



NZSTA Submission

on

**Advertising Standards Authority codes on
Advertising to Children**

April 2016

Introduction

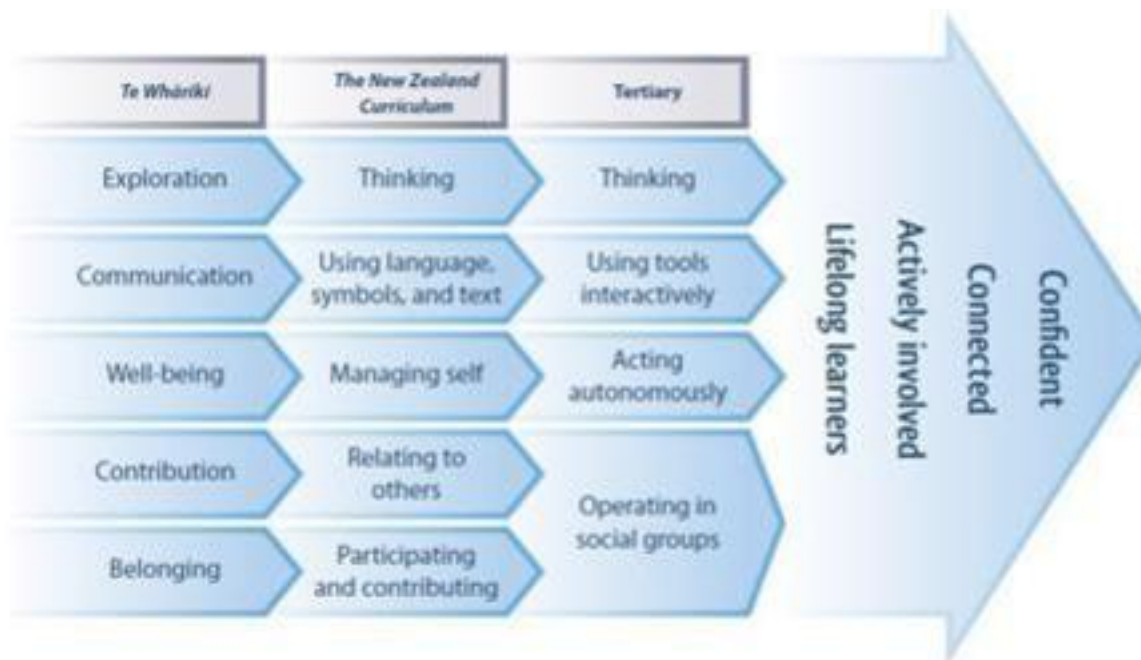
1. This feedback is presented by the New Zealand School Trustees Association (NZSTA) on behalf of its member boards.
2. We can be contacted at NZSTA, PO Box 5123, Wellington, phone 471 6422, fax 473 4706, email lkerr@nzsta.org.nz.
3. School boards of trustees are the largest single group of crown entities in the country, accountable directly to the government and their local community for the effective delivery of education in their school.
4. NZSTA is a national body representing the interests of approximately 2,200 member school boards of trustees (91 percent of the total number). There are approximately 18,000 people currently serving on 2,420 state and state integrated school boards.
5. As part of its service delivery function to boards, NZSTA provides a comprehensive personnel/industrial service and 0800 trusteeship phone service to all boards of trustees, and is currently developing a proactive workplace advisory service to assist boards in their management/governance role. NZSTA is also an active party with the Ministry of Education in negotiating Collective Agreements with unions.
6. NZSTA as a membership organisation surveys member boards from time to time on issues of current or potential significance to school boards of trustees.
7. This feedback draws on NZSTA's:
 - ongoing dialogue with individual school boards and principals
 - ongoing dialogue with elected board of trustees representatives local, regional and national levels
 - experience in assisting boards of trustees on governance and accountability issues through our 0800 trusteeship helpdesk
 - experience in the provision of personnel/industrial services to boards of trustees
 - Collective Agreement negotiations
 - design and delivery of formal Professional Development and targeted support for boards of trustees

Comments

8. NZSTA member boards encompass a range of views and of experiences with advertisers. For that reason, our submission is framed in terms of the high-level issues affecting boards of trustees rather than specific incidents.
9. The ultimate focus of NZSTA and its member boards of trustees is ensuring that students are able to function effectively in the world beyond school ("student outcomes"). While there is an important focus on academic achievement as a lever for ensuring "student outcomes" they inevitably include broader life outcomes as well. Formal education is, essentially, a process of helping each of our children and young people to become the best that they can be.
10. The holistic purpose of state-funded education is reflected in the National Education Goals "...enable all students to realise their full potential as individuals, and to develop the values

needed to become full members of New Zealand's society" and in the core competencies of Wellbeing, Managing Self and Acting autonomously, shown in the diagram below.

