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SUBMISSION ON THE REVIEW OF THE CODE FOR ADVERTISING TO CHILDREN AND CHILDREN'S CODE FOR ADVERTISING FOOD BY THE FOUNDATION FOR ADVERTISING RESEARCH

Background

1. The Foundation for Advertising Research (FAR) operates in New Zealand and Australia and has undertaken assignments elsewhere in the Asia-Pacific region. The principal objective of FAR is to provide research and other information to stakeholders on best practice advertising regulation and other issues of concern relating to advertising.
2. If the Review Panel is conducting hearings we request that we be heard.
3. Regulating advertising to children has been an ongoing topic for several decades and there are diverse opinions as to the best form of regulation. In recent times the discussion has centred on the advertising of food to children. Consequently the thrust of our comments relate to the Children's Code for Advertising Food.
4. There has been an ASA Code for Advertising to Children for about 40 years. Over this time there have been several reviews with the most recent in 2010. At each review the Code has been refined and has been found in practice to be effective.
5. The Children's Code for Advertising Food is a recent code and in the review of the Code for Advertising Food in 2010 it was decided to split it into two codes – one general food code and the other for children.
6. There was a previous review in 2005 where both the Code for Advertising to Children and the Code for Advertising Food were considered. In this review substantial changes were made regarding the provisions about advertising food to children. Most of those provisions remain in the present Children's Code for Advertising Food.

7. This submission is in three parts.

- First, are our answers to the 13 questions in the consultation document. We have added one question that we believe is relevant – the definition of advertising to children.
- Second, are some general comments and conclusions.
- Third, is a suggested draft Children's Code for Advertising Food that incorporates our comments and answers to the questions.

PART 1 - Answers to the Questions

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

Strengths

- There has been an ASA Code for Advertising to Children for about 40 years. Over this time there have been several reviews with the most recent in 2010. At each review the Code has been refined and has been found in practice to be effective. Little amendment, if any, is required.
- The Children's Code for Advertising Food is a recent code and in the review of the Code for Advertising Food in 2010 it was decided to split it into two codes – one general food code and the other for children. Most of those provisions remain in the present Children's Code for Advertising Food and are appropriate.
- There was a previous review in 2005 where both the Code for Advertising to Children and the Code for Advertising Food were considered. In this review substantial changes were made regarding the provisions about advertising food to children that were later included in the Children's Code for Advertising Food. Therefore most of these provisions have an 11-year history.

Weaknesses

The Children's Code for Advertising Food lacks sufficient definition of what 'unhealthy' foods should not be advertised to children. There is a definition of treat food ('food high in fat, salt or sugar intended for occasional consumption') but that definition is subjective and relies on common sense. For instance if a strict interpretation is taken then a Red Delicious apple could be classified as 'unhealthy' as it has 14.3 grams of sugar per apple and 10.4 grams per 100 grams. The ASCB should not be placed in the position of determining such technical detail.

Clause 1(b) (c) and (d) include restrictions on the advertising of snacks and fast food but without reference as to whether they are 'healthy' or 'unhealthy' with the underlying assumption they are 'unhealthy'. There has been huge change by way of product reformulation and menu change in recent years that should be taken into account. The emphasis should be on the nutritional values of the individual foods rather than the food type.

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

Preliminary Comment

It is useful to examine the pattern of complaints and the matters that concern complainants.

Since the introduction of the Children's Code for Advertising Food in 2010 there have been 10 complaints under the Code as follows. None were upheld.

2010

10/704 – The complaint related to a poster promoting a variety of foods that had been approved for sale in School canteens under the School Food and Beverage Classification system. The Complainant alleged that many of the foods were 'unhealthy'.

2011

11/22 – The Complainant objected to the name of the retailer selling confectionary.

11/161 – A Burger King TV ad promoted a bourbon-flavoured sauce in hamburgers. The Complainant objected to the promotion of alcohol-flavoured food.

11/269 – The Complainant objected to the depiction of a three-legged lamb in a Hell Pizza ad promoting lamb shanks.

