

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

To: Advertising Standards Authority
Codes Review Panel
ASA Secretariat
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Submitter: South Canterbury District Health Board

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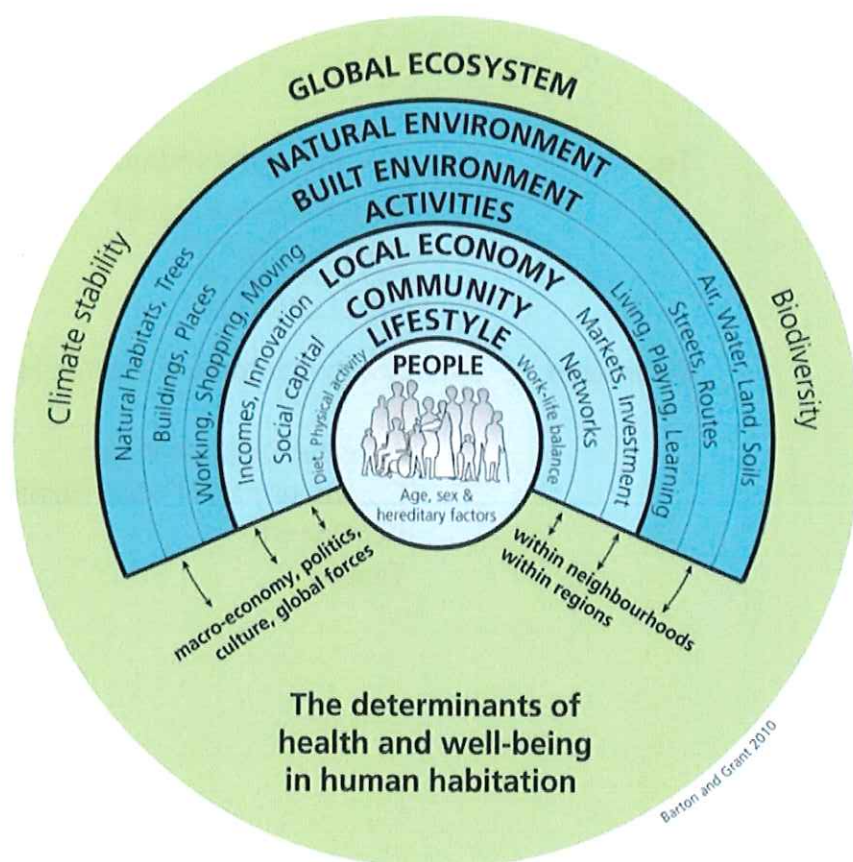
SUBMISSION ON THE REVIEW OF THE CODE FOR ADVERTISING TO CHILDREN AND THE CHILDREN'S CODE FOR ADVERTISING FOOD

Details of submitter

1. South Canterbury District Health Board (SCDHB).
2. District Health Boards were established by the New Zealand Public Health and Disability Act 2000, and are responsible for improving, promoting, and protecting the health of people and communities.

Details of submission

3. We welcome the opportunity to comment on the Review of the Code for Advertising to Children and the Children's Code for Advertising Food. The future health of our populations depends not just on excellent health care, but on a responsive environment where all sectors work collaboratively to improve health.
4. While health care services are an important determinant of health, health is also influenced by a wide range of factors beyond the health sector. These influences can be described as the conditions in which people are born, grow, live, work and age, and are impacted by environmental, social and behavioural factors. They are often referred to as the 'social determinants of health'¹. This diagram² shows how the various influences on health are complex and interlinked.



¹ Public Health Advisory Committee. 2004. *The Health of People and Communities. A Way Forward: Public Policy and the Economic Determinants of Health*. Public Health Advisory Committee: Wellington.

² Barton, H and Grant, M. (2006) A health map for the local human habitat. *The Journal of the Royal Society for the Promotion of Health* 126 (6), pp 252-253. <http://www.bne.uwe.ac.uk/who/healthmap/default.asp>

