



Nestlé New Zealand Limited

Submission to the Advertising Standards Authority

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

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Introduction

Thank you for the opportunity to provide feedback to the Advertising Standards Authority Review of the Code for Advertising to Children and Children's Code for Advertising Food (the Codes).

Nestlé understands that regular review of the Codes is essential to ensure the strength of any self-regulatory system.

The acknowledgement of the Ministry of Health that Industry plays a key role in helping address childhood obesity and the confirmation that food and beverage leaders are keen to work in partnership with the government under the Childhood Obesity Plan released in 2015 indicates a clear understanding that these concerns are multi-factorial and need the commitment of a number of stakeholders to ensure the best for New Zealand children.

The Childhood Obesity Plan also highlights marketing and advertising to children as a key objective, and Nestlé, as a key food and beverage manufacturer and marketer in the New Zealand market, feel we can contribute to this review and ensuring the resulting system is robust.

Nestlé Commitment to Responsible Marketing to Children

As a leading Nutrition, Health and Wellness company, we have made a commitment to market all Nestlé products responsibly. The updated *Nestlé Marketing Communication to Children Policy* strengthens our commitment to responsible advertising and marketing wherever we operate.

We understand community expectations around the responsible marketing to children of food and beverage products changes; in line with this, we also review our internal policies to ensure they accurately reflect what we consider to be best practice in responsible marketing.

Our updated policy which came into force in January incorporated key changes such as:

- Use of the EU Pledge Nutrition Criteria as a global reference;
- No marketing to children (under 12) of biscuits, sugar or chocolate confectionery;
- Qualitative assessment (creative execution, licensed characters);
- Restriction of sales in schools restricted to products meeting the nutrition criteria; and
- Policy incorporates all channels including TV, radio, print, social media, outdoor, online, contests, promotions, events and sampling.

Nestlé has been a firm proponent of responsible marketing to children since the launch of its Communication Principles in 2002, and was a founding member of the International Food and Beverage Alliance (IFBA). In 2012, we were instrumental in the adoption of shared nutritional criteria by EU Pledge members. In turn, we have used these criteria as the basis for our revised Nestlé Policy.

In countries such as New Zealand where we do not have an agreed nutritional criteria – we apply the EU Pledge¹ to determine products which are 'healthier' and can be marketed to a child audience.

The EU Pledge criteria are based on two core objectives;

- No advertising of products to children under 12 years, except for products which fulfil specific nutrition criteria based on accepted scientific evidence and/or applicable national and international dietary guidelines² and

¹ http://www.eu-pledge.eu/sites/eu-pledge.eu/files/releases/EU_Pledge_Nutrition_White_Paper_Nov_2012.pdf

- No communication related to products in primary schools, except where specifically requested by, or agreed with, the school administration for educational purposes.

Nestlé's Concerns regarding the current Codes and questions in the Consultation documentation;

- **Definition of a Child**

The Children's Codes currently define a child as under the age of 14. Nestlé supports a change to the Codes to bring this age to 12. This is in line with global academic consensus that this is an age where children have been demonstrated to develop effectively recognise advertising and are able to adopt critical attitudes towards it. This age is further endorsed and adopted by both the World Federation of Advertisers^{3,4} and the International Food and Beverage Alliance.⁵

In line with an increasingly globalised marketplace, this age would align with our commitments made by Nestlé and others under IFBA Codes and the EU Pledge, which Nestlé have adopted as our global nutrition criteria.

Nestlé recommends that the definition of a child is amended to 'under the age of 12'.

- **The role for a nutrient profiling system in the Children's Codes?**

For a self-regulatory system to be robust the methods by which it is assessed should be transparent to all stakeholders – importantly the community and the advertisers who are applying it.

We agree that it would be ideal for a common nutrition profiling criteria to be applied to food and beverage products advertised in the New Zealand market. Such criteria would need to be developed specifically for this purpose and be appropriate to the unique nutritional needs of the New Zealand child.

Nestlé has elected to apply the EU Pledge Nutrition Criteria under its global policy. These criteria were designed for the exclusive purpose of defining better-for-you options in the context of food and beverage advertising to children under twelve and specifically for the product categories covered. This reflects international guidelines underlining the necessity to develop nutrient criteria that are tailored for a specific purpose. Nestlé endorses this as an appropriate measure of products able to be advertised to children.

Existing nutrition criteria such as the Health Star Rating or the Nutrition Profiling Criteria under the ANZFSO are not appropriate, as this is not the purpose for which they were developed.

² For the purpose of this initiative, "advertising to children under 12 years" was defined as advertising to media audiences with a minimum of 35% of children under 12 years.

