

13 April 2016

Codes Review Panel
Advertising Standards Authority
PO Box 10675
Wellington
asa@asa.co.nz



Healthy Families Rotorua submission to Advertising Standards Authority on the review of the Code for Advertising to Children and the Children's Code for Advertising Food.

The primary contact point for this submission is:

Jasmin Jackson
Health Promoter - Healthy Families Rotorua
Level 1, 1231 Haupapa Street
Rotorua 3010
07 213 1995
jasminj@tearawawhanauora.org.nz

Healthy Families NZ is a large-scale initiative that brings community leadership together in a united effort for better health. Since 2006 obesity in New Zealand has increased from 27 per cent, to 31 percent. Even more worryingly, **one in three New Zealand children are obese or overweight, and more than a third are inactive.**

To permanently slow the growth of obesity and preventable chronic diseases, Healthy Families NZ is focused on supporting New Zealanders to live healthier, active lives, particularly by making good food choices, being physically active, being smoke-free and reducing alcohol-related harm.

This submission proposes critical improvements to the Code for Advertising to children and the Children's Code for Advertising Food. The improvements will support healthier environments where tamariki and their whanau/families are empowered to make healthier food choices and where the healthy choice is the normal choice.

Thank you for the opportunity to submit on this important issue.

Yours Sincerely,

Leanne Morehu
Manager - Healthy Families Rotorua

INTRODUCTION

Childhood obesity in New Zealand has reached epidemic proportions, and our rates of childhood obesity are the 3rd worst in the OECD. The New Zealand Government has recognised this problem, and created their Childhood Obesity Plan (Ministry of Health, 2016). However, in order to protect the health of our children we will need to go above and beyond what is detailed in this plan. Exposure to food advertising results in changes to a child's food preferences, food consumption and purchase requests (Andreyeva et al, 2011; Boland & Whalen, 2015; Cairns et al, 2013; Mackay et al, 2011). Additionally, the majority of food advertising to children at present, is for products high in sugar, salt and saturated fat that we would consider to be unhealthy (Vandevijvere & Swinburn, 2015). Thus, addressing the marketing of unhealthy foods to children is a priority if we are to successfully improve the health of children in New Zealand.

Currently, children are not protected from unhealthy food advertising, even with the current codes in place (Vandevijvere & Swinburn, 2015). The World Health Organisation has produced a set of recommendations on the marketing of foods and non-alcoholic beverages (World Health Organisation, 2010). Healthy Families Rotorua supports the implementation of these recommendations, and recommends that a co-regulatory approach is developed between the advertising industry and government.

Healthy Families Rotorua is pleased to have the opportunity to provide feedback on the Advertising Standards Authorities (ASA) codes on advertising to children and the children's code for advertising food. We call on the ASA to take action to protect the health of children in New Zealand by being proactive to eliminate advertising of unhealthy food to children. The 13 questions presented for feedback will be addressed in this submission.

RESPONSES TO SUBMISSION QUESTIONS

1) What are the strengths and weaknesses of the two current children's codes?

Healthy Families Rotorua recognises the following points as strengths in the two current children's codes.

Strengths of the Code for Advertising to Children 2010:

- Inclusion of the United Nations Convention on the Rights of the Child stating that "the best interests of the child shall be a primary consideration" of the code.
- Inclusion of Article 17e from this convention calling for "appropriate guidelines for the protection of the child from information and material injurious to his or her wellbeing"
- Healthy Families Rotorua also supports the continued inclusion of all the existing points under Principles 1 and 2 of this code.

Strengths of the Code for Advertising Food 2010:

- Use of the Ministry of Health Food and Nutrition Guidelines within the code.
- Not allowing slimming products to be advertised to children
- Children's Code for Advertising Food Principles 2g and 2h
- Children's Code for Advertising Food Principle 3b – people or characters well known to children should not be used to endorse sweet drinks (including artificially sweetened drinks, juices and sugar sweetened drinks), or foods high in saturated fat, sodium and/or sugar. Although this is unfortunately not enforced where sponsorship deals are arranged, such as the All Blacks endorsing Gatorade and Coca-Cola.

Healthy Families Rotorua views the following points as weaknesses in the two current children's codes.

Weaknesses of the Code for Advertising to Children 2010:

- Definition of a child as under the age of 14 years.

