



Codes Review Panel
ASA Secretariat
PO Box 10675
Wellington

12th April 2016

Submission on the Advertising Standards Authority's Review of the Code for Children's Advertising and the Children's Code for Advertising Food

I am submitting this feedback as a mother of a five year old and a seven year old. I am concerned about my children's health and wellbeing and have tried to shelter them from as much advertising as possible. My children go to school, they get looked after at friends and grandparents houses, and are influenced by their friends and family and watch shows outside "children's viewing time". I am unable to control the advertising content they are exposed to and I know it has an influence (especially from the conversations we sometimes have in the supermarket) on products they wish to purchase or try. They are too young to understand that advertisers stretch or omit the truth, make things seem and look better than they actually are in real life, are persuasive and emotive and that life's pleasures do not come from continually purchasing stuff. Generally after pestering me about buying a certain toy/food/product, once they have it they often discover it is not half as exciting as it seemed on T.V.

I would like tighter limits in the Code for Children's Advertising and the Children's Code for Advertising Food. I would like appropriate penalties for advertisements in breach of the code. The penalty should be enough to actively discourage companies from breaking any of

the Advertising Codes. I would like the codes to be adequately publicised and for people to be encouraged to give feedback and make complaints when they are unhappy with the advertising they see.

In a perfect world I would only like healthy foods to be advertised. By healthy I mean fresh fruits and vegetables (or frozen or canned with no extra additives), lean meat, milk, unsalted nuts and seeds, eggs, water, oats and wholemeal unprocessed grains (e.g. brown rice). No advertising should ever specifically target children under 14 years of age and I would like the current code to apply to children up to the age of 18.

On the following pages are my responses to your questions.

Thank you for your time.

Kind regards,

D [REDACTED] Johnson

Response to Questions

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

Strengths:

As a parent when I read the advertising code, I was surprised about how comprehensive it was. The code covers a range of advertising mediums including the internet, T.V, billboards, the backs of buses, competitions, toys with meals and giveaways. It is part of the Advertising Code of Practice and covers ethical advertising. If I just read the code and lived in a hole, I would think children should not be seeing persuasive, misrepresented advertising and parents should be happy. So why do my children and I see the advertising we do? How can this be?

This brings me to the **Weaknesses:**

It seems to be all in the interpretation. To the common mum or dad many advertisements would seem to conflict with the code. However the ASA seems to lean to the side of the advertisers in their interpretation of the code. Discretions must be outright lies or very explicit to be deemed breaching the code and even when they do breach the code, there

isn't really a penalty, except for removing the ad (which may have already run its course or been seen for a month before it is removed). No apology or corrective advertising is required and no other penalties are in place. This is weak. A punishment should fit the crime and it should deter advertisers from making any ads, which could be in breach of the code.

For children emotion based advertising, beautiful imagery, cartoon and familiar characters, incentives, songs and older 'cooler' children that they aspire to be like are real draw cards. The code does not address this type of advertising and its appeal to children and youth. To get around some of the requirements of the code many of the big companies are doing more and more 'emotion' based advertising and it is working. Associating a brand or a product with a feeling, especially in Children where they do not understand the manipulative nature of advertising is unfair. Coke specifically uses this type of advertising, and to me their social media page and strategy directly markets youth, and young children. They would argue the people in the advertisements are over 14 years of age, and the advertisements are not targeting children, so therefore do not contravene the code.

The code has "interpretation guidance" which includes the statement:

