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13 April 2016

Advertising Standards Authority
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Healthy Auckland Together submission to the Consultation on the Review of the Code for Advertising to Children and the Children's Code for Advertising Food

Thank you for the opportunity for Healthy Auckland Together to provide a submission on the Consultation on the Review of the Code for Advertising to Children and the Children's Code for Advertising Food consultation document.

The following submission represents the views of the Healthy Auckland Together partners listed in Appendix A.

The primary contact point for this submission is:

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We wish to speak to this submission if the opportunity arises. Once again, thank you for this opportunity to submit on this issue.

Yours sincerely

A handwritten signature in black ink, appearing to read "Julia Peters". The signature is fluid and cursive, with the first name being the most prominent.

Dr Julia Peters
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Public Health Physician
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Introduction

1. This submission is made on behalf of the Healthy Auckland Together partners, as listed in Appendix A. Healthy Auckland Together is a coalition of organisations within the Auckland region that aims to: improve nutrition, increase physical activity and halt rising rates of obesity among Aucklanders. A priority focus within these aims is equitable outcomes for Maori, Pacific and lower-socioeconomic communities. With a broad range of coalition partners - including health, local government, sport, iwi, transport and non-government organisations - Healthy Auckland Together's aim is to encourage change in the regional environment so it contributes to Aucklanders' health and does not impede it.
2. Healthy Auckland Together's key recommendation to this submission is that a co-regulatory approach is introduced to redevelop the codes, whereby government develops guidelines, which are then enforced by both government and industry. This approach would encourage more robust accountability with lower administrative costs for government, while being able to harness industry knowledge and expertise.
3. Childhood obesity rates in Auckland are unacceptably high with a third of children being overweight or obese. Many children fall short of national dietary recommendations of 5 plus fruit and vegetable servings a day (about 43% do not eat enough fruit and vegetables). In addition, teenagers are not getting enough physical activity for a healthy life (only 10% of secondary school students met the current recommendations of 60 minutes of physical activity daily).¹ In New Zealand, the proportions of children who are obese, those who are meeting the recommended fruit and vegetable intake and those who are physically active for 60 minutes each day has stayed relatively static between 2007 and 2012.²
4. Unhealthy diets and sedentary lifestyles contribute to the risk of developing obesity, which has immediate and long term impacts for children's health and wellbeing. Children who are obese are more likely to have risk factors for cardiovascular disease, pre-diabetes, joint problems, sleep apnoea, and social and psychological problems such as stigmatisation and poor self-esteem. Children who are obese are more likely to be obese as adults, and are therefore more at risk for adult health problems such as heart disease, type 2 diabetes, stroke, several types of cancer, and osteoarthritis.³
5. Healthy Auckland Together has responded to those questions set out in the Consultation on the Review of the Code for Advertising to Children and the Children's Code for Advertising Food consultation document where we have member expertise.

¹ Statistics quoted on Ministry of Health website from Youth 12 Survey. <http://www.health.govt.nz/your-health/healthy-living/food-and-physical-activity/physical-activity/activity-levels-new-zealand>

² Ibid.

³ World Health Organisation (2016). Report of the commission on ending childhood obesity. World Health Organisation:Switzerland. Accessed from: http://apps.who.int/iris/bitstream/10665/204176/1/9789241510066_eng.pdf?ua=1.

Why is advertising to children regarding food so important?

6. The marketing of unhealthy food products to children is powerful. It is powerful because it influences children's food preferences, purchase requests, and consumption.⁴
7. Modern, integrated marketing ensures that brands engage with children across multiple media platforms.⁵ Previous studies in New Zealand found that food marketing targeted at children through television⁶, internet (paper in press), magazines,⁷ sports,⁸ around schools⁹ in schools¹⁰ and on front-of-pack of food products¹¹ is predominantly for unhealthy food products high in salt, sugar and saturated fat. New Zealand children and adolescents who watch the most TV are significantly more likely to be higher consumers of foods most commonly advertised on TV: sugar-sweetened beverages, sweets, snacks and fast food.¹² In addition, beverages that children commonly associate with sports overwhelmingly have characteristics which do not support them in adhering to existing nutrition guidelines.¹³

