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**Royal New Zealand Plunket Society (Inc.)**

**Response to the Advertising Standards  
Authority on the Consultation on the Review  
of the Code for Advertising to Children and the  
Children's Code for Advertising Food**

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## To the Advertising Standards Authority on the Consultation on the Review of the Code for Advertising to Children and the Children's Code for Advertising Food

### Introduction

1. The Royal New Zealand Plunket Society (Inc.) has been part of New Zealand's landscape for over one hundred years, and our mission - supporting the development of healthy children and families - is just as relevant now as it was when Plunket was established by Dr (Frederic) Truby King in 1907.
2. Plunket provides universal well child primary health services to over 90% of new babies in New Zealand, as well as parenting education and support services in communities throughout New Zealand. This submission represents the combined experience and views of around 6,000 volunteers who represent a broad spectrum of New Zealanders currently engaged in a variety of voluntary roles with Plunket, as well as more than 650 professional staff who deliver the Well Child/Tamariki Ora service framework to families with children aged from birth to 5 years.
3. In the first year of a new baby's life, Plunket Nurses attend the home. These visits include carrying out primary health care in conjunction with a thorough health needs assessment which includes anticipatory guidance. Guidance on nutrition and healthy food choices, as well as play options congruent with the child's developmental stage, is therefore part of a nurse's work.
4. As well, Plunket's parenting education groups, PEPE, include conversations guiding parents on play activities that support children's healthy development. The programme includes linking parents to appropriate resources to make healthy food choices on behalf of their young children.
5. At its 2014 national conference, Plunket committed to advocating for "...**effective policy measures to reduce childhood obesity, including protecting children from the marketing of unhealthy food**, implementation of easy-to-understand food labelling, tax interventions and supporting pregnant women to make healthy lifestyle changes."<sup>1</sup> [emphasis added]
6. Plunket supports of the provision of healthy nutrition and safe labelling by sitting on the Independent Nutrition Advisory Group. This body is charged with advising Watties on issues relating to infant food and nutrition. Plunket is able to contribute to the quality of Watties baby food products for infants ready to start solid food.
7. Plunket's submission focuses on the *Children's Code for Advertising Food*, with particular reference to:

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<sup>1</sup> Remit 11, Plunket National Conference (Auckland, September 2014).

- a) The strengths and weaknesses of the *Children's Code for Advertising Food* [Q.1]
- b) Changes necessary to protect the rights of children and their health and wellbeing [Q.3]
- c) Concerns about different media formats in relation to advertising to children [Q.4]
- d) Nutrient profiling [Q.8]
- e) Combining the two codes [Q.13]

8. A note about terminology used in this submission:

'Unhealthy food' denotes food high in fat, salt and/or sugar (HFSS) or food that is energy-dense, but nutritionally poor (EDNP);

'UNCROC' denotes the United Nations Convention on the Rights of the Child is referred to as throughout;

'The Code' denotes the *Children's Code for Advertising Food*;

'Food' includes beverages.

'Plunket' denotes the Royal New Zealand Plunket Society (Inc.).

### The strengths and weaknesses of the Code [Q.1]

- 9. We note with approval the introduction to the Code refers to UNCROC articles 3, 13 and 17. As a State Party to the United Nations Convention on the Rights of the Child, the New Zealand government has undertaken to ensure that children's best interests are paramount when policy and legislative decisions are made. There are two further articles of relevance. First, Article 24, which concerns children's health, is worthy of mention. The connection to health and nutrition has particular relevance for food marketing because of food's connection to obesity.
- 10. Some would say that Article 36 is also relevant to the Code. This article requires State Parties to "protect the child against all ... forms of exploitation prejudicial to any aspects of the child's welfare." It is arguable that promoting unhealthy food known to expose children to the risk of obesity is a form of exploitation that prejudices their welfare.