General Comments

5. The marketing of unhealthy foods and beverages has a detrimental impact on children's food choices and health; it is an important health determinant.
6. The review of the Code for Advertising to Children and the Children's Code for Advertising Food presents an opportunity to positively impact the health and wellbeing of New Zealand's children by reducing the amount of exposure children have to unhealthy food marketing.
7. The World Health Organization has determined that reducing the impact on children of the marketing of unhealthy food is an important strategy for the prevention and control of non-communicable diseases (NCDs) and in 2010 released a set of recommendations on the marketing of foods and non-alcoholic beverages to children³, followed in 2012 by a framework to help governments to implement them⁴. These reflect increasing evidence from systematic reviews that food marketing generates positive beliefs about the foods advertised and influences children's nutrition knowledge, food and beverage preferences, purchase requests and behaviours (at brand and category levels), food consumption and related health indicators.⁵
8. Marketing includes, but is not limited to, advertising (eg television (TV)), radio, print, on-line including social media, outdoors, cinema), computer/ online games and apps, product placement and branding, sponsorship (eg sport, events, venues), direct marketing (eg fundraising in schools, text messaging to mobile phones), product design and packaging and point of sale activities⁵.
9. In Australia, the National Preventative Health Taskforce's 2009 recommendations on reducing obesity included phasing out unhealthy food marketing on free-to-air and pay television before 9 pm within four years; phasing out the use of premium offers, toys, competitions and promotional characters in marketing unhealthy food across all media sources; adopting an appropriate set of definitions and criteria for determining unhealthy food and drink; and exploring restrictions in other media⁶.

³ WHO (2010). Marketing of foods and non-alcoholic beverages to children.
<http://www.who.int/dietphysicalactivity/marketing-food-to-children/en/>

⁴ WHO (2012). A framework for implementing the set of recommendations on the marketing of food and nonalcoholic beverages to children.
http://www.who.int/dietphysicalactivity/framework_marketing_food_to_children/en/

⁵ Cairns G, Angus A, Hastings G, Caraher M. Systematic reviews of the evidence on the nature, extent and effects of food marketing to children. A retrospective summary. *Appetite* 2013;62:209–215

⁶ National Preventative Health Taskforce (2009). Australia: The Healthiest Country by 2020 – National Preventative
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10. The SCDHB supports the seven Sydney Principles⁷ developed by the International Obesity Taskforce (IOTF) Working Group to reduce marketing to children and will refer to these throughout this submission. The Principles state that actions to reduce commercial promotions to children should:

- (1) support the rights of children
- (2) afford substantial protection to children
- (3) be statutory in nature
- (4) take a wide definition of commercial promotions
- (5) guarantee commercial-free childhood settings
- (6) include cross-border media
- (7) be evaluated, monitored and enforced

Specific comments in response to the questions outlined on page five of the consultation document;

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

Strengths

The SCDHB believes that key strengths of the two current codes are:

- acknowledgement of our duty of care to children and the consequent need to regulate and monitor advertising to children
- inclusion of all advertisements for food and beverages that influence children, whether contained in children's media or otherwise
- the principle that 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

Health Strategy – the roadmap for action. Commonwealth of Australia 2009.

<http://www.preventativehealth.org.au/internet/preventativehealth/publishing.nsf/Content/nphs-roadmap>

⁷ Swinburn, B., Sacks, G., Lobstein, T., Rigby, N., Baur, L.A., Brownwell, K.D., Gill, T., Seidell, J., & Kumanyika, S. (2008). The 'Sydney Principles' for reducing the commercial promotion of foods and beverages to children. *Public Health Nutrition*. 11(9): 881-6.

<http://www.worldobesity.org/iotf/obesity/childhoodobesity/sydneyprinciples/>

Weaknesses

The SCDHB is concerned about the overwhelming onus on personal responsibility contained in the Children's Code for Advertising Food. Many of the Principles of the Code are dependent on children displaying high levels of judgement, maturity and knowledge. Specifically, the SCDHB believes the following principles are too weak to offer any real protection to children;

Principle 1(c) states advertisements should not encourage children to consume treat foods, snacks or fast foods in excess

Principle 1(d) states advertisements should not encourage children to consume treat foods, snacks or fast food in substitution for a main meal on a regular basis.

Principle 2(c) states that foods high in sugar, fat and/or salt should not be portrayed in a way that suggests they are beneficial to health.

The existing Codes have been unsuccessful in addressing the contribution of food advertising to rising childhood obesity rates. The Code must recognise that there are multiple causes of and solutions to the obesity epidemic in New Zealand and reducing exposure to promotions of unhealthy food is an important part of the solution.

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

Weaknesses

The SCDHB believes that the reactive nature of the complaints process is a major weakness and that the ASA should seek to implement a more proactive process. Under the existing complaints process, an advertisement can be aired for a considerable period of time before being considered by the board, on average 13 days. During this time the advertisement will have reached a large percentage of its target audience and may even have run its intended course.