Weakness of the Code for Advertising Food 2010:

- The statement that "Food advertisements should not undermine the food and nutrition policies of Government, the Ministry of Health Food and Nutrition guidelines for the health and wellbeing of children".
 - Although this is a very important part of the code, enforceability is lacking and needs to be considered, with particular thought given to the Government's Childhood Obesity Plan (Ministry of Health, 2016).
- "Advertisements should not encourage overconsumption of any food". The nature of food advertising encourages overconsumption of unhealthy foods, even if the advertisement itself doesn't explicitly do this (Boyland et al, 2016). Thus Healthy Families Rotorua supports a ban on advertising of non-nutritious or 'occasional' foods as defined by the Ministry of Health's food and beverage classification system.
- Principle 1(b) should be strengthened with a statement that food advertisements should exclude persuasive intent. Children do not have the ability to recognise persuasive intent until the age of 11-12 years, thus it becomes our social responsibility to protect them until they are of an age to understand themselves (Carter et al, 2011).

- Principle 1(c) and 1(d) refer to advertising of “treat foods”, and while parameters are placed on advertising of treat foods, it is clear that they are not sufficient. New Zealand has the 3rd worst rate of Childhood Obesity in the OECD, and “treat food” advertising needs to be banned at the least if there is to be any impact on this. Healthy Families Rotorua recommends the inclusion of a statement that bans advertising of what are currently being called “treat foods” between the hours of 6am-9am and 4pm-7pm on weekdays, and between 6am-12pm, and 4pm-9pm on weekends in line with New Zealand Children’s peak viewing times (King et al, 2012).
- Healthy Families Rotorua does not support the use of the term “treat foods” and suggests the use of “occasional foods” instead.
- We propose stronger wording throughout the codes by replacing the phrase “should not” with “must not”
- Principle 2(b) refers to the intended audience. This doesn’t consider that the intended audience is often not the actual audience and is thus insufficient to protect children.
- Principle 2(c) does not inform children that consuming foods high in fat, sugar and salt regularly can result in serious health consequences, or let them know what an appropriate frequency of consumption of such products would be. These factors need to be included to strengthen this statement.
- The code does not specify or define how a product can be determined as being healthy – simply saying high fat, sugar and salt foods could exclude healthy nutritious foods that are an important part of a child’s diet (i.e. bananas are high in sugar, salmon is high in fat but these are nutritious foods that children should be eating). Healthy Families Rotorua favours the use, of the Food and Beverage Classification (Fuelled4Life) system to avoid ambiguity.
- The current codes do not account for the cumulative effect of repeated advertising. Evidence shows that there is a dose effect of food advertising that increases liking of unhealthy junk foods. Implementing an advertising ban on “occasional” foods during peak viewing times for children will help to prevent this ‘dose-response’ effect (King et al, 2012).

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

Healthy Families Rotorua recognises the following as strengths regarding the current complaints process:

- The board is made up of a mix of members of the public and industry.

Healthy Families Rotorua views the following as weaknesses regarding the current complaints process:

- The current complaints process depends on the public making complaints. It is Health Families Rotorua’s view that the public is not sufficiently informed about the complaints process, and have little knowledge of the code, thus are unable to make complaints.
- It would be beneficial to include the Children’s Commissioner or a representative on the board, to ensure that at all times the health and wellbeing of Children is considered.

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

Healthy Families Rotorua proposes the following changes to protect the rights of children and their health and wellbeing:

- Independent monitoring and assessment of advertising that is either intended for viewing by children, or is likely to be viewed by many children due to location, timing, etc.
- A co-regulatory approach between government and industry in the enforcement of the codes
- Use of the Food and Beverage Classification System (FBCS) to define which foods can be advertised to children, allowing only “everyday” and “sometimes” foods to be advertised – ideally no food advertising at all. The FBCS is the ideal tool as it is specific to children.
- Restriction in particular of advertising of all sweet drinks including artificially sweetened or sugar-free beverages and juices, both of which are associated with increased risk of type 2 diabetes, dental erosion, and may also increase the risk of obesity in some people (Imamura et al, 2015; Nadimi et al, 2011; Swithers, 2013).
- Sponsorship by companies that sell unhealthy food to be prohibited under the code
- A pre-vetting process where advertising campaigns are assessed for meeting the criteria for the code before they are put out to the public.
- Cartoon characters or identifiable people that are well known to children should not be used to advertise and promote unhealthy products to children.