Role of Advertising codes in addressing childhood obesity

8. There is strong agreement amongst experts within the public health and medical communities in New Zealand about the restriction of unhealthy food marketing as one of the top priorities to tackle childhood obesity.¹⁴ The New Zealand Medical Association's report on *Tackling Obesity* included it as one of the 10 priorities, and the 56 public health experts participating in the Healthy Food Environment Policy Index,¹⁵ identified the reduction of food marketing through

⁴ Boyland EJ, Whalen R. Food advertising to children and its effects on diet: a review of recent prevalence and impact data. *Pediatr Diabetes* 2015 [Epub ahead of print] & Mackay S, Antonopoulos N, Martin J, Swinburn B. A comprehensive approach to protecting children from unhealthy food advertising. Melbourne: Obesity Policy Coalition; 2011; & Cairns G, Angus K, Hastings G, Caraher M. Systematic reviews of the evidence on the nature, extent and effects of food marketing to children. A retrospective summary. *Appetite* 2012; 62:209-15

⁵ Kelly, B., Vandevijvere, S., Freeman, B., & Jenkin, G. (2015). New Media but Same Old Tricks: Food Marketing to Children in the Digital Age. *Curr Obes Rep*, 4(1), 37-45. doi: 10.1007/s13679-014-0128-5.

⁶ Jenkin G, Wilson N, Hermanson N. Identifying 'unhealthy' food advertising on television: a case study applying the UK Nutrient Profile model. *Public Health Nutrition* 2009;12(05):614-623; & Wilson N, Signal L, Nicholls S, Thomson G. Marketing fat and sugar to children on New Zealand television. *Prev Med* 2006;42(2):96-101; & Wilson N, Quigley R, Mansoor O. Food ads on TV: a health hazard for children? *Aust N Z J Public Health* 1999;23(6):647-50.

⁷ Ibid.

⁸ Carter MA, Signal L, Edwards R, Hoek J, Maher A. Food, fizzy, and football: promoting unhealthy food and beverages through sport - a New Zealand case study. *BMC Public Health* 2013;13:126; & Maher A, Wilson N, Signal L, Thomson G. Patterns of sports sponsorship by gambling, alcohol and food companies: an Internet survey. *BMC Public Health* 2006;6:95; & Carter MA. Is Junk Food Promoted Through Sport? : University of Otago; 2013.

⁹ Maher A, Wilson N, Signal L. Advertising and availability of 'obesogenic' foods around New Zealand secondary schools: a pilot study. *N Z Med J* 2005;118(1218):U1556.

¹⁰ Ibid.

¹¹ Devi A, Eyles H, Rayner M, Mhurchu CN, Swinburn B, Lonsdale-Cooper E, et al. Nutritional quality, labelling and promotion of breakfast cereals on the New Zealand market. *Appetite* 2014; 81:253-60.

¹² Utter J, Scragg R, Schaaf D. Associations between television viewing and consumption of commonly advertised foods among New Zealand children and young adolescents. *Public Health Nutr* 2006;9(5):606-12.

¹³ Smith M, Jenkin G, Signal L, McLean R. Consuming calories and creating cavities: beverages NZ children associate with sport. *Appetite* 2014;81:209-17

¹⁴ New Zealand Medical Association. NZMA Policy Briefing: Tackling obesity. Auckland: New Zealand Medical Association; 2014. & Swinburn B, Dominick CH, Vandevijvere S. Benchmarking food environments: Experts' Assessments of Policy Gaps and Priorities for the New Zealand Government. Auckland: University of Auckland; 2014.

¹⁵ Swinburn B, Vandevijvere S, Kraak V, Sacks G, Snowdon W, Hawkes C, et al. Monitoring and benchmarking government policies and actions to improve the healthiness of food environments: a proposed Government Healthy Food Environment Policy Index. *Obes Rev* 2013;14 Suppl 1:24-37.

broadcast and non-broadcast media and in settings where children gather as two of the seven top priorities.¹⁶

9. The New Zealand public is also concerned about food advertising to children. Surveys conducted in New Zealand have shown that the majority of participants want or are neutral to restrictions to advertising of unhealthy food and drinks to children.¹⁷ A New Zealand public opinion poll recently showed that the level of public support for not allowing advertisements of products that contain a lot of sugar and salt to be shown on television before 9pm was 3.7 on a scale from 1 to 5. In addition, there was a similar level of public support for not allowing fast food and soft drink companies to sponsor children's sport.¹⁸
10. An effective advertising code of practice in addressing childhood obesity would:¹⁹
 - Adequately protect all children from unhealthy food advertisements
 - Comprehensively cover the total extent of marketing of foods to children
 - Reduce children's exposure of unhealthy food advertisements
 - Be understood and used regularly by the public
 - Be enforced by a complaints review process that applies the code comprehensively, justifiably and consistently.
11. Internationally, there are a number of effective advertising regulatory models that could be useful to draw on during this review, as mentioned in Appendix C.