Figure 1 The key competencies: Cross-sector alignment¹



11. NZSTA's promotion of the 2016 Triennial Trustee elections reflects the relationship between trustee leadership and future outcomes with short couplet-style headlines such as "*Informed Trustees: Confident Futures*".

ASA Children's Advertising codes

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

12. NZSTA supports the ASA Children's Advertising codes as providing a useful protection for children and young people from potentially harmful and anti-social messaging.
13. A survey of NZSTA member boards suggested that strengths of the current Codes include
 - a. recognition of the need to extend a duty of care to protect children
 - b. clear guidelines around social responsibility of advertisements and content what constitutes unethical behaviour in advertising to children
 - c. good general principles - the Code for Advertising to Children (a general code) provides a good overview of ethical tenets, and Children's Code for Advertising Food provides guidelines, if sometimes ambiguous, for practise.
 - d. they provide common language and understanding for important conversations to be had

¹ Source: Priorities for Children's Learning in Early Childhood Services (May 2013)* 27/05/2013
<http://www.ero.govt.nz/National-Reports/Priorities-for-Children-s-Learning-in-Early-Childhood-Services-May-2013/Background>

14. NZSTA member boards also identified weaknesses of the current Codes, including
- a. no suggestions as how to monitor/review advertisers.
 - b. The definition of a child as under-14
 - c. having to refer to both is more difficult for understanding and interpretation
 - d. Contradiction between Principle 1: 1a, and Principle 2: 2h, in the Code of Advertising to Children. 2i - Children's names should not be used; it should be parents' details that are recorded by parents.
 - e. not age specific enough as there are many young children who watch TV outside of what is generally considered child viewing time
 - f. it allows for targetted advertising to children at times (and ways) when children are unlikely to be supervised by parents/caregivers
 - g. There are ways to 'get round' the intention of some guidelines. Marketing of food that is processed and unhealthy with too high a sugar content is still possible, e.g low fat yoghurts are usually higher in sugar but it may not be enough to make it classed as 'high sugar'.

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

15. NZSTA's survey of member boards identified strengths of the current complaints process including
- a. the complaints board considers both spirit and intent.
 - b. it is reasonably simple: open, efficient, clear
 - c. it is well advertised
 - d. it is easily accessible online.
 - e. an 0800 number for people to use is easier for those who don't like using on-line processes
16. NZSTA member boards also identified weaknesses of the current complaints process including
- a. no appeal process and time frame.
 - b. first complaint adjudicated by Board chair only
 - c. availability or access online in communities where families have limited access to internet and or laptops
 - d. complex and cumbersome for many people - it looks too formal and difficult for a lay person. It is quite long-winded. It has to be in writing.
 - e. companies either ignore complaints or if needing to change something do the minimum rather than what is good for students - because their motivation is profit not the health of our students

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

17. There may be a case for strengthening the protocols around advertising of food to children, particularly by increasing the requirement for advertisers to make clear disclosure of recommended daily intake, portion sizes, and the consequences of overconsumption.

18. A survey of NZSTA member boards identified specific suggestions including

- a. more feedback when issues are raised.
- b. review the procedure on a regular basis
- c. closer monitoring of the codes, so they do not get breached. It should not have to wait for someone to complain.
- d. promoting the perfect body image should be included as eating disorders and the like are a serious problem in NZ
- e. maybe a complete ban of all advertising immediately before, during and after children's programmes.
- f. connections to healthy, active lifestyles and poor nutrition choices are innate to advertising that is exposed to children. A warning should be included in advertising material for 'red traffic light' nutrition
- g. children seldom choose their diet, they eat what the parents put there. They have the right to a healthy body through a healthy diet. Advertising to children through their parents should also be included
- h. all targeted advertising needs to go through an evaluation process - and if deemed to have too much fat, sugar, etc they need to have restricted advertising access
- i. labels showing sugar is toxic

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

19. Comments received in NZSTA's survey of member boards included:

- a. Students are susceptible to intentional influencing in all media forums. Schools are increasingly using digital media like Google for schools where subliminal advertising can be easily slipped into classrooms without consent. There is a lot of subtle advertising in films (e.g. use of brand name foods in product placements). Online games use subtle ways to get young people wanting to buy points in games.
- b. **Lack of supervision for inappropriate material** - Member boards have expressed concerns about too much advertising being permitted around children's viewing times on TV, and websites frequented by children having inappropriate advertising about things from weight loss to finding the perfect partner. The childhood obesity action plan acknowledges that public information is part of the problem concerning a child's health. Better screening/firewall protection is required on popular children's websites and social networking platforms. Children need to be able to access educational material without being bombarded with advertising of any kind.
- c. **Social media and websites** now need to be monitored in the same way that television has restrictions. They are typically vulnerable to questionable material

being advertised. The practice of recording what people have looked at and then targeting them with advertisements related to their profile can expose children to undesirable advertising.