"The conformity of any advertisement with the codes will be judged primarily in terms of its impact upon the type of person who is likely to be exposed to it". We know that food advertising influences children's food preferences and consumption, any parent can vouch for that and there are numerous studies to back them up. The changes in food preferences and the continual exposure of people to images of desirable food, increases food intake and influences the weight status of individuals. New Zealand is in an obesity epidemic. Over two thirds of adults are overweight or obese and approximately one fifth of children are overweight or obese. As an adult, I know that food marketing influences me. I could be happily watching television, satisfied after having a nourishing dinner until an advertisement for Whittaker's Chocolate comes on and I just can't get that image of the smooth melted flowing chocolate out of my head. Suddenly, out of nowhere I want chocolate. I am an adult. I can reason, apply logic and realise that the marketers do this because they want you to crave chocolate. I fight the impulse. My five year old son, who is a chocolate fiend has been found in the kitchen after seeing this advertisement. He climbed up the pantry shelves desperately searching every nook and cranny on the high shelves for any trace of chocolate as he can't fight that image in his head. This is not an exaggeration. This happens. The advertisement was not targeted at children, nor was it during children's viewing time (e.g. 2.30 -4.00) as narrowly defined by the code. It would have been during the evening news, The Simpsons, Family movie time or during a David Attenborough nature show (as these are the only evening shows he would watch). Children are likely watch television in the evenings until approximately 8.30pm. This is when a high number of advertisements for unhealthy foods are shown. The narrow definition of Children's viewing times makes the code weak and ineffective for the majority of children. It is socially irresponsible to expose

these advertisements to children, knowing there is sound evidence that it affects their preferences. It also undermines any messages around Healthy Eating I am trying to teach my children.

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

The complaints process is generally weak.

Its strength is that it has a range of advertising and community representatives. I think it is important to have a mix of people and skills on the review committee. I believe all conflicts of interest should be made clear and I think where there is a conflict of interest that person should stay out of proceedings.

The complaints process is difficult. I didn't know where to look or what to do. For most people they find it hard enough to fit some exercise into their day, let alone write a formal complaint letter highlighting the date, time, colour, content and moon phase at the time the advertisement played, specifically outlining which section of the code is breached and how. Then to be horrified to see the advertisement continue to play for the next month while a decision is being made and then get the ruling that the advertisement did not breach the code as they were marketing at 15 year olds, not 12 year olds and it is perfectly acceptable to say whatever you like to a 15 year old as they should understand that marketers are cunning and will pull every trick in the book to make you feel good about buying their product. Therefore it is OK to stretch the truth and perhaps exaggerate health benefits. As a parent I probably wouldn't even bother to complain as it would seem a complete waste of my time and I have dinner to make and washing to fold.

On the radio they often advertise that they have a code and where to go if you are unhappy with any radio content. Television advertisers should do the same thing, however outlining that if there is any advertising on any medium people are unhappy with, where to make a complaint.

For advertisements in breach of the code the penalty should reflect the breach and deter advertisers from pushing the limits of the code. For example if an advertiser of a high sugar children's cereal implied the cereal was healthy and good for fit sporty people. An appropriate punishment may be to run the advertisement with a voiceover saying:

"we regret to inform you that this cereal is high in sugar (x teaspoons per serve) and shouldn't be consumed every day as it is not a healthy choice".

Or an alternative punishment could be to for the company to pay a fine which will go toward running a commercial for vegetables or a government healthy eating message. I also believe the broadcaster (e.g. magazine, T.v. channel) that ran the advertising should also be deterred from running advertising they believe may be in breach. For every time the advertisement played the T.V channel has to make that many spaces for the corrective advertising.

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

Step 1.

Strengthen the complaints process and put in place penalties and sanctions for breaches.

Step 2

Tighten the interpretation of the code to be based on consumer understanding of what the terms mean, not advertiser understanding. Have a clear outline of examples of what each of the points mean.

Step 3

Change the code to cover children up to the age of 18.

Step 4

Broaden the times in which the children's code applies – shows in which a large number of children are regular viewers should have to abide by the children's code – e.g. The Simpsons, Shortland Street, Malcolm in the Middle, Modern Family. Children are highly vulnerable to advertising and do not understand its persuasive intent and lack the cognitive ability needed to interpret advertising messages critically, the time of day they are watching doesn't change this.

Step 5

Limit sponsorship of major events appealing to children by unhealthy foods. Limit sponsorship and partnerships between high profile sports teams and fast food restaurants, sugar sweetened beverages and unhealthy foods.

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).

FROM THE ASA WEBSITE:

Advertising revenue across all main media was 2.386 billion dollars for the 12 months ended 31 December 2014 (ASA website). The highest spends were in television (\$614million, 25.7% of total advertising spend), interactive (online) media at \$589million dollars a year (24.7% of total advertising spend) and newspapers (\$484million, 20.3% of total advertising spend).

