



Foundation for Advertising Research

Information and research on advertising issues

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BACKGROUND INFORMATION

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

The Advertising Standards Authority (ASA) is conducting a Review of the Children's Code for Advertising Food and the Code for Advertising to Children. Submissions close on 13 April. Submissions will be considered by an independent panel consisting of health and industry interests and chaired by a retired judge. The consultation document is available on the ASA website or at this link - <http://www.asa.co.nz/wp-content/uploads/2016/02/ASA-Childrens-Codes-Consultation-Paper-2016.pdf>

This paper has background information that you may find useful in preparing your submission. The thrust of the comments relate to the Children's Code for Advertising Food.

1. Complaints

Since the introduction of the Children's Code for Advertising Food in 2010 there have been nine complaints under the Code as follows. None were upheld.

2010

10/704 – The complaint related to a poster promoting a variety of foods that had been approved for sale in School canteens under the School Food and Beverage Classification system. The Complainant alleged that many of the foods were 'unhealthy'.

2011

11/22 – The Complainant objected to the name of the retailer selling confectionary.

11/161 – A Burger King TV ad promoted a bourbon-flavoured sauce in hamburgers. The Complainant objected to the promotion of alcohol-flavoured food.

11/269 – The Complainant objected to the depiction of a three-legged lamb in a Hell Pizza ad promoting lamb shanks.

2012

12/442 – A McDonald's billboard promoting lamb burgers included the words "*Mary had a little lamb*". The Complainant objected to this reference and that lamb burgers were high in energy, fat, salt and sugar. It was ruled that the billboard was aimed at the general public rather than children and that its style was unlikely to appeal to children.

2013

13/303 – The Complainant objected to words in a KFC TV ad that said '*in some places \$3 is a tip, at KFC it gets the kids a whole meal.*' It was ruled that the ad was directed at adults.

13/405 – The Complainant objected to a website and associated flyer ads promoting apples with brand stickers as their child hounded them to collect more stickers for a school competition.

2014

14/253 – A TV ad for Uncle Toby's Cheerios included the claim of less than a teaspoon of sugar per serve. The Complainant considered this excessive and therefore describing the cereal as 'healthy' was misleading. The actual sugar quantity was 4.4 grams per serve, which is a moderate amount.

14/507 – A Kellogg's TV ad for Nutragrain included the statement, '*Nutragrain, fuel for active growing boys*'. The Complainant objected to the reference to only boys and not including girls.

2015

No complaints

Other data

During the period 2010-2015 the ASA received 3,935 complaints of which 11 (0.2%) related to the Children's Code for Advertising Food [Data accessed from ASA website on 8 March].

Comment

Only three complaints (10/704, 12/442 and 14/253) addressed the question of whether food was 'healthy' or 'unhealthy'. In 10/704 the foods were considered healthy under the School Food and Beverage Classification System. The product challenged in 14/253 has a current

Health Star Rating of 4 Stars. This highlights the problem of identifying which foods are 'healthy' or 'unhealthy' and should be advertised to children.

The lack of complaints also raises the question of whether there is real public concern regarding advertising food to children. Similarly it is noteworthy that no vocal critic of advertising food to children has made a complaint.

2. The Definition of 'Healthy' and 'Unhealthy' Food

The Children's Code for Advertising Food does not define 'healthy' or 'unhealthy' food. The Code has been criticized for lack of definition in this regard. Reference is made in the Code to the MOH Food and Nutrition Guidelines and ads should not undermine the guidelines. But the guidelines offer little help in determining whether particular foods should be advertised to children. There are reputed to be hundreds of nutrient profiling systems used to determine 'healthy'/'unhealthy' food. A large number have been developed by health academics and Governments have adopted a few such as the OFCOM system for TV advertising to children in the UK. Industry has also developed systems that are used in pledge programs. There are also other systems such as the heart tick.

The Health Star Rating system adopted in Australia and New Zealand is unique as a group consisting of Government, health academics, health lobbyists and industry developed it. Both the Australian and New Zealand Governments adopted it so is an official system and have run advertising campaigns promoting it. Consequently if a food scores a high number of Health Stars it is difficult to argue it is 'unhealthy' and should not be advertised to children.

The system has been voluntarily adopted by industry and an increasing number of products include the Health Star rating on their packaging - over 1000 products according to a recent media release by the Minister of Health. Consumer NZ is an enthusiastic supporter and some health activists advocate it should be compulsory.

One of the questions in the Code Review is

'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?'

The Health Star Rating system could be used to define 'unhealthy'. We suggest the bottom 30% of rated foods - Those with 1.5 Health Stars or less. The main foods in this category are chocolate, confectionary, sweetened sodas, many biscuits, some cakes and some cheeseburgers. A provision could be included in the Code prohibiting the advertising to children of this category of food.

The adoption of such a definition would help overcome some misunderstandings regarding the healthiness of certain foods. Historically many cereals and fast foods have been nutritionally deficient. Cereals have undergone huge reformulation and the Health Star Rating system assisted in this process. Consequently the vast majority of cereals rate 4 Health Stars or higher. There has been a similar trend with fast food with reformulation and menu change. Salads are now sold by QSR restaurants and chips/fries are no longer cooked in lard

but in oil with a consequential reduction in saturated fat. As a result all chips/fries sold by the major QSR chains rate 4 Health Stars or higher. It is noteworthy that upmarket restaurants often cook their fries in duck fat, which may be why many still believe QSR chains cook in lard. There is further discussion on this issue in Section 6.