Children are especially affected by advertising

12. Children are arguably the most vulnerable consumers affected by directed advertising. Food manufacturers invest significant money into building positive relationships between children and their brands so the children purchase their products now and into the future – the majority of the messages being to consume more unhealthy food and beverages that are high in sugar, salt and fat.²⁰
13. An article published in the New Zealand Medical Journal last year pulled together 10 local studies from the past 16 years, and showed the continued dominance of unhealthy food products in food marketing to children across multiple platforms, including television, print and websites.²¹ In one early study, up to 80 per cent of all television food advertising in children's viewing slots was for "unhealthy" products. More recently, a 2014 investigation into magazines

¹⁶ Vandevijvere S., Dominick C., Devi A., Swinburn B. (2015). The healthy food environment policy index: findings of an expert panel in New Zealand. *Bulletin of the World Health Organization*, 93:294-302.

¹⁷ Johnston, M. (2015). We need to protect kids from junk-food ads survey. *NZ Herald*; published July 20, 2015.

¹⁸ Gendall P, Hoek J, Taylor R, Mann J, Krebs J, Parry-Strong A. Should support for obesity interventions or perceptions of their perceived effectiveness shape policy? *Aust N Z J Public Health* 2015;39(2):172-6.

¹⁹ Bowers S, Signal L & Jenkin G (2012). Does current industry self-regulation of food marketing in New Zealand protect children from exposure to unhealthy food advertising?. Retrieved from: <http://www.otago.ac.nz/wellington/otago036971.pdf>

²⁰ Julia Lyon *Food and Beverage Marketing to Children* (Agencies for Nutrition Action, Wellington, September 2013) Agencies for Nutrition Action <www.ana.org.nz/our-work>.

²¹ Vandevijvere, S., & Swinburn, B. (July, 2015). Getting serious about protecting New Zealand children against unhealthy food marketing. *New Zealand Medical Journal*. Vol 128:1417.

that targeted children and adolescents found 72 per cent of food references were for unhealthy goods.²² This has occurred despite the presence of the current ASA codes being in place.

14. Marketing is getting harder to monitor as it continues to become more sophisticated. Children are being targeted by everything from product packaging, to websites featuring games and activities, and social media.²³
15. There are psychological differences between adults and children which make children more vulnerable to marketing messages. Adults are more likely to critically evaluate marketing claims whereas children (especially those younger than 12 years) are more likely to accept marketing messages as truthful, accurate and unbiased.²⁴

Please note that from this point onwards, the submission will address the specific questions posed by the ASA for its review purposes:

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

Strengths:

15. Recognition that there is a 'duty of care to protect children as per the United Nation's Convention on the Rights of the Child'.²⁵
16. The codes define advertisement as 'any form of advertising or marketing communication'.²⁶

Weaknesses:

17. The World Health Organisation (WHO) developed a 'Set of Recommendations on the Marketing of Foods and Non-Alcoholic Beverages to Children' in 2010.²⁷ One of the recommendations is that codes such as these be developed with Government and multi-sectorial stakeholders. The WHO recommendation 4 also states that governments should set clear definitions of the key components of the policy and be key stakeholders, as well as provide leadership.²⁸ Healthy Auckland Together strongly encourages a process consistent with the WHO recommendations is instituted as soon as possible.
18. The codes could be more proactive in providing protection afforded to youth 14-17 years of age.

²² Ibid.

²³ Ibid.

²⁴ Institute of Medicine (U.S.) (2006). Committee on Food Marketing and the Diets of Children and Youth. In: McGinnis J, Appleton Gootman J, Kraak V, editors. Food marketing to children and youth: threat or opportunity? Washington DC: National Academy of Sciences; & Kunkel D, Wilcox B, Cantor J, Palmer E, Linn S, Dowrick P (2004). Report of the APA taskforce on advertising and children. Washington DC: American Psychological Association; & Obesity Action Coalition (2007). Would you like lies with that? Food, kids and tv advertising. Wellington: Obesity Action Coalition.

