
Comparative Review of the Regulation of Television Food Advertising to Children

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Comparative Review of Television Food Advertising

1. Introduction

This is a report prepared for Free TV Australia on the regulation of television advertising of food to children in the following jurisdictions:

- Australia;
- Canada including Quebec;
- Netherlands;
- New Zealand;
- Norway;
- Sweden;
- United Kingdom; and
- United States.

The report has been compiled from information received from lawyers practising in each jurisdiction in July and August of 2006. Information regarding the proposed reform of advertising codes in the UK was added in February and March 2007. Each correspondent was asked to identify the legal and regulatory issues that a person/organisation would need to consider if they wanted to advertise food on television to children.

A summary of the regulatory regimes in each of the abovementioned jurisdictions compiled in response to a standard set of questions is provided in Annexures 3 to 11.

We have not examined laws, rules or codes that exclusively regulate drugs and medicine, tobacco or alcohol in this report.

The report focuses on the regulatory regime in each relevant jurisdiction. We have noted some differences in the services available to viewers in each country but have not provided a precise description of the viewing options. This is an important qualification:

- The regulatory regime described in relation to a jurisdiction should not be taken to reflect the viewing options of the population within the nominated jurisdiction. In all cases, the free to air services that are subject to the regulatory regime described is only one of the services available the viewing audience. For example, in Scandinavian countries there are few local advertiser funded services and a large audience for satellite and foreign services that are not subject to the local regulatory regime.
- In Australian capital cities there are three free to air stations funded by advertising, one public broadcaster that is not advertising funded, and one public broadcaster that is restricted in the revenue it can raise from advertising. There are also paid cable and satellite services but no free to air satellite services. The differences between the viewer options available in Australia and those available to viewers in the other jurisdictions discussed is relevant to any discussion regarding the suitability of regulation and should inform any comparison with the regulations that apply in other jurisdictions.

2. Executive Summary

Advertising of food to children is comprehensively regulated in each jurisdiction. There are industry codes and underlying general law relating to the advertising of food and specific additional regulation relating to television advertising.

While Norway, Sweden and Quebec have complete bans on all advertising to children, other jurisdictions have laws or codes that target the issues that are considered to be of greatest concern, including advertising to young children, advertising certain types of food, and the presentation of particular messages considered to be potentially harmful.

As evident from the table at Annexure 2, there are several common restrictions or requirements throughout the various jurisdictions. Australia's regulatory framework features nearly all of these restrictions or requirements as well as a unique express prohibition against advertisements undermining the authority, responsibility or judgment of parents or carers. Thus, when compared to the regimes in the countries examined that do not ban advertising to children, the Australian regime is amongst the most comprehensive.

3. Background

Regulation of children's television in Australia

Australia has regulated advertising to children for more than 22 years. The approach has been to restrict the volume and content of advertisements broadcast at times and during programs popular with children. These restrictions cover all kinds of advertising including advertising of food and what might be regarded as unhealthy food.

The first mandatory standards regulating children's programming by commercial television in Australia were introduced in 1984 when the Children's Television Standards and Preschool Children's Television standards were introduced. These standards classified children's programs into those suitable for preschool children, "P programs", and those suitable for children under 14 who had started school, "C programs". Commercial television broadcasters were required to broadcast minimum hours of C and P programs during designated hours of the day.

The successor of the two 1984 standards is the Current Children's Television Standard.¹ This standard operates in addition to the Free TV Australia Commercial Television Code of Practice (**Commercial TV Code**).²

The Commercial TV Code is enforceable by the Australian Communications and Media Authority (**ACMA**) and has a number of provisions generally applicable to commercial television in Australia that are particularly relevant to advertising to children. In particular, since 2004, the Commercial TV Code has adopted the Australian Association of Advertisers Code for Advertising to children (**AANA Code**) (now Appendix 1 of the Commercial TV Code). The AANA Code provides:

" 2.10.1 Advertisements to Children for food and/or beverages:

(a) should not encourage or promote an inactive lifestyle combined with unhealthy eating or drinking habits; and

(b) must not contain any misleading or incorrect information about the nutritional value of that Product."

The AANA Code also provides:

¹ http://www.acma.gov.au/acmainterwr/aba/contentreg/codes/television/documents/childrens_tv_standards_2005.pdf

² <http://www.acma.gov.au/acmainterwr/aba/contentreg/codes/television/documents/codeofpractice-july2004.pdf>

"2.4.1 Advertisements to Children:

- (a) must not undermine the authority, responsibility or judgment of parents or carers;
- (b) must not state or imply that a Product makes Children who own or enjoy it superior to their peers; and
- (c) must not state or imply that persons who buy an advertised Product are more generous than those who do not."

The current Children's Television Standard (CTS) is also a standard enforceable by the ACMA and is comprehensive in its treatment of advertising to children. It developed out of the standards first introduced in 1984, became the Children's Television Standard on 1 January 1990, and has since been amended in 1996, 1999 and 2002. It contains the following provisions of direct relevance to food advertising:

- No advertisements can be broadcast during P program periods (CTS 13 (2));
- The time for advertisements during C program periods is limited to 5 minutes per 30 minutes unless the relevant program is an Australian drama, where advertisements are limited to 13 minutes per hour (CTS 14);
- Under CTS 16, no advertisement during a C program period can be repeated more than twice;
- CTS 18 prohibits specified advertising tactics that might place undue pressure on children, including provisions in the same terms as 4.2.1(a) and (b) of the AANA Code;
- CTS 19 (6) provides that an advertisement may not contain any misleading or incorrect information about the nutritional value of a food product;
- CTS 22 prevents the use of product endorsements by a principal or program character of a C or P program during a program break.

Public Broadcasts

With the exception of the UK and the US, all jurisdictions referred to in this report have a government owned television station.

In Australia and New Zealand, advertising on government owned television stations is limited. In Norway and Sweden, no advertising is permitted on government owned television stations. There are three Dutch public channels in the Netherlands and advertising by third parties on these public channels is licensed exclusively to the Foundation for Radio and Television Advertising. The Dutch Media Act, however, prohibits advertising in programs and the sponsoring of certain categories of programs.

In Canada, the only national public broadcaster is the Canadian Broadcasting Corporation / Société Radio-Canada (CBC/SRC), which operates two conventional television networks (CBC Television in English and Télévision de Radio-Canada in French) and two 24-hour news networks (CBC Newsworld in English and Réseau de l'information (RDI) in French). In addition, several provinces operate public broadcasters. These include TVOntario, which operates TVO (English) and TFO (French), Télé-Québec, the Saskatchewan Communications Network (SCN), and the Knowledge Network in British Columbia. ACCESS Television in Alberta is licensed to provide some public service programming, but is owned and operated by a private commercial broadcaster. Only the four CBC networks, ACCESS and Télé-Québec permit advertising. The remaining public broadcasters – TVOntario, SCN, and Knowledge Network – do not permit advertising.

The US has public broadcast stations and non-commercial educational broadcast stations but they are not government owned.

Foreign Broadcasts

In some jurisdictions, there are television broadcasts available that are not subject to the local laws, regulation or codes. For example, in Norway, TV3 broadcasts from London and is regulated by English law. The Norwegian Broadcasting Act and regulations made pursuant to that Act apply to broadcasters established in Norway and the Marketing Control Act applies to marketing directed towards the Norwegian market.

Even though the Broadcasting Act prohibits marketing directed to children, the Marketing Control Act implies that Norwegian consumer authorities may not react where the broadcaster is established abroad, even though the marketing is directed to children based in Norway.

Similarly, in Sweden, many broadcasts are not covered by the Radio and Television Act due to the foreign origin of the broadcast. Nonetheless, all advertising may be subject to investigation if it is deemed to be misleading or similar under the Swedish Marketing Act.

In the Netherlands, pursuant to the Dutch Media Act, broadcasting companies that are located in the Netherlands, or that are located within the EU and whose activities are connected to the Netherlands, fall within the jurisdiction of the Netherlands. In addition, if broadcasting companies use certain technical facilities for transmitting their programs, they will be regarded as being located in the Netherlands as well, and will therefore fall within the jurisdiction of the Netherlands. Should the broadcasting companies fall within the jurisdiction of the Netherlands, the laws/regulations/codes referred to in the annexed table for the Netherlands will apply.

Where a broadcasting company is located in the EU but falls outside the Dutch jurisdiction, the broadcasting company is bound to the law/rules/regulations of the Member State of the EU in which it is located. Notably, however, Directive 89/552/EEC provides for certain rules, which all Member-States of the EU have to implement into their national law (this Directive is discussed at part 6 below).

It is not clear, however, whether Dutch laws apply to broadcasting companies located outside the EU. The Public Broadcasting Commission did recently state that, if broadcast companies broadcast their programs by satellite while using Dutch frequencies, the broadcast company will fall within the jurisdiction of the Netherlands.

In the UK, certain broadcasters who broadcast into the UK may be licensed by another EU country but not by the UK regulator, Ofcom. Broadcasters may choose the country in which they wish to be licensed but, in practice, most UK based broadcasters seek a licence from Ofcom. Broadcasters based outside the EU who wish to broadcast into the UK must, however, be licensed by Ofcom. Those services that are licensed by Ofcom must comply with its broadcasting code and the Television Advertising Standards Code.

Canadian broadcasters licensed pursuant to the Canadian Broadcasting Act (such as conventional television stations, specialty channels, and pay television channels) that purchase the right to rebroadcast foreign programs in Canada must generally comply with the laws, regulations and codes described in Annexure 4. Canadian broadcasters must also ensure that all foreign commercial advertising which airs during a program's broadcast complies with those laws, regulations and codes.

Eligible satellite services (**ESS**) are a second form of television broadcasting available in Canada. ESS are foreign television services which the Canadian Radio-Television Telecommunications Commission (**CRTC**) authorizes for distribution by licensed Canadian broadcasting distribution undertakings (**BDUs**), such as cable and satellite providers. BDUs typically do not alter the ESS signal and are usually not responsible for monitoring the contents of ESS programming or commercials, unless the CRTC specifically orders otherwise

(this has rarely occurred). However, should the CRTC receive complaints about programming or commercial advertising aired on an ESS authorized for distribution in Canada, the CRTC may revoke the authorization or order the BDU, as a condition of its own licence, to monitor the ESS signal to ensure that the programs and commercials comply with the laws, regulations and codes described in Annexure 4.

In the US, public broadcast stations and non-commercial educational broadcast stations are not covered by the regulations on advertising described in Annexure 11 and these stations are prohibited from airing commercials.

4. Approaches to regulation

The jurisdictions examined in this report demonstrate the different approaches to regulation of television advertising of food to children. In broad terms they can be described as:

- statutory regulation (i.e. laws, statutes and regulations/standards made pursuant to those laws);
- self-regulation within the industry (i.e. through codes, guidelines or policies implemented and administered by an industry body); and
- co-regulation relying on both statutory and self-regulation.

Australia has a co-regulatory approach to regulating television advertising of food to children but it places substantial reliance on statutory regulation in the form of the Children's Television Standard.

A statutory approach prevails in Norway, Sweden and Quebec in the form of statutory bans on television advertising directed to children. The other jurisdictions rely on self-regulation in relation to television advertising of food to children.

A table indicating the predominant approaches to regulation in each jurisdiction can be found at Annexure 1.

5. The International Chamber of Commerce

The International Chamber of Commerce seeks to "promote high standards of ethics in marketing by business self-regulation through ICC international marketing codes, and to elaborate world business views on government initiatives affecting marketing and consumer protection." To this end, the ICC has developed codes such as the "ICC International Code of Advertising Practice" (**ICC Advertising Code**) and the "ICC Framework for Responsible Food and Beverage Communications". These codes are adopted by companies on a voluntary basis and many countries have applied or used the ICC codes to guide their domestic regulations.

Relevantly, the ICC Advertising Code contains a section on advertising to children. Further, the ICC Framework for Responsible Food and Beverage Communications focuses on three issues, one of which is guidelines for communicating for children. Additionally, the ICC's Compendium of ICC Rules on Children and Young People and Marketing provides further guidance on advertising to children.

As these codes are only intended to guide policies and regulations that are ultimately implemented, they are not referred to in detail in the Annexures below. It is, however, significant to note the existence of these codes as another element of self-regulation in the advertising industry internationally.

6. EU Television Without Frontiers Directive (89/552/EEC)

In Europe, all member states are required to implement laws in accordance with Council Directives such as the EU Television Without Frontiers (TVWF) Directive (89/552/EEC) (TVWF Directive). The TVWF Directive provides the legal framework for television broadcasting within the EU and seeks to promote freedom of transmission in broadcasting by setting down minimum rules for the regulation of the content of television broadcasts by Member States. Notably, Member States may implement more detailed or stricter rules in areas covered by the TVWF Directive.

Article 11 of the TVWF Directive provides that children's programmes that have a scheduled duration of less than 30 minutes shall not be interrupted by advertising. If their scheduled duration is longer, other timing restrictions apply. Article 16 also provides that television advertising shall not cause moral or physical detriment to minors and, therefore, must not directly exhort minors to buy a product or a service by exploiting their inexperience or credulity, directly encourage minors to persuade their parents or other to purchase the advertised goods or services, exploit the special trust minors place in parents, teachers or other persons, or unreasonably show minors in dangerous situations.

Notably, following an extensive review, a new draft directive that amends the TVWF Directive was presented on 13 December 2005. Under the draft directive, the substance of Article 16 has been maintained (albeit in different form) but changes to Article 11 will mean that the transmission of children's programmes may be interrupted by advertising once for each period of 35 minutes. The new directive is, however, yet to be ratified. As the draft directive does not contain any restrictions on food advertising, the European Consumers' Organisation (BEUC) submitted a document (which can be viewed at the [BEUC website](#)), in which it argued that the revised TVWF Directive should prohibit television advertising to children of foods high in fat, sugar and salt. This prohibition has not been incorporated into the draft directive in its current form.

The current and draft Directives are not referred to in detail in the Annexures below but they are important to bear in mind as their provisions must be implemented in EU Member States, which include the UK, Sweden and the Netherlands.