I predict the percentage of advertising spent on online media will continue to increase. Online media is the hardest to control and the least policed. It is important New Zealand takes a strong stand on guidelines for online advertising and that other countries around the world are strongly encouraged to follow.

Social media is a format which will continue to be a challenge as younger and younger people have social media accounts. I know many children under the age of 14 who currently have a Facebook account and they are subjected to large numbers of advertisements through this medium, directly marketed at them. Many of the large multinational corporations have sophisticated Facebook pages, with a range of pictures, competitions, promotions and enticing videos. I frequently see young people sharing news items from McDonalds, Coke and other Fast Food Companies in the hope of getting a free item. There is so much new content placed each day it is hard to monitor and control. An example of this is the screen shot taken of a Coca Cola promotion on Facebook encouraging people to come down to a park for a free Coke. Regulation of advertising on media needs to be addressed. Changing the Children's Code to apply to all children under 18years of age would mean that promotions specifically targeted to young people could be better controlled.



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.

The following is a summary of an advertisement that has played for Nutrigrain. Nutrigrain is not a health food. It is high in sugar and there are lots of better breakfast choices which would also be high in protein (such as a boiled egg on toast).

Nutrigrain Advertisement

(mother taking photo of approx. 6yo son with current Ironman Champion)

(Shows proud mother watching as son trains and grows older – until he is competing in Ironman Competition and wins with background voiceover of the following)

Hard work and a balanced diet with protein, helps our kids to grow up strong. Nutrigrain is a high protein cereal. So it has what it takes to build them into Ironmen. .

Nutrigrain – Ironman Food

After seeing this my five year old probably thought that eating Nutrigrain would make him better at Triathlon. He probably thought Nutrigrain was healthy, especially for boys and that would have stuck in his head. That may explain why when one day we were shopping he saw the box and begged me to buy Nutrigrain. He had never had Nutrigrain before. I asked him why he wanted it and he said it was good for him. I told him it wasn't good for him (he refused to believe me) and that he probably wouldn't like it anyway. I later discovered they were doing a physical activity module on Triathlon at school. He participated in a triathlon and came home with a certificate, which again publicised Nutrigrain.

I believe the Nutrigrain Advertisement breaches the Children's Code for Advertising Food as it "*undermines the food and nutrition policies of Government, the Ministry of Health Food and Nutrition Guidelines*" by implying that a high sugar cereal is a 'healthy food' and will make boys grow up to be strong and fit and help them to become Iron men. The advertisement has not been "prepared with and observe a high standard of social responsibility to consumers and society" as it promotes a high sugar cereal as being Iron Man food. This breaches Principle 2(c):

"Care should be taken to ensure advertisements do not mislead as to the nutritive value of any food. Foods high in sugar, fat and/or salt, especially those marketed to and/or favoured by children, should not be portrayed in any way that suggests they are beneficial to health."

The partnership of television advertising with messages in school I believe is unethical and provisions in the code that prevent any marketing in the school environment should be in place.

Image 1: Certificate received by my 5 year old and 7 year old after completing a triathlon at school