²⁵ Consultation on the Review of the Code for Advertising to Children and the Code Children's Code for Advertising Food Advertising Standards Authority February 2016 p9

²⁶ Ibid p10

²⁷ World Health Organisation [WHO]. *Set of Recommendations on the Marketing of Food and Non-Alcoholic Beverages to Children*. Geneva:WHO Press, 2010.

²⁸ Ibid

19. As mentioned earlier, the marketing landscape is dynamic and sophisticated. The codes need to enable comprehensive cover of the extent of food marketing to children.
20. The codes contain ambiguous inclusion criteria for advertisements.
21. The codes could be stronger in enacting the spirit of United Nations Convention of the Rights of the Child, particularly Article 13, Clause 2: The right to restrict the freedom of expression in order to protect public health – to restrict advertising in order to protect child health.
22. The Television Advertising code does not recognise that for many children the main viewing time is prime time not the protected children's time.

Specific Weaknesses in the wording of the Code:

23. The 'Code for Advertising to Children' and the 'Children's Code for Advertising Food' both state that "Advertisements should be clearly recognisable as such by children."
24. As above in point 14, children (especially those younger than 12 years) are more likely to accept marketing messages as truthful, accurate and unbiased and therefore are unable to necessarily distinguish advertisements for what they are.²⁹
25. The ASA Code for Advertising Food to Children states that foods high in sugar, fat and/or salt (HFSS) should not be portrayed in any way that suggests they are beneficial to health.³⁰ It is unclear how this statement is applied in reality with regard to well-known sporting personalities advertising unhealthy food and beverages. For example, children do not have the discrimination necessary to realise that the sporting personality did not achieve their sporting status because of the food or drink they are advertising.

Privacy

26. The Code for Advertising to Children allows that "Children's personal details can be collected" as long as it is with extreme care.³¹ This is especially problematic if the children themselves are giving their personal information away. This is concerning due to the ethics involved in collecting children's details and it is questionable why this information would be collected, other than to use for direct marketing purposes.

²⁹ Institute of Medicine (U.S.) (2006). Committee on Food Marketing and the Diets of Children and Youth. In: McGinnis J, Appleton Gootman J, Kraak V, editors. Food marketing to children and youth: threat or opportunity? Washington DC: National Academy of Sciences; & Kunkel D, Wilcox B, Cantor J, Palmer E, Linn S, Dowrick P (2004). Report of the APA taskforce on advertising and children. Washington DC: American Psychological Association; & Obesity Action Coalition (2007). Would you like lies with that? Food, kids and tv advertising. Wellington: Obesity Action Coalition.

³⁰ Consultation on the Review of the Code for Advertising to Children and the Code Children's Code for Advertising Food Advertising Standards Authority February 2016 Children's Code for Advertising Food, Guideline 2(c) p11

³¹ Ibid Code for Advertising to Children, Guideline 2(i) p 8

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

Strengths

27. Cost is not a barrier to making a complaint.

Weaknesses:

28. The complaints process was not developed with Government or other stakeholders in the health sector meaning that it is not aligned with best practice models or healthy guidelines.
29. The stated purpose of the complaints process is not centred on protecting children, rather, “the Advertising Standards Complaints Board is vested with discretion to ensure a common sense outcome.”
30. The guidelines for ruling on complaints - “the Complaints Board considers both the spirit and intent” – are ambiguous as ‘spirit and intent’ may be subjectively and inconsistently interpreted. For example, advertising industry people who have no prior nutrition training or experience may view the ‘intent’ of the Code regulations very differently than someone with a public health nutrition background.
31. The self-regulated nature of the complaints process is a weakness. Studies have consistently demonstrated the failure of industry self-regulations to reduce the exposure of unhealthy food marketing to children and adolescents,³² because the sector has too many vested interests in perpetuating the status quo. Additionally, a study of the 2010 changes to the codes found evidence of partial, unjustified and inconsistent decision making by the Advertising Standards Complaints Board, as well as inconsistent application of codes and guidelines.³³
32. There is low public confidence and/or understanding in the complaints process as evidenced by the small number of complaints made. Since the introduction of the Children’s Code for Advertising Food in 2010, nine complaints have been dealt with under this code as of October 2015.³⁴ This is a considerable reduction from an analysis of a similar time period under the previous code (January 2007 to August 2010), which found 20 complaints relating to unhealthy food products favoured by children.³⁵ The low utilisation rate demonstrates that the code is