7. Relevant age group of a "child"

In examining the applicable regulations in each jurisdiction, it is important to firstly note the relevant age groups to which these child-related rules apply. Norway's definition of a child under its national broadcast legislation encompasses the widest age group, covering persons under 18 years. UK covers the second broadest age group, covering persons 15 years and under. Australia and New Zealand cover the next broadest age group. The Australian Children's Television Standard defines "children" as persons under 14 years, whilst the Australian Association of National Advertisers Advertising Code defines the relevant age group for children as 14 years and under. All other jurisdictions place the age threshold of a child at under 12 or 13 years.

8. Similarities and differences in the regulation of television advertising of food to children in Australia compared with other jurisdictions

In terms of similarities, all jurisdictions prohibit misleading advertising generally and nearly all jurisdictions prohibit misleading advertising specifically in relation to food and/or children. A number of jurisdictions also regulate premium offers and such provisions may be significant in relation to promotions, toys or gifts that are given in conjunction with food products. Apart from jurisdictions which have banned television advertising to children, nearly all jurisdictions have rules against using certain figures, cartoons or personalities that appear in children's

programs in advertisements for children and prohibit advertising that pressures children to ask parents, guardians or other adults to purchase advertised products.

Unlike Norway, Sweden and Quebec, Australia does not have a blanket prohibition on television advertising directed to children. It does, however, prohibit any advertising during pre-school television programming hours in a similar fashion to New Zealand and Canada. In Canada, the prohibition is conditional since advertising is permitted during these hours if the advertisement is directed to the family, parent or adult and bears the ASC approval number (i.e. clearance number) if it appears in or adjacent to a child-directed program. The new scheduling and content rules introduced in February 2007 in the UK (discussed in Annexure 12) include a blanket prohibition on advertising food and drink products that are high in fat, salt and sugar in or around programs likely to appeal to children under 16.

Other timing restrictions also apply in other jurisdictions. For example, limits on the amount of time specifically during children's programming that can be dedicated to advertising apply in Australia, New Zealand, US and Canada. Furthermore, Sweden prohibits advertisements (not just child-directed advertisements) before, during and/or after children's television programs generally. Norway prohibits the broadcast of advertisements "in connection with" children's programs and the Netherlands prohibits the broadcast of an advertisement for a food product associated with certain children's television program in ad blocks during and immediately after that program. New Zealand bans advertisements until midday on TV2 and TV3.

In terms of other key restrictions identified in the report, Australia is among four jurisdictions to prohibit advertising that promotes an unhealthy lifestyle, unhealthy eating habits, or portrays or promotes excessive consumption and among only three jurisdictions to restrict the repetition of advertisements specifically during children's programming.

Whilst Australia has regulations relating to television advertising of food to children that are comparable to or more comprehensive than other jurisdictions referred to in this report, there are some rules or features in other jurisdictions that are absent in Australia. For example, Australia does not prohibit any advertising that encourages children to consume snacks or confectionery in substitution of a main meal, nor does it expressly prohibit taking advantage of children's inexperience, credulity, sense of loyalty, capacity for evaluating the credibility of information or lack of knowledge. Only the US and Canada provide for the depiction of an advertised food product within the framework of a balanced diet. A comparative table of key features is found at Annexure 2 and further key differences are also outlined in the section below on "*Unique and notable features in television food advertising in other jurisdictions*".

9. Unique and notable features in television food advertising in other jurisdictions

9.1 Australia

Unlike other jurisdictions in this report, Australia has a code that contains an express prohibition against advertisements to children that undermine the authority, responsibility or judgment of parents or carers. Out of all the jurisdictions referred to in this report, Australia's definition of a "child" (i.e. under 14 or 14 and under) captures the third widest age group after Norway and the UK.

9.2 New Zealand

New Zealand uniquely refers to the concept of "treat food" advertising under its codes. "Treat food" is defined under the Code for Advertising of Food as "food high in fat, salt or sugar and intended for occasional treats" and, in this way, is a sub-group of unhealthy foods set apart from other foods. The Code for Advertising to Children also states that "foods high in sugar, fat and/or salt, especially those marketed to and/or favoured by children, should not be

portrayed in any way that suggests they are beneficial to health." In this way, the regulations in NZ are able to specifically deal with a sub-group of foods in addition to food generally.

Interestingly, the Code for Advertising to Children also states that advertisements should not undermine the role of parents in educating children to be healthy and socially responsible individuals. The reference to "healthy" may affect food advertising.

The children's television policies provided by New Zealand Television Broadcasters' Council also prohibit advertising during pre-school television programming and, by law, advertisements on TV2 and TV3 are prohibited.

9.3 US

In the US, food must be represented in a way that encourages "sound use of the product with a view toward healthy development of the child and development of good nutritional practices". This broad provision may be relevant to determining the permissible scope of food advertising to children. The principles that underlie the Children's Advertising Review Unit's Guidelines also state that: "Recognising that advertising may play an important part in educating the child, advertisers should communicate information in a truthful and accurate manner and in language understandable to young children with full recognition that the child may learn practices from advertising which can affect his or her health and well-being".

9.4 Canada

In Canada, pre-clearance processes apply to children's advertising or child-directed messages (i.e. advertisements for products or services for which children are the only users or form a substantial part of the market as users, and the message is presented in a manner that is directed primarily to children). Under these pre-clearance processes, each children's commercial must be reviewed against the Broadcast Code for Advertising to Children and approved by the Advertising Standards Canada's Children's Clearance Committee. Food commercials directed to children must also receive separate clearance before they can be broadcast.

Whilst Canada does not completely prohibit advertising to children like Quebec, it does restrict child directed advertisements during school day morning hours for the protection of pre-schoolers. However, advertisements appearing in or adjacent to a child-directed program may be shown during this time if they are directed to the family, parent or adult and the advertisement bears an Advertising Standards Canada approval number. This approval number demonstrates to media that the advertisement complies with applicable standards.

9.5 Quebec

The prohibition against advertising to children under the Quebec Consumer Protection Act states that: "Subject to what is provided in the regulations, no person may make use of commercial advertising directed at persons under thirteen years of age."

9.6 Netherlands

In addition to the Dutch Advertising Code which contains provisions on advertising to children, the Netherlands also has an "Advertising Code for Food Products" which relevantly provides that an advertisement for a food product, which is associated with a certain television program specifically intended for children, shall not be broadcast in the advertising blocks during and immediately after that program. It also provides that, in an advertisement specifically aimed at children, the commendation of the product shall not create the impression that consumption of the food renders them a higher status and greater popularity within their age group than consumption of any other food product.

Notably, however, the Netherlands also features a "Confectionary Code" which applies to all food and delicacies that do not form part of regular meals and are consumed between meals because of the sweet taste produced by their simple carbohydrates. The definition of "confectionery", however, does not apply to ice-cream, soft drinks, spread and products containing sugar that form part of a normal meal.

Interestingly, the Confectionary Code prohibits advertisements from making a link between the consumption of confectionery and health (subject to certain exceptions relating to advertisements under the jurisdiction of the Inspection Board for the Commendation of Health Products). Additionally, the Code prohibits advertisements from containing negative statements about people who do not wish to consume confectionery or wish to limit their consumption of confectionery. Provisions are also included which relate to confectionery and dental health.

9.7 Sweden

The prohibition against advertising to children under the Radio and Television Act states that: "Commercial advertising in a television broadcast may not be designed to attract the attention of children under 12 years of age".

9.8 Norway

Out of all the jurisdictions referred to in this report, Norway's definition of a "child" (i.e. under 18) captures the widest age group. The prohibition against advertising to children under the Broadcasting Act states that: "Advertisements may not be broadcast in connection with children's programmes, nor may advertisements be specifically directed at children".

9.9 UK

Out of all the jurisdictions referred to in this report, the UK's definition of a "child" (i.e. 15 and under) captures the second widest age group after Norway. The Committee of Advertising Practice's Television Advertising Standards Code contains separate rules on advertising food and advertising to children. As discussed in Annexure 12, the new scheduling and content rules prohibiting advertising of food and drink products that are high in fat, salt and sugar will apply to programs that have particular appeal to children under 16.

10. Alternatives

With increasing publicity surrounding the issue of child nutrition, many jurisdictions have instituted inquiries, reviews, and consultations. As discussed above, in February 2007 new rules were introduced in the UK relating specifically to the advertising of food and drink products to children under 16. Details regarding these various initiatives may be found in the Annexures.

Annexure 1

Predominant approaches to the regulation of television advertising of food to children

| | Co-regulatory approach | Self-regulatory approach | Statutory approach |
|-------------|--|---------------------------------|---|
| Australia | ✓ (though high degree of regulation under Children's Television Standards) | | |
| New Zealand | | ✓ | |
| UK | | ✓ | |
| Netherlands | | ✓ | |
| Norway | | | ✓ (prohibition on all advertising (including non-food advertising) to children) |
| Sweden | | | ✓ (prohibition on all advertising (including non-food advertising) to children) |
| US | | ✓ | |
| Canada | | ✓ | |
| Quebec | | | ✓ (prohibition on all advertising (including non-food advertising) to children) |

Annexure 2

Key features of the regulation of advertising to children in various jurisdictions

| ITEM | FEATURE | AU | NZ | UK | NED | NOR | SWE | US | CAN | QUE |
|------|---|---|------|---------------------------|------|---------------------|---------------------|------|---|---------------------|
| 1. | Age of "child" under national broadcast legislation/relevant code (in relation to advertising) | < 14 ³ or ≤ 14 ⁴ | < 14 | ≤ 15 < 16 ⁵ | < 13 | < 18 | < 12 | < 12 | < 13 ⁶ or < 12 ⁷ | < 13 |
| 2. | Prohibits misleading advertising generally | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | ✓ |
| 3. | Prohibits misleading advertising specifically in relation to food (including misleading or incorrect information about nutritional value) | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ |
| 4. | Prohibits misleading advertising specifically in relation to children | ✓ | ✓ | ✓ | ✓ | N/A (See Item 8) | N/A (See Item 8) | ✓ | | N/A (See Item 8) |
| 5. | Prohibits misleading advertising specifically in relation to food AND children | ✓ | ✓ | | | N/A (See Item 8) | N/A (See Item 8) | ✓ | | N/A (See Item 8) |
| 6. | Specifically refers to and regulates advertising of food to children | ✓ | ✓ | ✓ ⁸ | ✓ | N/A (See Item 8) | N/A (See Item 8) | ✓ | ✓ | N/A (See Item 8) |
| 7. | Contains a general prohibition on advertising food to children | | | ✓ (see 6) | | N/A (See Item 8) | N/A (See Item 8) | | | N/A (See Item 8) |

³ Children's Television Standards

⁴ AANA Code for Advertising to children

⁵ The new scheduling and content rules introduced in February 2007 in the UK (discussed in Annexure 12) apply in or around programs likely to appeal to children under 16.

⁶ Canadian Code of Advertising Standards; Canadian Marketing Association Code of Ethics and Standards of Practice

⁷ Broadcast Code for Advertising to Children

⁸ The new scheduling and content rules introduced in February 2007 in the UK (discussed in Annexure 12) include a blanket prohibition on advertising food and drink products that are high in fat, salt and sugar in or around programs likely to appeal to children under 16.

| | FEATURE | AU | NZ | UK | NED | NOR | SWE | US | CAN | QUE |
|-----|---|----------------|--|----|--|-----------------|-----|----|----------------|-----|
| 8. | Prohibits all advertising (including non-food advertising) directed to children | Preschool only | | | | ✓ | ✓ | | | ✓ |
| 9. | Prohibits any advertising during pre-school television programming | ✓ | ✓ | | | | | | ✓ ⁹ | |
| 10. | Restricts advertising during children's television programs | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| 11. | Prohibits any advertising during children's television programs generally (i.e. not exclusively during pre-school television) | | ✓ (relates to certain times ¹⁰) | | ✓ (relates to certain ads ¹¹) | ✓ ¹² | ✓ | | | |
| 12. | Prohibits any advertising immediately before children's television programs generally (i.e. not exclusively during pre-school television) | | | | | ✓ ¹³ | ✓ | | | |
| 13. | Prohibits any advertising immediately after children's television programs generally (i.e. not exclusively during pre-school television) | | | | ✓ (relates to certain ads ¹⁴) | ✓ ¹⁵ | ✓ | | | |
| 14. | Limits amount of time specifically during children's programming that can be dedicated to advertising | ✓ | ✓ | | | | | ✓ | ✓ | |

⁹ Child directed advertisements cannot be aired during school day morning hours. However, one can advertise to the family, parent or adult at these times as long as the advertisement bears the ASC approval number if appearing in or adjacent to a child-directed program.

¹⁰ On Sunday mornings on TV2 & TV3 – not just during children's programs.

¹¹ An advertisement for a food product associated with a certain children's television program shall not be broadcast in ad blocks during and immediately after that program.

¹² No advertisements to be broadcast "in connection with" children's programs.

¹³ No advertisements to be broadcast "in connection with" children's programs.

¹⁴ An advertisement for a food product associated with a certain children's television program shall not be broadcast in ad blocks during and immediately after that program.

¹⁵ No advertisements to be broadcast "in connection with" children's programs.

| | FEATURE | AU | NZ | UK | NED | NOR | SWE | US | CAN | QUE |
|-----|---|-----------------|-----------------|-----------------|-----|----------------|-----------------|---|-----|----------------|
| 15. | Prohibits the use of certain figures, cartoons or personalities that appear in children's programs in advertisements for children | ✓ ¹⁶ | ✓ ¹⁷ | ✓ ¹⁸ | ✓ | N/A (See 8) | ✓ ¹⁹ | ✓ (in certain advertisements) ²⁰ | ✓ | N/A (See 8) |
| 16. | Prohibits any advertising that encourages children to consume snacks/confectionery in place of a main meal | | ✓ | | ✓ | N/A (See 8) | N/A (See 8) | ✓ | ✓ | N/A (See 8) |
| 17. | Restricts repetition of advertisements during children's programming | ✓ | ✓ | ✓ | ✓ | N/A (See 8) | N/A (See 8) | | ✓ | N/A (See 8) |
| 18. | Prohibits advertising that promotes an unhealthy lifestyle, unhealthy eating habits, or portrays/promotes excessive consumption | ✓ | ✓ | ✓ ²¹ | ✓ | | | | | |
| 19. | Prohibits advertisements that pressure children to ask parents to purchase advertised products | ✓ | ✓ | ✓ | ✓ | N/A (See 8) | N/A (See 8) | ✓ | ✓ | N/A (See 8) |
| 20. | Specific prohibition against taking advantage of children's inexperience, credulity, sense of loyalty or capacity for evaluating credibility of information | | | ✓ | | | | ✓ | ✓ | ✓ |

¹⁶ No material broadcast during or in the break immediately before or after a C or P program may contain an endorsement, recommendation or promotion of a commercial product or service by a principal personality or character from a C or P program. However, this prohibition does not apply if the C or P program featuring the personality or character is not currently being broadcast in the service area and has not been broadcast to it within the preceding 12 months.

