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Advertising Standards Authority

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Thank you for the opportunity for Healthy Families Waitakere to make a submission on the Consultation on the Review of the Code for Advertising to Children and the Children's Code for Advertising Food document.

Healthy Families Waitakere would like to speak to our submission and be involved in discussions relating to any revisions of the code. Please contact me at Kerry.Allan@sportwaitakere.co.nz or 09 966 3108.

Yours sincerely

Kerry Allan
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Sport Waitakere

Introduction

1. Healthy Families Waitakere is a systems approach to preventing chronic disease focussing on smoke free environments, healthy eating, physical activity and reducing alcohol harm where people live, learn work and play. The contract for Healthy Families Waitakere is funded by the Ministry of Health and held by Sport Waitakere, a regional sports trust in Auckland. Our approach is large scale reach for population health gains to reduce chronic disease.
2. Healthy Families Waitakere is a member of Healthy Auckland Together – a coalition of partners working together to increase physical activity, and reduce obesity in Auckland. In addition to this submission, Healthy Families Waitakere endorses the submission made on behalf of the Healthy Auckland Together coalition which has been submitted through Auckland Regional Public Health Service.
3. Healthy Families Waitakere encourages the review to implement all recommendations from the World Health Organization document: Set of Recommendations for the marketing of food and non-alcoholic beverages to children including restricting advertising of unhealthy food to children.¹ We advocate for greater recognition in the code of Article 13 of the United Nations Convention on the Rights of the child where a child's right to freedom of expression is subject to restrictions necessary for public health. This could be achieved through a co-regulatory approach where Government regulates, restricts and monitors food advertising to children independent of the Advertising Standards Authority (ASA) and industry is required to comply. Restrictions should consider the timing of advertisements on television, restrictions around places where children regularly interact, restrictions at health facilities and restrictions on social media, product placement in films and games.
4. Healthy Families Waitakere supports reducing unhealthy food sponsorship in sport and schools and fundraisers for children. We would like to be involved in any discussions of food and beverage sponsorship in sport.
5. There is a growing normalisation of unhealthy foods² causing overconsumption of unhealthy foods³. The effect of normalisation can be amplified in adolescents and teenagers who often self-conscious, are developing their personal identity, may have their own source of income and are prone to greater peer influences⁴. We support additional clauses in the code that prohibit advertising pairing food with activities or items associated with everyday life or aspects of popular youth culture to protect children and adolescents. We provide some examples later in the submission highlighting this aspect.
6. In the review process, Healthy Families Waitakere supports additional representation on the review panel from sport and recreation and education sectors.

¹ World Health Organisation (2010) Set of Recommendations for the marketing of food and non-alcoholic beverages to children available at http://apps.who.int/iris/bitstream/10665/44416/1/9789241500210_eng.pdf

² Moodie, R., Stuckler, D., Monteiro, C., Sheron, N., Neal, B., Thamarangsi, T., ... & Lancet NCD Action Group. (2013). Profits and pandemics: prevention of harmful effects of tobacco, alcohol, and ultra-processed food and drink industries. *The Lancet*, 381(9867), 670-679.

³ Ananthapavan, J., Sacks, G., Moodie, M., & Carter, R. (2014). Economics of Obesity—Learning from the Past to Contribute to a Better Future. *International journal of environmental research and public health*, 11(4), 4007-4025.

⁴ Freeman, B., Kelly, B., Vandevijvere, S., & Baur, L. (2015). Young adults: beloved by food and drink marketers and forgotten by public health?. *Health promotion international*, dav081.

7. To enable the community to participate in this process further, the ASA should conduct community consultations where people can speak to the review panel.
8. To improve on the public knowledge of the ASA code and processes, we encourage particulars of the code to be taught as part of the advertising curriculum⁵ to encourage critical thinking at a young age and improve understanding of the code. For adults information on the ASA codes could be provided at supermarkets and other places where food choices are made. The code should also be available in Te Reo and other languages to support a more inclusive mechanism for the population understand and use the code.
9. We support setting a goal for reducing the exposure of children to the advertising of unhealthy foods⁶.
10. Our submission provides a background to why children and adolescents require greater protection from advertising also provides specific answers to the questions posed in the consultation process.

Childhood Obesity, diet and tooth decay

11. New Zealand has the third highest rate of adult obesity compared to other Organisation for Economic Co-operation and Development (OECD) countries⁷. The 2014/2015 Health survey identified that 31% of adults and 11% of children were obese and an additional 21% of children were overweight⁸. In the Waitemata District Health Board area 23% of adults and 7.6% of children are obese, 25.5% of children are overweight or obese.⁹ In 2013, within community dental services in the Waitemata District Health Board in a sample of 6057 5 year olds the dental caries rate was 33% and in a sample of 5008 12-13 year olds the dental caries rate was 42.25%¹⁰. Conditions such as obesity can cause major health issues later in life such as heart disease, diabetes, cancer, and other chronic conditions.

