

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

Submission to the Advertising Standards Authority

Date: 11 April 2016

Contact

MARILYN HEAD, BA, DIP TCHG, MSC, SENIOR POLICY ANALYST

DDI 04 494 6372 OR 0800 283 848 | E-MAIL MARILYNH@NZNO.ORG.NZ | www.nzno.org.nz

NEW ZEALAND NURSES ORGANISATION | PO BOX 2128 | WELLINGTON 6140

About the New Zealand Nurses Organisation

NZNO is the leading professional nursing association and union for nurses in Aotearoa New Zealand. NZNO represents over 47,000 nurses, midwives, students, kaimahi hauora and health workers on professional and employment related matters. NZNO is affiliated to the International Council of Nurses and the New Zealand Council of Trade Unions.

NZNO promotes and advocates for professional excellence in nursing by providing leadership, research and education to inspire and progress the profession of nursing. NZNO represents members on employment and industrial matters and negotiates collective employment agreements.

NZNO embraces te Tiriti o Waitangi and contributes to the improvement of the health status and outcomes of all peoples of Aotearoa New Zealand through influencing health, employment and social policy development enabling quality nursing care provision. NZNO's vision is *Freed to care, Proud to nurse*.

PREAMBLE

1. The New Zealand Nurses Organisation (NZNO) welcomes the opportunity to comment on the Review of the Code for Advertising to Children and the Children's Code for Advertising Food.
2. NZNO has consulted its members and staff in the preparation of this submission, in particular members of the College of Child and Youth Nurses (CCYN) and College of Primary Health Care Nurses, Diabetes Nurses Specialists and Nurse Practitioners, te Rūnanga and NZNO's professional nursing, policy and research advisers.
3. We commend the Advertising Standards Authority (ASA) on advancing the review in the light of the urgency of the impending health crisis, which has also prompted the government's *Childhood Obesity Plan*.
4. We understand that, in addition to the content, consideration may be given to moving towards a single code for advertising to children which would include a section on food advertising.
5. NZNO would support such a move to establish strong, clear and consistent principles for advertising to children which respects and supports children's rights as outlined by the United Nations Convention of the Rights of the Child 1990, which Aotearoa New Zealand (AotearoaNZ) has ratified.

6. We note that Convention articles of particular relevance include the fundamental principle stated in Article 3 that “*In all actions concerning children...the best interests of the child shall be a primary consideration.*”; article 17 which recognises the influence of mass media; article 24 which affirms children’s right to health; and article 36 that enjoins States Parties to “*protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare*”.
7. We also note that Unicef has produced a comprehensive set of principles to guide companies on actions they can take to support and respect children’s rights (*Children’s Rights and Business Principles*¹).
8. All NZNO submissions are available from our website and NZNO has no objection to this submission being published by the ASA.
9. NZNO would welcome the opportunity to make an oral submission.
10. Nursing is an evidence-based discipline with an holistic approach to health care that is focused on optimising the health potential of individuals regardless of their health status. I.e. nurses are concerned not only with reducing pain and disease, but also with enhancing health and wellbeing.
11. Nurses work in all health settings throughout the country and are very familiar with the behavioural influences, as well as the consequences, of advertising that encourages unhealthy images and behaviours eg overeating, gender and ethnic stereotyping, etc.
12. The significant health issues AotearoaNZ is facing, not only with obesity, suggests that the existing voluntary marketing codes are not effective in supporting children’s health in some areas, and that advertising to children contributes to poor child health and nutrition (Vandevijvere & Swinburn, 2015).
13. Population health is influenced by both individual choice and the collective environment, but the weight of international evidence clearly indicates the dominance of environmental factors – family, socio-economic, regulation etc. over which individuals have limited control. (Marmot, 2008). That is certainly the case for children, who have little economic control, although their influence over their family providers can be exploited by advertising.
14. In order to support children’s rights, and health, NZNO recommends that advertising codes to children be considered within a public health context focused on individual and whānau empowerment and social responsibility for health, rather than a purely commercial context.