¹⁷ Insofar as they are used to undermine a healthy diet.

¹⁸ The new rules introduced in the UK in February 2007 prohibit the use of celebrities and licensed characters popular with children in advertisements for foods high in fat, salt and sugar that are targeted directly at pre-school or primary school children.

¹⁹ Whilst there is a prohibition of commercial advertising to children, there is also a prohibition against using certain person/characters from children's programs in any commercials.

²⁰ Program personalities or characters should not be used to sell products, premiums or services in or adjacent to programs primarily directed to children in which the same personality or character appears.

²¹ The CAP Code states that advertisements must not encourage or condone excessive consumption of any food. The new rules in the UK also prohibit advertisements for food that encourage inactivity or sedentary pastimes.

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| 21. | Advocates depiction of the product within framework of a balanced diet | | | | | | | ✓ | ✓ | |
| 22. | Regulates premium offers | ✓ | ✓ | ✓ ²² | ✓ | | | ✓ | ✓ | |
| 23. | Specifically prohibits undermining the authority, responsibility or judgment of parents | ✓ ²³ | | | | | | | | |

²² The new rules in the UK prohibit promotional offers in advertisements for foods that are high in fat, salt and sugar that are targeted directly at pre-school or primary school children.

²³ AANA Code for Advertising to Children, Code 2.4.1(a)

Annexure 3

Report on the regulation of television food advertising to children Jurisdiction: Australia

| | Questions | Response |
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| 1. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that regulate television advertising of food?</p> <p>If so, please provide its (a) name; (b) date of introduction or amendment; (c) legal status (i.e. binding or non-binding); and (d) an internet link to the law or an annexure to this table containing relevant provisions (in English).</p> | <p>(a) Food Act 2001 (ACT)</p> <p>(b) 2001</p> <p>(c) Binding</p> <p>(a) Food Act 2003 (NSW)</p> <p>(b) 2003</p> <p>(c) Binding</p> <p>(a) Food Act 2004 (NT)</p> <p>(b) 1 July 2004</p> <p>(c) Binding</p> <p>(a) Food Act 1981 (QLD)</p> <p>(b) Commenced – 1981</p> <p>(c) Binding (to be repealed and replaced by Food Act 2006 (QLD))</p> <p>(a) Food Act 2001 (SA)</p> <p>(b) Commenced – 2003</p> <p>(c) Binding</p> <p>(a) Food Act 2003 (TAS)</p> <p>(b) 2003</p> <p>(c) Binding</p> <p>(a) Food Act 1984 (VIC)</p> <p>(b) 1984</p> |

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| | | (c) Binding |
| | | (a) Australia New Zealand Food Standards Code (see Standard 1.1.A.2 Health Claims) |
| 2. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that specifically regulate television advertising of food to children?</p> <p>If so, please provide its (a) name; (b) date of introduction or amendment; (c) legal status (i.e. binding or non-binding); and (d) a copy or internet link if available in English if not please provide a translation of the key provisions.</p> | <p>(a) Children's Television Standards – Children's Content Standard</p> <p>(b) 1984 and subsequently revised</p> <p>(c) Binding</p> <p>(a) Commercial TV Code of Practice</p> <p>(b) 1 July 2004</p> <p>(c) Non-binding</p> <p>(a) AANA Code for Advertising to Children</p> <p>(b) 1 October 2003</p> <p>(c) Non-binding</p> <p>(a) AANA Advertiser Code of Ethics</p> <p>(b)</p> <p>(c) Non-binding</p> <p>(a) Australian Beverages Council Health and Nutrition Policy: The Australian Beverages Council has adopted policies to limit marketing of sugar sweetened carbonated soft drinks to primary schools and to not directly market these same products, to primary school children in the media. Council members also do not advertise sugar sweetened carbonated beverages in "C" time on television.</p> <p>(b) The policy was introduced approximately 10 years ago and is constantly being reviewed. According to the Council, it is planning to release a more detailed policy on health and nutrition. About 2 years ago, the Council adopted a policy that it would not supply certain sugar sweetened drinks to primary schools.</p> |

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| | | (c) Non-binding (Council's policies are adopted by drink manufacturers on a voluntary basis) |
| 3. | Are there any laws, regulations, codes (including industry codes) or official guidelines that apply generally to the advertising of food or the advertising to children that (although not specifically directed at broadcasting) control what advertisements for food can be broadcast to children? See above. | See above. (a) Children's Television Standards – Children's Content Standard : The Standards prohibit the broadcast of advertisements during preschool television programming. (b) introduced in 1990 and varied in 2002 (c) Binding |
| 4. | Are there any government/industry proposals, reviews, enquiries or consultations (either current or contemplated) specifically relevant to television advertising of food to children? If so, please specify and briefly describe them | 1. ACMA plans to review the Children's Television Standards. ACMA will conduct a program of research that will inform the review and assist in the development of a discussion paper. The discussion paper is expected to be released for public comment in early to mid 2007 and the full review process is likely to take 12-18 months to complete. The issue of children's obesity and the role of food advertising is likely to be considered in the review. See ACMA press release . 2. A meeting of state and federal health ministers with the advertising industry to discuss food advertising and obesity will take place in July 2006. 3. The Association of National Advertisers and the Food and Grocery Council have jointly drafted a code concerning food advertising and children which has been forwarded to state and federal governments for consideration. 4. In Western Australia, Food Bill 2005 (WA) was referred to the Standing Committee on Uniform Legislation and Statutes Review on 22 June 2006. 5. The South Australian Government is expected to commence an inquiry into the effects of junk food advertising on young people. 6. The Protecting Children from Junk Food Advertising Bill 2006 (CTH) was introduced into Parliament. Its second reading took place on 30 March 2006. |
| 5. | In particular, has the Government adopted or considered any alternatives to further regulation of television advertising of food to children? (e.g. | 1. Building a Healthy, Active Australia initiative (2004). This 4 year campaign consists of 4 key components including Healthy School Communities, Healthy Eating and Regular Physical Activity Information for families, |

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| | <p>campaigns or initiatives)</p> <p>If so, please specify and briefly describe them.</p> | <p>Active After-School Communities and Active School Curriculum. The recent Commonwealth "Get moving" campaign (2006) was launched as part of this broader initiative.</p> <p>2. The South Australian Government has launched a "Live Better 06" campaign.</p> <p>3. The NSW Government announced that it will introduce a ban on the sale of sugar-sweetened drinks such as soft drinks, energy drinks, flavoured mineral waters and sports drinks in schools from Term 1 2007. The Victorian Government will also ban such drinks in public schools by the end of the year and is contemplating introducing similar restrictions for confectionery. See DPV press release.</p> |
| 6. | <p>Please provide by way of brief summary of the material mentioned above (no more than a page) an overview narrative description of:</p> <p>(a) the regime that regulates broadcasting in your jurisdiction, identifying the statutes regulations, codes of practice and guidelines (if any) that make up the system of regulation. (If necessary, please provide this answer in an annexure to this table)</p> <p>(b) the rules that apply to advertising of food to children</p> | <p>Under the <i>Broadcasting Services Act 1992 (BSA)</i>, ACMA is required to determine program standards to be observed by commercial television broadcasting licensees in relation to programs for children and the Australian content of programs. Additionally, the BSA permits industry groups to develop codes of practice which may subsequently be registered with ACMA.</p> <p>The Children's Television Standards (Cth) (CTS) govern the content and placement of programs and advertisements for children under the age of 14 years. These are compulsory standards that require licensees to broadcast a certain number of hours of "C programs" (classified by ACMA as suitable for children other than pre-school children) and "P programs" (classified by ACMA as suitable for pre-school children) within certain time bands. The amount of advertising in C periods (7am-8am and 4pm-8.30pm on weekdays and 7am-8.30pm on weekends and school holidays) is strictly limited and no advertisements at all may be broadcast in P periods (7am-4.30pm on weekdays). The CTS also contain rules that apply to advertisements directed at children at any time. For example, an advertisement may not mislead or deceive children, must accurately and unambiguously represent the advertised product and its performance, size, price and need for accessories; and a licensee must not broadcast any advertisement which is designed to put undue pressure on children to ask their parents or other people to purchase an advertised product or service.</p> <p>The Commercial Television Industry Code of Practice (CTI Code) is a non-binding code that applies only to</p> |

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| | | <p>commercial television broadcasting licences, covering matters prescribed in section 123 of the BSA and other matters relating to program content of concern to the community. The CTI Code operates alongside standards such as the CTS. Section 6 of the CTI Code deals with the classification and placement of commercials and community service announcements. Pursuant to the CTI Code, commercials must also comply with the AANA Advertiser Code of Ethics, adopted by the Australian Association of National Advertisers. The AANA Advertiser Code of Ethics seeks to ensure that advertisements are legal, decent honest and truthful, and made with a responsibility to the consumer and society.</p> <p>The Food Acts of various states and territories prohibits the advertising of food in a manner which is false or misleading.</p> |
| 7. | <p>Is there any official national statistical data on obesity in children kept in your jurisdiction? Are up to date statistics available? If so, at what cost?</p> | <p>Yes.</p> <p>Australia at a Glance, 2006</p> <p>Australian Health Trends, 2001</p> <p>Australian Social Trends, 2005</p> <p>Diabetes in Australia: A Snapshot, 2001</p> <p>National Health Survey: Summary of Results, 2004-05</p> <p>Children, Australia: A Social Report, 1999</p> <p>Health Risk Factors, Australia, 2001</p> <p>See also ABS Article entitled Child Health since Federation (2001)</p> |

Annexure 4

Report on the regulation of television food advertising to children – Jurisdiction: Canada (all provinces except Quebec)

| | Questions | Response |
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| 1. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that regulate television advertising of food?</p> <p>If so, please provide its (a) name; (b) date of introduction or amendment; (c) legal status (i.e. binding or non-binding); and (d) an internet link to the law or an annexure to this table containing relevant provisions (in English).</p> | <p>There is no single law, regulation, or code that regulates television advertising of food. Food advertising generally, is regulated under the <i>Food and Drugs Act</i> and the Canadian Food Inspection Agency's (the Federal food enforcement agency) <i>Guide to Food Labelling and Advertising</i>. The Canadian Radio-television Telecommunications Commission (CRTC), the broadcast regulator, requires all radio and television broadcasters to comply with the Canadian Association of Broadcasters' <i>Code of Ethics</i>. Clause 13 of this code requires broadcasters to adhere to Advertising Standards Canada's <i>Canadian Code of Advertising Standards</i> and associated interpretation guidelines, the <i>Broadcast Code for Advertising to Children</i>, and the <i>CRTC Code for Broadcast Advertising of Alcoholic Beverages</i>. All broadcast advertising of food and children's advertising in Canada must be reviewed and cleared by the ASC (see response 3). In addition, the Canadian Marketing Association's (CMA) <i>Code of Ethics and Standards of Practice</i>, which sets standards for the conduct of information based marketing, contains a section on special considerations in marketing to children.</p> <p>(a) Food and Drugs Act (FDA)</p> <p>(b) Introduced 1985, current to March 3, 2006</p> <p>(c) Federal law, legally binding across Canada</p> <p>(a) Guide to Food Labelling and Advertising</p> <p>(b) Introduced 1961, revised 2003</p> <p>(c) Official guidelines to interpret and assist with compliance of the Food and Drugs Act and the Consumer Packaging and Labelling Act.</p> <p>(a) Canadian Association of Broadcasters' Code of Ethics (Broadcast Code)</p> |

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| | | <p>(b) revised June 2002</p> <p>(c) Industry code, not legally binding but adhered to by advertisers and broadcasters.</p> <p>(a) <u>Canadian Code of Advertising Standards</u>, issued by Advertising Standards Canada (ASC Code)</p> <p>(b) Introduced 1963, revised December 2005</p> <p>(c) Self-regulatory industry code, not legally binding but adhered to by advertisers and broadcasters.</p> <p>See also <u>Canadian Code of Advertising Standards Interpretation Guidelines</u>, Interpretation guidelines #2 and #3.</p> <p>(a) <u>Broadcast Code for Advertising to Children</u>, issued by the Canadian Association of Broadcasters in cooperation with Advertising Standards Canada (Children's Code)</p> <p>(b) Introduced 1993, revised April 2004</p> <p>(c) Self-regulatory industry code, not legally binding but adhered to by advertisers and broadcasters.</p> <p>(a) CRTC <u>Code for Broadcast Advertising of Alcoholic Beverages</u></p> <p>(b) revised, August 1, 1996</p> <p>(c) Self-regulatory industry code, not legally binding but adhered to by advertisers and broadcasters.</p> <p>(a) Canadian Marketing Association, <u>Code of Ethics and Standards of Practice</u>. Please note that a <u>New CMA Code of Ethics and Standards of Practice</u> will take effect January 1, 2007.</p> <p>(b) revised 2004 but effective to December 31, 2006</p> <p>(c) Voluntary self-regulatory industry code</p> |
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| 2. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that specifically regulate television advertising of food to children?</p> <p>If so, please provide its (a) name; (b) date of introduction or amendment; (c) legal status (i.e. binding or non-binding); and (d) a copy or internet link if available in English if not please provide a translation of the key provisions.</p> | <p>Interpretation Guideline #3 of the ASC Code specifically addresses food product advertising to children. Food product advertising to children that is inconsistent with the provisions of the FDA, FDA Regulations, or the Canadian Food Inspection Agency's <i>Guide to Food Labelling and Advertising</i> shall be deemed to violate Clause 12 of the ASC Code.</p> <p>Section 5(1) of the FDA which provides that, "<i>No person shall label, package, treat, process, sell or advertise any food in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quantity, composition, merit or safety</i>" applies to television advertising of food products to children (see 3).</p> |
| 3. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that apply generally to the advertising of food or the advertising to children that (although not specifically directed at broadcasting) control what advertisements for food can be broadcast to children?</p> | <p>In addition to the legislation, codes, and guidelines listed in the response to Question 1, the following industry guidelines apply generally to the advertising of food, the content of food advertisements to children, and the use of comparative advertising.</p> <p>The CRTC has given the ASC authority to review and clear all national broadcast advertising to children in Canada. The ASC's Children's Clearance Committee must approve all children's national advertising broadcast in Canada, and evaluates each commercial against the provisions of the Children's Code and assigns to it an ASC Children's Clearance Number if approved. This clearance number signals to broadcasters that the ASC has approved the commercial for national broadcast.</p> <p>The Federal Minister of Consumer and Corporate Affairs has also given the ASC authority to review and clear all national broadcast advertising of food. The ASC evaluates each commercial against the FDA and the CFIA's <i>Guide to Food Labelling and Advertising</i> and assigns to it a clearance number if approved. Again, this clearance number signals to broadcasters that the ASC has approved the commercial for national broadcast.</p> <p>(a) Advertising Standards Canada, "<u><i>No Claim</i></u>" <u><i>Food and Beverage and Beverage Broadcast Advertising Clearance Exemption Policy Document</i></u></p> <p>(b) n/a</p> <p>(c) Interpretation guideline regarding the clearance procedure for food and beverage</p> |