Children's food choices and perspectives on food

12. A study of children's choices for pocket money spending identified that 81.8% of children spent pocket money on sweets, chocolates and ice creams, and 61.8% had spent money on soft drink¹¹, highlighting that unhealthy foods are popular choices amongst children. In addition when children were asked to describe "kids foods" they described sugary cereals and confectionary as kid's foods and fruits and vegetables as adults food¹². Both children and parents also recognise a variety of ethical issues in the marketing of food to children including marketing of foods that are a risk to children's health, family conflict resulting from children requesting unhealthy foods based on advertising, marketing on the internet¹³. Adolescents who watch television for an hour or more are twice as likely to consume high amounts of soft drinks and chocolate than those who watch

⁵ Ministry for Education(2009) Advertising and you available at <https://englishonline.tki.org.nz/English-Online/Planning-for-my-students-needs/Teaching-learning-sequences/English-Units-Level-4/Advertisements-and-you>

⁶ Shaw C. (Non)regulation of marketing of unhealthy food to children in New Zealand. *New Zealand Medical Journal* 2009;122(1288):76-86.

⁷ Organisation for Economic Co-operation and Development(2014) Obesity Update June 2014 available at <http://www.oecd.org/health/Obesity-Update-2014.pdf>

⁸ Ministry of Health. 2015. *Annual Update of Key Results 2014/15: New Zealand Health Survey*. Wellington: Ministry of Health. Available at <http://www.health.govt.nz/publication/annual-update-key-results-2014-15-new-zealand-health-survey>

⁹ Waitemata DHB(2015) *Waitemata DHB Health Needs Assessment* available at <http://www.waitematadhb.govt.nz/Portals/0/Documents/Planning/HealthNeedsAssessments/WDHB2015HealthNeedsAssessment.pdf>

¹⁰ Ministry of Health (2015) Age 5 and Year 8 oral health data from the Community Oral Health Service available from <http://www.health.govt.nz/nz-health-statistics/health-statistics-and-data-sets/oral-health-data-and-stats/age-5-and-year-8-oral-health-data-community-oral-health-service>

¹¹ Furnham, A. (1999). The saving and spending habits of young people. *Journal of Economic Psychology*, 20(6), 677-697.

¹² Elliott, C. (2011). "It's junk food and chicken nuggets": Children's perspectives on 'kids' food' and the question of food classification. *Journal of Consumer Behaviour*, 10(3), 133-140.

¹³ Mehta, K. P., Coveney, J., Ward, P., & Handsley, E. (2014). Parents' and Children's Perceptions of the Ethics of Marketing Energy-Dense Nutrient-Poor Foods on the Internet: Implications for Policy to Restrict Children's Exposure. *Public Health Ethics*, phu002.

television for less than an hour¹⁴. A New Zealand public opinion poll recently showed that the level of public support for not allowing advertisements of products that contain a lot of sugar and salt to be shown on television before 9pm was 3.7 on a scale from 1 to 5.¹⁵

Answers to the consultation questions

Strengths of the Code:

13. The code recognises the need to extend a duty of care to protect children in accordance with the United Nation's Convention on the Rights of the Child¹⁶.
14. The code emphasises social responsibility for all those who market products to children.
15. The code prohibits slimming products being marketed to children.

Weaknesses of the Code:

16. There is no monitoring and regular reporting of compliance with the code for all advertising. This would also help to assess the effectiveness of the code as a guideline for the advertising industry.
17. The use of the term treat food does not emphasise a frequency dimension for consumption. It would be better to align with nutritional terms such as occasional foods as this more clearly highlights that this food should be consumed only occasionally because it is unhealthy.
18. The code does not define a child as under 18. It is noted that both the United Nations Convention on the rights of the child and the Children's Commissioner Act 2003 defines a child as 18. However, the Advertising code defines the age of a child as under 14.¹⁷ In the interest of protecting children and consistency with other acts we recommend changing the age to 18. We also believe adolescents need additional protection as highlighted in our introduction given their additional vulnerabilities to marketing.
19. The code has no principle about the offering of toys or other items together with a unhealthy product. For example Kinder Surprise is a chocolate that comes with a toy inside and could encourage excess consumption to collect a set of toys.
20. New Zealand relies on self-regulation for the marketing of food to children, however self regulation does not lead to increasing the advertising of healthy foods¹⁸. A study identified that 70.3% of food advertising on New Zealand television was against nutritional guidelines and promoting food high in fat, sugar and salt¹⁹. A comparative study of magazines specific for children and adolescents compared with adult target audience magazines found that magazines whose target children and adolescents had a great number of food references to unhealthy(occasional foods) and the advertising of healthy snack foods was only 3% out of a sample of 72 magazines²⁰.
21. The code does not prohibit the normalisation of unhealthy foods by pairing them with everyday items, activities or aspects of youth culture.

