

April 2016

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

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Executive Summary

The Heart Foundation seeks the following outcomes from the review:

- Environments where children gather, especially education settings, are free from all forms of unhealthy food marketing.
- The objective of the codes is to reduce the overall exposure and power of unhealthy food marketing in order to reduce the harm caused to children.
- The operation of the codes is strengthened by the adoption of a co-regulatory system with government input that includes independent pre-vetting and monitoring and evaluation.
- A nutrient profiling system is adopted.
- The code defines children as under 18 years.

Introduction

The National Heart Foundation of New Zealand (the Heart Foundation) welcomes the opportunity to comment on the Advertising Standards Authority's (ASA) codes on advertising to children and the children's code for advertising food. The Heart Foundation views childhood as a key time to intervene with the view to preventing excessive weight gain and delaying the premature onset of cardiovascular disease.

We consider it of the utmost importance that environments where children study and play are the healthiest they can be and we work with schools and early learning services to create healthy education environments.

The WHO has developed and endorsed a set of recommendations on the marketing of food to children, through the World Health Assembly. WHO Member States are encouraged to adopt the recommendations¹, and the Heart Foundation endorses their full implementation within New Zealand.

Their intention is to reduce the impact of marketing of foods high in saturated fat, trans fat, sugar, and salt on children, and to reduce the exposure of children to marketing, as well as its power. Amongst the WHO recommendations are that clear definitions be set on the foods and aspects of marketing covered; settings where children gather should be free from all forms of advertising of unhealthy foods; and that government should take ownership of the issue and be responsible for setting standards, monitoring compliance and evaluation.

The ASA has outlined 13 questions in the consultation booklet which are addressed in our submission. We also outline some issues not covered by the questions which pertain to the operation of the codes.

Why is this issue important to the Heart Foundation?

1. Research shows that the process of cardiovascular disease can begin in childhood and progress throughout the lifespan.^{2 3} This evidence is available from studies such as the Bogalusa Heart Study, in which one-quarter of children aged 5 to 10 years had high blood pressure, elevated cholesterol, or other early warning signs for heart disease.^{4 5} This puts children at increased risk of developing cardiovascular disease in adulthood.⁶ The Cardiovascular Risk in Young Finns Study found a relationship between risk factors in adolescence and measures of atherosclerosis in adulthood.^{7 8} This effect was independent of risk factors for cardiovascular disease present in adulthood. Thus, childhood is a key time to intervene to prevent heart disease.
2. There is increasing evidence that marketing of unhealthy food contributes to obesity and chronic disease such as heart disease. Protecting children from this influence is a high priority if we are to reduce the future burden of obesity and chronic disease. Thirty one percent of children in New Zealand aged 2-14 years carry excess body weight.⁹ For 40-80 percent of these children, their excess weight will continue into adulthood.¹⁰ This excess body weight promotes an adverse cardiovascular and metabolic profile from early in life.¹¹ Cardiovascular disease (heart, stroke and blood vessel disease) is still the leading cause of death in New Zealand, accounting for 30% of deaths annually.¹² Progress has been made, however, and mortality from cardiovascular disease has been steadily decreasing since the late 1960s. According to the OECD, New Zealand loses 138 lives to heart disease per 100,000, which is 18% higher than the OECD average. We trail Australia and the United Kingdom (98 per 100,000), Canada (95 per 100,000) and the US (128 per 100,000).¹³
3. Marketing of unhealthy food to children has been associated with adverse health outcomes, and is considered part of the childhood obesity problem.¹⁴ Children are developing their food preferences,¹⁵ and marketing of unhealthy food adversely influences both preferences and consumption. Unhealthy childhood eating patterns are associated with risk factors for cardiovascular disease, such as type 2 diabetes, high blood pressure, and dyslipidaemia.¹⁶ Longitudinal studies demonstrate that these risk factors, including overweight and obesity, can

persist into adulthood and increase adult risk of cardiovascular disease.^{17 18 19} Thus, childhood eating patterns can have both immediate and long-term health effects.

4. The Heart Foundation has a wealth of experience working with schools to promote healthy eating and physical activity. For 26 years, Heart Foundation Health Promotion Coordinators have been working with schools to assist them to create healthier learning environments through evidence-based programmes. This includes assisting schools to develop healthy food and physical activity policies, curriculum-aligned learning, engaging whānau and professional development for teachers as well as the food provision within the school. During this time, the Heart Foundation has evaluated and developed our work in schools to reflect current health and education environments. Currently, we provide a range of programmes, tools and resources to assist schools to create environments which promote healthy eating and physical activity to the students, whānau and staff.