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| | | <p>advertising.</p> <p>(a) <i>Advertising to Children in Canada: A Reference Guide</i>, issued jointly by the Canadian Association of Broadcasters and Advertising Standards Canada</p> <p>(b) revised May 2006</p> <p>(c) Interpretation guideline regarding the clearance procedure for children's advertising.</p> <p>(a) Advertising Standards Canada, <i>Children's Broadcast Advertising Clearance Guide (1,2,3)</i></p> <p>(b) revised, September 2005</p> <p>(c) Interpretation guideline regarding the clearance procedure for children's advertising.</p> <p>(a) Advertising Standards Canada, <i>Guidelines for the Use of Comparative Advertising</i></p> <p>(b) revised December 2005</p> <p>(c) Interpretation guideline regarding the clearance procedure for comparative advertising.</p> |
| 4. | <p>Are there any government/industry proposals, reviews, enquiries or consultations (either current or contemplated) specifically relevant to television advertising of food to children?</p> <p>If so, please specify and briefly describe them</p> | <p>We are not aware of any government/industry proposals, reviews, enquiries or consultations specifically relevant to television advertising of food to children in progress at the federal or provincial level.</p> |
| 5. | <p>In particular, has the Government adopted or considered any alternatives to further regulation of television advertising of food to children? (e.g. campaigns or initiatives)</p> <p>If so, please specify and briefly describe them.</p> | <p>We are not aware of the Federal Government or any Provincial government adopting or considering any alternatives to further regulation of television advertising of food to children.</p> <p>However, the Concerned Children's Advertisers' (CCA) Children's Healthy Active Living Program (CHALP) runs education programs and advertising that promotes healthy living and balanced lifestyle to children. The CCA is an industry supported non-profit organization consisting of companies that</p> |

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| | | <p>market and advertise their products and services to children and their families. The CCA's stated mission is to be the "credible, caring and authoritative voice of responsible children's advertising and communications." Since its inception, the CCA has worked with industry, broadcasters, government, teachers' federations, and other community organizations to deliver educative public service announcements, children's media literacy programs, and more recently, the CHALP. CHALP was started as a response to worldwide concern over childhood obesity. See CCA website.</p> |
| 6. | <p>Please provide by way of brief summary of the material mentioned above (no more than a page) an overview narrative description of:</p> <ol style="list-style-type: none"> 1. the regime that regulates broadcasting in your jurisdiction, identifying the statutes regulations, codes of practice and guidelines (if any) that make up the system of regulation. (If necessary, please provide this answer in an annexure to this table) 2. the rules that apply to advertising of food to children | <p><u>Legislative Controls and Guidelines Over Advertising of Food</u></p> <p>The FDA and its associated regulations govern the manufacture, distribution, advertising, and sale of foods, drugs, cosmetics, and medical devices in Canada. FDA section 5(1) requires that no person sell or advertise any food in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quantity, composition, merit or safety.</p> <p>The Canadian Food Inspection Agency (CFIA) is responsible for all federal inspection services related to food, animal health, and plant protection. The CFIA has published a Guide to Food Labelling and Advertising, to assist with compliance of the <i>Food and Drugs Act</i> and the <i>Consumer Packaging and Labelling Act</i>.</p> <p><u>Broadcast Controls over Advertising and Advertising to Children</u></p> <p>In Canada, the CRTC is the government regulator responsible for overseeing the broadcast and telecommunications industry. In addition to the CRTC, there are three industry funded organizations associated with broadcasting and advertising:</p> <ol style="list-style-type: none"> 1. The Canadian Association of Broadcasters (CAB), 2. Advertising Standards Canada (ASC), and 3. The Canadian Marketing Association (CMA). <p>Each association publishes codes and guidelines on a periodic basis (see 1 and 3). While none of the codes or guidelines are legally binding, the Broadcast Code has the force of a regulation as the CRTC makes compliance with the Broadcast Code a condition for issuing a license to Canadian radio and</p> |

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| | | <p>television stations. Clause 13 of the Broadcast Code requires that broadcasters adhere to ASC Code and associated interpretation guidelines, the Children's Code, and the CRTC <i>Code for Broadcast Advertising of Alcoholic Beverages</i>.</p> <p>Both the Broadcast Code and the ASC Code (the Codes) contain interpretation guidelines specific to food advertising which deem food product advertising addressed to children in a manner that is inconsistent with the FDA and the CFIA's <i>Guide to Food Labelling and Advertising</i> to be in violation of the Codes. Advertisers are required to ensure that they clearly depict the advertised food product within the framework of a balanced diet and that snack foods are presented as such and not as substitutes for meals. This guideline is used by ASC for pre-clearance of children's broadcast advertising as well as to evaluate consumer complaints in this area.</p> |
| 7. | <p>Is there any official national statistical data on obesity in children kept in your jurisdiction? Are up to date statistics available? If so, at what cost?</p> | <p>Yes. The national statistics on childhood and adolescent obesity have been summarized in Statistics Canada's free publication: Overweight Canadian children and adolescents. Statistics Canada is the country's official national statistical agency profiling all aspects of Canada's business, economy, and society.</p> <div data-bbox="1050 1160 1125 1227" data-label="Image"> </div> <p style="text-align: center;">Adobe Acrobat 7.0 Document</p> <p>As for cost, up to date statistics are available from Statistics Canada for \$3 per data series and can be accessed online through Statistics Canada's CANSIM database (see: http://cansim2.statcan.ca). A prepaid CANSIM account can be setup by contacting Statistics Canada directly or alternatively, CANSIM data can also be obtained through a number of licensed distributors (see: http://www.statcan.ca/english/reference/cansim.htm).</p> |

Annexure 5

Report on the regulation of television food advertising to children – Jurisdiction: Netherlands

| | Questions | Response |
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| 1. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that regulate television advertising of food?</p> <p>If so, please provide its (a) name; (b) date of introduction or amendment; (c) legal status (i.e. binding or non-binding); and (d) an internet link to the law or an annexure to this table containing relevant provisions (in English).</p> | <p>Yes.</p> <p>Apart from the general law, regulations and codes mentioned under 3, more specifically the Advertising Code for Food Products (Code voor Voedingsmiddelen), introduced on 2 June 2005, and the Advertising Code for Confectionary (Code voor Zoetwaren), introduced on 1 November 1991.</p> <p>The fore-mentioned Codes are industry codes and can be found on www.reclamecode.nl/indexengels.html. Translations of the Codes are annexed.</p> |
| 2. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that specifically regulate television advertising of food to children?</p> <p>If so, please provide its (a) name; (b) date of introduction or amendment; (c) legal status (i.e. binding or non-binding); and (d) a copy or internet link if available in English if not please provide a translation of the key provisions.</p> | <p>Yes.</p> <p>Apart from the general law, regulations and codes mentioned under 3, more specifically the above mentioned Advertising Code for Food Products in its Articles 8, 9 and 10, as well as the Advertising Code for Confectionary in its Articles 1 up to and including 7 (specifically Article 6).</p> <p>As set out above, the fore-mentioned codes are industry codes and can be found on www.reclamecode.nl/indexengels.html. Translations of these Articles are annexed.</p> |
| 3. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that apply generally to the advertising of food or the advertising to children that (although not specifically directed at broadcasting) control what advertisements for food can be broadcast to children?</p> | <p>Yes.</p> <ol style="list-style-type: none"> 1. Dutch Media law (Article 52d) and the Dutch Advertising Code has implemented Article 16 of Directive 89/552/EEC. 2. The Articles 6:194 and 6:194a of the Dutch Civil Code regard misleading and comparative advertising; 3. Articles 19 and 20 of the Dutch Consumer Goods Act; and 4. Articles 10 and 13.1 up and including to 13.3 of the Dutch Advertising Code. |
| 4. | <p>Are there any government/industry proposals, reviews, enquiries or consultations (either current or contemplated) specifically relevant to</p> | <ol style="list-style-type: none"> 1. The Dutch Parliament is currently discussing the role of advertising in relation to obesity. In this respect, the Minister for Health, Welfare and Sports carries out an inquiry |

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| | <p>television advertising of food to children?</p> <p>If so, please specify and briefly describe them</p> | <p>into the effects of the above mentioned Code for Food Products. The results of this investigation have not been published yet. Note in this respect that the Minister for Health, Welfare and Sports has entered into an agreement with several representative bodies, such as the Dutch Federation of the Food Products Industry and the Healthcare Insurance Companies of the Netherlands, in which it is determined that obesity is problem which requires further action. On the basis of this agreement parties will try to seek for solutions.</p> <p>2. The Foundation "Reclame Ridders" initiated campaigns to increase the commercial awareness and media skills of children under 12 years, e.g., by developing education programs for schools, organizing training programs for companies and by carrying out market analysis. The Foundation "Reclame Ridders" was founded in 2004 and its participants are scientific and social institutes, the Ministry for Health, Welfare and Sports, media and communication businesses, as well as large food companies, such as McDonalds, Coca Cola Nederland and Smiths Food Group.</p> <p>3. The Dutch Heart Foundation (de Nederlandse Hartstichting), whose main goal is to educate people in order to prevent heart diseases, published the report "The marketing of unhealthy food to children in Europe". Please find the report on the following link: www.ehnheart.org/files/English-141257A.pdf. The report is a summary of a full report on research carried out in 20 European countries from May to November 2004 on published literature on the extent and nature of marketing of foods high in fat, sugar or salt to children.</p> |
| 5. | <p>In particular, has the Government adopted or considered any alternatives to further regulation of television advertising of food to children? (e.g. campaigns or initiatives)</p> <p>If so, please specify and briefly describe them.</p> | <p>See above under 4.</p> |
| 6. | <p>Please provide by way of brief summary of the material mentioned above (no</p> | <p>1. Self-Regulation</p> |

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| <p>more than a page) an overview narrative description of:</p> <ol style="list-style-type: none"> 1. the regime that regulates broadcasting in your jurisdiction, identifying the statutes regulations, codes of practice and guidelines (if any) that make up the system of regulation. (If necessary, please provide this answer in an annexure to this table) 2. the rules that apply to advertising of food to children | <p>The Dutch Advertising Code (DAC) is a form of self-regulation and is divided in a general section and a special section. The general section applies to advertising with respect to all kind of products or services, while the special section contains codes for specific products or services, such as the fore-mentioned Code for Food Products and the Code for Confectionary.</p> <p>Please note that any third party can file a complaint with the Dutch Advertising Committee regarding any form of advertising. The decisions whether the advertising violates the DAC are legally non-binding, but are generally adhered to. The decisions may also be used as expert opinions in court proceedings.</p> <p>Article 10 DAC states that television commercials shall be clearly distinct from the rest of the programming by optical and/or acoustic means.</p> <p>Article 13.1 up and including 13.3 DAC is a result of the implementation of Article 16 of the above-mentioned Directive 89/552/EEC. Although the DAC is a form of self-regulation, please note that Dutch commercial broadcasting companies have obliged, pursuant to the Media Law, committed themselves to the DAC.</p> <p>Article 13 DAC states that advertising aimed at children under 12 years shall not contain sound or image which in any way could mislead them about the capacity and qualities of the product concerned. Furthermore, Article 13 DAC sets forth that advertising shall comply with certain criteria in order to prevent mental or physical harm to minors. For your convenience, please find annexed, a translation of the above-mentioned Articles 10 and 13.</p> <p>Furthermore, minors (children) are explicitly mentioned in Article 16 and 17 of the Code for Letter Box Advertising, Door-to-Door Sampling and Direct Response Advertising;</p> <ol style="list-style-type: none"> 2. Civil law <p>Pursuant to article 6:194 of the Dutch Civil Code advertising of products will be qualified unlawful, in case the advertising is misleading, <i>e.g.</i>, to the nature, composition, origin or characteristics of the products.</p> <p>Pursuant to Article 6:194a comparative advertising is allowed, provided that certain conditions are met, such as that the advertising will not mislead consumers and a fair comparison is made.</p> |
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| | | <p>3. Directive 89/552/EEC and the Media law</p> <p>The above-mentioned Directive 89/552/EEC contains various articles with respect to advertising on television. Most of these Articles provide for rules with respect to the quantity of advertising on television and have been implemented into the Dutch Media law. Note that the Media law sets forth rules which apply to public channels as well as commercial channels.</p> <p>Furthermore, Article 52d of the Media law (which is a result of Article 16 of the Directive 89/552/EEC) states that television programmes of public channels shall not contain any sound or image which may cause harm to the physical, mental or moral development of person under 16. Moreover, Article 71h (3) under the Media law states that programs for children under 12 on commercial channels will only be interrupted for advertising in case the programs will last at least 30 minutes.</p> <p>Note that the Public Broadcasting Commission is entitled to independently enforce the Media law and that its sanctions include administrative penalties and/or deprivation of broadcasting time.</p> <p>4. Dutch Consumer Goods Act</p> <p>This law generally sets forth the safety norms with respect to food products. Pursuant to Articles 19 and 20, it is prohibited to recommend (advertise) food products by attributing characteristics to the products, which see to the cure or treatment of human diseases.</p> <p>The Dutch Food and Products Authority (de Voedsel en Waren Autoriteit) enforces the Dutch Consumer Goods Act and its sanctions include administrative penalties.</p> <p>5. Advertising Code for Food Products (see also question 2)</p> <p>In addition to the above observations under Self-Regulation, please be informed that this Code was initially set up by the Dutch Federation of the Food Products Industry, which represents almost all the producers of food products in the Netherlands. The Code provides for rules with respect to advertising of food aimed at children. Please find below a brief summary of Articles 8, 9 and 10.</p> <p>Article 8 states that it is not allowed advertising food products, which are associated with television programs aimed at children, during or immediately</p> |
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| | | <p>after that program.</p> <p>Article 9 states that it is not allowed in advertising aimed at children to make the impression that consumption of the recommended foods renders for children a higher status within their age group.</p> <p>Article 10 states that it is not allowed to use a children's idol to actively commend a food product in advertising specifically aimed at children.</p> <p>6. Advertising Code of Confectionary (see also question 2)</p> <p>For the status of this Code, please also see our observations under Self-Regulation.</p> <p>The Code provides for rules with respect to the advertising of confectionary. Pursuant to this Code, advertising shall not encourage excessive consumption of confectionary, nor contains the suggestion that confectionary can replace a meal, nor establish a link between the consumption of confectionary and health. Please note that Article 6 explicitly states that television advertising for confectionary shall show a stylized image of a toothbrush approved by the Advertising Code Committee.</p> |
| 7. | <p>Is there any official national statistical data on obesity in children kept in your jurisdiction? Are up to date statistics available? If so, at what cost?</p> | <p>TNO, which is a scientific research institute, published in February 2006 a report on overweight and obesity among children aged between 4 and 15 during the period 2002 and 2004.</p> |

