

## Submission for Consultation on the Review of the Code for Advertising to Children and the Children's Code for Advertising Food

### Submitter

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

Both Children's Codes are comprehensive and cover a wide range of guiding principles that help to protect children's rights and their wellbeing. Sanitarium refers to these codes when developing advertising that is targeted specifically towards children, such as the Weet-Bix TRYathlon. Both codes set out clear parameters in regards to their definitions around the age of a child and the definition of a treat food which are all helpful to ensure standards are met.

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

#### Strengths of the current process

- It only takes one single complaint to activate the process – which lends itself well to a self-regulatory practice, as adherence to the code ensures complaints are not made.
- Guidance is available for making and responding to a complaint within the Codes of Practice, along with the procedure involved which appear to be straight forward.
- ASA provide companies with the opportunity to provide supporting evidence which is used when assessing whether the complaint will be upheld or overturned. At Sanitarium, all claims for our products are substantiated, which can help to provide the ASA with evidence to overturn the complaint.
- Companies are alerted to the outcome of the ruling prior to the media release, therefore, enabling quick action to remedy the complaint.

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

- The criteria of which allows foods to be advertised. Currently the definition of a "treat" food is outlined in the Children's Code for Advertising Food as "high in fat, salt, or sugar". We believe this criteria is too broad to be applied to all food and further clarity and nutrient profiling is needed. For example, a bag of almonds or an avocado may, under this criteria, be defined as a 'treat' food as both are naturally high in fat. This is discussed in further detail in Q8.

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

- Advertising in media formats such as magazines or TV are more straight forward as they are typically reviewed or read by the target population.
- Social Media and Websites are a more challenging media to police. At Sanitarium we are very diligent in our digital marketing to ensure that we are advertising to appropriate audiences and by default only target 18+ individuals. Additionally we have programmes we can use to double check that the ad is being viewed by our target audience. The issue is that when an advertisement is being delivered digitally it is delivered based on the self-reported age that has been inputted by the user (i.e. age they used when signing up with their logon data) as well as their search history. Therefore, a child could be served an inappropriate advertisement on YouTube when they are on their parent's laptop profile. Advertisements being served will be what is appropriate to their parents' age and past search history. In this case, we feel that there needs to be a bit of ownership on the parents in regards to this by creating a separate login profile for their kids or use a kid friendly browsing ap.

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

No comment

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

No comment

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

We would support the definition of a child as under the age of 13. As literature suggests that children under the age of 13 do not have the same adult level of cognitive competency to process and respond to advertising (Cai & Zhao, 2013). However, from 12 years old onwards, there appears to be an increased capacity to process information found within advertising messages and a better understanding of the motives of an advertiser (Uribe & Fuentes-Garcis, 2015). Additionally, this is also in line with Facebook and other social media policies.

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

As mentioned earlier, the definition of a "treat food" outlined in the current Children's Code for Advertising Foods is "high in fat, sugar or salt". If applied to all foods, then foods naturally high in good fats (such as nuts and avocado) or sugar (such as fruit) may end up in this category. Therefore, it would be useful to have some sort of criteria to help make a clear distinction.

In recent literature in NZ, the NPSC score has been used to classify if a product is "healthy" – for example if the NPSC score of a breakfast cereal scores under 4 then it is deemed to be healthy. We believe there is a role for nutrient profiling within the ASA, however the health star rating and NPSC systems are only applicable for packaged foods, not unprocessed wholefoods that are normally more nutrient rich. While the HSR or NPSC profiling could work for packaged food, whole

unprocessed fruits, nuts, legumes and vegetables should automatically qualify and not need to go through a nutrient profiling system (with the exception of some outliers such as coconut). Therefore, a profiling system will need to be introduced that is appropriate to encompass all food and have a well thought out algorithm behind it.

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

We do not think there needs to be a specific guideline, however parameters do need to be investigated to ensure that the health and wellbeing of children is being looked after. Some schools or community sports centres rely heavily on sponsorship from food and beverage companies, however, we feel that fundraisers (sausage sizzles, chocolate bars etc.) may also need to be considered in conjunction with this, as otherwise this can create an un-level playing field. We are aware however, that this may sit outside the jurisdictions of the ASA.

If there is a proposed guideline around sponsorship, we feel that it should not be a blanket ban and instead should be allowed if a food meets a nutrient profiling score. For example, Sanitarium Weet-Bix TRYathlon would be classified as event sponsorship. However, we consider it to be responsible advertising to children, as the product being promoted (Weet-Bix) is nutritious food recommended by the Ministry of Health and additionally the event promotes exercise and a healthy lifestyle.

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

Sanitarium does not believe there is a need for the introduction of independent monitoring and evaluation of the codes. As mentioned earlier, only one single complaint is required to activate the complaints process and a third party (Chair of Complaints Board) will decide if there are grounds for the complaint to proceed.

Sanitarium takes care to comply with both Children's Codes during the development of advertising and marketing to children. While we offer a range of products that children are likely to consume, the only advertising that we feel is directed directly at children is as follows:

- Weet-Bix sponsored TRYathlon
- All Blacks promotion in association with Weet-Bix (All Black collector cards found in every Weet-Bix box, Weet-Bix packaging featuring the All-Blacks)

#### **Proof of self-regulation working;**

In past, Sanitarium has declined offers from retailers when invited to take part in loyalty programmes targeting children directly with Disney characters, when we felt the product they wanted to include was not suitable for everyday consumption by children.

We believe that it is also important to acknowledge how far the food industry has come with regards to responsible advertising since the implementation of this code. For example Sanitarium has, in the past, produced TVCs using Trade Characters and cartoon type scripts aimed at children for products i.e. Honey Puffs, which now cease to exist.

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

When a compliant is upheld, we believe it is fair for the advertiser to be asked to withdraw or amend the advertisement immediately, to prevent further consumers from being misled, offended or

otherwise. We also note that decisions made about advertising complaints are released to the public and media, and published on the ASA website. While we consider this a further sanction due to the potential brand damage this can create if a compliant is upheld, we acknowledge that this is a reasonable penalty given the code is self-regulatory.

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

We believe there are some environments where it may be inappropriate to advertise to children, but this may come down to the food and the overall message. If an advertisement was promoting a product that had reached a certain nutrient profile score and, in addition, helped to promote an active lifestyle it may be acceptable to advertise to children as it is helping to instil healthy behaviours in children.

Examples of healthy advertising to children;

- Weet-Bix sponsorship for the Weet-Bix TRYathlon being advertised to children within the school environment is a positive form of advertising as it promotes an active and healthy lifestyle and is often one of the first sporting activities kids' tries, which then encourages them to lead a more active lifestyle.
- Weet-Bix and Fonterra Kick Start Breakfast is another positive advertising to children as it promotes the positive effects of having a breakfast on their learning and development. Additionally, it is promoting healthier choices of breakfast foods that aligns with the recommendations of the Ministry of Health Nutrition Guidelines for Children.

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

We would support the decision to combine the two current codes. Information (definition of a child, social responsibility etc.) currently overlaps in some places. In addition to this, one code makes it easier to consider and refer to during the development of any advertising targeted towards children.