3. Advertising to Children

A key issue is determining the definition of advertising to children.

The industry approach has been whether the ad targets children – that the ad has been created to appeal to children.

An approach favoured by many health academics is whether children see food ads even though they are targeting adults. Consequently watersheds such as no ‘unhealthy’ foods ads prior to 9PM are proposed, as there is a high child audience up to that time. However prime time between 6-9PM is when adult audiences are at their highest so presumably children are watching TV because their parents are watching.

Not only does prime time contain news, news magazines and documentary programmes but also AO (Adult Only) programmes after 8-30PM. Virtually all of these programmes contain violence and horrific events. It is therefore difficult to argue that food ads during prime time are targeting children. On the other hand there are some programmes that can be classified as ‘family’ such as a Disney film.

Currently TV programmes for pre-schoolers contain no ads. Programmes for school-aged children may contain food ads providing the food complies with the School Food and Beverage Classification system or meets the criteria to be eligible to make a health claim under the FSANZ nutrient profiling system. The TV broadcasters operate this system on a self-regulatory basis. The Health Star Rating system is based on the FSANZ nutrient profiling system.

The current Children’s Code for Advertising Food and Code for Advertising to Children have a definition somewhere in the middle – *‘that influence children whether contained in children’s media or otherwise’*. This definition takes into account the ‘targeting children’ definition but also includes ads that may be targeting adults but also influence children.

We favour no change to the definition.

4. Monitoring

A question in the Code Review is

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

The requirements of best practice advertising self-regulation include independent monitoring. The ASA meets the vast majority of the best practice requirements but a notable omission is independent monitoring. There is monitoring by the Ministry of Culture and Heritage pursuant to an agreement with Government made in 1992/3 but this is at a high level regarding processes rather than individual codes.

Independent monitoring when properly done is very expensive which is the main reason it has not been adopted.

In the past there has been multi-stakeholder monitoring of alcohol advertising. A consultative committee was established consisting of alcohol advertisers, LAPS adjudicator, ASA, MOH, Aged Concern, Students Against Drunk Driving and health groups. Unfortunately alcohol health activists declined to attend. The committee met 6 monthly where all ASCB decisions were reviewed and all TV alcohol ads were played. Frank discussion was encouraged and the feedback was most valuable. As a result advertisers altered their advertising and feedback given to code reviews. Following a personnel change in the MOH its representative attended infrequently and others did also. As a result the advertisers, ASA and LAPS tended to be talking to themselves so it was disbanded.

It is worth considering whether a similar multi-stakeholder group should be established to monitor advertising food to children. The problem is not long term commitment by industry but from the MOH and health sector. We believe it is worth a go and at the very least shows goodwill.

We consequently favour the establishment of a consultative committee that would monitor food advertising to children and complaints.

5. Age of a Child

Both codes define a child as under 14. The definition of a child varies widely in other jurisdictions. The standard age under the global pledge programs is under 12. Australia has three different definitions - under the self-regulatory advertising code it is under 15, in the pledge program for packaged food it is under 12 and in the Quick Service Restaurant pledge program it is under 14. In the UN Convention on the Rights of the Child it is under 18. Classifying teenagers as children is a concept many 15-17 year-olds would find difficult to accept.

Determining the age has been a concern in past reviews and the age of under 14 was selected because it aligns with the Broadcasting Standards Authority definition and that of the Children, Young Persons and their Families Act. Adopting the statutory definition is quite powerful and sensible.

We therefore favour no change in the definition of a child.

6. Sponsorship

Health academics have expressed concern about sponsorship by food companies. Generally sponsorship is by brand rather than product. Proposed restrictions and bans therefore focus on the brand on the basis that the product portfolio sold is predominantly 'unhealthy'. This is a huge assumption and generally wrong.

There has been a massive shift in recent years as products have been reformulated and others phased out and replaced by healthier options. The addition of salads to QSR menus is common. If sponsorship of brands were prohibited then this would inhibit the reformulation and product substitution process.

There is also the question of perception vs reality. There is a perception by many that most cereals are 'unhealthy'. The reality is the opposite. We surveyed the Health Star Ratings of the cereals produced by Kellogg's, Sanitarium and Hubbard's. Where the Health Star Rating had not been declared on the company website we calculated the rating from the nutrition information. There were a total of 114 different cereals. 70 (61%) scored 4 Stars or higher – which can be considered very healthy. 98 (86%) were 3 Stars or higher - still in the top half. 7 (6%) scored 2.5 Stars and 8 (7%) 2 Stars – not 'healthy' but not 'unhealthy' either. 1 (1%) rated only 1.5 Stars and is in the 'unhealthy' category.

A similar pattern emerges in the QSR category. We counted 157 big brand QSR menu items that scored 3.5 Health Stars or higher.

It should be noted that any sponsorship ad comes within the ambit of the codes.

We therefore do not favour any specific restriction on sponsorship.

7. Conclusion

In this paper we have endeavoured to comment on the key issues and hopefully this will be of assistance in the preparation of your submissions. If you would like information on other aspects we will be pleased to assist.

Finally, the health lobby are taking this review seriously and unlike previous reviews will be making submissions. It is important that all facets of industry make quality submissions.

Glen Wiggs

Director

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