Netherlands

Advertising Code For Food Products

1. General Provisions

Field of application

This code applies to advertising messages, as defined in article 1 of the Dutch Advertising Code: any public commendation of goods, services or ideas (referred to collectively as: products).

Solicitation of services is also defined as Advertising.

This Code applies to all advertising for foods specifically intended for the Dutch market.

Definitions

- (a) **Food(s)**: any industrially prepared and as a rule packaged foodstuffs and drinks, intended for use by consumers.
- (b) **Children**: minors, who have not yet reached the age of 13.
- (c) **Portion size**: size of a portion related to weight and/or volume.
- (d) **Children's idol** persons as well as comic characters and/or animated figures, well known by their role in television programs, which are specifically intended and/or developed for children. Comic characters and/or animated figures developed by or by order of the advertiser himself do not fall within the definition of a children's idol.

2. Advertising messages

General

- (a) In an advertising message for foodstuff statements referring to taste, portion size and a possible contribution of the commended food to a healthy eating pattern shall be correct and complete.
- (b) In addition to the provisions of this code the present laws and regulations concerning labelling, nutritional value indications, and food and health claims apply to an advertising message for food products.
- (c) In an advertising message for foodstuff a health claim may only be used if it can be based on solid research results.
- (d) Commendation of a food product by referring to a certain quality which does not have a distinctive capacity within the relevant group of products is not allowed, if the referral is intended to distinguish the food product from other products in the same group in a misleading manner.

Explanation:

For the establishment of the relevant group of products is made use of the most recent assortment classification on subgroup level, made by the Central Bureau of the Foodstuffs Trade (in Dutch: Centraal Bureau voor de Levensmiddelenhandel, CBL). E.g. The claim to be "fat free" is not relevant within the subgroup of products which never contain fat. Also the claim to be "sugar free" is not relevant within the subgroup of products which never contain sugar.

- (e) If in an advertisement a food product is shown as part of a meal, the shown meal shall comply with the Guidelines for Good Food, established by the Health Council of the Netherlands.
- (f) Advertisements shall not show excessive consumption of any food product.
- (g) An advertisement for food with a lower energy value (Kj) than the original product may not lead to higher consumption of that product than of the food product with the original, higher energy (Kj) value.

Children:

- (h) An advertisement for a food product, which is associated with a certain television program specifically intended for children, shall not be broadcast in the advertising blocks during and immediately after that program.
- (i) In an advertisement specifically aimed at children the commendation of the product shall not make the impression that consumption of the commended food renders them a higher status and greater popularity within their age group than the consumption of any other food product.
- (j) A children's idol is not allowed to actively commend a food product and/or related 'premiums' (free gifts) of services in radio and/or television advertisements specifically aimed at children.

Specific forms of advertising at schools

- (k) It is not allowed to advertise foodstuff at primary schools except advertising supported by the government.
- (l) At schools for secondary education no promotional activities shall be held which are only intended to motivate the students to excessively consume the commended foods.
- (m) At schools for secondary education only small packages of a food product shall be commended.
- (n) With respect to sponsorship the most recent version of "the Schools for primary and secondary education and sponsorship Covenant" applies.

Coming into force and evaluation

This Code became operative on 2 June 2005.

A transitional period with a maximum of 6 months will be taken into account with regard to the current advertising messages.

The transitional period for packaging material, developed prior to the date of this Code becoming operative, is 12 months.

The Code will be evaluated each year and if necessary revised

Netherlands

Advertising Code For Confectionery

For the purpose of this Code, **confectionery** is defined as all foodstuffs and delicacies that do not form part of the regular meals and are consumed between meals because of the sweet taste produced by their simple carbohydrates (saccharose, invert sugar, glucose and fructose). The Code does not apply to ice cream, soft drinks, spreads and products containing sugar that form part of a normal meal.

1. Advertising shall not encourage excessive consumption, nor shall such consumption be held up as an example or be excused.
2. Advertising shall not suggest that confectionery can replace a meal.
3. Advertising shall in no way contain negative statements about people who, for any reason whatsoever, do not wish to consume confectionery or who wish to limit their consumption of confectionery.
4. Advertising messages shall not establish a link between the consumption of confectionery and health, with the exception of advertisements for products which come under the jurisdiction of the Inspection Board for the Commendation of Health Products (**KAG**) and permitted by the KAG. Reference to relatively low sugar content shall not be used to create the impression that the chance of tooth decay is small.
5. Situations in which confectionery is consumed by a person immediately after brushing his teeth and before going to bed shall not be shown, nor shall consumption at such times be encouraged.
6. Television advertising for confectionery shall show a stylised image of a toothbrush approved by the Advertising Code Committee (either a positive slide image or a negative slide image- at the discretion of the advertiser):
 - (a) during the entire film, in which case the image is at least one tenth the height of the film picture;
 - (b) for three seconds of the film, in which case the image will be at least one eighth the height of the picture;
 - (c) filling the entire picture for one and a half second of the agreed broadcasting time, whether or not the advertising message is shortened by a corresponding period.
7. Advertising in printed matter intended for, or which may be assumed will be read primarily by children under the age of 14 years or in printed matter, articles of which are specially intended for children under the age of 14 years, shall show the toothbrush emblem described in article 6 which shall measure 1 cm x 1.5 cm for A4 and A5 formats and proportionally larger or smaller for other formats.

NB. The stylised image is to be obtained from the secretariat of the Bakery and Sugar Industry Association (VBZ)

Netherlands

Dutch Advertising Code

Article 10

An advertisement shall be recognizable as such by virtue of its lay-out, presentation, content or otherwise, taking into account the public for which it is intended.

Television commercials shall be clearly distinct from the rest of the programming by optical and/or acoustic means.

The word 'advertisement' shall be printed in 12 point letters over every advertisement (including the so-called 'advertorial') in (children's) magazines with a reach exceeding 25% of the children of 11 years old and under.

The use of subliminal techniques in audiovisual advertising is prohibited. The use of elements from a broadcast programme in advertising on radio and television is also prohibited in the event it can be reasonably assumed that the viewers or listeners would be misled or confused by it.

The appearance in advertising on radio and television of people who may be deemed, by virtue of their participation in broadcast programmes, to have influence or instil confidence in certain sections of the public is prohibited.

Explanation of Article 10

Subliminal techniques refer to techniques which employ inserted images and/or sounds of very brief duration in an attempt to influence viewers or listeners, possibly without their knowledge or ability to perceive them.

Article 13

13.1. Advertising which is manifestly aimed wholly or partly at minors - that is, children up to the age of 12 - shall contain no speech, sound or image which in any way could mislead them about the capacity and qualities of the product concerned.

Explanation of Article 13.1

When advertising is aimed at children - that is, minors under the age of 12 - account should be taken of their intellectual grasp and expectations, especially with respect to playing pleasure and performance of the product.

13.2. Advertising on television shall cause no mental or physical harm to minors and shall therefore, for their protection, satisfy the following criteria:

- (a) it shall not encourage minors to buy a particular product by taking advantage of their inexperience or credulity;
- (b) it shall not directly encourage minors to persuade their parents or others to buy advertised products;
- (c) it shall not take advantage of the special confidence which minors have in parents, teachers or others;
- (d) it shall not, without reason, depict minors in dangerous situations.

13.3. Tele-shopping shall meet the requirements stipulated in 13.2 and shall moreover not encourage minors to conclude agreements for purchasing or renting products.

Annexure 6

Report on the regulation of television food advertising to children – Jurisdiction: New Zealand

| | Questions | Response |
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| 1. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that regulate television advertising of food?</p> <p>If so, please provide its (a) name; (b) date of introduction or amendment; (c) legal status (i.e. binding or non-binding); and (d) an internet link to the law or an annexure to this table containing relevant provisions (in English).</p> | <p>(a) Food Act 1981 (specifically section 11)</p> <p>(b) 1 August 1984</p> <p>(c) Binding</p> <p>(a) Television New Zealand Act 2003 (specifically section 12). This requires TVNZ to maintain a code of ethics in relation to children's advertising.</p> <p>(b) 27 February 2003</p> <p>(c) Binding</p> <p>There is also general consumer protection legislation which</p> <p>(a) prohibits certain misleading and deceptive conduct and false representations (see (a) Fair Trading Act 1986 ss 9 & 13; (b) 17 December 1986; (c) binding; (d) see below); and</p> <p>(b) provides that guarantees are deemed to be given in relation to the representations made with respect to goods, including food (see (a) Consumer Guarantees Act 1993 ss 8(1) & 9(1); (b) 20 August 1993; (c) binding; (d) see below).</p> <p>The Television Commercials Approvals Board is required to approve all advertisements and give them a rating before broadcast by the major free-to-air broadcasters in New Zealand (TVNZ and CanWest) but does not produce a code. The Board's website is at: http://www.tvcab.co.nz/</p> |
| 2. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that specifically regulate television advertising of food to children?</p> <p>If so, please provide its (a) name; (b) date</p> | No. |

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| | of introduction or amendment; (c) legal status (i.e. binding or non-binding); and (d) a copy or internet link if available in English if not please provide a translation of the key provisions. | |
| 3. | Are there any laws, regulations, codes (including industry codes) or official guidelines that apply generally to the advertising of food or the advertising to children that (although not specifically directed at broadcasting) control what advertisements for food can be broadcast to children? | <p>The Advertising Standards Authority (ASA) is a self-regulatory body set up by the advertising and media industries.</p> <p>(a) ASA Code for Advertising of Food</p> <p>(b) April 2006</p> <p>(c) non-binding</p> <p>(a) ASA Code of Advertising to Children</p> <p>(b) April 2006</p> <p>(c) non-binding</p> <p>(a) RMI Code of Practice (Principle 6 relates to advertising and promotion though not specifically in relation to broadcasting or children).</p> <p>(b) 1 October 2003</p> <p>(c) non-binding</p> |
| 4. | Are there any government/industry proposals, reviews, enquiries or consultations (either current or contemplated) specifically relevant to television advertising of food to children ? If so, please specify and briefly describe them | <p>1. ASA have produced a report entitled: "Review of Children's and Food Advertising Codes: Final Report of the Review Committee"</p> <p>2. Fight the Obesity Epidemic (FOE) is a voluntary organisation that advocates to influence policy changes to stop the rise of Type 2 diabetes and obesity in children. In conjunction with Diabetes NZ they recently published "Prevention of Obesity and Type 2 Diabetes in New Zealand Children: The Facts" and "Legislative Intervention to Address Obesity in Overseas Jurisdictions"</p> <p>3. The Government's Health Select Committee, chaired by Green MP Sue Kedgley, is conducting an inquiry into Obesity and Type II Diabetes in New Zealand. Submissions closed 26 April 2006. See Terms of Reference for the inquiry.</p> |

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| 5. | <p>In particular, has the Government adopted or considered any alternatives to further regulation of television advertising of food to children? (e.g. campaigns or initiatives)</p> <p>If so, please specify and briefly describe them.</p> | No. |
| 6. | <p>Please provide by way of brief summary of the material mentioned above (no more than a page) an overview narrative description of:</p> <p>(a) the regime that regulates broadcasting in your jurisdiction, identifying the statutes regulations, codes of practice and guidelines (if any) that make up the system of regulation. (If necessary, please provide this answer in an annexure to this table)</p> <p>(b) the rules that apply to advertising of food to children</p> | <p>Broadcasting in New Zealand is primarily regulated by the Broadcasting Act 1989 (the Act). The Act, among other things:</p> <ul style="list-style-type: none"> (a) provides for the maintenance of programme standards in broadcasting; (b) establishes and defines the functions and powers of the Broadcasting Standards Authority (BSA); (c) provides for a complaints process; (d) establishes and defines the functions and powers of the Broadcasting Commission, or NZ On Air, which focuses on the social functions of broadcasting; and (e) places restrictions on advertising hours. <p>The Act governs the transmission of all programmes (all sound or visual images) and makes the broadcaster (the person who actually "broadcasts" the programmes) responsible for the standards of those programmes.</p> <p>The BSA is authorised under the Act to administer standards of programming and deal with complaints against broadcasters or programming. Decisions of the BSA may be judicially reviewed in the High Court.</p> <p>The BSA is responsible for encouraging the voluntary adoption of broadcasting codes, or where these are not forthcoming, issuing its own codes of practice where appropriate.</p> <p>The fundamental requirement of the BSA under the Act is to encourage standards of "good taste and decency". This includes discouraging denigration or discrimination. Moreover, the BSA is specifically required to consider the effect of programming on children during their normally accepted viewing or listening times.</p> <p>Other statutes will have some relevance to broadcasting in some contexts, such as the Human Rights Act 1993, the Privacy Act 1993 and the New</p> |