2012

12/442 – A McDonald's billboard promoting lamb burgers included the words "*Mary had a little lamb*". The Complainant objected to this reference and that lamb burgers were high in energy, fat, salt and sugar. It was ruled that the billboard was aimed at the general public rather than children and that its style was unlikely to appeal to children.

2013

13/303 – The Complainant objected to words in a KFC TV ad that said '*in some places \$3 is a tip, at KFC it gets the kids a whole meal.*' It was ruled that the ad was directed at adults.

13/405 – The Complainant objected to a website and associated flyer ads promoting apples with brand stickers as their child hounded them to collect more stickers for a school competition.

2014

14/253 – A TV ad for Uncle Toby's Cheerios included the claim of less than a teaspoon of sugar per serve. The Complainant considered this excessive and therefore describing the

cereal as 'healthy' was misleading. The actual sugar quantity was 4.4 grams per serve, which is a moderate amount.

14/507 – A Kellogg's TV ad for Nutragrain included the statement, '*Nutragrain, fuel for active growing boys*'. The Complainant objected to the reference to only boys and not including girls.

2015

No complaints

2016

16/010 – The complainant was concerned that a Facebook ad for a family beverage could be confused as an alcoholic drink. The Board was of the view that "*nothing in the advertisement which was likely to mislead consumers into thinking the advertisement was promoting an alcoholic beverage*".

Other data

During the period 2010- to date the ASA received 4021 complaints of which 10 (0.25%) related to the Children's Code for Advertising Food [Data accessed from ASA website 7 April].

Comment

Only three complaints (10/704, 12/442 and 14/253) addressed the question of whether food was 'healthy' or 'unhealthy'. In 10/704 the foods were considered healthy under the School Food and Beverage Classification System. The product challenged in 14/253 has a current Health Star Rating of 4 Stars. This highlights the problem of identifying which foods are 'healthy' or 'unhealthy' and should be advertised to children.

The lack of complaints also raises the question of whether there is real public concern regarding advertising food to children. Similarly it is noteworthy that no vocal critic of advertising food to children has made a complaint. However childhood obesity is a real problem and it is appropriate that the ASA review the Codes as part of the Government's Childhood Obesity Plan.

Strengths

As part of wider APEC initiative on advertising regulation in the APEC region we undertook to create a Best Practice Advertising Regulation Checklist. There was widespread consultation for most of 2015 including valuable contributions globally from leading advertising regulation academics. The checklist is extensive and onerous. On the two topics of efficient complaint processing and impartial adjudication there were 26 different requirements. In our view the ASA complies with all 26 requirements and is a leading world model in this regard. A particular strength is the quick processing of complaints – An average of 13 days is reported in the 2014 Annual Report.

A copy of the Checklist is available upon request.

Weaknesses

None of importance. The lack of complaints under the Children's Code for Advertising Food may be because of the lack of clear and objective definition in the Code of what is 'unhealthy' food and should not be advertised to children rather than the complaints process.

There have been academic articles that criticise self-regulatory jurisdictions because ads of 'unhealthy' food targeting children are permitted. We have read virtually all of the articles that pertain to NZ and Australia. A common problem is the lack of an independent and objective definition of 'unhealthy' food that consequently skews the conclusion. For instance, because of the methodology in some studies salads, water and other foods generally regarded as 'healthy' are classified as 'unhealthy' because of the type of retail outlet. Another issue is whether the ads were targeting children.

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

The Children's Code for Advertising Food tends to be wishy-washy in defining which foods should be advertised to children therefore greater definition is required using independent objective methodology rather than personal opinion.

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).

One of the requirements in the Best Practice Advertising Regulation Checklist is 'Are advertisements in **all media** covered by the Codes?' The ASA codes do apply to all media and the NZ ASA was a leader in ensuring that company websites and the social media were within its jurisdiction. Different forms of media are constantly evolving so it is important that the codes and the ASA jurisdiction apply to all media at all times.

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.

We have been unable to locate any recent ad of concern.

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.