³² Galbraith-Emami S, Lobstein T. The impact of initiatives to limit the advertising of food and beverage products to children: a systematic review. *Obes Rev* 2013; 14(12):960-74. & Hawkes C, Lobstein T. Regulating the commercial promotion of food to children: A survey of actions worldwide. *International Journal of Pediatric Obesity* 2011;6(2):83-94. & Kunkel DL, Castonguay JS, Filer CR. Evaluating Industry Self-Regulation of Food Marketing to Children. *Am J Prev Med* 2015.
³³ Bowers S, Signal L & Jenkin G (2012). Does current industry self-regulation of food marketing in New Zealand protect children from exposure to unhealthy food advertising? Accessed from: <http://www.otago.ac.nz/wellington/otago036971.pdf>

³⁴ Advertising Standards Authority (2015). ASA to review codes on advertising to children. Draft media release, 19th October, 2015. Accessed from <http://www.asa.co.nz/wp-content/uploads/2015/10/Media-Release-October-19-2015-website.pdf>.

³⁵ Bowers, S., Signal, L. & Jenkin, G. (2012). Does current industry self-regulation of food marketing in New Zealand protect children from exposure to unhealthy food advertising? Report prepared for The Cancer Society of New Zealand. Health Promotion and Policy Research Unit, University of Otago: Wellington.

either misaligned with public demand for less advertising to children³⁶, or that it does not perceive the complaints process to be a worthwhile one in which to engage.

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

33. In alignment with the WHO Recommendations on the marketing of foods and non-alcoholic beverages to children, as well as Agencies for Nutrition Action, Healthy Auckland Together recommends the development of a co-regulation model, supported by independent monitoring and evaluation.³⁷
- Healthy Auckland Together recommends that the government develops guidelines, which are then enforced by both government and industry. This approach would encourage more robust accountability with lower administrative costs for government, while being able to harness industry knowledge and expertise.
 - To be more effective, evidence shows that both exposure (reach, frequency, and impact) and power (content, design and execution) of advertising as per WHO recommendation 2 needs to be addressed in the code.
34. The scopes of the codes need to be broadened to include all childhood settings, including children-friendly events and activities. These spaces should be marketing free zones.
35. The codes could be strengthened to end the unhealthy food sponsorship of children's sports teams and the use of high profile spokespeople to promote unhealthy food to children.
36. Evidence suggests that the scopes of the codes need to be broadened to enable an adequate response to the increasingly pluralistic and integrated advertising approaches – including sponsorship, product placement, sales promotion, cross-promotions using celebrities, brand mascots or characters, websites, packaging, labelling and point-of-purchase displays, philanthropic activities tied to branding opportunities, communication through “viral marketing”, advergaming and advertising within apps, and banner and display ads.³⁸

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).

37. Systematic reviews show that increasingly advertisers are using a multimedia approach to convey messages and build trust with children from an early age.³⁹
38. With the decline of television advertising, there has been a significant increase in online advertising. In 2012, 20% of advertising spend was for online advertising, including banner and

³⁶ Johnston, M. (2015). We need to protect kids from junk-food ads survey. NZ Herald; published July 20, 2015.

³⁷ Lyon, J. *Food and Beverage Marketing to Children*. Wellington: Agencies for Nutrition Action, 2013.

³⁸ World Health Organisation. *Set of Recommendations on the Marketing of Food and Non-Alcoholic Beverages to Children*. Geneva:WHO Press, 2010.

³⁹ Ibid.

display ads, video pre-rolls, social media.⁴⁰ Children are spending increasing amounts of time online, therefore increasing their exposure to unhealthy food advertising.

39. Advergaming and advertising within apps are a particular area of concern in relation to advertising to children. Children are exposed to brands in a format that is even more difficult to discern as advertising.
40. Healthy Auckland Together therefore recommends that the codes are strengthened so that they can effectively deal with the increasingly sophisticated marketing strategies that are utilised by food manufacturers to market unhealthy foods.