1

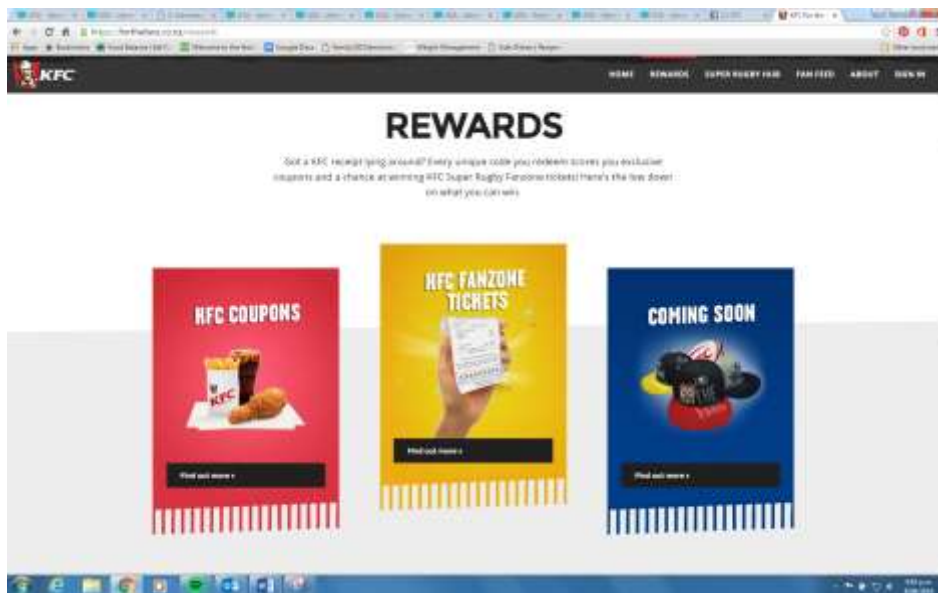
The KFC sponsorship of the Super Rugby I believe in breach of Principle 3 of the Children’s Code for Advertising Food as relating to 3(b) *“Persons or characters well known to children should not be used to endorse food high in fat, salt and/or sugar”*. KFC is definitely high in fat, salt and sugar and Super Rugby and its teams and key players are well known to children. The sponsorship has a television marketing campaign, a Facebook campaign and an online campaign to encourage repeat purchases to be rewarded with merchandise, tickets to games and food as seen in the images below.

Images from KFC website where people log their codes to win prizes. It encourages repeat purchases and possibly excessive consumption.



Welcome super fans!

KFC and rugby are the perfect match. There's nothing about gathering family and mates together, whether it's for a great meal or a great game. That's why we've partnered with all Super Rugby teams to bring you KFC. For the Fans, a place for the super fans, by the super fans.



TREAT YOUR MATES TO \$100 WORTH OF KFC, ON US!

Just enter your details and subscribe to our newsletter for a chance to win each month.

[Enter Now](#)

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In the Summer Holidays, on a hot sunny day at the beach we offered to buy our children an ice-cream. Our children both selected a Paddle Pop, possibly because there was a poster up advertising a "lick a stick" completion and "every stick wins a prize". One of our children won a free Paddle Pop and the other won a login to an online game. We went home and

logged onto the website and logged into the game. The code on the stick gave access to one part of the game. For access to other parts and levels more codes were needed e.g. repeated purchase and possibly excessive consumption to complete the game. I believe this contravenes Principle 2, Guideline 2 (f) *“Care should be taken with advertisements promoting a completion, premium or loyalty/continuity programme to ensure that advertisements do not encourage frequent repeat purchases of foods high in fat, salt and sugar”*.

I also believe the marketing component of the website and the association of a game with Paddle Pops and the Paddle Pop Lion may breach Guideline 2 (a) *“Advertisements should be clearly recognisable as such by children and separated from editorial, programmes or other non-advertising content”*.

Below is a screenshot of the Paddle Pop website and link to the apps and games.



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.

I believe advertisements for McDonalds, Coke, Snickers and other unhealthy foods and fast food restaurants during times a large number of children are watching is a concern. Especially during the 6pm-8.30om time bracket and for shows like The Simpsons, David Attenborough style nature shows, Family Movie Time and Modern Family.

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

We support this definition as, according to the Children's Commissioner, the law allows parents to leave a young person without supervision from the age of 14 and a young person of 14 can be charged with committing a criminal offence.

I oppose the definition. The WHO Rights of the Child defines Children as a person under 18 years of age. Research shows the brain continues to develop into the early 20's for females and late 20's for males. Youth are emotionally charged and concerned with friends, image and social standing. Advertisements targeted at youth directly target their emotional vulnerabilities. Social media and the internet as a medium to advertise to youth is being used in sophisticated ways. Below are some examples from the Coca Cola New Zealand Facebook Page, which I believe are directly targeting children and youth. It creates clarity and consistency by applying the code to all people under the age of 18 years of age as it is hard to determine whether an advertisement is targeting a 12 or a 16 year old. Children develop at different rates and some may not develop the skills of being critical of the tactics advertisers use until a much later age than 14. For clarity and honesty the code should be applied to all children under the age of 18.

