



Australian Consumers' Association
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Comments on the Australian Association of National Advertisers
Draft Food & Beverages Marketing Communications Code
July 2006

ACA appreciates the invitation to provide comments on the AANA's draft Food and Beverages Marketing Communication Code.

ACA's position on obesity and regulation of food marketing and promotion to children

As you will be aware ACA, like many other groups, is increasingly concerned about the increase in overweight and obesity, particularly among children. Overweight and obesity is associated with serious health problems such as diabetes and heart disease which already place a significant burden on the health system.

ACA does not suggest that promotion of food to children is the only factor contributing to overweight and obesity nor is better regulation of food marketing to children the only course of action that ACA supports. We do, however, believe that there is sufficient evidence that children are exposed to promotion of unhealthy* foods† through a number of medium and that this contributes to their food preferences which in turn influences their diet and health. Given the increase in incidences of overweight and obesity in Australia we believe better regulation of marketing and promotion of food to children is warranted and overdue. While we acknowledge efforts within the industry to improve self regulation we do not believe that this will be sufficient to adequately protect children from the promotion of unhealthy food.

As you will know ACA supports increased government regulation‡ of food and beverage marketing, particularly to children. Given the seriousness of obesity in Australia and the impact that food marketing can have on children's food preferences ACA believes that further government regulation of food marketing to children is one of a number of actions that need to be taken to reverse increasing obesity rates.

* In the context of this paper, 'unhealthy' foods include any product that is high in saturated and/or trans fat, sugar kilojoules and sodium, either per serving or per 100g.

† In the context of this paper, the term 'food' refers to food and drink.

‡ ACA acknowledges that there can be varying degrees of government regulation, including detailed government regulation and co-regulation such as that underlying the finance industry dispute resolution scheme required by the Corporations Act.

ACA acknowledges that some of our concerns about food marketing to children are outside of the scope of an industry code of practice. For example, evidence suggests that the proportion of ads for unhealthy foods outweighs the proportion of ads for healthy foods. Unhealthy foods can be included in a balanced diet as treat foods. However, if children continue to be exposed to more advertisements for foods that should only be eaten occasionally than the core foods that should be consumed more regularly this could distort their perception of the place of these treat foods in a balanced diet. We accept that this is a matter outside the scope of the Code.

Improvements in the food supply

We would also like to see a food manufacturing industry that fully supported government and community action to reduce childhood obesity. In our minds, food manufacturers should:

- reduce the amount of saturated and trans fat, sugar, kilojoules and sodium in processed foods and snacks aimed at children to be reduced,
- limit the serving size of unhealthy processed foods,
- develop new kids' foods that are healthy,
- ensure labelling information referring to nutritional or health benefits and the content of food is true and not misleading, and where necessary supported by scientific evidence, and
- comply with all food and advertising regulations and codes of practice.

Effective regulation of food marketing and promotion

In ACA's opinion effective regulation of advertising to children would apply to all techniques used to market and promote foods to children. This would include games and activities on company websites, such as free market research through 'design-your-own product' activities; product placement in children's movies, TV shows and online games; cross promotion of children's movies and TV programs on unhealthy foods, and email marketing. It should:

- extend TV advertising restrictions to PG rated programs as they are also popular with children (e.g. cartoons, soap operas and reality TV programs),
- prohibit TV advertising of unhealthy food before 9pm (the definition of unhealthy food could be based on the nutrient disqualifying criteria Food Standards Australia New Zealand is developing as part of the nutrition, health and related claims standard),

- require that marketing of children’s foods directed at parents must not mislead parents about the nutritional value of a product by focussing only on positive nutritional attributes and ignoring negative nutritional attributes,
- prohibit the use of promotions (such as competitions and giveaways) on packages of unhealthy foods in an attempt to appeal to children and provide an incentive to purchase the product more often than it would otherwise be purchased if it did not carry a promotion,
- prohibit the use of children’s characters or popular personalities to promote unhealthy foods, and
- provide single contact point for all advertising and marketing complaints so that consumers do not have to have a detailed understanding of the various forms of regulation and codes of practice in order to support the complaint.

Further, we believe the regulatory system as a whole should be simplified so that it is easily understood by consumer rather than requiring an understanding of the various industry and regulatory bodies involved and the responsibilities of each.

ACA’s position on the promotion and marketing of food and beverages to children is based on the desire for children to develop healthy eating habits in order to prevent overweight and obesity both in childhood and in later life. Of course, as new research into the nature of the problem and the effectiveness of existing responses comes to light, further or different action may be required.

In the absence of what ACA considers to be an effective regulatory system it is pleasing to see the AANA propose improvements to the existing Code. ACA is happy to provide the following comments on the draft Code.

Definitions

ACA supports the proposed expansion of the definition of ‘marketing communication’, as compared to the definition of ‘advertisement’ in the current AANA Advertising to Children Code. However, we believe on pack and in-store promotions should be included in this definition as these are also avenues used to market foods and appeal to children. Such techniques include the use of cartoon or TV characters, competitions, collectibles and giveaways. ACA understands that labelling information is regulated by the Food Standards Code, however on pack promotions are not covered in this regulation.

