Burger King sponsors Touch Rugby New Zealand and Basketball New Zealand and Powerade is 'partnered' with the Silver Ferns Netball and Blackcaps Cricket teams^{27 28 29}.

Sponsorship builds brand associations for children between sport and the food and beverage brands that are sponsoring the team or event. There is precedence with tobacco advertising and marketing, and evidence shows that tobacco sponsorship of sports teams and events increases the awareness and potential to influence children and adolescents^{30 31}.

²⁴ Health Promotion Agency (2015) Health star rating: Information for stakeholders.

²⁵ Codex Alimentarius (2015) Guidelines on Nutrition Labelling. Geneva: World Health Organization. Available from: <http://www.fao.org/fao-who-codexalimentarius/standards/list-of-standards/en/>

²⁶ WHO Regional Office for Europe (2015) Nutrient Profile Model. Copenhagen: WHO Regional Office for Europe. Available from <http://www.euro.who.int/en/health-topics/disease-prevention/nutrition/publications/2015/who-regional-office-for-europe-nutrient-profile-model>

²⁷ McDonald's New Zealand (2016) Macca's in the community. Accessed 8 April 2016. Available from <https://mcdonalds.co.nz/learn/responsibility/maccas-community>

²⁸ Burger King New Zealand (2016) Sponsorship. Accessed 8 April 2016. Available from <http://www.burgerking.co.nz/sponsorship>

²⁹ Powerade New Zealand (2016) Sports partners. Accessed 8 April 2016. Available from <https://www.powerade.co.nz/community/netball-new-zealand>

³⁰ Ledwith F (1984) Does tobacco sports sponsorship on television act as advertising to children? Health Educ J. Dec;43(4):85-88. DOI: [10.1177/001789698404300402](https://doi.org/10.1177/001789698404300402)

³¹ Aitken PP, Leather DS and Squair SI (1986) Children's awareness of cigarette brand sponsorship of sports and games in the UK. Health Educ Res. 1(3):203-11. DOI: [10.1093/her/1.3.203](https://doi.org/10.1093/her/1.3.203)

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

The RACP supports independent monitoring and evaluation of the codes, particularly the Children's Code for Advertising Food. A group comprised of, for example, experts in health promotion, public health and communications would monitor the interpretation of the code across different advertising media and routinely evaluate the success and relevance of the code. Suitable groups would include non-government organisations, independent research organisations, universities and District Health Boards (DHBs). The RACP acknowledges the media environment changes rapidly, and this would need to be a factor in developing processes and protocols around the scope for monitoring and evaluation.

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

Children are living in and experiencing an obesogenic environment: energy-dense, nutrient-poor food and beverages high in sugar, salt and saturated fats dominate the food environment; physical activity is limited and work and leisure is increasingly sedentary in nature.

The RACP supports the ECHO recommendation that "settings where children and adolescents gather (such as schools and sports facilities or events) and the screen-based offerings they watch or participate in, should be free of marketing of unhealthy foods and sugar-sweetened beverages." Environments where children frequent, including public facilities such as libraries, playgrounds and services such as hospitals and clinics should be health-promoting, and the presence of advertising and marketing materials for energy-dense, nutrient-poor unhealthy food and beverages contravenes the right to a healthy environment for children and young people.

The RACP thanks the ASA for the opportunity to comment and submit feedback on the Code for Advertising to Children and the Children's Code for Advertising Food. For further information regarding this submission, contact the RACP New Zealand Policy and Advocacy Unit at policy@racp.org.nz.

Yours sincerely



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