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.

41. Overall Healthy Auckland Together is concerned about the use of sponsorship as a marketing strategy by food manufacturers to imply to children that their 'occasional' products are foundational ingredients of success in elite sport.
42. Some specific examples as requested include: the sponsorship of the All Blacks by Gatorade – a high sugar product produced by PepsiCo; the KFC Advertisement featuring several well-known rugby players broadcast before 7pm during a Cricket World Cup quarterfinal, a time when many families were likely to be watching the match⁴¹; and a television advertisement featuring members of the New Zealand Warrior Rugby League team sponsored by Wendy's.

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.

43. Nestle's sponsorship of school uniforms with their logo prominently placed, thereby exposing children to their branding.
44. Evidence shows that there is clustering of fast food and convenience outlets around schools, particularly in more socially-deprived settings. These fast food and convenience outlets usually have some form of advertising and/or promotions on and around their premises.⁴²
45. Additionally, the placement of brand marketing online is also a concern. For example, a New Zealand study assessing club, national, and regional sporting organisations' websites for

⁴⁰ Lyon, J. *Food and Beverage Marketing to Children*. Wellington: Agencies for Nutrition Action, 2013.

⁴¹ <http://www.stuff.co.nz/life-style/well-good/67468111/Experts-Athletes-shouldn't-promote-fast-food>

⁴² Day, P.L. & Pearce, J. (2011). Obesity promoting food environments and the spatial clustering of food outlets around schools. *American Journal of Preventive Medicine*. 40(2):113-21. Doi:10.1016/j.amepre.2010.10.018.

evidence of sponsorship, found more unhealthy food sponsorship in junior sport when compared to all other types of sponsorship.⁴³

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

46. Healthy Auckland Together recommends the definition of a child be amended to include those aged up to 18 years.
47. This would align with the Ministry of Health's Childhood Obesity Plan, which aims to address obesity in children up to 18 years of age, and of which marketing and advertising to children is one aspect of the broad population approaches.⁴⁴
48. It also aligns with the Consumer Institute and World Obesity/Policy & Prevention recommendation that a 'child' should be defined using an age limit as determined by national laws but this age limit should not be lower than 16 years of age.⁴⁵ Additionally, the United Nations Convention on the Rights of the Child defines a child as up to the age of 18 years.
49. From a social determinants perspective, adolescence (defined by WHO as ages 10-19) is associated with increased financial autonomy and social pressures. Restricting food advertisements to this demographic would decrease both exposure and the power of messages to this vulnerable group. There is also strong evidence that cognitive development carries on through to young adulthood (around mid-20s), when the prefrontal cortex becomes fully developed, and young adults have better cognitive abilities including calibration of risk and reward, problem-solving, prioritising, thinking ahead, self-evaluation, long-term planning, and regulation of emotion.⁴⁶

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?*

50. Healthy Auckland Together believes there is a role for a nutrient profiling system. A universal restriction of all food and beverage advertising, while much simpler, would also restrict promotion of healthier foods.
51. Healthy Auckland Together suggests the Fuelled4Life Food and Beverage Classification System (FBCS)⁴⁷ developed by the Ministry of Health, and now managed by the Heart Foundation, for

⁴³ Maher, A, Wilson, N, Signal, L, Thomson G. Patterns of sports sponsorship by gambling, alcohol and food companies: an internet survey. *BMC Publ Health* 2005, 6:95.

⁴⁴ Ministry of Health. (2016). *Childhood Obesity Plan* Retrieved from <http://www.health.govt.nz/our-work/diseases-and-conditions/obesity/childhood-obesity-plan>

⁴⁵ World Health Organisation (2008). *Dialogue with Nongovernmental Organizations regarding the Drafting of Recommendations on the Marketing of Foods and Non-Alcoholic Beverages to Children*. Retrieved from http://www.who.int/dietphysicalactivity/dialogue_non_governmental_organizations_20nov2008.pdf?ua=1

⁴⁶ Simpson, A. R. (2008). *MIT Young Adult Development Project – Brain Changes*. Retrieved from: <http://hrweb.mit.edu/worklife/youngadult/brain.html#cortex>

⁴⁷ Ministry of Health (2013). *Food and Beverage Classification System*. Retrieved from: <http://www.health.govt.nz/our-work/preventative-health-wellness/nutrition/food-and-beverage-classification-system>

use in schools to determine whether the advertised foods met the criteria for being considered high in fat, salt and sugar. The FBCS system provides nutrient frameworks which classify foods into *every day*, *sometimes*, or *occasional* categories based on nutrient values and portion sizes. HFSS foods that provide minimal nutritional value fall into the *occasional* category.