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| | <p>Zealand Bill of Rights Act 1990.</p> <p>Television New Zealand Limited (TVNZ), the State broadcaster, is a Crown entity. Under the Television New Zealand Act 2003 (TVNZ Act), TVNZ must give effect to a Charter of rights and obligations and maintain commercial performance.</p> <p>There are no specific statutory rules that apply to the advertising of food to children. There are, however, general consumer protection statutes such as the Fair Trading Act 1986 and the Consumer Guarantees Act 1993, which allow some measure of control of advertising generally.</p> <p>The Food Act 1981 regulates food advertising but does not specifically provide for food advertising to children.</p> <p>Under the TVNZ Act, TVNZ is required to consider the effects of advertising on children by reference to industry codes and guidelines.</p> <p>A key industry body is the Advertising Standards Authority ("ASA"), an incorporated society. The ASA administers industry codes to maintain standards of advertising. Of most relevance to the advertising of food to children are:</p> <ul style="list-style-type: none"> (a) the Code of Advertising of Food; and (b) the Code of Advertising to Children. <p>The ASA Codes have generally been adopted by the major free-to-air broadcasters in New Zealand, via the New Zealand Television Broadcasters' Council.</p> <p>The Advertising Standards Complaints Board (ASCB), established by ASA, administers the Codes in New Zealand and appeals from the ASCB are heard by the Advertising Standards Complaints Appeals Board. A complaint about an advertising programme may be referred to the BSA where neither the broadcaster nor the advertiser recognises the jurisdiction of the ASCB.</p> <p>The ASA has recently completed a Review of Children's and Food Advertising Codes. Similarly, the Parliamentary Health Select Committee is currently engaged in a review of obesity and Type II Diabetes issues, which will touch on standards for food advertised to children. The Ministry of Health is conducting ongoing national health campaigns against child obesity. Fight the Obesity Epidemic and Diabetes NZ have also produced recent reports on child obesity and its relationship to television</p> |
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| | | advertising. |
| 7. | Is there any official national statistical data on obesity in children kept in your jurisdiction? Are up to date statistics available? If so, at what cost? | <ol style="list-style-type: none"> 1. NZ Medical Association report to the Select Committee inquiry (includes statistics and discusses advertising aimed at children) 2. The Ministry of Health maintains a full section of obesity statistics. See also: Tracking the obesity epidemic 2004; A portrait of health 2004; NZ Food, NZ Children 2004; and The 2002 National Children's Nutritional Survey (statistics about obesity in children): 3. Body-Size and Steps in Children – Key Results of the 2004 BASIC Study. Scott Duncan, MSc (Hons), Centre for Physical Activity and Nutrition Research, Auckland University of Technology. |

Annexure 7

Report on the regulation of television food advertising to children – Jurisdiction: Norway

| | Questions | Response |
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| 1. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that regulate television advertising of food?</p> <p>If so, please provide its (a) name; (b) date of introduction or amendment; (c) legal status (i.e. binding or non-binding); and (d) an internet link to the law or an annexure to this table containing relevant provisions (in English).</p> | <p>All marketing in Norway is regulated by the Marketing Control Act of 16 June no 47. There are also laws and regulations that regulate advertising of food in general, but none which only apply for television advertising of food in particular.</p> <p>The following binding laws and regulations will apply</p> <ol style="list-style-type: none"> 1. The Act on Food Production and Food Safety of 19 Dec 2003 no 124 2. Regulations on the labelling of foodstuffs of 21 Dec 1993 no 1385 3. Regulations on the declaration of nutrient content of 21 Dec 1993 no 1385 <p>Translations the relevant parts of the relevant provisions are annexed.</p> <p>Please note that particular provisions related to the advertisement of specific food products can apply (for instance for the advertisement of natural mineral water and spring water).</p> |
| 2. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that specifically regulate television advertising of food to children?</p> <p>If so, please provide its (a) name; (b) date of introduction or amendment; (c) legal status (i.e. binding or non-binding); and (d) a copy or internet link if available in English if not please provide a translation of the key provisions.</p> | <p>Section 3-1 of the Broadcasting Act of 4 Dec 1992 no 127 prohibits the broadcast of advertisements in connection with children's programmes, and advertisements specifically directed to children. The provisions of the Act are binding.</p> <p>Also the Marketing Control Act will be applicable. Section 1 i.a. prohibits marketing which can be considered "unreasonable" towards the consumer or contrary to "good business practice" between professionals. (Please note that the Act was amended in February 2005 but the linked translated version is not consolidated.)</p> <p>The Norwegian Consumer Ombudsman has published guidelines concerning the marketing towards children in general.</p> |
| 3. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that apply generally to the advertising of food or the advertising to children that (although not</p> | <p>Yes, the provisions of the above mentioned Marketing Control Act will apply, even though these are not specifically directed at broadcasting.</p> |

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| | specifically directed at broadcasting) control what advertisements for food can be broadcast to children?. | |
| 4. | <p>Are there any government/industry proposals, reviews, enquiries or consultations (either current or contemplated) specifically relevant to television advertising of food to children?</p> <p>If so, please specify and briefly describe them</p> | <p>There are not proposals, reviews etc specifically relevant to television advertising of food to children, but the Norwegian government has a goal to reduce the commercial pressure on young people in general. In 2001, a government appointed committee presented the report "Adolescence with a price tag" (NOU 2001:6). Based on the survey, the Ministry of Children and Family Affairs has developed a strategy in order to reduce the commercial pressure on children. For further information, please see: http://odin.dep.no/bld/english/doc/handbooks/004061-990036/dok-bn.html</p> <p>Further, the Marketing Control Act is under revision. The Ministry is i.a. evaluating the possibility to introduce statutory rules meant to protect children.</p> |
| 5. | <p>In particular, has the Government adopted or considered any alternatives to further regulation of television advertising of food to children? (e.g. campaigns or initiatives)</p> <p>If so, please specify and briefly describe them.</p> | <p>Please refer to comments in no 4.</p> |
| 6. | <p>Please provide by way of brief summary of the material mentioned above (no more than a page) an overview narrative description of:</p> <ol style="list-style-type: none"> 1. the regime that regulates broadcasting in your jurisdiction, identifying the statutes regulations, codes of practice and guidelines (if any) that make up the system of regulation. (If necessary, please provide this answer in an annexure to this table) 2. the rules that apply to advertising of food to children | <ol style="list-style-type: none"> 1. The Norwegian Media Authority is the overall regulatory and supervisory authority agency for the media sector. It supervises the broadcasting in Norway, and is i.a. responsible for monitoring advertising activity in Norwegian public broadcasting. The relevant law and regulations are the Broadcasting Act of 1992 and regulation given pursuant to the Broadcasting Act (The Broadcast Regulations of 28 February 1997 no 153). 2. Please refer to no 2 concerning section 3-1 of the Broadcasting Act. |
| 7. | <p>Is there any official national statistical data on obesity in children kept in your jurisdiction? Are up to date statistics available?</p> <p>If so, at what cost?</p> | <p>According to a recent report published by the Norwegian Institute of Public Health, between 10 and 20 % of Norwegian children are overweight. No official statistics are available.</p> |

Norway

The Act on Food Production and Food Safety of 19 Dec 2003 no 124

Section 10 – Labelling, presentation and advertising

The business must ensure that the labeling, presentation, advertising and marketing is correct, gives the receiver sufficient information and is not suited to mislead.

The King can give further regulations about labeling, presentation and advertising, including about prohibitions against undesirable health related marketing and about conditions for use of voluntary arrangements for labeling.

Regulations on the labeling of foodstuffs of 21 Dec 1993 no 1385

Section 5 – Principles for labeling, presentation and advertising

The labeling must not mislead the buyer as regards the characteristics of the food article, in particular with regard to its type, identity, quality, composition, quantity, durability, origin or place of origin, process of manufacture or production.

It is not permitted to:

1. attribute to the food article effects or qualities that it does not have,
2. give the impression that the food article has special qualities when all similar food articles have the same qualities,
3. argue or give the impression that a food article prevents, heals or relieves illnesses, symptoms of illnesses or pains, or
4. use the words "dietetic", "for a diet" or similar, either alone or in connection with other words, unless this is permitted in accordance with regulations concerning food articles meant for use in connection with special nutritional needs or regulations concerning the exploitation and sale etc of natural mineral water.

The provisions of this section also applies for the advertising and the presentation of food articles, the shape or appearance of the food article or the packaging, the material used for the packaging or the way the articles of food are presented.

Regulations on the declaration of nutrient content of 21 Dec 1993 no 1385

Section 5 – Mandatory declaration of nutrient content

Prepaid food articles must have a declaration of nutrient content if a nutritional claim is presented in the labeling, advertising or in other presentation of the food article, except when referring to the food product in collective advertising campaigns (generic advertising).

Annexure 8

Report on the regulation of television food advertising to children – Jurisdiction: Quebec

Quebec has been treated separately from the other provinces of Canada because of the additional laws with respect to children's advertising that apply in that province. Because Quebec generally prohibits television advertising to children, codes, guidelines, and clearance procedures relevant to children's advertising in the rest of Canada do not apply in Quebec. However, all of the federal laws, regulations, codes (including industry codes) and official guidelines that regulate television advertising of food as discussed in the report on Canada will apply to Quebec and have been reproduced here for your convenience.

Furthermore, while television broadcasters in Quebec are required to adhere to the Canadian Association of Broadcaster's *Code of Ethics* and Advertising Standards Canada's *Canadian Code of Advertising Standards*, Advertising Standards Canada does not review and clear television advertisements broadcast only in Quebec. Advertising Standards Canada only reviews and clears advertising that will be broadcasted nationally.

| | Questions | Response |
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| 1. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that regulate television advertising of food?</p> <p>If so, please provide its (a) name; (b) date of introduction or amendment; (c) legal status (i.e. binding or non-binding); and (d) an internet link to the law or an annexure to this table containing relevant provisions (in English).</p> | <p>There is no single law, regulation, or code that regulates television advertising of food. Food advertising generally, is regulated under the <i>Food and Drugs Act</i> and the Canadian Food Inspection Agency's (the Federal food enforcement agency) <i>Guide to Food Labelling and Advertising</i>. The Canadian Radio-television Telecommunications Commission (CRTC), the broadcast regulator, requires all radio and television broadcasters to comply with the Canadian Association of Broadcasters' <i>Code of Ethics</i>. Clause 13 of this code requires broadcasters to adhere to Advertising Standards Canada's <i>Canadian Code of Advertising Standards</i> and associated interpretation guidelines, the <i>Broadcast Code for Advertising to Children</i>, and the <i>CRTC Code for Broadcast Advertising of Alcoholic Beverages</i>.</p> <p>Again, because Quebec generally prohibits television advertising to children, the ASC's <i>Broadcast Code for Advertising to Children</i> will rarely, if ever, be applied to television advertising in Quebec.</p> <p>(a) Food and Drugs Act (FDA)</p> <p>(b) Introduced 1985, current to March 3, 2006</p> <p>(c) Federal law, legally binding across Canada</p> <p>(a) Guide to Food Labelling and Advertising</p> |

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| | | <p>(b) Introduced 1961, revised 2003</p> <p>(c) Official guidelines to interpret and assist with compliance of the <i>Food and Drugs Act and the Consumer Packaging and Labelling Act</i>.</p> <p>(a) <u>Canadian Association of Broadcasters' Code of Ethics</u> (Broadcast Code)</p> <p>(b) revised June 2002</p> <p>(c) Industry code, not legally binding but adhered to by advertisers and broadcasters.</p> <p>(a) <u>Canadian Code of Advertising Standards</u>, issued by Advertising Standards Canada (ASC Code)</p> <p>(b) Introduced 1963, revised December 2005</p> <p>(c) Self-regulatory industry code, not legally binding but adhered to by advertisers and broadcasters.</p> <p>See also <u>Canadian Code of Advertising Standards Interpretation Guidelines</u>, Interpretation guidelines #2 and #3.</p> <p>(a) <u>Broadcast Code for Advertising to Children</u>, issued by the Canadian Association of Broadcasters in cooperation with Advertising Standards Canada (Children's Code)</p> <p>(b) Introduced 1993, revised April 2004</p> <p>(c) Self-regulatory industry code, not legally binding but adhered to by advertisers and broadcasters.</p> <p>(a) CRTC <u>Code for Broadcast Advertising of Alcoholic Beverages</u></p> <p>(b) revised, August 1, 1996</p> <p>(c) Self-regulatory industry code, not legally binding but adhered to by advertisers and broadcasters.</p> |
| 2. | Are there any laws, regulations, codes (including industry codes) or official guidelines that specifically regulate | Because Quebec prohibits television advertising to children (see 3), there are no specific laws, regulations, codes, or guidelines that specifically |