Examples of the Heart Foundation's capability to deliver physical activity and healthy eating programmes includes:

Heart Start^[1]: Toitōi Manawa a free curriculum-linked programme, partially funded by the Ministry of Health. It is offered to all schools across New Zealand and currently the Heart Foundation covers approximately 10% of schools nationally including 16.5% of low decile schools. The programme fits with schools existing work and helps build a heart healthy environment.

Adoption and delivery of Foodstuffs' **Food For Thought** nutrition programme to Years 5 and 6. This is an example of the Heart Foundation delivering a programme to schools on behalf of another organisation. In 2015, we delivered Food For Thought to 5857 students in 87 schools.

Healthy Heart Award for Early Childhood Education: Tohu Manawa Ora – Kōhungahunga is a curriculum-linked physical activity and nutrition programme for under fives. Currently, we are working with 22% of early learning services nationally. An independent evaluation showed overall, the Healthy Heart Award programme contributed to early learning services making changes that extended beyond the service and into the home lives of their families/whānau. Early learning staff developed their skills in talking to children and their families/whānau about nutrition and physical activity. Families/whānau were more aware of good practice in nutrition and physical activity for their children and are making changes in their own lives.

The Heart Foundation launched a new website, [Learn by Heart](http://www.learnbyheart.org.nz), for the education sector in September 2014. This fresh, engaging website brings together our education programmes, making them more accessible and easy to achieve for Kiwi schools and early learning services www.learnbyheart.org.nz

Since 2011, the Heart Foundation has held the contract for the Ministry of Health's Food and Beverage Classification System, which was rebranded 'Fuelled4life'. Managed by the Heart Foundation, Fuelled4life is a collaborative initiative that involves the education, health and food industry sectors working together to make it easier to have healthier food in schools and early learning services. Fuelled4life aims to give young people getting a good start to life through access to healthier food and beverages. It is designed to inspire schools and early learning services to

^[1] HEART START is a trademark of Laerdal Medical A.S, and is used under license.

provide tasty, nutritious products and to encourage the food industry to produce and supply healthier foods and beverages that young people will want to consume.

5. Overall, we aim to create healthy education environments where healthy eating and regular physical activity are the norm for children and young people, where the culture of the setting supports these behaviours and where they receive consistent messages about healthy eating and physical activity. This includes the implementation of robust healthy eating and physical activity policies, learning about food and nutrition in the classroom, food services which offer healthy choices and limit less healthy options, staff who are upskilled in nutrition, healthy eating and physical activity are promoted within the school or early learning setting, and reinforcing messages are communicated to parents and whānau. Where fundraising aligns with the policies, where the healthy choice is the easy choice, where the adults (both staff and whānau) role model healthy behaviours.
6. Any form of marketing of unhealthy foods in an education environment is inconsistent with the aims of the Heart Foundation and the Ministry of Health which funds our programmes.

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

7. Currently the two codes regulate individual advertisements. This focus does not take into account the cumulative effect of frequent repetition of specific advertisements. Repetition on television could be regulated in the code as follows
 - No individual unhealthy food advertisement may be played more than twice within an hour per channel per day.
 - No unhealthy food advertisement may be played more than three times within each programme
 - There should be no more than two unhealthy food advertisements during any programme watched by 'significant numbers' of children (a percentage could be determined using viewer data supplied by television surveys).

There is a precedent for regulating repetition in the Getting it Right for Children self-regulatory system.

8. The wording in the introduction to both of the codes states 'advertisements for food that influence children'. This implies that all children buy their own food and are 'influenced' to purchase in a particular way. It ignores the importance of 'pester power' and that many parents buy the food requested by children or that they think children will like. The Heart Foundation recommends that the wording be changed to 'advertisements for food that is consumed by children' where the product is one that appeals to children and where the communication contains features that appeal to children such as cartoons, characters, colours and where children are portrayed.

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

9. It is the Heart Foundation's view that the public are insufficiently aware of the complaints process and we would like to see it advertised in a similar way to the Broadcasting Authority's complaint process. Social media would also be an excellent platform for raising public awareness of the complaints process.