52. This system has been in place for many years, is maintained by a trusted health organisation, is developed for use in child friendly settings such as schools and Early Childhood Education Services (ECES), and should be familiar and acceptable for use by the food industry.

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

53. Healthy Auckland Together supports a specific guideline on sponsorship in respect of its effects in establishing early brand awareness and loyalty in children. At a minimum, food manufacturers should be restricted in sponsoring learning, sporting and cultural events and activities where children gather – including but not limited to ECES, schools, playgrounds, family and child clinics, paediatric services, family events, sporting and cultural activities held on these premises.⁴⁸ New Zealand-specific examples include Coca-Cola in the Park and Cadbury Jaffa race.

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

54. Healthy Auckland Together strongly supports the introduction of independent monitoring and evaluation of the codes.
55. As stated earlier, there is evidence of partial, unjustified and inconsistent decision making by the Advertising Standards Complaints Board, as well as inconsistent application of codes and guidelines.⁴⁹ Independent monitoring and evaluation would improve accountability processes to ensure greater consistency.
56. The Food and Beverage Industry Group consulted by the WHO to develop its set of recommendations for marketing food and non-alcoholic beverages to children strongly supported independent monitoring and transparent reporting.
57. Healthy Auckland Together recommends enacting WHO Recommendation 10 when developing an independent monitoring system – to use clearly defined and relevant indicators that measure the effect of the policy on its objective (i.e. reducing exposure and power of advertisements to children).⁵⁰

⁴⁸ World Health Organisation. *Set of Recommendations on the Marketing of Food and Non-Alcoholic Beverages to Children*. Geneva:WHO Press, 2010.

⁴⁹ Bowers S, Signal L & Jenkin G (2012). Does current industry self-regulation of food marketing in New Zealand protect children from exposure to unhealthy food advertising?. Retrieved from: <http://www.otago.ac.nz/wellington/otago036971.pdf>

⁵⁰ World Health Organisation. *Set of Recommendations on the Marketing of Food and Non-Alcoholic Beverages to Children*. Geneva:WHO Press, 2010.

- It would be useful for the code to include an exposure indicator – quantity of, or expenditure on, marketing communications to children of unhealthy foods e.g. number of advertisements directed at children on TV over a 24-hour period.
- Additionally, a power indicator could also be included in the code – prevalence of specified techniques used. E.g. prevalence of advertisements using licensed characters or celebrities, or other techniques of special appeal to children, on television over a 24-hour period.

58. There are some good examples of independent monitoring models internationally. Both the monitoring of the European Union Pledge by Accenture and the Unesda soft drinks Europe first year monitoring report by Xtreme Media and PricewaterhouseCoopers are good examples of independent, third party monitoring.⁵¹

59. Evidence suggests that it is useful to have governments included as key stakeholders in a multi-stakeholder platform for implementation, monitoring and evaluation as per WHO recommendation 6.⁵²

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

60. Healthy Auckland Together is not aware that any complaint under the 2010 Children’s Code of Advertising Food has been upheld. Therefore, we are unable to comment.

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

61. Healthy Auckland Together recommends alignment with WHO recommendation 5 – restricting advertising in settings where children gather – including but not limited to ECES, schools, playgrounds, family and child clinics, paediatric services, sporting and cultural activities held on these premises.⁵³ Healthy Auckland Together recommends extending restrictions to areas immediately surrounding these settings as well e.g. dairies around schools.

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

62. We do not have the expertise to provide an answer to this question.

⁵¹ World Health Organisation (2008). *Dialogue with the Food and Non-Alcoholic Beverages Industries: Drafting of Recommendations on Marketing of Foods and Non-Alcoholic Beverages to Children*. Retrieved from http://www.who.int/dietphysicalactivity/dialogue_private_sector_24nov2008.pdf

⁵² World Health Organisation. *Set of Recommendations on the Marketing of Food and Non-Alcoholic Beverages to Children*. Geneva:WHO Press, 2010.