³ http://info.wfa.be/RAC_Child_Age_Review_Onepager_200911.pdf

⁴ http://info.wfa.be/RAC_AgeEvidence_final.pdf

⁵ <https://ifballiance.org/documents/2014/09/ifba-2014-global-policy-on-m2k-explained-final-september-2014.pdf>

We have considered the various nutrient profiling criteria available and summarised in the following table for ease of reference;

	Ofcom ⁶ (UK)	NPSC ⁷ (AU/NZ)	HSR ⁸ (AU/NZ)	EU pledge ⁹ (EU)
Primary use	Limit TV advertising to children	Eligibility of foods/beverages for nutrition & health claim	Holistic interpretive FOP labelling	Limit advertising to children
Strengths for use in consideration re responsible Marketing to Children	<p>Developed for the purpose of limiting marketing to children</p> <p>Defines "in/out" for food and beverages</p> <p>In use in the UK since 2007</p> <p>Multi stakeholder development Validated by academics</p>	<p>Defines "in/out"</p> <p>Some adaptation for specific foods products (defines 1 extra category as compared to Ofcom)</p> <p>System reflects food supply specific to ANZ</p> <p>Multi stakeholder development</p> <p>Known/in use in ANZ</p>	<p>Some adaptation for some food categories (defines 4 extra categories as compared to Ofcom)</p> <p>System reflects food supply specific to ANZ</p> <p>Multi stakeholder development</p> <p>Known/in use in ANZ</p>	<p>Developed for the purpose of defining 'better for you' products in the context of advertising to children under 12</p> <p>Used and or/adapted in several geographies (EU, Sg, India, GCC)</p> <p>Provides nutrition components to encourage by category</p> <p>Nestlé standard for Marketing to children policies globally</p>
Weaknesses for use re responsible Marketing to Children	N/A	<p>Not developed or validated for responsible marketing to children</p> <p>Has certain exemptions eg special purpose foods which it was not developed or intended to be used with</p>	<p>Not developed or validated for responsible marketing to children</p> <p>Scoring does not result in "in/out"</p> <p>Voluntary adoption and use - may be difficult for a consumer to assess where not displayed on pack</p>	N/A
Opportunities for use in responsible marketing to Children in NZ	No need for adaptation	Not specific for children (under 12) – may need adaptation	<p>Not specific for children (under 12) – may need adaptation</p> <p>Need to adapt score/stars into a "in/out" outcome</p>	Build on the EU or similar model as other IFBA pledges

⁶ Ofcom: Television Advertising of Food and Drink Products to Children

http://stakeholders.ofcom.org.uk/binaries/consultations/foodads_new/statement/statement.pdf

⁷ Nutrient Profiling Scoring Criterion

<http://www.foodstandards.gov.au/industry/labelling/pages/nutrientprofilingcalculator/Default.aspx>

⁸ Health Star Rating <http://healthstarrating.gov.au/internet/healthstarrating/publishing.nsf/content/home>

⁹ EU Pledge http://www.eu-pledge.eu/sites/eu-pledge.eu/files/releases/EU_Pledge_Nutrition_White_Paper_Nov_2012.pdf

Nestlé recommends further investigation around adopting appropriate nutrition criteria for the New Zealand child and would be happy to assist any investigation around the appropriateness and use of the EU Pledge Nutrition Criteria for this purpose.

- **Development of specific guidance on sponsorship.**

Nestlé has a long history of sports sponsorship involving children in New Zealand. Since 2004, Nestlé has been a sponsor of junior rugby with the Auckland Rugby Football Union (ARFU) through the MILO brand, enabling teaching of rugby skills and encouraging fitness and activity which New Zealand children may otherwise not have been able to participate in.

Sponsoring and encouraging children to participate in sporting activities through this sponsorship is core to our positioning as a nutrition health and wellness company, and promotion of this sponsorship is done carefully and targeting the parent/carer with this in mind in line with current ASA Codes and Nestlé policy.

Nestlé does not believe that the advertising of any sponsored activity differs to other advertising, and should be assessed against the Codes as appropriate.

Nestlé does not oppose development of specific guidelines on sponsorship provided it is in line with, and does not extend the principles of the Children's Codes. As a sponsor of sporting programs for New Zealand children, we would welcome the opportunity to assist in the development of any guidance documentation.

- **Sanctions**

The trust of our consumers is critical to our operations, and ensuring we are marketing our products responsibly is a non-negotiable priority.

Any finding of a breach of the Codes attracts media attention, leading to significant resulting damage to our goodwill and consumer trust and perception of our brands.

We note this is in addition to any costs associated with withdrawing the advertisement and making changes where required – both to the advertisement itself to ensure compliance and to our media buying schedule which may be impacted. Such activity is not just costly, but a significant disruption to business.

We note that compliance with the Children's Codes is high with a very low level of complaints all of which have been dismissed. It is reasonable to suggest that advertisers do not set out to intentionally breach the Codes and the threat of direct and additional sanctions is not needed to encourage compliance.

Nestlé does not believe there is a need to make any changes to the current sanctions, however we are happy to provide additional information if required.

We appreciate your time in reviewing our submission and would welcome the opportunity to discuss any aspect of this submission further or provide further assistance.