11. Since the Code was reviewed, we have seen the release of the childhood obesity plan<sup>2</sup> and the WHO's December 2105 report on ending childhood obesity.<sup>3</sup> These are both highly relevant documents that Plunket would like to see endorsed by the Code in its introduction.
12. Lastly, there is scope to include a reference to the Treaty of Waitangi. This is important because children of Māori [and Pacific] ethnicity are at higher risk of developing obesity than the children's population at large.<sup>4</sup>

### Protecting Children's Rights and Wellbeing [Q.3]

13. We acknowledge the right of advertisers to the freedom to impart information,<sup>5</sup> and children's rights to receive information under Article 13 of UNCROC. In all rights-based legislation, State Parties need to exercise balance.
14. It is self-evident that, in order to do its job well, advertising *must* influence behaviour. We note with approval the considerable work that has gone into self-regulation of advertising during children's television programming times.<sup>6</sup> However, babies and young children are hugely vulnerable to advertising because they are sensitised to information about social norms as they rapidly learn how to adapt to their family and community and later, their world. In addition, young children's attraction to symbols and imagery are important prerequisites to later efforts to read and interpret visual information.<sup>7</sup> Children's brand recognition increases substantially between the age of three and five, when the development of speed of information processing is at its highest and attention span is increasing.<sup>8</sup> The need for critical thought processes will come later.
15. Children are also sensitive to peripheral cues in advertising: auditory and visual features rather than on the semantic information of the message. Peripheral cues include peer acceptance, magic, fantasy, action/adventure, mood alteration, speed/ strength. Research has found a predominance of peripheral cues in advertising food to children, particularly low nutrition food.<sup>9</sup>

<sup>2</sup> <http://www.health.govt.nz/our-work/diseases-and-conditions/obesity/childhood-obesity-plan>

<sup>3</sup> World Health Organization Report of the Commission on Ending Childhood Obesity (Geneva, 2016); [http://apps.who.int.wmezproxy.wnmeds.ac.nz/iris/bitstream/10665/204176/1/9789241510066\\_eng.pdf](http://apps.who.int.wmezproxy.wnmeds.ac.nz/iris/bitstream/10665/204176/1/9789241510066_eng.pdf).

<sup>4</sup> Ministry of Health, Background information on evidence and options for interventions to address childhood obesity in New Zealand (Wellington, July 2015).

<sup>5</sup> Pursuant to Section 14 of the New Zealand Bill of Rights Act 1990; the leading case is *Hosking v Runting* [2005] 1 NZLR 1 at [285]. It is beyond the scope of this submission to explore the relevant Bill of Rights issues, but these are well covered in *Regulation of Food Advertising to Children in New Zealand*, Simon Hoffmann, a dissertation submitted in partial fulfilment of the degree of Bachelor of Laws (Honours) at the University of Otago (Dunedin, October 2014).

<sup>6</sup> ThinkTV Advertising on Television: Getting it right for children.

<sup>7</sup> Calvert, S.L. (2008). Children as Consumers: Advertising and Marketing. *The Future of Children*, 18(1), 205-234

<sup>8</sup> Valkenburg, P.M. & Buijzen, M. (2005). Identifying determinants of young children's brand awareness: Television, parents, and peers. *Applied Developmental Psychology* 26, 456-468.

<sup>9</sup> Calvert, S.L. (2008). Children as Consumers: Advertising and Marketing. *The Future of Children*, 18(1), 205-234; Kim, H, Lee, D., Hong, Y., Ahn, J., & Lee K-Y. (2015) A content analysis of television food advertising to children:

16. These facts are of critical importance because, more than ever, we now understand the links between marketing and consumption of unhealthy food, the development of obesity in childhood, the health problems that causes throughout life, and the associated personal, societal and economic costs.

17. In 2013, the Committee on the Rights of the Child said:

*States should also address obesity in children, as it is associated with hypertension, early markers of cardiovascular disease, insulin resistance, psychological effects, a higher likelihood of adult obesity, and premature death. Children's exposure to "fast foods" that are high in fat, sugar or salt, energy-dense and micronutrient-poor, and drinks containing high levels of caffeine or other potentially harmful substances should be limited. **The marketing of these substances – especially when such marketing is focused on children – should be regulated and their availability in schools and other places controlled.***"<sup>10</sup> [Emphasis added]

18. Late last year, New Zealand was examined by the Committee on the Rights of the Child for compliance with UNCROC. The list of issues to be addressed includes: "...information on measures taken to reduce the prevalence of obesity."<sup>11</sup> The need for the New Zealand Government to use what levers are available to address children's risk of developing obesity is now urgent.