Videoclip on Facebook – promotion to young children of an unhealthy food item:

Posted on the Coca-Cola New Zealand Facebook Page

Accessed April 2016

The videoclip is highly emotive and depicts a strained relationship between brothers, which is improved over a Coke. This advertisement I believe also targets children under the age of 14, however the company would argue it doesn't. By tightening the age limits, advertising

directly targeting young people will be limited and more easily identified.



Coca-Cola New Zealand

February 11 · 🌐

Always there when it counts. Raise a glass to your hero! #TasteTheFeeling



100K Views

👍 Like

💬 Comment

➦ Share



👍❤️ 2.4K

Top Comments ▾

360 shares

The advertisement below – does it target children under 14 years of age? What is your view?



Again emotive advertising targeting young people.



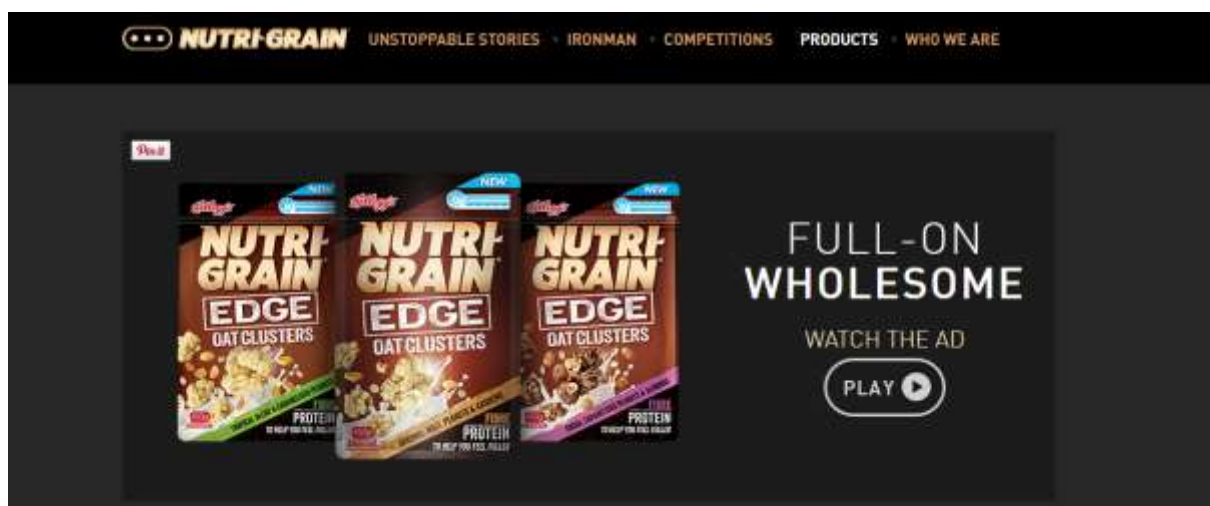
8. Is there a role for a nutrient profiling system such as the health star rating system in the Children's Codes? If yes, in what way and which system would you suggest?

Back to the Nutrigrain

Nutrigrain advertising in Australia, shows a highly stylised advertisement of Nutrigrain pouring into a bowl in slow motion as stars dramatically lighting up in the background as a voiceover says:

“Protein, fibre and the same great taste, that’s 4 Health Star Nutrigrain”

This advertising, markets Nutrigrain as a “health food”. I am certain my children would interpret this is what the advertising is saying and they would believe it as television is the source of correct information to a 4-12 year old brain, and mum, well, mum doesn’t know as much as the television. I am concerned the Health Star Rating system would allow below optimal choices to be promoted and would skew the viewer into thinking they are healthy. The Health Star rating is too inconsistent and should not be used as the system for profiling and defining healthy foods.



To me allowing companies to advertise on the basis of their Health Star Rating could lead to mixed messages and confusion. From the products I have seen the Health Star Rating can be overly generous (especially for breakfast cereals) in the ratings given, and in other cases confusingly low. For foods that are not ‘core’ or everyday foods which have a moderately high Health Star Ratings companies may use this to market their foods as healthy.