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| <p>television advertising of food to children?</p> <p>If so, please provide its (a) name; (b) date of introduction or amendment; (c) legal status (i.e. binding or non-binding); and (d) a copy or internet link if available in English if not please provide a translation of the key provisions.</p> | <p>regulate television advertising of food to children.</p> |
| <p>3. Are there any laws, regulations, codes (including industry codes) or official guidelines that apply generally to the advertising of food or the advertising to children that (although not specifically directed at broadcasting) control what advertisements for food can be broadcast to children?.</p> | <p>Commercial advertising directed at persons under 13 years of age is generally prohibited in the Province of Quebec by section 248 of the <i>Quebec Consumer Protection Act (QCPA)</i>. However such advertising may be permitted if it qualifies for one or more exceptions under the QCPA. Since no specific types of media are identified, it is fair to assume that children's advertising is prohibited in all categories of media including television advertising.</p> <p>In addition to the legislation, codes, and guidelines listed in the response to Question 1 and the QCPA, the following industry guidelines with respect to food advertising and the use of comparative advertising may also apply.</p> <p>As well, because the Federal Minister of Consumer and Corporate Affairs has given the ASC authority to review and clear all nationally broadcast food advertising, the ASC will evaluate each commercial against the FDA and the Canadian Food Inspection Agency's <i>Guide to Food and Labelling and Advertising</i> and assign to it a clearance number if approved. This clearance number signals to broadcasters that the ASC has approved the commercial for national broadcast.</p> <p>(a) <i>Consumer Protection Act</i>, section 248</p> <p>(b) Introduced May 1, 1980</p> <p>(c) Provincial law, legally binding in the Province of Quebec</p> <p>(a) <i>Regulation respecting the application of the Consumer Protection Act, Division II: Advertising Directed at Children:</i></p> <p>(b) Introduced May 1, 1980. Last revised March 29, 2006</p> <p>(c) Provincial regulation, legally binding in the Province of Quebec</p> |

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| | | <p>(a) Advertising Standards Canada, <u>"No Claim" Food and Beverage and Beverage Broadcast Advertising Clearance Exemption Policy Document</u></p> <p>(b) n/a</p> <p>(c) Interpretation guideline regarding the clearance procedure for food and beverage advertising.</p> <p>(a) Advertising Standards Canada, <u>Guidelines for the Use of Comparative Advertising</u></p> <p>(b) revised December 2005</p> <p>(c) Interpretation guideline regarding the clearance procedure for comparative advertising.</p> |
| 4. | <p>Are there any government/industry proposals, reviews, enquiries or consultations (either current or contemplated) specifically relevant to television advertising of food to children?</p> <p>If so, please specify and briefly describe them</p> | <p>We are not aware of any government/industry proposals, reviews, enquiries or consultations specifically relevant to television advertising of food to children in progress at the federal or provincial level.</p> |
| 5. | <p>In particular, has the Government adopted or considered any alternatives to further regulation of television advertising of food to children? (e.g. campaigns or initiatives)</p> <p>If so, please specify and briefly describe them.</p> | <p>We are not aware of the Federal Government or the Quebec Government adopting or considering any alternatives to further regulation of television advertising of food to children.</p> <p>However, the Concerned Children's Advertisers' (CCA) Children's Healthy Active Living Program (CHALP) runs education programs and advertising that promotes healthy living and balanced lifestyle to children. The CCA is an industry supported non-profit organization consisting of companies that market and advertise their products and services to children and their families. The CCA's stated mission is to be the "credible, caring and authoritative voice of responsible children's advertising and communications." Since its inception, the CCA has worked with industry, broadcasters, government, teachers' federations, and other community organizations to deliver educative public service announcements, children's media literacy programs, and more recently, the CHALP. CHALP was started as a response to worldwide concern over childhood obesity. More information can be found on the CCA</p> |

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| | | website: http://www.cca-kids.ca/ |
| 6. | <p>Please provide by way of brief summary of the material mentioned above (no more than a page) an overview narrative description of:</p> <ol style="list-style-type: none"> 1. the regime that regulates broadcasting in your jurisdiction, identifying the statutes regulations, codes of practice and guidelines (if any) that make up the system of regulation. (If necessary, please provide this answer in an annexure to this table) 2. the rules that apply to advertising of food to children | <p>Advertising in the Province of Quebec</p> <p>Commercial advertising directed at persons under 13 years of age is generally prohibited in the Province of Quebec by section 248 of the Quebec Consumer Protection Act (QCPA). However such advertising may be permitted if it qualifies for one or more exceptions under the QCPA. Since no specific types of media are identified, it is fair to assume that children's advertising is prohibited in all categories of media including television advertising.</p> <p>In order to determine if an advertisement is exempted under the QCPA, account must be taken of the context of its presentation and in particular the following criteria:</p> <ul style="list-style-type: none"> • nature and purpose of the goods advertised • the manner of presentation • time and place it is shown <ol style="list-style-type: none"> 1. Nature and Purpose of Goods Advertised:-are the goods or services <ol style="list-style-type: none"> (a) exclusively directed at children (b) not exclusively directed but have a marked appeal for children (c) no appeal for children 2. Manner of Presentation:- does the advertising <ol style="list-style-type: none"> (a) use cartoons, fantasy, magic, mystery themes (b) can children identify with characters, personalities e.g. use of children's (c) use music which appeals to children (d) use spectacular sound and colour, animation and repetition 3. Time and Place Shown:- is the ad shown in <ol style="list-style-type: none"> (a) children's programming (b) all programs except those for children (c) programs for which less than 15% of viewers are children <p>The Quebec Consumer Protection Office has issued a Guide to assist advertisers in determining if an</p> |

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| | <p>advertisement is intended for children. The fact that an ad is in printed matter or broadcast at times intended for persons above 13 or for both over and under 13 years of age does not create a presumption that it is not directed at children under 13.</p> <p>As a general rule:</p> <ol style="list-style-type: none"> 1. If an advertisement is directed partly towards children and partially at adults, it can air only during programming where children between the ages of 2 and 11 represent less than 15% of the viewing audience. 2. If an advertisement is considered to be for goods and services directed exclusively at children, it may air only during programming where children between the ages of 2 and 11 represent less than 5% of the viewing audience. 3. In the case of children's programming, the advertisement cannot be of interest to children in any way. <p>Exceptions under the QCPA</p> <p>Advertising to children is permitted in the following media:</p> <ol style="list-style-type: none"> 1. Advertisements in magazines and inserts directed at children and published for sale at intervals of no more than 3 months if the advertisement <ol style="list-style-type: none"> (a) does not exaggerate the characteristics or performance of the goods (b) does not portray reprehensible social or family lifestyles (c) does not minimize the degree of strength, skill etc to use the goods (d) does not portray improper or dangerous use of goods 2. Packaging - in store/wrapper that meets the above requirements 3. Educational advertising meeting the following criteria: <ol style="list-style-type: none"> (a) beneficial to education and development of the child (b) the product must not be identifiable |
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| | | <p>except in its generic form, without a trademark</p> <p>(c) sponsor must be identified in a low-key manner – e.g. sponsor's name cannot be accompanied by a logo</p> <p>(d) sponsor's name must not be animated and it must not appear for more than 5 seconds</p> |
| 7. | <p>Is there any official national statistical data on obesity in children kept in your jurisdiction? Are up to date statistics available? If so, at what cost?</p> | <p>Yes. The national statistics on childhood and adolescent obesity have been summarized in Statistics Canada's free publication: Overweight Canadian children and adolescents. Statistics Canada is the country's official national statistical agency profiling all aspects of Canada's business, economy, and society.</p> <div data-bbox="1050 808 1118 875" style="text-align: center;">  </div> <p style="text-align: center;">Adobe Acrobat 7.0 Document</p> <p>As for cost, up to date statistics are available from Statistics Canada for \$3 per data series and can be accessed online through Statistics Canada's CANSIM database (see: http://cansim2.statcan.ca). A prepaid CANSIM account can be setup by contacting Statistics Canada directly or alternatively, CANSIM data can also be obtained through a number of licensed distributors (see: http://www.statcan.ca/english/reference/cansim.htm).</p> |

Annexure 9

Report on the regulation of television food advertising to children – Jurisdiction: Sweden

| | Questions | Response |
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| 1. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that regulate television advertising of food?</p> <p>If so, please provide its (a) name; (b) date of introduction or amendment; (c) legal status (i.e. binding or non-binding); and (d) an internet link to the law or an annexure to this table containing relevant provisions (in English).</p> | <p>Yes, the following Swedish legislation, codes of conducts and guidelines regulate television advertising in general, except for number 4 which especially concerns the advertising of food.</p> <p>(a) The Marketing Act (1995:450)</p> <p>(b) introduced 27 April 1995</p> <p>(c) binding</p> <p>(a) The Radio and Television Act (1996:844)</p> <p>(b) introduced 1 December 1996</p> <p>(c) binding</p> |
| 2. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that specifically regulate television advertising of food to children?</p> <p>If so, please provide its (a) name; (b) date of introduction or amendment; (c) legal status (i.e. binding or non-binding); and (d) a copy or internet link if available in English if not please provide a translation of the key provisions.</p> | <p>Yes, the legislation and guidelines etc. mentioned above is applicable on the advertising of food to children.</p> <p>(a) Interpretative Advice on the Prohibition of Commercial Advertising to Children on Television issued by the Swedish Consumer Agency (Sw: <i>Konsumentverket</i>)</p> <p>(b) no information found on the date of introduction of this advice</p> <p>(c) non-binding</p> |
| 3. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that apply generally to the advertising of food or the advertising to children that (although not specifically directed at broadcasting) control what advertisements for food can be broadcast to children?</p> | <p>Except the laws etc. mentioned above, no other laws, regulations or codes etc. of any importance are generally applicable on the advertising of food or to children. However, please note the section re the Swedish Food Act under question 6.</p> |
| 4. | <p>Are there any government/industry proposals, reviews, enquiries or consultations (either current or contemplated) specifically relevant to television advertising of food to</p> | <p>No, not that we are aware of. We have been in contact with the Consumer Agency and Swedish Ministry of Agriculture, Food and Consumer Affairs and they were not aware of any proposals, reviews, enquires or consultations related to the advertising of</p> |

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| | <p>children?</p> <p>If so, please specify and briefly describe them</p> | <p>food to children at the present time.</p> |
| 5. | <p>In particular, has the Government adopted or considered any alternatives to further regulation of television advertising of food to children? (e.g. campaigns or initiatives)</p> <p>If so, please specify and briefly describe them.</p> | <p>There are no current Governmental investigations regarding any further regulation concerning television advertising food to children according to the Ministry of Agriculture, Food and Consumer Affairs.</p> |
| 6. | <p>Please provide by way of brief summary of the material mentioned above (no more than a page) an overview narrative description of:</p> <p>(a) the regime that regulates broadcasting in your jurisdiction, identifying the statutes regulations, codes of practice and guidelines (if any) that make up the system of regulation. (If necessary, please provide this answer in an annexure to this table)</p> <p>(b) the rules that apply to advertising of food to children</p> | <p>1. The Marketing Act is applicable on all advertising directed to the Swedish public and the Swedish market. The act sets out the requirements for the advertising, for instance the information that shall be included in the advertisement, rules regarding misleading marketing etc. According to the act all marketing shall be conducted in accordance with good marketing practice. Good marketing practice consists of the material which constitutes generally accepted business practice, for instance case law from the Swedish Market Court and other codes of conduct and industry standards. The codes of conduct of importance in the case at hand is primarily the policies issued by the International Chamber of Commerce, which is (i) the International Code of Advertising Practice, (ii) the Framework for Responsible Food and Beverage Communications, and (iii) the Compendium of ICC Rules on Children and Young People and Marketing. These policies are used when determining whether or not certain marketing is conducted in accordance with good marketing practice.</p> <p>The Radio and Television Act is applicable on broadcasts of television programmes, if the broadcast can be received in any state within the European Economic Area (EEA), and the person or entity conducting broadcasting operations (i) is established in Sweden in accordance with the definition set forth in the EC Directives 97/36/EC and 89/552/EEC, (ii) does not fulfil the criteria in (i) and is not established in another EEA state, but instead utilises a frequency which has been allocated in Sweden, a satellite capacity which belongs to Sweden or a satellite uplink located in Sweden.</p> |

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| | | <p>The Radio and Television Act includes a prohibition against advertising directed to children under the age of 12 in Sweden. The prohibition means that no advertising may be created with the aim of attracting attention of children under the age of 12. Nor may such television advertising be broadcasted in conjunction with children's programmes; neither before, after or during breaks in such programmes. This prohibition currently applies to television channels broadcasting from Sweden. For channels broadcasting from other countries the regulations in those countries apply, in accordance with a judgement passed by the European Court of Justice in July 1997 (joined cases C-34/95, C-35/95 and C-36/95). Please note that the marketing must comply with the rules in the provided EC Directives and the Marketing Act when the marketing is directed to the Swedish public even if the marketing is broadcasted from outside Sweden.</p> <p>If the prohibition against advertising to children under the age of 12 is applicable, guidance on the interpretation of the prohibition can be found in the provided advice on interpretation issued by the Swedish Consumer Agency.</p> <p>The authorities supervising the compliance with the Swedish rules is primarily the Consumer Agency and the Swedish Broadcasting Commission (Sw: <i>Granskningsnämnden för radio & TV</i>).</p> <p>Please note that in addition to the legislation, codes of conduct and guidelines mentioned above, Sweden has a food legislation consisting of, for instance, the Swedish Food Act and a large number of regulations issued by the Swedish Food Administration. These acts and regulations applies to the marketing of food in Sweden, but its provisions do in general only concern the marketing which is carried out by the labelling of the product itself, e.g. table of ingredients, origin and name of packing agent/manufacturer or seller etc. These documents do therefore in principle only concern the manufacturers, packing agents and sellers of the food and not the broadcasting companies. The documents are therefore not provided at this stage but we will of course be happy to provide the</p> |
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| | | <p>documents upon request. Please note in this respect that the regulations issued by the Swedish Food Administration concerns very specific goods and it would therefore be helpful to the kind of food that shall be advertised in order to find the correct regulation.</p> <p>2. The rules that are applicable to the marketing of food to children in the different statutes are the following:</p> <p><u>The Marketing Act</u> – The whole act is applicable but the requirements on the advertisements are stipulated in Sections 4 – 13d.</p> <p><u>The Radio and Television Act</u> (if applicable) – Chapter 7 and especially Section 7:4.</p> <p><u>The EC Directives</u> – Chapter IV and V in both directives and especially Article 16 in Directive 89/552/EEC with the amendments made to article 16 in Directive 97/36/EC.</p> |
| 7. | Is there any official national statistical data on obesity in children kept in your jurisdiction? Are up to date statistics available? If so, at what cost? | No, there are no official national statistical data kept on obesity in children in Sweden. The only statistical data on obesity kept in Sweden is on people between the ages of 16 and 84. |