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

The SCDHB recommends that the review of the Codes takes the important opportunity to introduce stronger and more effective controls on advertising of food to children, in line with the recommendations of the Australian National Preventative Health Taskforce⁷. These should include:

- Reference to an appropriate food classification system such as the New Zealand Food and Beverage Classification System (FBCS), managed by the Heart Foundation⁸
- Restricting marketing of “occasional foods” (defined in the FBCS as food high in saturated fat, salt or sugar) on free-to-air and pay television at children’s viewing time (eg before 9pm)
- Phasing out the use of premium offers, toys, competitions and promotional characters in marketing “occasional” food across all media sources
- Exploring restrictions on marketing of “occasional” foods in other media and settings with a focus on children, including schools, early childhood education centres, and sports and recreation facilities.

Rather than relying on a complaints process to control advertisements after they have been aired, the SCDHB recommends that there be a requirement for children’s advertisement content and scripts to be pre-approved as compliant with the Code by an appointed panel before being developed or published, as is the case with the Commercial Approvals Bureau for television.

14. *Please comment on any concerns you have with different media a) formats and b) content in relation to advertising to children*

The SCDHB has concerns with advertising on many media formats and its content. The fourth of the seven Sydney Principles states that regulations need to take a wide definition of commercial promotions in order to encompass all types of targeting of children. Some examples are discussed below.

⁸ <http://www.health.govt.nz/our-work/preventative-health-wellness/nutrition/food-and-beverage-classification-system>

Social Media

Facebook has customer based advertising, based on pages/groups interactions and recent online searches. This means that the advertising is not regulated to be suitable for children. While it is recognised that the legal age to join Facebook is 13, it is easy for a child to create an account or use their parents' to view content and play games. The legal joining age still encompasses children under 14 (or 18 if using the UN definition) and also targets teenagers who are still heavily targeted for marketing of "occasional" foods.

Magazines

Magazines are now incorporating named confectionary into recipes directed at children. This is a form of advertising and encourages children to eat particular brands of high sugar foods.

Websites

Youtube ads that play before the video are another area of concern. The Campaign for a Commercial-Free Childhood and the Centre for Digital Democracy found that even the Youtube Kids App has been found to advertise junk food even though it is specifically for children^{9,10}.

Cross Promotions

Popular cartoon characters are used to endorse many brands. Food companies regularly use popular cartoon characters to advertise directly to children¹¹. For example, Disney's Frozen can be seen on Kellogg's cereal¹². Children are strongly influenced by promotions like competitions, collectibles and cross promotions with companies who market characters from television or movies.

⁹ <http://www.wired.com/2015/11/youtubes-kids-app-is-coming-under-fire-for-junk-food-ads/>

¹⁰ <http://www.commercialfreechildhood.org/advocates-file-ftc-complaint-against-googles-youtube-kids>

¹¹ Cavert, S.L. (2008) Children as consumers: Advertising and marketing. *Children and Electronic Media* (18): 205-234

¹² https://www.princeton.edu/futureofchildren/publications/docs/18_01_09.pdf

¹² http://www.kellogg.co.nz/en_NZ/kellogg-s-disney-frozen-cereal-product.html

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

As noted above, the SCDHB is concerned about the placement of cross promotion advertising on food packaging.

A further concern is clustering of food outlets (fast food outlets and convenience stores) with prominent advertising of “occasional” foods around schools¹³. These signs make use of emotive language, cartoons and colours to entice children and young people into buying these foods.

A local example shows a clustering of dairies surrounding three high schools in Timaru which are all located within two kilometres of one another. Between these schools there are eight dairies which are on walking routes for many students to and from school. All promote various “welcoming” advertisements which entice children and young people to buy “occasional” foods and beverages. Examples of pictures and quotes include:

- 1) A large Cookie Time image with the Cookie Monster saying “Good Cookie Times- Bring Them”,
- 2) A ‘Streets’ branded banner around the roofs saying “ICE CREAM MAKES YOU HAPPY”
- 3) Footpath signs saying “Grab An Ice Cream and Feel Tip Top”,
- 4) Oversized Coke and V posters in windows.
- 5) Tip Top brightly coloured images such as rainbows around rooftops

The University of Otago Wellington “Kids Cam” project, currently under way and with results due to be released in early 2016, is designed to provide further evidence of the ubiquitous presence of food advertising in children’s environments¹⁴. The SCDHB

¹³ Day PL, Pearce J, et al. 2011. Obesity-Promoting Food Environments and the Spatial Clustering of Food Outlets Around Schools. *American Journal of Preventive Medicine*, 40(2) 113 – 121.

¹⁴ Signal L, et al. Dietary Interventions: Evidence and Translation. Kids’ Cam. The National Institute for Health Innovation. Not yet published. Sourced from: <https://diet.auckland.ac.nz/content/kidscam>

recommends that the panel reviews the results of this study when they become available.