Bonus ads on TV that play in inappropriate time zones have been a historical problem. When these events occur the media are usually embarrassed and the advertiser annoyed

as the bonus ad in the time zone was not authorised. A similar situation arises when an airline ad appears next to a news report of a plane crash. The media have procedures to ensure that these events do not occur but they appear to be difficult to implement as the mistakes are caused by human error rather than a strategic decision.

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

Both codes define a child as under 14. The definition of a child varies widely in other jurisdictions. The standard age under the global pledge programs is under 12. Australia has three different definitions - under the self-regulatory advertising code it is under 15, in the pledge program for packaged food it is under 12 and in the Quick Service Restaurant pledge program it is under 14. In the UN Convention on the Rights of the Child it is under 18. Classifying teenagers as children is a concept many 15-17 year-olds would find difficult to accept.

Determining the definition of a child has been a concern in past reviews and the age of under 14 was selected because it aligns with the Broadcasting Standards Authority definition and that of the Children, Young Persons and their Families Act. Adopting the statutory definition is quite powerful and sensible.

We therefore favour no change in the definition of a child.

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?

The recent report of the WHO Commission on Ending Childhood Obesity included in its recommendations the reduction the marketing of 'unhealthy' food and beverages to children. This has been an ongoing theme of WHO and other health agencies. It has also been accepted by industry and there are several self-regulatory initiatives in New Zealand and globally to achieve that objective. The Children's Code for Advertising Food is an example.

A key issue is defining 'unhealthy' food that is compounded by the number of misconceptions by the public. Complaints 10/704 and 14/253 are examples of this where 'healthy' food was considered 'unhealthy' by the complainants. Health academics and practitioners often share these misconceptions. There is therefore an underling problem of perception vs reality.

The Children's Code for Advertising Food does not define 'healthy' or 'unhealthy' food. The Code has been criticized for lack of definition in this regard. Reference is made in the Code to the MOH Food and Nutrition Guidelines and ads should not undermine the guidelines. But the guidelines offer little help in determining whether particular foods should not be advertised to children.

There are reputed to be hundreds of nutrient profiling systems used to determine the definition of 'healthy'/'unhealthy' food. A large number have been developed by health

academics and Governments have adopted a few such as the OFCOM system for TV advertising to children in the UK. Industry has also developed systems that are used in pledge programs. There are also other systems such as the Heart Tick.

The Health Star Rating system adopted in Australia and New Zealand is unique as a multi-stakeholder group consisting of Government, health academics, health lobbyists and industry developed it. Both the Australian and New Zealand Governments adopted it so is an official system and have run advertising campaigns promoting it. A key advantage is that it is an independent and objective system that does not rely on personal opinion.

The system has the support of leading academics such as Boyd Swinburn and it has been voluntarily adopted by industry with an increasing number of products include the Health Star rating on their packaging - over 1000 products according to a recent media release by the Minister of Health. Consumer NZ is an enthusiastic supporter and some in the health sector advocate it should be compulsory.

The Health Star Rating system has 10 tiers ranging from 'very healthy' to 'very unhealthy'. We recommend that the lowest three tiers, that represent the bottom 30% of rated foods, should not be advertised to children. - Those with 1.5 Health Stars or less. The main foods in this category are chocolate, confectionary, sweetened sodas, many biscuits, some cakes and some cheeseburgers. A provision could be included in the Code prohibiting the advertising to children of this category of food.

The adoption of such a definition would help overcome some misunderstandings regarding the healthiness of certain foods. Historically many cereals and fast foods have been nutritionally deficient. Cereals have undergone huge reformulation and the Health Star Rating system assisted in this process.

We surveyed the Health Star Ratings of the cereals produced by Kellogg's, Sanitarium and Hubbard's. Where the Health Star Rating had not been declared on the company website we calculated the rating from the nutrition information. There were a total of 114 different cereals. 70 (61%) scored 4 Stars or higher – which can be considered very healthy. 98 (86%) were 3 Stars or higher - still in the top half. 7 (6%) scored 2.5 Stars and 8 (7%) 2 Stars – not 'healthy' but not 'unhealthy' either. 1 (1%) rated only 1.5 Stars and is in the 'unhealthy' category.