4) Please comment on any concerns you have with different media formats in relation to advertising to children (for example: magazines, television, social media, games, apps and websites).

Online advertising (websites) is increasingly where children are being exposed to advertising, and where advertisers are investing in marketing and advertisements, thus needs to be carefully considered during the review of the codes (Lyon, 2013). Additionally, advertising within games and apps is a new way that children are being exposed to advertising, and this form of advertising could make it even more difficult for a child to identify the advertising as such. Healthy Families would like to see the codes strengthened so that they are able to protect children from the advanced multimedia approaches that food manufacturers are using.

5) Some examples of concerning advertising are as follows:

- “Frozen” breakfast cereal – extremely high sugar cereal advertised using “frozen” cartoon characters
- All Blacks being sponsored by Gatorade (and previously Powerade), drinks which are not appropriate for children or the general population
- Coke/Coke Zero Campaigns using All Blacks

6) If placement of advertisements is a concern, please give examples or supporting evidence.

Please refer to examples listed above, and throughout this document.

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

Healthy Families Rotorua opposes this definition, and supports the definition given by the United Nation’s Convention of Rights of the Child which is “every human being below the age of eighteen”. Having a single statement in the Code of Advertising Food 2010 stating that requires advertisers need to “exercise a particular duty of care for food advertisements directed at young

people aged 14-17 years” is not sufficient to protect the rights to health of this age group. (Advertising Standards Authority, 2010.) Defining a child as any person under the age of 18 years would also align with the Ministry of Health’s Childhood Obesity Plan (Ministry of Health, 2016).

8) Is there a role for a nutrient profiling system?

Healthy Families Rotorua supports the use of the Ministry of Health’s Food and Beverage Classification System (Ministry of Health, 2013) as this is a system that is specific to children. It is more robust than other nutrient profiling systems. The FBCS classifies food into “everyday”, “sometimes” and “occasional”, and has per 100g as well as per serving requirements for a range of categories of products. Healthy Families Rotorua supports the advertising of food in the “everyday” food group, and a complete ban on food classified as ‘occasional’ under this system (Fuelled4life, 2012). Using a robust nutrient profiling system would significantly aid decision making around food products and remove ambiguity around whether a food is acceptable to be advertised to children.

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

Healthy Families Rotorua supports a specific guideline on sponsorship, specifically a restriction on sponsorship by businesses that sell unhealthy food and drink. Sponsorship is a very cost effective form of advertising for businesses marketing unhealthy food, and does not support a child’s right to good health. Its use to establish brand awareness and loyalty in children is concerning. Healthy Families proposes that events, locations and activities where children gather should have strict restrictions around food advertising to children.

10) Do you support the introduction of independent monitoring? How would this work?

Healthy Families Rotorua supports the introduction of independent monitoring, with a robust pre-vetting process for advertisements. We recommend using the World Health Organisation’s work in this area to guide implementation of such processes (World Health Organisation, 2008; World Health Organisation, 2010)

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

Healthy Families Rotorua is aware of any examples and as such is unable to comment.

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

Healthy Families Rotorua considers all forms of marketing to children in their education environment (e.g. school, kindergarten etc.), sports clubs or when accessing health services to be inappropriate. We also support a ban on food marketing to children within a 200 metre radius of their education setting, and anywhere that children gather.

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

Healthy Families Rotorua supports the combining of the two codes so long as this does not result in diminished protection against advertising, including food advertising. Food advertising should retain its own separate section within a combined version of the codes. We believe combining the codes could strengthen both if no content is lost in the process.

SUMMARY OF KEY RECOMMENDATIONS

- 1) Healthy Families Rotorua recommends that the ASA and review panel refer to the World Health Organisation's recommendations for food marketing to children (WHO, 2010)
- 2) Healthy Families Rotorua specifically recommends:
 - a. A ban on advertising of unhealthy, occasional or junk food to children.
 - b. That the code define children as anyone under the age of 18 years
 - c. The introduction of independent monitoring and a pre-vetting system for food advertising to children
 - d. Extending the time restrictions for television advertising, and extending this out to other forms of advertising (internet).
 - e. The inclusion of a statement on sponsorship
 - f. Re-wording of a number of statements to make them more enforceable
 - g. The use of the FBCS (Fuelled4Life) as the nutrient profiling system of choice to support the ASA to define "unhealthy" products.