ACA believes that educational material should also be included in the definition of ‘marketing communication’. While this sort of material may be used to provide consumer information e.g. information about nutrition and healthy eating, it can carry company logos or information about products. In ACA’s opinion this constitutes marketing communication.

Current Practice Notes

Paragraph 1.6 refers to Current Practice Notes that will be considered an integral part of the Code. An example Practice Note was provided along with the draft Code. Without sighting the Current Practice Notes that will underpin the draft Code, it is unclear to ACA the full extent to which the draft Code and associated Current Practice Notes will improve on the current marketing of foods and beverages.

Sections A, B and C

ACA notes that Sections A, B and C, relate to ‘advertising’ rather than ‘marketing communication’. The content of these sections refer to ‘advertising’ and ‘advertisements’. There are no provisions in the Sections A, B or C that refer to marketing communications in its broader context, such as internet communications. These sections of the Code carry the specific provisions by which signatories to the Code must agree to abide. If the specific provisions of the Code do not relate to all marketing communications then the Code will not be effective in governing all marketing communications.

Section B – All Food and Beverage Advertising

Section 3.2 states that advertisements should be “honest, truthful and in accord with prevailing community standards (as determined by the Advertising Standards Board)”. We assume that this means that the Code is trying to set a standard higher than the legal obligation for advertisements not to be misleading. If this assumption is correct, we suggest that this intent is spelt out in the Code.

ACA supports Section 3.3 that provides that individual advertisements should not encourage excess consumption nor undermine the importance of healthy lifestyles. As noted above, ACA is concerned that the proportion of ads for unhealthy foods compared to healthy foods also impacts on children’s preferences and their perceptions of a balanced diet.

ACA supports the sentiment expressed in Sections 3.4 and 3.7 as we believe that any claim or advertisement referring to any nutritional or health benefit of a product must be presented truthfully and accurately and should be consistent with the requirements of the Food Standards Code.

ACA believes that advertisements for children’s food directed to parents should not mislead parents about the overall healthiness of foods by only referring to positive health attributes when there are significant negative nutritional attributes of the product. The AANA will be aware last year’s ad for Kellogg’s Coco Pops referred to the presence of vitamins and minerals, particularly calcium for healthy bones. ACA and others expressed concern that this advertisement gave parents the impression that Coco Pops is a healthy breakfast cereal for children when in fact it is 33% sugar and low in fibre compared to many other breakfast cereals. In ACA’s opinion this advertisement would not be consistent with Section 3.7 of the Code.

ACA believes that advertisements should not undermine the promotion of a healthy balanced diet or a healthy lifestyle. While this is reflected to some extent in Section 3.9 we suggest this provision should be amended to read as follows:

3.9 Advertisements for food and/or beverages shall not undermine the promotion of healthy balanced diets, nor the importance of a healthy, active lifestyle.

ACA suggests the deletion of the words ‘seek to’ because we believe that advertisements could undermine healthy eating messages such as the Australian Dietary Guidelines and the Australian Guide to Healthy Eating, regardless of whether or not it was done intentionally. We also suggest the deletion of the words “as generally understood by the average consumer” as advertisements should not undermine healthy eating and lifestyle messages at all, regardless of the average consumer’s understanding.

A recent example of an advertisement that ACA believes undermines healthy eating messages is the SPC Ardmona advertisement for fruit in jelly. The advertisement portrays school children disposing of fresh fruit by playing cricket with an unwanted mandarin or sneaking it into another student’s schoolbag. The message is that children don’t want to eat fresh fruit so parents should give them preserved fruit in jelly. This undermines the Commonwealth government campaign that encourages everyone to consume two serves of fruit and five serves of vegetables a day. ACA believes that Section 3.9 should be amended as outlined to prevent such advertising messages, intentional or otherwise.

Section C – Advertising and Children

ACA suggests that Section 4.1 should be amended so that misleading and deceptive advertising, employing ambiguity, conveying a sense of urgency and inappropriate price minimisations are dealt with in separate provisions as they are four separate marketing practices. Creating separate provisions would allow for the AANA to expand on what is meant by some of these terms in the Code rather than outlining this in accompanying Practice Notes.

ACA agrees that advertisements should not overtly encourage children to pester parents for particular products as outlined in Section 4.5. However, ACA believes that it is not the content of advertisement alone that contributes to ‘pester power’. The persuasive nature of advertising creates an awareness of a particular product that appeals to children which may result in them continually asking their parents for that product until they get it.

Section 4.6 states that where personalities or characters are used to advertise food products, services or premiums (e.g. free toys) to children the advertisement should clearly distinguish between the commercial and the programme or editorial content. However, ACA believes that personalities and characters should not be used to promote unhealthy products to children at all. We do not believe that Section 4.6

addresses the issue of the influence that personalities and characters can have on children's awareness of or preference for a particular product or brand.

Once again, ACA appreciates the opportunity to provide these comments on the draft Food & Beverages Marketing Communications Code. We hope that the issues we have raised will be given due consideration during the finalisation of the Code. Should the AANA wish to discuss this further, please do not hesitate to contact ACA's senior food policy officer, Clare Hughes on (02) 9577 3375 or at chughes@choice.com.au.