There has been a similar trend with fast food with reformulation and menu change. Quick Service Restaurants (QSR) restaurants now sell salads and chips/fries are no longer cooked in lard but in oil with a consequential reduction in saturated fat. As a result all chips/fries sold by the major QSR chains rate 4 Health Stars or higher. It is noteworthy that upmarket restaurants often cook their fries in duck fat, which may be why many still believe QSR chains cook in lard.

The Food and Beverage Classification System used for the sale of food in schools is an alternative system. However the system is difficult to understand, lacks transparency, has only three classifications (every day, sometimes and occasional) and is too reliant on personal opinion rather than science. The research we have conducted over the years

reveals many inconsistencies with other systems including the Health Star Rating system. The ASA does not want to be in a position of prohibiting the advertising of a food to children that has a high health star rating particularly as the Health Star Rating system can be considered more authoritative.

From a consumer perspective the Health Star Rating system is better known and easier to understand. It has a strong brand supported by increasing advertising by advertisers stressing the high ratings of their products combined with Government advertising promoting the system. Knowledge of the nutrition details of the Food and Beverage Classification System is largely confined to nutritionists and those with technical knowledge of nutrition in schools.

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

Some health academics have expressed concern about sponsorship by food companies. Generally sponsorship is by brand rather than product. Proposed restrictions and bans therefore focus on the brand on the basis that the product portfolio sold is predominantly 'unhealthy'. This is a huge assumption and generally wrong.

There has been a massive shift in recent years as products have been reformulated and others phased out and replaced by healthier options. The addition of salads to QSR menus is common. If sponsorship of brands were prohibited then this would inhibit the reformulation and product substitution process.

There is also the question of perception vs reality. There is a perception by many that most cereals are 'unhealthy'. The reality, as discussed in Question 8, is the opposite with the vast majority of cereals in the top tiers of Health Star Ratings.

A similar pattern emerges in the fast food category. We counted 157 big brand fast food menu items that scored 3.5 Health Stars or higher.

It should be noted that any sponsorship ad comes within the ambit of the codes.

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

The requirements of best practice advertising self-regulation include independent monitoring. The ASA meets the vast majority of the best practice requirements but a notable omission is independent monitoring. There is monitoring by the Ministry of Culture and Heritage pursuant to an agreement with Government made in 1992/3 but this is at a high level regarding processes rather than individual codes.

Independent monitoring when properly done is very expensive which is the main reason it has not been adopted.

In the past there has been multi-stakeholder monitoring of alcohol advertising. A consultative committee was established consisting of alcohol advertisers, LAPS adjudicator, ASA, MOH, Aged Concern, Students Against Drunk Driving and health

groups. Unfortunately alcohol health activists declined to attend. The committee met 6 monthly where all ASCB decisions were reviewed and all TV alcohol ads were played. Frank discussion was encouraged and the feedback was most valuable. As a result advertisers altered their advertising and feedback given to code reviews. Following a personnel change in the MOH its representative attended infrequently and others did also. As a result the advertisers, ASA and LAPS tended to be talking to themselves so it was disbanded.

It is worth considering whether a similar multi-stakeholder group should be established to monitor advertising food to children. The problem is not long term commitment by industry but by the MOH and health sector. We believe it is worth a go and at the very least shows goodwill.

We consequently favour the establishment of a consultative committee that would monitor food advertising to children and complaints.

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

There are two basic sanctions – withdrawal of the advertisement and public release of the Decision. These sanctions are real and effective. In 2006 the European Union investigated the regulation of advertising under the Chair of Robert Madelin. Its report (Madelin Report) endorsed self-regulation as the appropriate jurisdiction for the regulation of advertising. It also held that the sanctions were effective -

'... available evidence suggests that the business costs to companies of a withdrawal are real (reputation, share price). These market penalties can be a more effective source of good behaviour than imposition of specific financial penalties.'

'... the "name and shame" effect from publishing with full details of the decisions of the sanction can greatly damage the reputation of a company and has proved to be a powerful instrument.'