19. As the World Health Organisation said in its 2016 report on ending childhood obesity:

*There is unequivocal evidence that the marketing of unhealthy foods and sugar-sweetened beverages is related to childhood obesity. Despite the increasing number of voluntary efforts by industry, exposure to the marketing of unhealthy foods remains a major issue demanding change that will protect all children equally. **Any attempt to tackle childhood obesity should therefore, include a reduction in exposure of children to, and the power of, marketing.***<sup>12</sup> [Emphasis added]

20. Marketing of unhealthy food to children is widespread<sup>13</sup> and there is now considerable evidence that self-regulation has been of limited effect with respect to children's food advertising in New Zealand.<sup>14</sup> This is consistent with overseas experiences.

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comparing low and general nutrition food. *International Journal of Consumer Studies*, 40, 201- 201; Lioutas, E.D. & Tzimitra-Kalogianni, I. (2014). 'I saw Santa drinking soda!' Advertising and children's food preferences. *Child: Care, health and development*. 41(3), 424-433.

<sup>10</sup> The Committee on the Rights of the Child: General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (Article 24).

<sup>11</sup> The Committee on the Rights of the Child, List of issues in relation to the fifth periodic report of New Zealand Government (6 March 2016).

<sup>12</sup> WHO. Report of the Commission on Ending Childhood Obesity [Internet]. Geneva: World Health Organization;

2016; [http://apps.who.int.wmezproxy.wnmeds.ac.nz/iris/bitstream/10665/204176/1/9789241510066\\_eng.pdf](http://apps.who.int.wmezproxy.wnmeds.ac.nz/iris/bitstream/10665/204176/1/9789241510066_eng.pdf)

<sup>13</sup> Cairns, B. G., Angus, K. & Hastings, G. *The extent, nature and effects of food promotion to children: a review of the evidence*. 1–173 (Geneva, 2009).

<sup>14</sup> Thornley L, Signal L, Thomson G. Does industry regulation of food advertising protect child rights? *Crit Public Health*. 2010 Mar; 20(1):25–33.; Bowers S, Signal L, Jenkin G. Does current industry self-regulation of food

21. Our own Treasury has advised the Minister of Finance that “[i]nternational evidence has shown that regulating or banning television and radio marketing to children can lead to reduced product sales.”<sup>15</sup>
22. Unfortunately, exposure to advertising is unlikely to be equivalent across all socio-economic groups in New Zealand. In a comprehensive study in 2011, the North American not for profit organization, Common Sense Media,<sup>16</sup> explored young children’s media use in America.<sup>17</sup> One of the study’s findings was that television was still the most likely medium to reach young children in low income homes. The study also referred to the ‘app gap’, whereby children in high income homes were much more likely to have accessed educational apps than those in low income households:  
*“41% of children from families that earn more than [USD] \$75,000 a year have used educational apps, compared to just 16% of children from families earning under [USD] \$30,000 a year.”*<sup>18</sup>
23. The most recent comprehensive study on New Zealand children’s media use was in 2014, when New Zealand on Air and the Broadcasting Standards Authority commissioned Colmar Brunton to conduct comparative [from 2007] research into the way New Zealand children engage with media.<sup>19</sup> Arguably the analysis is a little lighter on children’s access to devices by income when compared with the Common Sense Media study. However, it does appear that television was less used in high income homes, in line with the North American study’s results.<sup>20</sup> This factor is important because a wide range of research reports show that, unfortunately, television viewing positively correlates with unhealthy food choices.<sup>21</sup> In

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marketing in New Zealand protect children from exposure to unhealthy food advertising? Report prepared for the Cancer Society of New Zealand. 1–26 [Internet]. Wellington: Health Promotion and Policy Research Unit, University of Otago (Wellington; 2012).

<sup>15</sup> New Zealand Treasury, Report to Minister of Finance (Hon Bill English), Options for regulatory responses to the growing obesity problem, paragraph 26 (16 December 2014).

<http://www.treasury.govt.nz/downloads/pdfs/oia/oia-20150441.pdf> (released under the Official Information Act; downloaded 6 April 2016).

<sup>16</sup> <https://www.common sense media.org/>

<sup>17</sup> Common Sense Media, Zero to Eight: Children’s Media Use in America (USA, 2011).

<sup>18</sup> Common Sense Media, Zero to Eight: Children’s Media Use in America (USA, 2011).