- d. **Pop-ups and ads in the online environment** are increasingly a concern. This includes apps which are targeted for learning and children.
- e. **YouTube** uncensored material is also a concern for some boards.

5. 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.

20. Comments received from NZSTA member boards included:

- a. Most multi-national corporations (MNCs) - McDonalds, Coca Cola etc advertise treat food, snacks or fast food likely to adversely affect childrens' health within a multi-media environment that has no screening for advertising. Burgers presented as huge and golden in advertisements, nothing like what they actually look like.
- b. Fast food and fizzy drink ads leading up to and during the meal times - Buger King/ KFC/ Dominos/ coke.

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

21. For some schools, the school canteen or lunch run is an important source of locally raised funds, and in some cases this may include promotion of the products available. Because of the significance of this revenue stream for some schools, we would not support a blanket ban on advertising in schools. It would however be reasonable to ensure that the material used for promotional purposes accurately represents appropriate use of the product, and the consequences of misuse or overconsumption.

22. Comments received from NZSTA member boards identified that ads in children's programmes with adult themes, and the frequency of TV ads - repetition designed to leave a lasting impression upon children are also of concern.

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

23. The definition of 'child' as under the age of 14 effectively removes secondary schools from the scope of the advertising codes. NZSTA has no formal view on the desirability of that situation. NZSTA does support a more coherent legal definition of "child" across sectors, including legislation and regulation such as the Advertising Codes.

24. For boards of trustees, the relevant ages are

- a. **5 - 19:** The age when a person entitled to free education (Education Act 1989, S3)²
- b. **6 - 16:** the age when a person is required to be enrolled in school (Education Act 1989, S20)³
- c. **12-13:** The age when a child transitions from primary to secondary schooling

² ...the period beginning on the person's fifth birthday and ending on 1 January after the person's 19th birthday.

³ ... the period beginning on the person's sixth birthday and ending on the person's 16th birthday.

25. NZSTA's survey of member boards received the following responses in relation to the age limit:

- a. Children under the age of 14 generally need good guidance from adults - however it depends very much on the child. Limiting the code to under 14's there is good argument for careful and more stringent constraints. Poor choices by this age often cannot be remedied until adulthood.
- b. Teenagers are also very susceptible to outside pressures. Teenagers are also a target of large companies and if advertising can be restricted to adults there is potential for less harmful habits to be formed. Students aged between 14 and 18 can still be immature in their thoughts and way of thinking about things, and can be extremely vulnerable to advertising and the pressures of their peer group.

12 years

- i. At 14 they are really young adolescents, not children and possibly the codes do not apply as much. At 12 years certainly more child-like than at 14.

16 years

- ii. Many students are living more or less independent lives, including participating actively in paid employment by the time they are 16.
- iii. 16 is the age at which children are deemed adult enough to give informed consent to sexual activity

18 years

- iv. The definition of a child for Health and other areas is under-18.
- v. 18 is the age identified in the UN Convention on the Rights of Children
- vi. 18 is the age specified in legislation and regulations regarding tobacco and alcohol.
- vii. 18 is the age at which children become legally independent of parents, can work for the minimum wage immediately, vote and stand in local and general elections, buy and use alcohol and cigarettes.

26. On the whole it would seem more relevant to identify one or more of these natural transition points as the upper age limit for the Codes.

27. Appropriate limits on content for a five-year-old are not necessarily appropriate for a 15-year old or an 18-year-old. NZSTA would be open to the possibility that graduated ASA codes for advertising to children and adolescents might be a pragmatic way of addressing some of these issues in an age-appropriate way.

8. 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?