REFERENCES

Advertising Standards Authority New Zealand (2010). Code for Advertising of Food. Wellington: Advertising Standards Authority New Zealand.

Andreyeva, T., Kelly, I. & Harris, J. (2011). Exposure to food advertising on television: Association with children's fast food and soft drink consumption and obesity. *Economics and Human Biology*, 312, 1-13.

Boyland, E. & Whalen, R. (2015). Food advertising to children and its effects on diet: a review of percent prevalence and impact data. *Paediatric Diabetes*, 16, 331-337.

Boyland, E., Nolan, S., Kelly, B., Tudur-Smith, C., Jones, A., Halford, J. & Robinson, E. (2016). Advertising as a cue to consume: a systematic review and meta-analysis of the effects of acute exposure to unhealthy food and non-alcoholic beverage advertising on intake in children. *The American Journal of Clinical Nutrition*, 103: 519-533. doi: 10.3945/ajcn.115.120022

Cairns, G., Angus, K., Hastings, G. *et al* (2013). Systematic Reviews of the evidence on the nature, extent and effects of food marketing to children. A retrospective summary. *Appetite*, 62, 209-215.

Carter, O., Patterson, L.J., Donovan, R.J., Ewing, M.T., & Roberts, C.M. (2011). Children's understanding of the selling versus persuasive intent of junk food advertising: Implications for regulation. *Social Science and Medicine*, 72, 962-968.

Fuelled4life (2012). Retrieved from: <http://www.fuelled4life.org.nz/>

Imamura, F., O'connor, L., Ye, Z., Mursu, J., Hayashino, Y., Bhupathiraju, S. & Forouhi, N. (2015). Consumption of sugar aweetened beverages, artificially sweetened beverages, and fruit juice and incidence of type 2 diabetes: systematic review, meta-analysis, and estimation of population attributable fraction. *BJM*, 351, 1-12. doi:10.1136/bjm.h3576

King, L., Hebden, L., Grunseit, A., Kelly, B., & Chapman, K. (2012). Building the case for independent monitoring of food advertising on Australian television. *Public Health Nutrition*: 16(12), 2224-2254.

Lyon, J. (2013) Food and Beverage Marketing to Children. Wellington: Agencies for Nutrition Action.

Mackay, S, Antonopoulous, N., Martin, J., Swinburn, B. (2011). A comprehensive approach to protecting children from unhealthy food advertising. *Melbourne: Obesity Policy Coalition*.

Ministry of Health (2013). Food and Beverage Classification System. Retrieved from: <http://www.health.govt.nz/our-work/preventative-health-wellness/nutrition/food-and-beverage-classification-system>

Ministry of Health. (2016). Childhood Obesity Plan. Retrieved from <http://www.health.govt.nz/our-work/diseases-and-conditions/obesity/childhood-obesity-plan>

Nadimi, H., Wesamaa, H., Janket, S., Bollu, P. & Meurman, J. (2011). Are sugar-free confections really beneficial for dental health? *British Dental Journal*, 2011, E15. doi:10.1038/sj.bdj.2011.823

Swithers, S. (2013). Artificial sweeteners produce the counterintuitive effect of inducing metabolic derangements. *Trends Endocrinol Metab*, 24 (9), 431-441. doi:10.1015/j.tem.2013.05.005

Vandevijvere, S. & Swinburb, B. (2015). Getting serious about protecting New Zealand children against unhealthy food marketing. *New Zealand Medical Journal*, 128 (1417), 36-40.

World Health Organisation (2008). Dialogue with the Food and Non-Alcoholic Beverages Industries: Drafting of Recommendations on Marketing of Foods and Non-Alcoholic Beverages to Children. Retrieved from http://www.who.int/dietphysicalactivity/dialogue_private_sector_24nov2008.pdf

World Health Organisation (2010). Set of recommendations of the marketing of foods and non-alcoholic beverages to children. World Health Organisation, Switzerland.