Successful self-regulation relies on the support and cooperation of industry. Advertisers are expected to abide by the spirit and intention of the codes thus exploitation of loopholes is not permitted.

A seminal work on regulation and self-regulation is the book *Responsive Regulation - Transcending the Deregulation Debate* by Ayres and Braithwaite (1992, Oxford University Press).

The book notes

'3. A strategy based totally on persuasion and self-regulation will be exploited when actors are motivated by economic rationality.

4. A strategy based mostly on punishment will undermine the good will of actors when they are motivated by a sense of responsibility.

5. Punishment is expensive; persuasion is cheap. A strategy based mostly on punishment wastes resources on litigation that would be better spent on monitoring and persuasion. (A highly punitive mining inspectorate will spend more time in court than in mines)

6. A strategy based mostly on punishment fosters an organised business subculture of resistance to regulation wherein methods of legal resistance and counterattack are incorporated into industry socialization... Punitive enforcement engenders a game of regulatory cat-and-mouse whereby firms defy the spirit of the law by exploiting loopholes, and the state writes more and more specific rules to cover the loopholes.'

The introduction of heavier sanctions such as fines would inevitably lead to the loss of goodwill of industry, the exploitation of loopholes and advertisers playing regulatory cat and mouse.

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

Yes – in adult environments such as bars. Similarly it is inappropriate to advertise to children in adult media such as adult magazines and after 8-30 PM when the BSA watershed for adult programmes comes into force. However this is not a realistic problem as advertising to children when there are few children in the audience is uneconomic.

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

We support combining the two codes but suggest it may be more logical and useful to combine the Children's Code for Advertising Food with the Code for Advertising Food, as many of the provisions are common to both codes.

14. Advertising to Children

A key issue is determining the definition of advertising to children.

The industry approach has been whether the ad targets children – that the ad has been created to appeal to children.

An approach favoured by many health academics is whether children see food ads even though they are targeting adults. Consequently watersheds such as no 'unhealthy' food ads prior to 9PM are proposed, as some children are watching at that time. However prime time between 6-9PM is when adult audiences are at there highest so presumably children are watching TV because their parents are watching.

The watershed approach has inherent problems.

The 2015 research '*Children's Media Use*' commissioned by the BSA and NZ on Air is most useful. See link

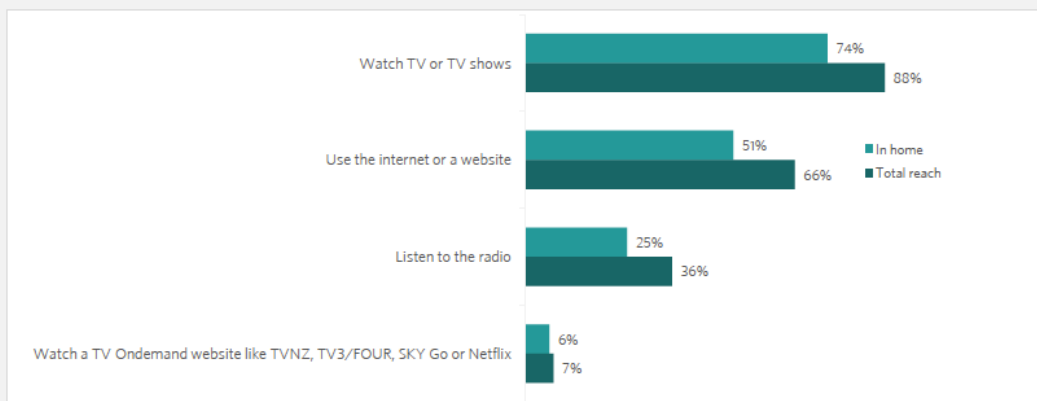
http://bsa.govt.nz/images/assets/Research/Childrens_Media_Report_2015_FINAL_for_publishing_2.pdf

TV (88%) is still the most popular media for children 6-14 but Internet (66%) is not far behind.

Total daily reach of media – in and out of home

In total, nearly nine in ten 6-14 year olds (88%) watch TV each day.