<sup>19</sup> <http://www.nzonair.govt.nz/document-library/childrens-media-use-study-2015/>

<sup>20</sup> “Socio-economic level ► Children in high household income homes are less likely to watch TV and more likely to use the internet” <http://www.nzonair.govt.nz/document-library/childrens-media-use-study-2015/>, at page 38.

<sup>21</sup> Boyland, E. J., & Halford, J. C. G. Television advertising and branding: Effects on eating behaviour and food preferences in children, *Appetite*, <http://dx.doi.org/10.1016/j.appet.2012.01.032> (2012); Utter J, Scragg R, Schaaf D. Associations between television viewing and consumption of commonly advertised foods among New Zealand children and young adolescents. *Public Health Nutrition*, 9(5):606-12 (August 2006); Díaz-Ramírez, Glenda, et al., Effect of the Exposure to TV Food Advertisements on the Consumption of Foods by Mothers and Children, *Journal of Pediatric Gastroenterology and Nutrition*, 56(1):86-8. doi: 10.1097/MPG.0b013e3182638d13, (January 2013); Taras, Howard L. M.D. et al., Television's Influence on Children's Diet and Physical Activity, *Journal of Developmental & Behavioral Pediatrics* (August 1989); Scully, et

addition, the likelihood of developing obesity as a child is higher for children born into low income families.<sup>22</sup> The risk of developing childhood obesity is increased by these influences. Action to reduce the likelihood of developing obesity must include *effective* steps to prevent access to advertising that subliminally or directly encourages consumption of unhealthy food.

24. Based on the factors above, Plunket believes that the Government should legislate to restrict the marketing of unhealthy food to children and that to do so would be in line with children's UNCROC rights. The first step should be for children's television programming times to carry no advertising for unhealthy food, as that action would have the greatest reach and is clearly within New Zealand's jurisdiction.
25. Further steps would be based on political willingness and areas of activity over which New Zealand has jurisdiction. These steps could include strategies to remove advertising of unhealthy food from dedicated children's channels and other media where children are the primary audience e.g. children's websites.

#### **Different Media Formats [Q.4]**

26. The nature of advertising itself has changed greatly in recent years. As Common Sense Media points out: "...one of the most important features of advertising to children and teens today is that it is cross-platform....A single campaign can encompass product packaging, Hollywood cross-promotions, TV advertising, product placement, and mobile social-media messages."<sup>23</sup> Therefore the opportunities for children to be exposed to advertising campaigns have also increased greatly. However research and policy responses to advertising have not been so quick to address this. While there is some regulation of television advertising, there appears to be almost none of the internet in New Zealand.<sup>24</sup>
27. Plunket was unable to locate articles on the research and policy issues this raises, but believes work on this area is a priority, in order to be able to respond appropriately as advertisers move more onto the net and as low-income households move away from television as their children's main media device.

#### **Nutrient Profiling [Q.8]**

28. Considerable research has been undertaken on nutrient profiling systems. To work well and become widely accepted by consumers, nutrient profiling systems need to be from a

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al( 2015), Food and beverage cues in children's television programmes: the influence of the programme genre. *Public Health Nutrition*, 19(4), 616-624.

<sup>22</sup> Children living in the most deprived areas of the country are five times as likely to be obese as children living in the least deprived areas: Ministry of Health, Annual Update of Key Results 2014/15: New Zealand Health Survey (Wellington, December 2015).

<sup>23</sup> Common Sense Media, Advertising to Children and Teens: Current Practices (USA, 2014).

<sup>24</sup> A 2013 study found that 3.4 billion food advertisements appeared on popular children's websites, with 83% on just four websites. 84% of the products were high in fat, sugar and /or salt (Ustjanauskas, Harris & Schwartz, 2013).

credible source. Guideline daily amount labels can confuse and require more time when compared with traffic light labels or even nutrition tables. The multiple 'traffic-light' system has growing support.<sup>25</sup>