Strengths of the Complaints process:

21. It is a free process for consumers and has no age restrictions on who can make a complaint.
22. Currently, there is representation from health and education sectors on the complaints board.

¹⁴ Utter, J., Scragg, R., & Schaaf, D. (2006). Associations between television viewing and consumption of commonly advertised foods among New Zealand children and young adolescents. *Public health nutrition*, 9(05), 606-612.

¹⁵ Gendall P, Hoek J, Taylor R, Mann J, Krebs J, Parry- Strong A. Should support for obesity interventions or perceptions of their perceived effectiveness shape policy? *Aust N Z J Public Health* 2015;39(2):172-6.

¹⁶ United Nations Treaty Collection (1989). Convention on the Rights of the Child. Available from <https://treaties.un.org/doc/publication/UNTS/Volume%201577/v1577.pdf>

¹⁷ Advertising Standards Authority

¹⁸ Shaw C. (Non)regulation of marketing of unhealthy food to children in New Zealand. *New Zealand Medical Journal* 2009;122(1288):76-86.

¹⁹ Wilson, N., Signal, L., Nicholls, S., & Thomson, G. (2006). Marketing fat and sugar to children on New Zealand television. *Preventive medicine*, 42(2), 96-101.

²⁰ No, E., Kelly, B., Devi, A., Swinburn, B., & Vandevijvere, S. (2014). Food references and marketing in popular magazines for children and adolescents in New Zealand: a content analysis. *Appetite*, 83, 75-81.

Weaknesses of the Complaints Process:

23. There is no child representative on the complaints board to provide a child's perspective on the advertisement. We recommend consideration of youth representation on the complaints board and/or representation of appropriate child advocates.

24. There is no financial penalty if an advertisement is found to have breached the code. A significant financial penalty may help to ensure greater compliance with the code.

25. The Annual report for the ASA does not distinguish between general food code complaints and complaints relating to the children's code for advertising food²¹, therefore it is not clear how many complaints are being laid specific to each code. It is difficult to gauge how many people use the complaints process in order to protect children. More sophisticated analysis is required to understand trends.

26. If the complaint is upheld, the advertiser, advertising agency and media are requested to withdraw the advertisement but, this is only voluntary²².

27. A study of complaints made revealed that there was inconsistent decision making made by the ASA complaints board²³.

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

28. Regular monitoring and reporting of all advertisements marketing products to children and a government owned target to restrict the exposure of unhealthy food advertising to children in all sources of media in accordance with the WHO recommendations for the marketing of food and beverages.

29. Food packaging to be included in the advertising definition.

30. Significant restrictions about where and when food advertising marketing to children can take place. We recommend that places such as in community settings, parks and recreation centres, council facilities, walkways, playgrounds, key routes on the way to their Early Childcare Education, kindergartens, schools, health facilities, public transport areas and all areas where they attend and live, learn, work and play.

31. Addition of a clause that prohibits the use of puzzles or games to advertise unhealthy foods.

32. An additional clause that prohibits the placement of unhealthy food products with everyday items, activities or aspects of youth culture.

33. Recognition of all articles of the United Nations Convention on the Rights of the child.

34. Restricting of advertising

35. An increase in advertisements for healthy food.

²¹ Advertising Standards Authority (2014) ASA Annual Report available from <http://www.asa.co.nz/wp-content/uploads/2015/06/ASA-Annual-Report-2014.pdf>

²² Bowers S, Signal L & Jenkin G (2012). Does current industry self-regulation of food marketing in New Zealand protect children from exposure to unhealthy food advertising? Available from <http://www.otago.ac.nz/wellington/otago036971.pdf>

²³ Bowers S, Signal L & Jenkin G (2012). Does current industry self-regulation of food marketing in New Zealand protect children from exposure to unhealthy food advertising? Available from <http://www.otago.ac.nz/wellington/otago036971.pdf>

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

36. Social Media and games are much more accessible with smartphones and tablets. Although some sites have a minimum age for setting up an account (usually 13 or 14 years of age) it is easy for children to set up a fake account with a false date of birth. Children are then able to like a variety of pages and interact and be influenced with posts even if they are underage. There are also no clauses yet in social media guidelines developed by companies on food advertising. Tablets are used commonly in the school setting meaning children can now receive advertising more hours each day.