¹ <http://childrenandbusiness.org/>

15. The Public Health Workforce model² based on Mason Durie's *Te Whare Tapa Whā* model for Māori health (Durie, 1985), for instance, embraces all aspects of health and wellbeing within the wider social and environmental context of AotearoaNZ communities.
16. This is an appropriate model/framework for considering advertising to children because it would require consideration of what was being advertised ie the *product* rather than its promotion, which is actually the public health issue at stake.
17. Advertising is also a powerful a tool for imparting good information and promoting healthy behaviours. An exclusive focus on when, where, how etc. products that are harmful to children may be advertised can be a smokescreen for the lack of protection for children's exposure to harmful products *per se*.
18. Restrictions on marketing and advertising are important, but not nearly as important as, for instance, protecting the quality of food and sustainability of food production to ensure that safe, healthy food is available for children (beginning with breastmilk).
19. While there is abundant evidence that "convenient, highly craveable, but nutritionally empty food" is contributing to epidemics of obesity, heart disease, and diabetes, the debate should not be centred on advertising but on the products themselves. Again, a public health framework would assist this discussion.
20. NZNO draws your attention to our Position Statement on Obesity (2015)³ and to our submission to the United Nations on The Right to Health and Indigenous Peoples⁴ (29 February 2016) both of which articulate a 'social determinants' approach to health which encompasses consideration of all environmental pressures, including advertising, affecting children.
21. Neither Code demonstrates the biculturalism implicit in AotearoaNZ's founding document, te Tiriti of Waitangi; we strongly recommend that this is addressed.
22. We also note that Māori term tamariki for children is not specifically linked to any particular age group, rather it overlaps with other terms, for example: tamariki (young, youthful, children), taitamariki (to be

² <http://www.publichealthworkforce.org.nz/Maori-public-health-perspective.aspx>

³ <http://www.nzno.org.nz/Portals/0/publications/NZNO%20obesity%20position%20statement,%202015.pdf>

⁴ http://www.nzno.org.nz/groups/te_runanga/submissions

young, youthful), and rangatahi (younger generation)⁵. We recommend that this is acknowledged in both Codes.

23. Finally, although we have no issue with the members of the review panel, we suggest that in all matters pertaining to children, the advice and expertise of practising clinicians and educators would be invaluable and, given the significant influence of marketing and advertising, that the principles of te Tiriti o Waitangi – partnership protection and participation - are honoured through Māori representation and engagement.
24. In this context we also We draw your attention to

Discussion Questions

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

25. The strengths are that they exist, and are reasonably clear and consistent. We particularly support children's programmes being separated from marketing products associated with them, and the guidelines with regard to toy weapons, sexuality, gambling, and exaggerated claims.
26. The main weakness is that the codes are voluntary and not enforceable. Less obvious is the subtle racial and gender stereotyping – fast food ads on television almost wholly portray Māori and Pacific peoples; chocolates and biscuits feature European women; children featured in ads, including, most unfortunately, ads purportedly portraying AotearoaNZ, eg the ANZ summer cricket ads, disproportionately feature pākehā children.
27. While it may be difficult to justify a complaint about advertisements individually, the cumulative effect is significant, and projects and reinforces unhealthy and discriminatory messages.
28. The Code for Advertising Food does not mention drinks; soft drinks which are one of the major sources of poor nutrition, dental caries and contributors to obesity and diabetes. Soft drinks are often advertised in conjunction with fast food – we suggest that this 'dual' advertising be disallowed.

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

⁵Māori dictionary website. (2016). Website accessed 3/4/16.
<http://maoridictionary.co.nz>

29. Again the strength of the current complaints process is that it is possible to complain and that complaints are considered, and that offending advertisements are often removed.
30. A weakness is that the onus is on individuals to take action in response to perceived breaches of individual advertisements. As indicated above, that often doesn't address the structural discrimination that comes from people being portrayed in only one way, just as inherent, and often unintended, structural discrimination in public services has led to entrenched disparities, despite all public services being 'universal' (Human Rights Commission, 2012).

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

31. We suggest strengthening the voluntary codes to deliver a more robust regulatory or quasi-regulatory system and/or establishing a principle or ethical standard for socially responsible advertising that would allow the review or monitoring of product groups to reduce stereotyping and enhance equity and inclusion.
32. Limiting the number of food advertisements directed towards children, who are more vulnerable to the advertising of foods that are unhealthy and 'high in fat, sugar and salt' (HFSS) - exposure to food advertising increases food intake in children.
33. We suggest introducing a system for balancing to the number and content of ads could be implemented with regard to advertising to children in all media. The *Draft Organisational Healthy Food and Drink Policy* developed by the National District Health Board Food and Drink Environments Network (March, 2016), for instance, proposes a 'traffic light' system for categorising foods relating to nutritional value *which is also linked* to the number and availability of products able to be sold at DHB food and drink outlets. I.e Products in the red category cannot be sold at all, while products in the green category must dominate the display and number of products in the amber category. That could be applied to advertising in print and broadcasting media.
34. The review (or alternative) panel could also be tasked with reviewing ads and making recommendations for marketing and advertising, that would promote equity and support health.

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).

35. See para 21 above. Television viewers are not an homogenous group, just as children aren't. Programmes may be pitched to a specific group, however, but be watched by others.
36. Social media is particularly challenging, since it is not permitted for children younger than 13 years to have accounts (e.g. on Face Book) however, this requirement can be thwarted by children applying for accounts using a false birthdate. This then exposes them to unsolicited advertising pitched at the age group that applies to their false birth date.

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.