10. We support the issues raised in the submission from Agencies for Nutrition Action that there has been inconsistent decision making from the complaints board and that too many advertisements are screened out by the Chair.
11. A further weakness is the inability of the ASA to enforce the codes. In the case of Wicked Campers the ASA has admitted there is nothing they can do if an advertiser ignores the request to remove the offending advertising.²⁰

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

12. The changes the Heart Foundation seeks are listed below:
- Sponsorship by companies advertising unhealthy food or drinks should be prohibited under the code.
 - A pre-vetting system similar to those for liquor and therapeutic products should be instituted. This would ensure that companies would be required to review marketing campaigns as a whole for compliance prior to development of any material. The adjudicator for this system should be appointed by the Ministry of Health.
 - Advertising of unhealthy food and drink should not contain identifiable heroes or heroines of the young as stated in the alcohol code.
 - Cartoon and movie characters popular with children should not be associated with the marketing of unhealthy food or drinks.
 - Guideline 3(i) of the alcohol code should be replicated in the children's code replacing the words 'an alcohol brand' with 'an unhealthy food or drink product or brand'.

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

13. The Heart Foundation supports points 37 to 40 in the Healthy Auckland Together (HAT) submission that outline the increased challenges brought the complexity of the new media environment. The strengthening of the codes that is mentioned in the HAT submission would need to include a recognition that a marketing campaign is rarely based on a single platform and that the combination of techniques adds to the power of the message and the overall exposure of children to marketing messages.

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.

See Appendix

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.

See Appendix

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

14. The Heart Foundation supports the United Nation's Convention of Rights of the Child definition below.

"For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier."

15. It is interesting to note that the Minister for Social Development, Anne Tolley, has recently announced that the government will increase the age of care from 17 to 18 years old.

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?

16. The Heart Foundation supports the use of a nutrient profiling system and favours the adoption of the Food and Beverage Classification System (FBCS) nutrient criteria. This is a Ministry of Health owned criteria developed specifically to identify healthier foods for children. It is based on the Ministry's Food and Activity Guidelines. One of the advantages of this system is its clarity. Everyday foods are clearly identified as being the healthiest options. The FBCS may need some slight modification to include a wider variety of foods (e.g. those that are not currently covered in the nutrient criteria e.g. spreads and sauces and a wider variety of beverages (the FBCS has recently aligned with the new Ministries of Health and Education advice for schools to be milk and water only.
17. Any review or modification of the FBCS should be a Ministry of Health led process and include food modeling and food industry nutrition expertise.
18. Another model to consider is the WHO Regional Office for Europe Nutrient Profile Model.²¹
19. While the Health Star Rating System is promising to be an effective tool for consumers to identify healthier options in the retail environment, the algorithm used to determine the rating differentiates products within categories not between different foods.
20. It is recommended that a technical advisory group be convened by the Ministry of Health to determine the most appropriate model.

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

21. Sports clubs and associations do a great job providing New Zealand children with sporting opportunities but they also have a responsibility to children to provide positive messages about nutrition. Due to limited funding avenues for children's sport, clubs often resort to sponsorship from food and drink companies. The result is that children receive contradictory messages that encourage unhealthy eating behaviours. Compared to the cost of television advertising, the promotion of food and drink to children through sports' sponsorship is relatively inexpensive.

In our view the promotion of unhealthy food and drinks:

- increases children's familiarity with food and drink brands

- associates particular foods and drinks with an activity children enjoy and therefore generates a positive association
- builds customer relationships and creates long term loyalty
- targets children at a time in their life when they are more susceptible to the persuasive intent of marketing and advertising
- promotes the idea that unhealthy products are associated with success in sport
- generates a favourable relationship with parents as well²²

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

22. It is imperative that the codes are independently monitored and evaluated. The Heart Foundation supports the points made on this issue by Healthy Auckland Together that the ASA adopt WHO Recommendation 10 - to use clearly defined and relevant indicators that measure the effect of the policy on its objective (ie reducing exposure and power of advertisements to children) when developing an independent monitoring system.²³
23. As Sir Peter Gluckman recently pointed out in a childhood obesity seminar 'Voluntary agreements mean little if they are not independently audited by appropriate agencies or NGOs such as GAIN (Global Alliance for Improved Nutrition) and preferably have the government as stakeholders'.²⁴

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

24. Currently the sanctions applied are the removal of the advertisement from the market. While the Heart Foundation accepts that in theory this can be a severe punishment if the campaign has just started however in practice this has often been meaningless as the campaign had already concluded. This has led to a lack of confidence in the system from the health sector and the impression that self-regulation does not work.
25. A more robust system of sanctions that could include fines or corrective education on healthy eating would give the public more confidence that the ASA was serious about preventing the harm caused to children by marketing of unhealthy foods and this in turn would give the self-regulatory system more credibility.