37. There is a rise in expenditure of interactive marketing (between 2013 and 2014 this rose 4.1% from \$471 million to \$589 million whilst other types of media have decreased or stayed static)²⁴. This type of interactive marketing includes personal contact through email, videos etc. Given the rising use of technology we are concerned that this will lead to greater increases in the advertising of unhealthy foods without restrictions.

38. Given that a series of systematic reviews identified that food promotion influences children's diet-related behaviours and health outcomes^{25,26,27}, we recommend there are restrictions of unhealthy food advertising on television between the hours of 6am and 9pm. In 2007 the UK broadcast regulator Ofcom enacted legislative control over the marketing of unhealthy foods to children. This banned High Fat Salt Sugar (HFSS) food advertisements on dedicated children's channels and restricted the broadcast of such adverts around programmes aimed at 4-15 year olds on any channel²⁸. Therefore changes need to be made to both of the codes which effectively deal and also have restrictions of advertising of unhealthy food and drinks to children across all media platforms.

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.

39. Use of a character known to children to name a sugary drink (SpongeBob Fruit Drink NZ Drinks Ltd) (Principle 3b applies here). The sugar content of this drink is relatively high.



²⁴ Advertising Standards Authority(2015) New Zealand Advertising Turnover report year ending December 2014. Available at <http://www.asa.co.nz/wp-content/uploads/2015/06/ASA-Advertising-turnover-report.pdf>

²⁵Cairns G, Angus K, Hastings G. The extent, nature and effects of food promotion to children: a review of the evidence to December 2008. 24 Prepared for the World Health Organization. United Kingdom: Institute for Social Marketing, University of Stirling & The Open University 2009.

²⁶ Hawkes C. Marketing food to children: the global regulatory environment. Geneva WHO, 2004.

²⁷ Hastings G, McDermott L, Angus K, Stead M, Thomson S. The extent, nature and effects of food promotion to children: A review of the evidence. Technical paper prepared for the World Health Organization. United Kingdom: Institute for Social Marketing, University of Stirling & The Open University 2006.

²⁸ Ofcom(2007) Television advertising of food and drink products to children available at http://stakeholders.ofcom.org.uk/consultations/foodads_new/statement/

40. Use of a puzzle to promote chocolate varieties (Cadbury Dairy Milk Facebook post) – This is not clearly identified as an advertisement and is designed to get brand recognition.



41. Use of a popular children’s game in association with confectionary further normalising the use of unhealthy foods with popular children’s games



42. Use of a Happy Meal pack to promote a learning app with a message to parents



43. Placement of a large packet of chips in conjunction with school backpacks.



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.

44. Hell Pizza sponsorship at a Waitakere sports field, naming of the field and repetitive marketing on the back wall.



45. New Zealand evidence suggests that there was no decline in children's exposure to advertising of unhealthy food between 1997 and 2006 based on research of free-to-air television advertising to children ²⁹. Pizzahut and Dominos pizza is advertised on television at a low cost price of \$5 and extra consumption is encouraged by ordering more.

46. Healthy Families Waitakere believes a key outdoor location which needs to be addressed in our Waitakere area is Lincoln Road as unhealthy food and drink advertising is now close to public transport, outside retail stores, schools, churches, businesses, shopping centres and this has been labelled 'Heart Attack Highway' as it is a 3 kilometre stretch of road with more than 30 fast food options and this is growing more and more.

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

47. Healthy Families Waitakere supports a change to this definition. Healthy Families advocates for the definition to be under the age of 18 to be consistent with the Children's Commissioner Act for the reasons outlined above about the extra vulnerability of adolescents.

48. It has long been suggested that young children may be particularly vulnerable to the effects of marketing because they are unable to understand its selling or persuasive intent ³⁰. Although older children may

²⁹ <https://ourarchive.otago.ac.nz/bitstream/handle/10523/6264/HorganAnnaK2016MDiet.pdf?sequence=1&isAllowed=y>

³⁰ Jenkin G, Wilson N, Hermanson N. Identifying 'unhealthy' food advertising on television: a case study applying the UK Nutrient Profile model. Public Health Nutrition 2009;12(05):614-623.

develop these skills to understand advertising, they do not necessarily use them³¹. This provides further evidence strengthening Healthy Families Waitakere case why we believe the Children's Codes definition for child is under the age of 14 needs to be raised to 18 years of age.

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?