Two-thirds use the internet (66%), and one third (36%) listen to the radio each day.



Source: Q1a, 2a, 3a, 4a, 5a, Q6 (Child)
BASE: All children 6-14 (n=708)

Note that Internet data above includes all internet behaviour, incl .music, but not On demand use

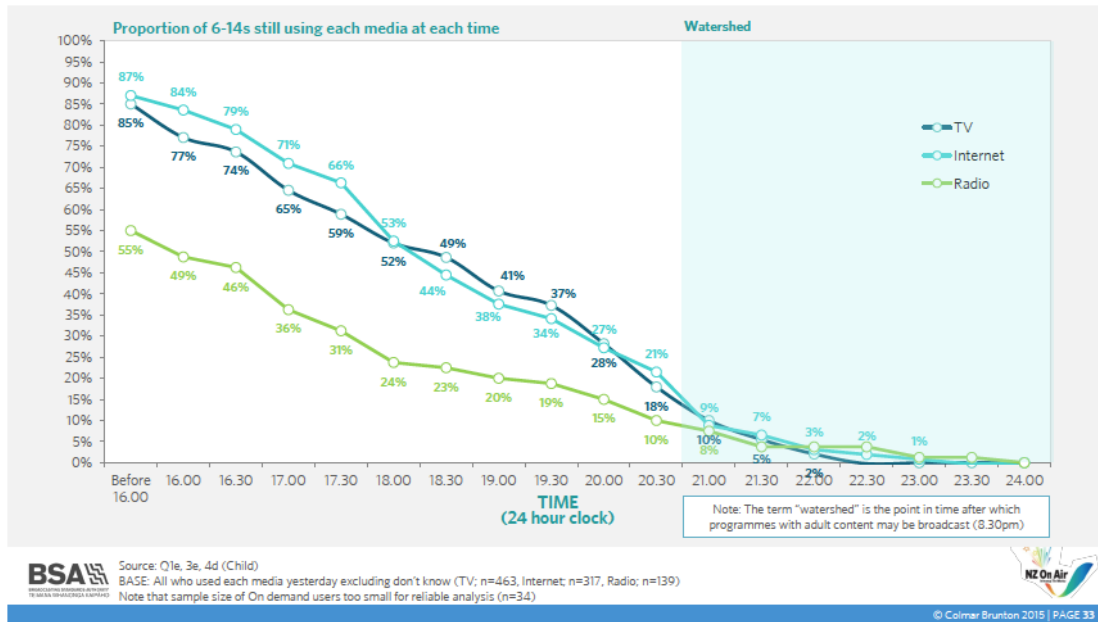


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The use patterns of each media by children 6-14 a peak at about 4PM (87% for Internet and 85% for TV) and then steadily decline. At 6PM 53% of Internet users are online and 52% of the TV viewers are watching TV. By 9 PM only a small minority (9% Internet and 10% TV) are using the media.

At what time do children stop using each media?

Internet use continues at slightly higher levels than TV until 6pm, and then drops at the same rate.
Over half of radio listeners have stopped listening before 4.30pm.



The data highlights the problem of using watersheds to ban certain types of food ads. Although a watershed may be practical for television it is impractical for the Internet. As the data shows a significant number of children are using the Internet and the percentage of children using the Internet or TV media decline at a similar rate.

Additionally, not only does TV prime time contain news, news magazines, documentary programmes and reality programmes such as Gold Coast Cops but also AO (Adult Only) programmes after 8-30PM. Virtually all of these programmes contain violence and horrific events. It is therefore difficult to argue that food ads during prime time are targeting children.

Advertisers use prime time to target adults with ads for banks, cars, insurance, cosmetics and retail including food. We are of the view that a better approach is to use the Code to regulate the type of food ads that target or influence children regardless of time zones.

The current Children's Code for Advertising Food and Code for Advertising to Children have a definition that go further than targeting children – *'that influence children whether*

contained in children's media or otherwise'. This definition takes into account the 'targeting children' definition but also includes ads that may be targeting adults but also influence children.