37. Nurses are mainly concerned at the number of ads directed towards children at peak television viewing times, including fast food and soft drink combination ads, and at Easter and Valentines Day where chocolate ads abound.
38. They are also concerned with the number of alcohol ads after the restricted time, particularly those which demonstrate how to mix spirits. NZNO is a member of the Alcohol Action group⁶ and strongly supports its recommended 5+ Solution, one of which is: *to reduce marketing and advertising of alcohol*. We are totally opposed to advertising alcohol on television as the associated imagery of alcohol with fun, water (beaches etc.), youth, sport is unnecessary.

6. 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.

39. We are concerned with some advertising at sports grounds eg for alcohol; and extremely concerned with advertising for gambling associated with sports. Primary health care nurses advise that gambling addiction is increasing and pernicious and that children are adversely affected by it.

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

40. We strongly oppose this definition. The Convention defines the age of a child as under 18 years, as does Unicef's *Children's Rights and*

⁶ <http://alcoholaction.co.nz/>

Business Principles. Minister Tolley has recently announced that legislation will be introduced this year raising the age of state care to a young person's 18th birthday, with transition support being considered up to the age of 25. Cabinet has also agreed to investigate raising the youth justice age to 17. The consensus of national and international opinion thus indicates the definition of a child is someone under the under that age of 18 and the Codes need to be consistent with that.

41. While there is variance and application in New Zealand law regarding the definition of a child, the power of modern, integrated marketing to influence choices and consumption patterns that are deleterious to health over a lifetime, warrant the full protection of children to age 18.
42. A child younger than 14 years is generally not able to fully understand how market forces work or to have developed the ability to critique advertising claims (Raising Children Network, 2006); but those older than 14 years are more likely to be affected by peer pressure, so are just as open to messages that may be detrimental to their health and wellbeing.
43. The discretionary income of children has increased so more children have increased buying power (Calvert, 2008). This coupled with sophisticated, sometimes concealed, marketing approaches such as the appearance of branded products in movies and games, can undermine the defences against antisocial/unhealthy behaviours of older children and influence their behaviour (Calvert, 2008).
44. The activities, peer pressure and media exposure that young people between 14 – 18 years of age experience are different from those of younger children, and the decisions they make eg with regard to drinking, sex, associations have more serious consequences (Chan & Chan, 2008). In the period of transition to the responsibilities of adulthood, including parenthood, adolescents are not equipped, and should not be abandoned, to deal with the full strength of marketing and commerce. Physiologically, emotionally and socially, this age group is particularly vulnerable to marketing.
45. NZNO recommends that the Codes' definition of a child is a person under the age of 18 years.

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?

46. Yes there probably is a role for a nutrient profiling system, especially if advertising were to be limited to nutritionally sound core food groups

47. Interpreting nutrient content is a health barrier (Sonnenberg, Gelsomin, Levy, Riis, Barraclough, & Thorndike, 2013). It requires both numeracy and literacy skills. Consumers who read nutrient labels are more likely to have healthier food consumption patterns (Ollberding, Wolf & Contento, 2010).
48. There appear to be a range of Nutrient Profiling Systems. The World Health Organisation uses a model which on the surface would appear quite complex, it would likely provide a stringent framework for industry but would not likely provide much in the way of predictability and understanding for the consumer.
49. A traffic light system has been found to increase consumer's awareness of healthy food choices at point of purchase (Sonnenberg et al., 2013) and has growing support (Hawley et al., 2011). We refer you again to the *Draft Organisational Healthy Food and Drink Policy* developed by the National District Health Board Food and Drink Environments Network.
50. However, while we support the adoption of a nutrient profiling system such as traffic light, we also stress the importance of consistency and avoiding multiple grading systems. Evidence suggests to work well and become widely accepted nutrient profiling systems need to be from a credible source (Hawley et al., 2011).

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

51. Yes we support a specific guideline on sponsorship. Sponsorship often goes beyond the contribution towards costs of an event. It also includes supply of product, and that product is then promoted to event attendees.
52. Sponsorship implies endorsement by association. Children attending sports clubs that were sponsored by food and beverage companies thought the food and beverage companies sponsored the sport to help their sports clubs (Bowden, 2016).
53. Over half of the children surveyed said they bought the sponsors product to return the favour (Bowden, 2016). Sponsorship often goes beyond the contribution towards costs of an event. It also includes supply of product, and that product is then promoted to event attendees.

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

54. We support the introduction of independent monitoring and evaluation of the codes, as per the 'optimal' approach outlined in *Monitoring food*

and non-alcoholic beverage promotions to children (Kelly, B. et al., 2013).

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

46. No comment

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

46. No comment

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

47. NZNO supports a single code.

48. NZNO would welcome the opportunity to make an oral submission.

Marilyn Head

Senior Policy Analyst

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