- 49. Findings of a number of Obesity reviews suggest that nutrition labelling may be an effective approach to empowering consumers in choosing healthier products. Interpretive labels, as traffic light labels, may be more effective.
- 50. Healthy Families Waitakere suggests a food-based nutrient profiling system for classifying products is recommended. Where available, nutrition data can be used to establish nutrient cut-off points or to allocate products to major food groups. We believe the food and beverage classification system managed by the Heart Foundation can be used.
- 51. Some models such as a traffic light system green(everyday), yellow(occasional), red (sometimes) provide an easy mechanism for people to make healthy choices and understand a product³². We understand the Health Star rating system has just been introduced so we are not able to provide specific comment on this.

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

52. The Healthy Families Waitakere team support a specific guideline on sponsorship. The strongest policy option to protect children from being targeted by the marketing of unhealthy food products would be comprehensive restrictions of unhealthy food marketing to children through statutory regulations which cover all media, with a focus on television, sport sponsorship and marketing in settings where children gather.

53. A survey of children's sports clubs found 17 percent of all sponsors were food or beverage companies and half of these did not meet criteria classifying them as healthy³³.

54. A New Zealand study assessing club, national, and regional sporting organisations' websites for evidence of sponsorship found more unhealthy food sponsorship in junior sport compared to all other types of sponsorship³⁴.

55. New Zealanders are passionate about sport; in any week 79% of adults and most children and young people participate in at least one sport or recreation activity. Popular sports attract large television audiences with rugby dominating NZ television ratings during 2011. Rugby had more food and beverage sponsors than other sports³⁵.

52. The findings suggest policies that restrict sponsorship of sports by unhealthy food and beverage manufacturers may help limit children's exposure to unhealthy food marketing within New Zealand sports settings.

53. Healthy Families Waitakere has identified New Zealand specific examples include Burger King sponsorship of the Basketball New Zealand, Milo and New Zealand cricket, Powerade and the New Zealand Silver Ferns

³¹ Boyland, E. J., Nolan, S., Kelly, B., Tudur-Smith, C., Jones, A., Halford, J. C., & Robinson, E. (2016). Advertising as a cue to consume: a systematic review and meta-analysis of the effects of acute exposure to unhealthy food and nonalcoholic beverage advertising on intake in children and adults. *The American Journal of Clinical Nutrition*, ajcn120022.

³² Ibid

³³ Carter MA, Signal L, Edwards R, Hoek J, Maher A. Food, fizzy, and football: promoting unhealthy food and beverages through sport - a New Zealand case study. *BMC Public Health* 2013;13:126.

³⁴ Ibid

³⁵ Ibid

Hell Pizza sponsorship of Auckland Hockey Turfs, Wendys sponsorship of the Warriors, KFC, Nestle, Westie Pies and Coca Cola all sponsor the Auckland Rugby Blues team and their development team, with KFC even giving out vouchers.

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

54. Healthy Families Waitakere support the introduction of independent monitoring and evaluation of the codes. We believe this would work by conducting independent audits for every form of media advertising. We believe there also needs to be a public accessible annual report released with the auditing results. The codes should also be promoted on all forms of media so public awareness is raised about the codes and how they can go about raising a complaint. This monitoring should be for a dual goal or target to reduce the exposure of children to unhealthy foods and increase their exposure to healthy foods.

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

55. Healthy Families Waitakere believes the current sanctions imposed by the ASA are really limited. We recommend there needs to be a fine so that a breach of the code to aid compliance with the code.

56. Healthy Families Waitakere believes either Co-regulation when the rules are set by the Government but enforced by the government and industry. These rules could be statutory in nature for example legally enforceable in court or not for example guidelines and recommendations³⁶

57. The voluntary nature of the request to remove an ad is not strong enough.

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

58:

- Learning environments: schools, kindergartens, early childhood centres, Kohanga Reo's ,alternative education settings. A buffer zone should apply for example a 2km radius.
- Youth community areas such as parks, sporting clubs, parks, playgrounds, beaches, recreational facilities.
- Outside unhealthy food stores and eating establishments
- Health Facilities
- Events that are family friendly
- Community events, cultural events, sporting events
- Bus stops, train stations, shopping malls, movie cinemas, maraes and churches as these are also areas where children are exposed to on a regular basis.

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

59. Healthy Families Waitakere does not have a particular preference as long as the children's code for food advertising is maintained with the additional principles measured. Special note should be made of the potential of unhealthy foods to cause disease which is different to a number of other children's items.

³⁶ ANA (2013) Food and Beverage Marketing to children

<http://www.ana.org.nz/sites/default/files/Final%20snapshot%20of%20F%20B%20marketing.pdf>