We therefore recommend no change to the definition.

PART 2 - General Comment

The Review Panel has a challenging task to draft a revised Children's Code for Advertising Food. This is due to the strongly held conflicting views of different sectors of the community. This is compounded by the changing views by experts in nutrition. At the time of the last review saturated fat was considered a major contributor to the obesity epidemic but now that view is changing and sugar is believed to be the major cause with saturated fat having some beneficial qualities. The public are rightfully confused.

Furthermore, there has been considerable reformulation of foods along with menu change. As a consequence many foods that were previously regarded as 'unhealthy' are now 'healthy' but the 'unhealthy' perception remains – perception does not match the reality.

Consequently we strongly recommend that the Review Panel adopt the Health Star Rating system in determining which foods should be advertised to children. The system has many advantages – it is the official Government system, it is independent, it has a strong brand, it is objective, it does not rely on personal opinion and it is accepted by a range of stakeholders including health academics, industry and consumer groups. The Star Rating can be easily calculated from the standard nutrition information where the rating is not declared on the packaging. For generic foods the nutrition information is readily available online from reputable websites.

In our view food that is in the bottom 30% of the Health Star Rating system should not be advertised to children. As previously mentioned the main foods in this category are chocolate, confectionary, sweetened sodas, many biscuits, some cakes and some cheeseburgers. Should the Review Panel require further information on affected and unaffected products we can supply it as we have conducted considerable research on the topic.

The existing provision that ads should not undermine the MOH Food and Nutrition Guidelines for Healthy Children should remain.

PART 3 - Draft Code

We attach a draft amended Children's Code for Advertising Food, which we hope, will be of assistance to the Panel. The vast majority of the existing provisions remain and the amended/new clauses are in blue.

The Code for Advertising to Children requires little or no amendment so no draft is attached. It has undergone many revisions over the past 40 years and any problems and anomalies have been removed. In the early days of the code it was highly controversial

with the main points of contention being around the advertising of toys and pester power. Now the debate has moved to the advertising of food to children.

The two codes can be easily amalgamated if that is the decision of the Panel.

CHILDREN'S CODE FOR ADVERTISING FOOD

Introduction

All advertisements for food and beverages ("food") that influence children, whether contained in children's media or otherwise, shall adhere to the Principles and Guidelines set out in this Code.

The Code recognises that children are not a homogeneous group but have varying levels of maturity and understanding. Care should be taken to ensure that the product and style of advertisement is appropriate for the intended audience.

The Code recognises the need to extend a duty of care to protect children pursuant to the United Nation's Convention on the Rights of the Child ("Convention"). Special notice is to be taken of Article 3 of the Convention, which states, "the best interests of the child shall be a primary consideration". Article 13 recognises the child's right to freedom of expression. "This right shall include the freedom to seek, receive and impart information and ideas of all kinds." Children therefore have the right to receive all kinds of information, including advertisements. However, Article 17(e) calls for "appropriate guidelines for the protection of the child from information and material injurious to his or her well-being." This Code provides the "appropriate guidelines" for food advertisements that influence children.

It is noted that the Convention defines the age of a child as under 18. This Code defines the age of a child as under 14 in line with the Children, Young Persons and their Families Act 1989 and aligns with the Broadcasting Standards Authority definition of a child. The Code for Advertising Food specifically makes reference to young people aged 14 – 18.

Food advertisements should not undermine the food and nutrition policies of Government, the Ministry of Health Food and Nutrition Guidelines nor the health and wellbeing of children. Advertisements for nutritious foods important for a healthy diet are encouraged to help increase the consumption of such foods. However, advertisements should not encourage over-consumption of any food.

In interpreting the code emphasis will be placed on compliance with both the principles and the spirit and intention of the code. The guidelines are examples, by no means exhaustive of how the principles are to be interpreted and applied. Upon considering a complaint, the ASCB is vested with discretion to ensure a common sense outcome.