29. Traffic-light labelling was compared with tax interventions for cost effectiveness for obesity prevention in a study in 2011. It was found that “[p]olicy-based population-wide interventions such as traffic-light nutrition labelling and taxes on unhealthy foods are likely to offer excellent 'value for money' as obesity prevention measures.”<sup>26</sup>
30. The New Zealand Treasury reports that Cabinet has agreed to a voluntary trial of the health star rating system.<sup>27</sup> The report goes on to say that “[t]he system may also have the desirable effect of encouraging food producers to reformulate their products to reduce the sugar, salt and/or fat content. **This is more likely to occur if the front of pack labelling is a mandatory requirement for producers.** The system Cabinet agreed to in June is voluntary, so it may not be as effective as intended in influencing product reformulation and, subsequently, obesity rates.” [emphasis added]
31. Plunket does not have a commitment to one nutrient profiling system, and recognises there will be Australasian trade considerations. However, any system adopted long-term needs to demonstrably work for families. In addition, for any front of pack labelling system to work well it needs to be placed on all packaged foods so consumers can compare products easily.<sup>28</sup> Ultimately, this suggests that mandatory labelling will be required. Plunket would support a review of the extent of industry uptake of the current voluntary scheme; and would support the introduction of a mandatory regime should industry uptake be poor.
32. The Treasury report concludes by saying that “[t]he immediate focus for the Ministry of Health will be advice around a possible target for childhood obesity and **assessing the effectiveness of existing obesity initiatives.**” It would appear that we are in this phase now.

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<sup>25</sup> See for example, Michael Siegrist, Rebecca Leins-Hess, Carmen Keller, Which front-of-pack nutrition label is the most efficient one? The results of an eye-tracker study, *Food Quality and Preference*, Volume 39, January 2015, at pages 183–190.

<sup>26</sup> Sacks, G., Veerman, J.L., Moodie, M. and Swinburn, B., 'Traffic-light' nutrition labelling and 'junk-food' tax: a modelled comparison of cost-effectiveness for obesity prevention. *International Journal of Obesity*, 35 7: 1001-1009. doi:10.1038/ijo.2010.228, (Stockton, England, 2011)

<sup>27</sup> New Zealand Treasury, Report to Minister of Finance (Hon Bill English), Options for regulatory responses to the growing obesity problem, paragraphs 27 & 28 (16 December 2014) <http://www.treasury.govt.nz/downloads/pdfs/oia/oia-20150441.pdf> (released under the Official Information Act; downloaded 6 April 2016).

<sup>28</sup> Martin, J. Curbing obesity rates: what does the evidence show? *Healthy Voices*, 17, 10-11 (2015).



## Combining the two codes [Q.13]

33. Plunket is opposed to combining the children's food code with the general children's code. Given that childhood obesity is an increasing problem in New Zealand,<sup>29</sup> it seems unwise to risk de-emphasising the children's food code by combining it with the general children's code.

## Conclusion and recommendations

Our organisational vision of 'Together, the best start for every child' 'Mā te mahi ngātahi, e puāwai ai ā tātou tamariki' is best met by policies and legislation that put children first and take immediate and long-term benefits for children and therefore society into account.

Given the Government's role as a State Party to the Convention on the Rights of the Child, and the extent of obesity in New Zealand, Plunket would recommend that levers proven to help reduce childhood obesity are implemented urgently. These interventions will necessarily include legislative measures. Our recommendations follow.

- a) On the strengths and weaknesses of the Children's Code for Advertising Food [Q.1], Plunket recommends the addition of UNCROC Articles 24 [health] and 36 [exploitation]; endorsement of the Government's childhood obesity plan and the WHO's report on ending childhood obesity; and the addition of a reference to the Treaty of Waitangi and its connection to the health of Māori children.
- b) On the changes necessary to protect the rights of children and their health and wellbeing [Q.3], Plunket recommends the Government legislate to prevent the marketing of unhealthy food to children; that children's television programming times be the initial focus; and that other children's media follow from there.
- c) On concerns about different media formats in relation to advertising to children [Q.4], Plunket recommends research assessing children's access to food advertising, particularly 'cross-platform' (a single campaign across multiple channels); and that all research differentiate by income and ethnicity, because of the relevance of these factors to childhood obesity.
- d) On nutrient profiling [Q.8], Plunket recommends a review of the extent of industry uptake of the current voluntary scheme; and the introduction of a mandatory regime be introduced should industry uptake be poor.
- e) On combining the two codes [Q.13], Plunket recommends the *Children's Code for Advertising Food* remain separate given the important role of nutrition on child health and the Government's focus on ending childhood obesity.

Thank you for considering Plunket's submissions.

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<sup>29</sup> 11% of New Zealand children (aged 2-14 years) were obese from the latest (2012/13) NZ Health Survey, a marked increase from 8% in 2006/07.