⁵³ Ibid

Appendix A: Healthy Auckland Together signatories

- Aktive Auckland – Sport and Recreation
- Auckland Council
- Auckland District Health Board
- Auckland Regional Public Health Service
- Auckland University - School of Population Health
- Auckland Waitemata Health Alliance
- Counties Manukau Health
- Counties Manukau Health Alliance
- Mana Whenua i Tamaki Makaurau
- Ministry of Health
- National Institute for Health Innovation
- New Zealand Heart Foundation
- Pacific Heartbeat
- Te Runanga o Ngati Whatua
- The Asian Network
- Waitemata District Health Board.

Appendix B: World Health Organisation recommendations on the marketing of foods and non-alcoholic beverages to children

1. The policy aim should be to reduce the impact on children of marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt.
2. Given that the effectiveness of marketing is a function of exposure and power, the overall policy objective should be to reduce both the exposure of children to, and power of, marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt.
3. To achieve the policy aim and objective, Member States should consider different approaches, i.e. stepwise or comprehensive, to reduce marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt, to children.
4. Governments should set clear definitions for the key components of the policy, thereby allowing for a standard implementation process. The setting of clear definitions would facilitate uniform implementation, irrespective of the implementing body. When setting the key definitions Member States need to identify and address any specific national challenges so as to derive the maximal impact of the policy.
5. Settings where children gather should be free from all forms of marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt. Such settings include, but are not limited to, nurseries, schools, school grounds and pre-school centres, playgrounds, family and child clinics and paediatric services and during any sporting and cultural activities that are held on these premises.
6. Governments should be the key stakeholders in the development of policy and provide leadership, through a multi stakeholder platform, for implementation, monitoring and evaluation. In setting the national policy framework, governments may choose to allocate defined roles to other stakeholders, while protecting the public interest and avoiding conflict of interest.
7. Considering resources, benefits and burdens of all stakeholders involved, Member States should consider the most effective approach to reduce marketing to children of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt. Any approach selected should be set within a framework developed to achieve the policy objective.
8. Member States should cooperate to put in place the means necessary to reduce the impact of cross border marketing (in-flowing and out-flowing) of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt to children in order to achieve the highest possible impact of any national policy.
9. The policy framework should specify enforcement mechanisms and establish systems for their implementation. In this respect, the framework should include clear definitions of sanctions and could include a system for reporting complaints.
10. All policy frameworks should include a monitoring system to ensure compliance with the objectives set out in the national policy, using clearly defined indicators.
11. The policy frameworks should also include a system to evaluate the impact and effectiveness of the policy on the overall aim, using clearly defined indicators.

12. Member States are encouraged to identify existing information on the extent, nature and effects of food marketing to children in their country. They are also encouraged to support further research in this area, especially research focused on implementation and evaluation of policies to reduce the impact on children of marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt.

Appendix C: International examples of Advertising to Children regulation:

1. In the United Kingdom, Greece, Denmark, and Belgium advertising to children is restricted. In Quebec, Sweden and Norway advertising to children under the age of 12 is illegal.⁵⁴
2. The European Union also has framework legislation in place which sets down minimum provisions on advertising to children for its 27 member states. The European Commission Audio-visual Media Services Directive⁵⁵ sets out several EU-wide rules on advertising and children:

Advertising shall not cause moral or physical detriment to minors, and shall therefore comply with the following criteria for their protection:

- i) it shall not directly exhort minors to buy a product or a service by exploiting their inexperience or credulity;
- ii) it shall not directly encourage minors to persuade their parents or others to purchase the goods or services being advertised;
- iii) it shall not exploit the special trust minors place in parents, teachers or other persons;
- iv) it shall not unreasonably show minors in dangerous situations

In addition:

- v) Children's programs may only be interrupted if the scheduled duration is longer than 30 minutes
- vi) Product placement is not allowed in children's programs.
- vii) The Member States and the Commission should encourage audio-visual media service providers to develop codes of conduct regarding the advertising of certain foods in children's programs.

Note that criterion (ii) explicitly outlaws appeals to "pester power".

⁵⁴ "India Food Brief". Trade Briefs. Retrieved 18 July 2012.

⁵⁵ http://ec.europa.eu/archives/information_society/avpolicy/reg/avms/index_en.htm