Advertisements should comply with the laws of New Zealand and appropriate industry codes including the New Zealand Television Broadcasters code "Getting It Right for Children" available on www.thinktv.co.nz. Attention is also drawn to the "CF" rating

system applied by the Commercial Approvals Bureau to all food advertising that is to be screened during children's television programming times.

For the purposes of this Code:

"Children" means all persons below the age of 14.

"Food and Nutrition Guidelines" are the current version of the Food and Nutrition Guidelines for Healthy Children (aged 2-12 years): A background paper, published by the Ministry of Health.

"Food of low nutritive value" is any food that rates 1.5 Health Stars or less on the New Zealand Government Health Star Rating system. (Note: Where the star rating is not declared it can be calculated from the nutrition information.)

"Social Responsibility" is embodied in the principles and guidelines of the Code and is integral to the consideration of the Advertising Standards Complaints Board. Previous decisions of the Complaints Board also guide its determinations, as do generally prevailing community standards.

Principle 1 - All advertisements should be prepared with and observe a high standard of social responsibility to consumers and to society.

Guidelines

1(a) Advertisements should not undermine the role of parents in educating children to have a balanced diet and be healthy individuals.

1(b) Children should not be urged in advertisements to ask their parents, guardians or caregivers to buy particular products for them.

1(c) Advertisements for any food of low nutritive value is not permitted.

1(d) Advertisements should not encourage children to consume any food in excess.

1(e) Advertisements for snacks should not encourage children to consume them in substitution for a main meal on a regular basis, nor should they undermine the Food and Nutrition Guidelines for Healthy Children.

1(f) Advertisements for food should not portray products as complete meals unless they are formulated as such.

1(g) The quantity of the food depicted in the advertisement should not exceed serving sizes that would be appropriate for consumption by a person or persons of the age depicted.

1(h) Benefits of foods for a nutritious diet should not be exaggerated and should not imply that a single food should replace a healthy diet nor undermine the importance of

consuming a variety of foods.

1(i) Nutrient, nutrition and health claims should comply with the requirements of the Food Standards Code*. Such claims should not mislead or deceive the consumer.

1(j) Advertisements should not promote inactive or unhealthy lifestyles nor should they show people who choose a healthy active lifestyle in a negative manner.

1(k) Advertisements for slimming products or foods sold as an aid to slimming are not permitted.

*Note: Please refer to the Food Standards Australia New Zealand (FSANZ) website www.foodstandards.govt.nz for details. The Food Standards Code is available on the FSANZ website.

Principle 2 - Advertisements should not by implication, omission, ambiguity or exaggerated claim mislead or deceive or be likely to mislead or deceive children, abuse the trust of or exploit their lack of knowledge or without reason play on fear.

Guidelines

2(a) Advertisements should be clearly recognisable as such by children and separated from editorial, programmes or other non-advertising content.

2(b) Advertisements should take into account the level of knowledge, sophistication and maturity of the intended audience.

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.

2(d) Food advertisements containing obvious hyperbole, identifiable as such by the intended audience, are not considered misleading.

2(e) Advertisements should not claim or imply endorsement by any government agency, professional body or independent agency unless there is prior consent, the claim and the endorsement are verifiable and current and the agency or body named. An endorser represented as an expert should have qualifications appropriate to the expertise depicted.

2(f) Care should be taken with advertisements promoting a competition, premium or loyalty/continuity programme to ensure that advertisements do not encourage purchase or consumption of food of low nutritive value.

2(g) Advertisements for foods high in sugar should not claim to be "low fat" or "fat free" which could mislead the consumer to believe the food is low in energy or beneficial to

health.

2(h) Advertisements for food high in fat should not claim to be “low in sugar” or “sugar-free” which could mislead the consumer to believe the food is low in energy or beneficial to health.

Principle 3 - Persons or characters well-known to children shall not be used in advertisements to promote food in such a way so as to undermine a healthy diet as defined by the Food and Nutrition Guidelines for Healthy Children.

3(a) Persons or characters well known to children may present factual and relevant statements about nutrition and health.

3(b) Persons or characters well known to children should not be used to endorse food of low nutritive value.

Glen Wiggs

Director

Foundation for Advertising Research