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

26. Yes. All environments where children gather should be free from the marketing of unhealthy products. In particular educational environments should be free from all types of marketing including the branding of sports equipment. There is growing evidence that good nutrition is critical to children's opportunity to learn and that obese children learn less well.²⁵
27. The codes should align with WHO recommendation 5

Settings where children gather should be free from all forms of marketing of foods high in saturated fats, trans-fatty acids, free sugars, or salt. Such settings include, but are not limited to, nurseries, schools, school grounds and pre-school centres, playgrounds, family and child clinics and paediatric services and during any sporting and cultural activities that are held on these premises.²⁶

28. In addition the Heart Foundation considers that marketing of unhealthy food is harmful at sports grounds, sporting clubs and any public space where sports activities occur that cater for or are frequented by children.

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

29. We support the combining of the codes with the proviso that the rules regarding food marketing are in a separate section and receive the same prominence as the existing separate code.

Additional areas of concern

30. **Undermining of self-regulation** - Many health bodies currently consider the voluntary nature of the advertising codes to be weak and ineffectual. This undermines the concept of self-regulation overall. The Heart Foundation has worked very effectively with industry in a number of health initiatives and believe there is a place for self-regulation. Strengthening the operation and content of the codes will bolster confidence in the system.
31. **No regulatory back-up** – The Heart Foundation maintains that the system would be more robust and protect children more effectively if there was a co-regulatory approach. This would involve the Government setting clear policy goals and performance targets for the food industry to meet, monitoring them closely and providing the credible expectation that, if measureable improvements in voluntary performance are not achieved, more direct forms of regulation would be introduced. Expectations should include clear timelines for outcomes, common definitions,² transparency and reporting requirements. Regular monitoring of the extent and nature of unhealthy food marketing through various media by an independent body is important to significantly strengthen and improve food industry initiatives.
32. **Overall exposure** – The codes currently treat each advertisement as if it is an isolated case. In order to protect children from harm the codes need to take into account the overall power of the marketing messages that children are exposed to in all formats and in all settings.
33. **Brand advertising** – Research has shown that children are influenced by branding and prefer food that is branded with a well-known logo.²⁷ Brand advertising to children should not be permitted where the majority of a company's offerings are unhealthy.
34. **Treat food terminology** – We recommend the removal of the term 'treat' food from the codes. This term implies those foods are special and could be used as a reward. The Ministry of Health does not classify foods high in fat sugar and/or salt as treats but as foods suitable for occasional consumption only.