28. Yes, in principle NZSTA strongly supports the introduction of a nutrient profiling system. (See Q3 and Q6)

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

29. NZSTA supports the introduction of a specific guideline on sponsorship. Comments received in response to NZSTA's survey of member boards included the following:

- a. There is generally little sponsorship around good food choices, although the Sanitarium / Fonterra sponsorship of breakfast programmes in schools is a notable exception to this.
- b. Sponsorship generally comes from business whose prime directive is profit not welfare. Advertising pressures from companies providing sponsorship are common, and insidious. It is often hard for a school or sports team to resist a big donation, but this can result in very mixed messages. Some sponsorship in sport, such as burgers to player of the day, is too pervasive in promoting poor nutrition choices. (e.g. NZ Football's 'player of the day certificates have a tear-off section for a McDonalds cheeseburger). Companies producing high fat or sugary treats should be able to support children's-based activities. Similarly, children's role models such as sports stars should not be used to promote high fat / high sugar treats.
- c. Guidelines on sponsorship could provide a useful framework for schools to ensure they have done their best to eliminate any discrepancy between the approach to direct advertising and advertising through sponsorship. These guidelines should clearly define boundaries for conflicts of interest

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

30. NZSTA supports independent monitoring of the Codes. Comments received in response to NZSTA's survey of member boards included:
- a. Independent monitoring brings integrity to evaluation process and should improve uptake of the Codes by advertisers.
 - b. Independent monitors would need to have strict term of reference based on evidence from leading health and education researchers.
31. Some of the possible mechanisms suggested by NZSTA member boards that might be used include
- a. Establishing a separate body with this specific task.
 - b. Online surveys, seeking public opinion especially that of parents
 - c. A national certification register of products that can be checked on line
 - d. Creating a forum for people from across a range of codes/industries/education institutions who work with children, both online and holding occasionally hui to discuss results, next steps and major strategies for implementation. This could happen over a longish period of time e.g. 5 years. Gathering data and information would be set as part of the start-up process.

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

32. No comment.

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

33. As noted above, we **do not** support a ban on advertising in particular locations.

34. It is important to recognise that advertising in areas such as school grounds can be beneficial, as for example promotion of bullying-prevention strategies, or initiatives such as the smoke-free schools campaign. Other campaigns, such as the water-only schools are currently beginning to gain traction in the schooling sector, and it would be counter-productive to introduce advertising bans which might risk discouraging the use of promotional materials for socially responsible purposes.
35. There may also be cases, as with the smoke-free/auahi kore promotional signs where the message is directed primarily at adults, but also conveys an important expectation to students.
36. The experience of member boards as communicated to NZSTA over the years has been that this is ineffective when the products being provided or advertised can be available within a few metres in another 'environment' (e.g. school grounds vs local store).
37. As noted above, we consider that ensuring advertising materials contain enough useful and objective information to help children make good choices for themselves is a preferable approach.
38. NZSTA does however consider that it is inappropriate to permit placement of advertising for unhealthy foods (e.g. fast food, confectionery or sugary drinks) during or alongside children's programmes on TV, radio or other media.

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

39. NZSTA has no firm view on combining the two codes.
40. While there are obvious advantages in having a single comprehensive code, and there is a huge overlap between the two, it may be easier to maintain the simplicity and focus of each document by maintaining an 'umbrella' Code with targetted sub-codes such as the one for food nested beneath it.
41. This nested approach may be may become more relevant if the suggestion to develop a code for advertising to adolescents is adopted.

Appendix 1: National Education Goals

The National Education Goals (NEGs) were amended in December 2004 to include the reference to physical activity in clause 5. The National Administration Guidelines (NAGs) were also amended.

The National Education Goals are available in te reo at the bottom of this page.

Education is at the core of our nation's effort to achieve economic and social progress. In recognition of the fundamental importance of education, the Government sets the following goals for the education system of New Zealand.

NEG 1

The highest standards of achievement, through programmes which enable all students to realise their full potential as individuals, and to develop the values needed to become full members of New Zealand's society.

NEG 2

Equality of educational opportunity for all New Zealanders, by identifying and removing barriers to achievement.

NEG 3

Development of the knowledge, understanding and skills needed by New Zealanders to compete successfully in the modern, ever-changing world.

NEG 4

A sound foundation in the early years for future learning and achievement through programmes which include support for parents in their vital role as their children's first teachers.

NEG 5

A broad education through a balanced curriculum covering essential learning areas. Priority should be given to the development of high levels of competence (knowledge and skills) in literacy and numeracy, science and technology and physical activity.

NEG 6

Excellence achieved through the establishment of clear learning objectives, monitoring student performance against those objectives, and programmes to meet individual need.

NEG 7

Success in their learning for those with special needs by ensuring that they are identified and receive appropriate support.

NEG 8

Access for students to a nationally and internationally recognised qualifications system to encourage a high level of participation in post-school education in New Zealand.

NEG 9

Increased participation and success by Māori through the advancement of Māori education initiatives, including education in Te Reo Māori, consistent with the principles of the Treaty of Waitangi.

NEG 10

Respect for the diverse ethnic and cultural heritage of New Zealand people, with acknowledgment of the unique place of Māori, and New Zealand's role in the Pacific and as a member of the international community of nations.