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

The SCDHB opposes this definition. Although the Codes' current definition of a child as a person under the age of 14 is consistent with the Children, Young Persons and the Families Act 1989, the definition does not recognise young persons, defined in the Act as a boy or girl of or over the age of 14 years but under 17 years. The United Nation's Convention on the Rights of the Child defines a child as a person under the age of 18, and the Code notes the duty of care to protect children. Adolescents are also vulnerable to the pressures of unhealthy food marketing. Failing to protect children in the 14-17 age group means that a large proportion of the children in New Zealand are afforded no protection at all.

The SCDHB recommends that the ASA changes the definition to include children and young people, i.e. all people under the age of 18, in line with the United Nation's Convention on the Rights of the Child.

16. 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?

A nutrient profiling system may be helpful for older children to better understand the difference between healthy and unhealthy foods that they see in advertising.

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

Children are encouraged to play sport as part of a healthy lifestyle and often regard high profile sports people as role models. Many well-known sports teams are sponsored by companies that are associated with harm-causing behaviours such as gambling or drinking alcohol, or which sell unhealthy food. An association with a high profile role model or sports team makes the sponsor's products widely known and

recognised by children.

For example, The Warriors are sponsored by Sky City, Kentucky USA Woodstock Bourbon and Cola, the fast food outlet Wendy's and Red Bull. The All Blacks are sponsored by Steinlager and Gatorade. There are also many local examples of sponsorship of sports teams by companies with products unsuitable for children.

The SCDHB recommends the inclusion of a clear guideline on sponsorship as sponsorship is effectively a form of advertising to children.

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

The SCDHB supports independent monitoring of the Codes. Children are vulnerable to the effects of marketing due to their limited ability to critically analyse the content of persuasive messages, particularly when young¹⁵. The food and advertising industries have opposed the idea of legislation, placing great emphasis on industry self-regulation and personal responsibility of consumers. However, an International Obesity Taskforce report found that "self-regulatory codes, by their nature, even if fully enforced, would not substantially reduce the large volume and high impact of marketing obesogenic foods and beverages to children."¹⁶ Only statutory regulation could guarantee substantial protection to children, and would be in keeping with the third and seventh Sydney Principles for controls to be statutory in nature to ensure a high level of protection for children, and for regulations to be monitored, enforced and evaluated. Although not an equivalent, independent monitoring and evaluation of the Codes would go some way towards the level of protection that statutory regulation could offer.

¹⁵ Cavert, S.L. (2008) Children as consumers: Advertising and marketing. *Children and Electronic Media* (18): 205-234
https://www.princeton.edu/futureofchildren/publications/docs/18_01_09.pdf

¹⁶ Swinburn, B., Sacks, G., Lobstein, T., Rigby, N., Baur, L.A., Brownwell, K.D., Gill, T., Seidell, J., & Kumanyika, S. (2008). The 'Sydney Principles' for reducing the commercial promotion of foods and beverages to children. *Public Health Nutrition*. 11(9): 881-6.
<http://www.worldobesity.org/iotf/obesity/childhoodobesity/sydneyprinciples/>

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

The SCDHB believes the fact that there are no consequences for advertisers when complaints against them are upheld is a major weakness. Simply requesting that an advertisement be removed is not a strong enough deterrent.

The SCDHB recommends that ASA explores other possible consequences that would provide a stronger deterrent to advertisers.

20. *Are there environments where you consider it to be inappropriate to advertise to children? For*

The SCDHB considers it inappropriate to advertise “occasional” foods to children at any sports, family or school events or activities. Settings where children gather should be free from marketing of “occasional” foods, in line with the fifth Sydney Principle, to guarantee commercial-free childhood settings. Such settings include, but are not limited to; early childhood centres, schools buildings and grounds, parks and playgrounds, sports practice and competition venues, public libraries, pools and during any cultural activities.

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

The SCDHB supports combining the two current Codes, the goals of which are the protection of children from inappropriate advertising, provided that the combined new code contained clear and strong protections regarding food advertising. Combining the Codes would offer greater clarity and ease of understanding for advertisers, the general public and the ASA. Aiming for and investigating compliance with one single Code would be a more streamlined and straight forward process.

The SCDHB recommends that there be a specific subset of principles relating to the advertising of food in the new single Code.

Conclusion

22. The SCDHB does not wish to be heard in support of this submission.

23. If others make a similar submission, the submitter will not consider presenting a joint case with them at the hearing.

24. Thank you for the opportunity to submit on the Review of the Code for Advertising to Children and the Children's Code for Advertising Food.

Person making the submission:

Signature

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