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- ¹ World Health Organization. Prevention and control of non-communicable diseases: implementation of the global strategy: Executive Board, 126th Session, Provisional agenda item 4.9; World Health Organization, 26 November 2009.
- ² Daniels SR, Greer FR, the Committee on Nutrition. Lipid screening and cardiovascular health in childhood. *Pediatrics* 2008;122(1):198-208.
- ³ Wissler RW, Cornhill LF, McGill Jr HC, McMahan CA, Robertson Jr AL, Strong JP, et al. Natural history of aortic and coronary atherosclerotic lesions in youth: Findings from the PDAY study. *Arteriosclerosis and Thrombosis* 1993;13(9):1291-1298.
- ⁴ Freedman DS, Dietz WH, Srinivasan SR, Berenson GS. The relation of overweight to cardiovascular risk factors among children and adolescents: The Bogalusa Heart Study. *Pediatrics* 1999;103(6 I):1175-1182.
- ⁵ Berenson GS, Srinivasan SR, Bao W, Newman WP III, Tracy RE, Wattigney WA. Association between multiple cardiovascular risk factors and the early development of atherosclerosis. Bogalusa Heart Study. *New England Journal of Medicine* 1998;338(23):1650-1656.
- ⁶ Jolliffe CJ, Janssen I. Vascular risks and management of obesity in children and adolescents. *Vascular Health and Risk Management* 2006;2(2):171-187.
- ⁷ Daniels SR, Greer FR, the Committee on Nutrition. Lipid screening and cardiovascular health in childhood. *Pediatrics* 2008;122(1):198-208.
- ⁸ Raitakari OT, Juonala M, Kahonen M, et al. Cardiovascular risk factors in childhood and carotid intima-media thickness in adulthood: the Cardiovascular Risk in Young Finns Study. *JAMA* 2003;290(17):2277-2283.
- ⁹ <http://www.health.govt.nz/nz-health-statistics/health-statistics-and-data-sets/obesity-data-and-stats>
- ¹⁰ Strong K, Mathers C, Leeder S, Beaglehole R. Preventing chronic diseases: how many lives can we save? *Lancet* 2005;366:1578-82.
- ¹¹ Falaschetti E, Hingorani AD, Jones A, Charakida M, Finer N, Whincup P, et al. Adiposity and cardiovascular risk factors in a large contemporary population of pre-pubertal children. *European Heart Journal* 2010;31(24):3063-72.
- ¹² Ministry of Health (2015) Mortality and Demographic data 2013 (provisional). Wellington: Ministry of Health
- ¹³ http://www.oecd-ilibrary.org/social-issues-migration-health/health-at-a-glance-2015_health_glance-2015-en
- ¹⁴ Cairns G, Angus K, Hastings G. The extent, nature and effects of food promotion to children: a review of the evidence to December 2008. Geneva: World Health Organization, 2009. Birch LL, Fisher JO. Development of eating behaviors among children and adolescents. *Pediatrics* 1998;101:539-549.
- ¹⁵ Birch LL, Fisher JO. Development of eating behaviors among children and adolescents. *Pediatrics* 1998;101:539-549.
- ¹⁶ World Health Organization. Prevention and control of noncommunicable diseases: implementation of the global strategy: Executive Board, 126th Session, Provisional agenda item 4.9; World Health Organization, 26 November 2009.
- ¹⁷ Jolliffe CJ, Janssen I. Vascular risks and management of obesity in children and adolescents. *Vascular Health and Risk Management* 2006;2(2):171-187.
- ¹⁸ American Heart Association, Gidding SS, Dennison BA, Birch LL, Daniels SR, Gilman MW, et al. Dietary recommendations for children and adolescents: a guide for practitioners. *American Academy of Pediatrics* 2005;117(2):544-559.
- ¹⁹ Tirosh A, Shai I, Afek A, Dubnov-Raz G, Ayalon N, Gordon B, et al. Adolescent BMI trajectory and risk of diabetes versus coronary disease. *The New England Journal of Medicine* 2011;364(14):1315-25.
- ²⁰ http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11608638
- ²¹ http://www.euro.who.int/__data/assets/pdf_file/0005/270716/Nutrient-Profile-Model_Version-for-Web.pdf
- ²² <http://parentsvoice.org.au/our-work/junk-food-marketing/>
- ²³ World Health Organisation. *Set of Recommendations on the Marketing of Food and Non-Alcoholic Beverages to Children*. Geneva:WHO Press, 2010.
- ²⁴ <http://www.pmcsa.org.nz/wp-content/uploads/SuPERU-Obesity-Seminar-18-Nov-2015.pdf>
- ²⁵ <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4416088/>
- ²⁶ <http://www.who.int/dietphysicalactivity/publications/recsmarketing/en/>
- ²⁷ <http://news.stanford.edu/news/2007/august8/med-fastfood-080807.html>

Appendix – examples of marketing

Nelson College 1st XV – McDonald's sponsorship.

<http://www.stuff.co.nz/content/dam/images/1/6/0/d/t/x/image.gallery.galleryLandscape.600x400.160e22.png/1437944037558.jpg>

<http://www.stuff.co.nz/content/dam/images/1/6/0/d/t/u/image.gallery.galleryLandscape.600x400.160e22.png/1437944037558.jpg>

Use of cartoon characters in online shopping

<http://shop.countdown.co.nz/Shop/ProductDetails?Stockcode=745717>

<http://shop.countdown.co.nz/Shop/ProductDetails?Stockcode=315396>

<https://www.thewarehouse.co.nz/red/catalog/product/Star-Wars-Character-Cookies-200g?SKU=2000667>

Sponsorship of an unhealthy food product using a child



KFC super rugby (2014-04-25).mp4

Unhealthy food product advertisement using persons well known to children



Wendys Warriors (2014-05-27_19).mp4



Eta Kettles, UpperCuts or Solay Chips 150g



Kellogg's Nutri-Grain 500g, Sultana Bran 730g, Coco Pops 650g or Special K 535g

Nivea Products
Excludes Nivea Men Shower Gel 500ml & Minis
NOW From \$2.99 - \$20.99



Sara Lee Cheesecakes, Bavarian, Danishes 360-410g, Apple Pies or Crumbles 500-600g

Countdown Fresh Pre-packed New Zealand Braeburn, Granny Smith, Royal Gala Apples or Packham Pears 1kg



All Schick Shaving Products
NOW From \$2.99 - \$23.99

Bonus for purchase should not apply to unhealthy products when it is associated with movies that appeal to children



Bus shelter at the end of Harris Road Mt Wellington and less than 1k away from Stanhope Road school

The same bill board is also on a bus shelter in main highway – again which is probably less than 1k from Ellerslie school has a lot of foot traffic for children walking to Ellerslie school and One Tree Hill College Penrose Auckland.

On billboards around schools

<https://promo.v-energy.com.au/entry.aspx>





















