



5 December 2016

Our Ref: MT16-197

Hilary Souter
Chief Executive
Advertising Standards Authority
P O Box 10-675
WELLINGTON

Email: claire@asa.co.nz

Dear Ms Souter

Draft Children and Young People's Advertising Code

I refer to your email of 23 November 2016. Thank you for providing the Royal New Zealand College of General Practitioners (the College) with the opportunity to comment prior to the Advertising Standards Authority's (ASA) response to the *Draft Children and Young People's Advertising Code* (the Code).

General practice and the College

General practice is the range of values, knowledge, skills, and practices required to provide first level medical services in both community practice and hospital settings. General practice includes the provision of both first contact and continuing care for all ages that is comprehensive, person-centred, and takes into account the roles of family, whānau, community and equity in achieving health gains.

General practitioners (GPs) comprise almost 40% of New Zealand's specialist workforce and their professional body, the College is the largest medical college in the country. The College provides training and ongoing professional development for GPs and rural hospital generalists, and sets standards for general practice. The College is committed to achieving health equity in New Zealand through:

- A greater focus on the social determinants of health.
- A greater focus on measures to reduce smoking and to increase healthy food options for low-income families.
- Better integration of health and social services.
- Ensuring the funding model for primary care is targeted towards the most disadvantaged.

The ASA's request for comment

We understand that following consultation on the *Children's Code for Advertising Food* and the *Code for Advertising to Children*, the ASA's Review Panel released their report in October 2016. Further, that the ASA Governance Board has now agreed to give submitters the opportunity to comment on the following two changes included in the draft Code:

- (a) The wording around 'targeting' in relation to identifying advertisements that trigger the Code.
- (b) Using the Food and Beverage Classification System (FBSC) as the interim nutrient profiling system.

The College's response

Set out below are our comments on these specific matters.

(a) *How to identify advertisements that target children*

The ASA has proposed that "an advertisement will be deemed to be targeting children or young people if they comprise 25% or more of the audience". You ask whether a percentage share of the audience is the right approach to trigger the Code, and you seek comment on the ability of each medium to break down and report separately on the two proposed audiences (ie children under 14 years and young people aged 14 to 18 years).

The College is concerned with the approach of using a 25% threshold only to determine if an advertisement is targeted at children or young people. It is our view that such an assessment does not consider the wider context of the advertisement, and that other relevant factors (eg viewership, appeal of product) need to be weighed to determine whether an advertisement is targeted at children or young people.

We also believe that inherent difficulties may exist in applying a 25% threshold in practice. How is this measured in the various forms of media and in relation to the two proposed audiences? We note that a one percent difference in the proportion of children or young people assessed to be in the audience (ie, 24% or 25%) would be the difference between not triggering the Code and triggering it.

Furthermore, as noted in the College's submission of 12 April 2016, parents and caregivers are increasingly the target of marketing for foods and beverages high in fats and sugar aimed at their children."¹ We also acknowledge that children do not often make food purchasing decisions because of their limited purchasing power.

The College suggests that the ASA consider the approach taken in Quebec to identify advertising targeted at children. The *Guide to the Application of Sections 248 and 249 Consumer Protection Act* (the Guide) sets out three criteria that must be taken into account when determining whether advertising targets children and therefore whether it is prohibited.² The criteria are:

- (a) For whom are the advertised goods and services intended? Do they appeal to children?
- (b) Is the message designed to attract the attention of children?
- (c) Are children targeted by the advertisement or exposed to it? That is, the proportion of children that make up the audience or that might be reached by an advertisement

¹ World Health Organization. A framework for implementing the set of recommendations on the marketing of foods and non-alcoholic beverages to children. Geneva; 2012. Available from: <http://www.who.int/dietphysicalactivity/MarketingFramework2012.pdf>

² Office de la protection du consommateur. Advertising Directed at Children under 13 Years of Age: Guide to the Application of Sections 248 and 249 Consumer Protection Act. Quebec: Gouvernement du Quebec; September 2012 [cited 30 November 2016]. Available from: https://www.opc.gouv.qc.ca/fileadmin/media/documents/consommateur/sujet/publicite-pratique-illegale/EN_Guide_publicite_moins_de_13_ans_vf.pdf

The Guide comments that there are tools to assess the proportion of children who are exposed to an advertisement, and the tools vary depending on the media.

Importantly, the Guide states that the relationship between the three criteria is what determines whether an advertisement is directed at children. When considered separately, each criterion is not decisive in itself.

Of interest is the example given in Appendix II of the Guide to assess the proportion of children exposed to advertising broadcast during a TV show. In addition to the criterion, “Program with over 15% of viewership composed of children”, two other criterion are assessed: “product essentially directed at children” and the product appeal for children. The Guide also notes that in some cases the threshold may be lower than 15% such as where the advertisement makes it possible to reach a large number of children, eg if a show’s viewership is very high and the product and presentation appeal to children.

The College considers that such an approach would be a suitable alternative option to identifying audiences.

(b) Definition of occasional food and beverage products

We commend the Review Panel’s recommendation of using a nutrient profiling system to provide more certainty in defining occasional food and beverage products. The ASA is now seeking comments on the use of the FBCS as an interim step while a fit for purpose classification system is established for New Zealand.

In the College’s submission of 12 April 2016, we noted that the WHO Regional Office for Europe Nutrient Profile Model³ - which has been developed specifically to underpin the regulation of food marketing to children – could be adopted to identify and restrict advertising of unhealthy foods under the Code. We acknowledge the ASA’s report of September 2016 on the review states that the “most comprehensive system was said to be the WHO Europe profiling system”, but that it was too restrictive and complex to apply.

The College welcomes the proposed development or adaption of a nutrient profiling system that specifically addresses the needs of marketing and advertising in New Zealand. Using the FBCS as an interim step seems reasonable. We have no specific comments on the use of this classification system for the purposes of the Code in the interim.

We hope you find our comments helpful. If you would like any further information or clarification please do not hesitate to contact the College’s policy team (policy@rnzcgp.org.nz).

Yours sincerely



Michael Thorn
Manager – Strategic Policy

³ World Health Organization. WHO Regional Office for Europe Nutrient Profile Model. Denmark: WHO Regional Office for Europe; 2015 [cited 2016 Apr 6]. Available from: http://www.euro.who.int/__data/assets/pdf_file/0005/270716/Nutrient-Profile-Model_Version-for-Web.pdf?ua=1.