I would suggest a better way of classifying foods would be as follows:

The following foods can be advertised to children:

Fruit and vegetables fresh, canned or frozen without added sugar or salt.

Lean meat, fish, poultry, eggs, tofu and legumes in their unprocessed form.

Unsalted nuts and seeds without added fat or sugar.

Plain milk and yoghurt

Wholegrain cereals such as oats and rice without added fat, sugar or salt

Water

To me these foods are healthy and most parents would want them actively promoted to their children. It is clear. It is understandable and there is no manipulation of formulas or products to make them meet specific nutrient criteria (which is what happens with the Health Star Ratings or most rating systems I have seen).

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

I support a specific guideline on sponsorship. Sponsorship would relate to high profile sports teams, events, schools, player of the day certificates, prizes in schools and early childhood centres and awards ceremonies.

Sponsorship is another tool in the marketing toolbox and should be regulated as such.

There is already a clause that partially touches on this, but a specific guideline on sponsorship would broaden the definition and increase clarity.

The Children's Code clearly states:

3(b) Persons or characters well known to children should not be used to endorse food high in fat, salt and/or sugar

So how does Super Rugby end up endorsing KFC?

Children, especially young boys from the ages of 5-18 often aspire to be 'All Blacks' and look up to these Rugby Superstars. The interpretation of this clause needs to be tightened.

Aligning children's movies, popular books, sports stars, cartoon characters and games with foods high in fat, salt or sugar is unethical, but still happens. The cut-offs for foods high in fat, salt and sugar should be made explicit.

The following are examples of sponsorship relationships involving foods high in fat, sugar or salt and alcoholic beverages.

I would like to make a point that the marketing guidelines for alcoholic beverages should have a clause relating to sponsorship. High profile New Zealand Sports teams should not enter into sponsorship relationships with alcohol brands, betting or gambling agencies or unhealthy foods or fast food restaurants.

Georgie Pie

Official sponsor of the domestic Twenty20 competition, known as the Georgie Pie Super Smash



Tui Official Beer of New Zealand Cricket

Tui is proud to sponsor the fun around New Zealand's most popular summer sport, played in backyards, beaches, driveways, fields and stadiums throughout New Zealand. From the backyard to the BLACKCAPS Tui can be counted on to ensure there are always a few refreshing 'Oranges' on hand at the end of play. New Zealand cricket fans can look forward to a great summer of cricket spiced up with plenty of banter as Tui and New Zealand Cricket look to add a bit more entertainment to any cricket occasion. tui.co.nz



Coca Cola Sponsorship of Christmas in the Park an event highly appealing to children, which is inappropriate.



Sponsorship of Super Rugby by KFC is inappropriate as it promotes a high fat, high sugar, high salt food with an advertising style appealing to young people.



Sponsorship of the All Blacks by Coca Cola is also inappropriate and would be appealing to children.



Sponsorship of school sports by fast food restaurants, highly sugared cereals, chips, sugar sweetened beverages and lollies is also inappropriate. An example of this is the McDonalds "player of the day" certificate.

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

We must ensure the Children's Codes have the reach and depth to maintain a strong position in a fast-changing world. A monitoring and evaluation of the code will provide a means to stay relevant and purposeful.

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

I support sanctions as a way of ensuring advertisers are actively discouraged from breaching the Advertising Code of Practice. The sanctions should be relevant to the degree of breach.

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

Yes, I do not feel it is appropriate to provide any marketing material related to unhealthy food in school, early childhood centres, after school care environments, Plunket, and Health services. Sportsgrounds and clubs, parks and reserves should remain free of advertising of unhealthy foods and beverages.

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

It may make it easier for people to complain if the codes are combined, as long as they remain strong and monitoring of the codes is effective.

Thank you for your time.

Kind regards,

D [REDACTED] Johnson

I am happy for this submission to be made public.

I am happy to provide an oral submission if convenient to me and available over the phone (if oral hearings are not held in Whangarei).