Annexure 10

Report on the regulation of television food advertising to children – Jurisdiction: United Kingdom

| | Questions | Response |
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| 1. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that regulate television advertising of food?</p> <p>If so, please provide its (a) name; (b) date of introduction or amendment; (c) legal status (i.e. binding or non-binding); and (d) an internet link to the law or an annexure to this table containing relevant provisions (in English).</p> | <p>There is no statutory regime specifically regulating the television advertising of food.</p> <p>In relation to the advertising of food in general, it is a criminal offence for any person to publish, or be a party to the publication of an advertisement which falsely describes any food or is likely to mislead as to the nature or substance or quality of any food (s.15(2) Food Safety Act 1990). The penalties in respect of this offence are a fine, or a prison sentence not exceeding two years, or both (s.35(2) Food Safety Act 1990).</p> <p>In terms of industry codes, the Committee of Advertising Practice's (CAP) Television Advertising Standards Code (the Code) governs advertisements on any television channel licensed by Ofcom (which are effectively all UK broadcasters except the BBC (which in any event does not broadcast advertisements)). The Code is based on the following enduring principles: that advertising should not mislead, cause deep or widespread offence or lead to harm, particularly to the vulnerable. The Television Advertising Standards Code can be accessed here.</p> <p>The UK advertising industry is self-regulating: the codes of conduct are drawn up by the CAP and policed by the Advertising Standards Authority (ASA), which is an independent body set up by the advertising industry itself. It is the responsibility of the broadcasters themselves to ensure the advertising they transmit complies with both the spirit and the letter of the Code.</p> <p>Any individual or company may make a complaint to the ASA, provided it falls within the ASA's remit. There is no fee payable for making a complaint. Simple complaints may be resolved quickly, for example, by having an advertisement changed. More complex complaints, or those involving a serious breach of the code will usually require a formal investigation. Formal investigations are ruled on by the ASA Council and adjudications are published on the ASA website. Once the Council has made a decision, the advertisers must make sure that the ruling has been followed, either by changing the</p> |

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| | | <p>advertisement or withdrawing it. The ASA's compliance team will ensure that Council's rulings are acted on.</p> <p>In addition, advertisers can be referred to the Office of Fair Trading for misleading adverts and impermissible comparisons and broadcasters can be referred to the Office of Communications (Ofcom) for persistently airing ads that breach the Codes.</p> <p>Rule 8.3 of the Code deals with the advertising of food and dietary supplements in general, although not specifically to children. However, where the advertising of food is addressed to children, rule 7 of the Code also applies. Under rule 8.3, all advertising of food must comply with the following:</p> <ol style="list-style-type: none"> 1. It must be accurate and not give a misleading impression of the nutritional or health benefits of the product as a whole. Any nutrition claims must be supported by sound scientific evidence. 2. It must not encourage or condone excessive consumption of any food. 3. It must not encourage or condone damaging oral health care practices, e.g. by showing the regular and frequent consumption of sugary foods. 4. In relation to dietary supplements, there must be no suggestion that it is necessary or therapeutic for an average person to supplement their diet or that dietary supplements can enhance normal good physical or mental condition. <p>The advertising of slimming regimes and weight control products are dealt with by rule 8.4 of the Code.</p> <p>The new scheduling and content rules introduced in February 2007 in the UK include a blanket prohibition on advertising food and drink products that are high in fat, salt and sugar in or around programs likely to appeal to children under 16. The content, scope and implementation of these rules is discussed in Annexure 12.</p> |
| 2. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that specifically regulate television advertising of food to children?</p> <p>If so, please provide its (a) name; (b)</p> | <p>Rule 7 of the Television Advertising Standards Code deals with advertising which is addressed to children. It applies to all advertising addressed to children, and not just the advertising of food in particular. In order to determine how these rules should apply in relation to food advertising, rule 7 must be read in conjunction</p> |

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| | <p>date of introduction or amendment; (c) legal status (i.e. binding or non-binding); and (d) a copy or internet link if available in English if not please provide a translation of the key provisions.</p> | <p>with rule 8.3, as discussed above.</p> <p>Under Rule 7, advertising addressed to children must adhere to the following principles:</p> <ol style="list-style-type: none"> 1. It must not take advantage of children's inexperience or their natural credulity and sense of loyalty. 2. Advertisements for products of interest to children must take account of the level of experience of those in the relevant age groups so as to avoid arousing unrealistic expectations. 3. If advertisements for products of interest to children show or refer to characteristics which might influence a child's choice, those characteristics must be easy for children of the appropriate age to judge. 4. Advertisements must not directly advise or ask children to buy or ask their parents or others to make enquiries or purchases 5. Advertisements must not imply that children will be inferior to others, disloyal or will have let someone down, if they or their family do not use a particular product or service. 6. Children in advertisements must not comment on product or service characteristics in which children their age would not usually be interested. 7. Advertisements must not contain material which could lead to social, moral or psychological harm to children. 8. Advertisements must not contain material which could lead to physical harm to children. <p>The principles listed above are those which are most applicable to the advertising of food. Nonetheless, there are also number of other principles under rule 7 not listed above.</p> <p>The new scheduling and content rules introduced in February 2007 in the UK include a blanket prohibition on advertising food and drink products that are high in fat, salt and sugar in or around programs likely to appeal to children under 16. The content, scope and implementation of these rules is discussed in Annexure 12.</p> |
| 3. | Are there any laws, regulations, codes (including industry codes) or official | There are no other regimes which control what |

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| | <p>guidelines that apply generally to the advertising of food or the advertising to children that (although not specifically directed at broadcasting) control what advertisements for food can be broadcast to children?.</p> | <p>advertisements for food can be broadcast to children.</p> |
| <p>4.</p> | <p>Are there any government/industry proposals, reviews, enquiries or consultations (either current or contemplated) specifically relevant to television advertising of food to children?</p> <p>If so, please specify and briefly describe them</p> | <p>There have been a number of proposals in this area:</p> <ol style="list-style-type: none"> 1. Government White Paper <p>In a White Paper published in November 2004 entitled "Choosing Health: Making healthy choices easier", the Government stated that it was committed to securing, by 2007, a comprehensive and effective strategy for action to restrict the advertising and promotion to children of foods and drinks that are high in fat, salt and sugar, covering both broadcast and non-broadcast media, sponsorship, vending machines and packaging. The executive summary of this White Paper can be accessed here.</p> <ol style="list-style-type: none"> 2. Children's Food Bill <p>On 18 May 2004 Sustain, the food and farming alliance created in 1999, launched the Children's Food Bill, a private member's bill sponsored by Mary Creagh MP. The bill aims to improve children's current and future health by introducing a range of regulations which will have a positive effect on children's diets, including measures to improve food quality, the composition of school meals and food education and skills.</p> <p>The Bill also requires the Food Standards Agency (which is an independent Government department set up in 2000 to protect the public's health and consumer interests in relation to food) to specify criteria for unhealthy and healthy food, taking into account nutritional content and the presence of additives and contaminants. Based on these criteria, the Bill will require the marketing to children of unhealthy foods to be prohibited and Government will be required to publish an annual plan to promote healthy foods to children.</p> <p>The bill's second reading in the House of Commons commenced in October 2005, and is due to be resumed on 14 July 2006. The bill can be accessed here</p> <ol style="list-style-type: none"> 3. Ofcom consultation <p>On 28 March 2006, Ofcom launched a consultation on the television advertising of food and drink products to children. This consultation closed on 30 June 2006.</p> |

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| | <p>On 22 February 2007 Ofcom delivered its final statement introducing new scheduling and content rules. These new rules include a blanket prohibition on advertising food and drink products that are high in fat, salt and sugar in or around programs likely to appeal to children under 16. The content, scope and implementation of these rules is discussed in Annexure 12.</p> <p>By way of background, the consultation set out the following three options for new restrictions on television advertising of food and drink products to children:</p> <ul style="list-style-type: none">(a) No adverts for junk food during programmes made for children up to nine years old or programmes of particular appeal to them.(b) No adverts for any food or drink during programmes made for children or programmes of particular appeal to children up to nine years old.(c) No adverts for food or drink in programmes made for pre-school children and new limits on the amount of food and drink adverts when children are likely to be watching. <p>Under all three options, celebrities and characters from films would be banned from appearing on television adverts for food and drink aimed at young children. A system of "nutrient profiling" devised by scientists from the Food Standards Agency would be used to determine which products were junk and which were healthy.</p> <p>The consultation also invited all parties to propose a fourth option as an alternative common position, if one could be identified and agreed.</p> <p>The Food Standards Agency indicated in its draft response that it considers that none of the above proposals would be adequate to tackle child obesity. Instead, the Agency is pressing for a complete ban on all pre-watershed (9pm) junk food commercials.</p> <p>Ofcom's view is that a pre-9pm watershed ban on the television advertising of foods high in fat, sugar and salt would be disproportionate and would cost broadcasters too much money in lost revenue. However, it nonetheless welcomes stakeholder views on this, and the Food Standards Agency is yet to submit its formal response to the consultation. The consultation can be accessed here.</p> |
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| 5. | <p>In particular, has the Government adopted or considered any alternatives to further regulation of television advertising of food to children? (e.g. campaigns or initiatives)</p> <p>If so, please specify and briefly describe them.</p> | <p>In its 2004 "Choosing Health" White Paper (detailed above) the Government indicated its intention to work with industry, advertisers, consumer groups and other stakeholders to encourage new measures to strengthen existing voluntary codes on food and drink promotion to children, including setting up a new food and drink advertising and promotion forum and contributing funding to new health initiatives and positive health campaigns.</p> |
| 6. | <p>Please provide by way of brief summary of the material mentioned above (no more than a page) an overview narrative description of:</p> <ol style="list-style-type: none"> 1. the regime that regulates broadcasting in your jurisdiction, identifying the statutes regulations, codes of practice and guidelines (if any) that make up the system of regulation. (If necessary, please provide this answer in an annexure to this table) 2. the rules that apply to advertising of food to children | <p>The statutory regime</p> <p>The main statutes governing broadcasting in the UK are the Broadcasting Act 1990, the Broadcasting Act 1996 and the Communications Act 2003 (together, the Acts). The Office of Communications (Ofcom) is the regulator for the UK communications industries, with responsibilities across television, radio, telecommunications and wireless communications services.</p> <p>Different regulatory regimes are in place for (1) the British Broadcasting Corporation (BBC) and (2) the commercial television services, which include ITV (which consists of 15 regional services), GMTV, Channel 4, Channel 5, Teletext and local television services on terrestrial television, and a wide range of cable, satellite and digital services.</p> <p>The BBC is a public corporation, funded mainly by the television licence fee. The BBC is constitutionally established by a Royal Charter. An accompanying Agreement recognises its editorial independence and sets out its public obligations in detail. The current Royal Charter and Agreement date from 1996 and run to 31 December 2006. The Agreement gives Ofcom some regulatory functions in respect of the BBC, although the Governors retain some exclusive responsibilities, such as ensuring the editorial independence of the BBC.</p> <p>Ofcom licences and monitors Channel 3, Channel 4, and Channel 5. Channel 4's licence from Ofcom sets out the types of programming that the Channel has to include in its service as, under its public service remit, Channel 4 must provide a broad range of high quality, diverse and distinctive programming which demonstrates innovation and creativity and appeals to the tastes and interests of a culturally diverse society. Although primarily commercial broadcasters, ITV and Channel 5 are also required to include certain types of programming in their services.</p> <p>Codes of Conduct</p> |

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| | <p>Standards and fairness in broadcasting used to be overseen by the Broadcasting Standards Commission, which was the statutory body for both standards and fairness in broadcasting, covering all television and radio, both terrestrial and satellite, including text, cable and digital services. The Commission had three main tasks, as established by the Broadcasting Act, 1996. These were:</p> <ul style="list-style-type: none"> • to produce codes of conduct relating to standards and fairness; • to consider and adjudicate on complaints; • to monitor, research and report on standards and fairness in broadcasting. <p>The Broadcasting Standards Commission ceased to exist on 29 December 2003 and its duties were assumed by Ofcom. The Ofcom broadcasting code can be accessed here.</p> <p>In addition, as set out above, there are codes covering advertising on television and radio. The UK advertising industry is self-regulating: the codes of conduct are drawn up by the Committee of Advertising Practice (CAP) and policed by the Advertising Standards Authority (ASA), which is an independent body set up by the advertising industry itself. It is the responsibility of the broadcasters themselves to ensure the advertising they transmit complies with both the spirit and the letter of the Code.</p> <p>Any individual or company may make a complaint to the ASA, provided it falls within the ASA's remit. There is no fee payable for making a complaint. Simple complaints may be resolved quickly, for example, by having an advertisement changed. More complex complaints, or those involving a serious breach of the code will usually require a formal investigation. Formal investigations are ruled on by the ASA Council and adjudications are published on the ASA website. Once the Council has made a decision, the advertisers must make sure that the ruling has been followed, either by changing the advertisement or withdrawing it. The ASA's compliance team will ensure that Council's rulings are acted on.</p> <p>In addition, advertisers can be referred to the Office of Fair Trading for misleading adverts and impermissible comparisons and broadcasters can be referred to Ofcom for persistently airing ads that breach the Codes.</p> <p>The CAP Television and Radio Advertising Standards</p> |
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| | | <p>codes can be accessed here.</p> <p>The rules that apply to advertising of food to children</p> <p>As stated above, there is no statutory regime specifically regulating the television advertising of food to children. However, any television advertising of food to children must comply with both rules 7 and 8 of the Television Advertising Standards Code, and both advertisers and broadcasters face sanctions if they breach these rules.</p> <p>There have been a number of recent developments in this area: most importantly, Ofcom's new rules on scheduling and content of advertising of food and drink products to children (see Annexure 12)</p> |
| 7. | <p>Is there any official national statistical data on obesity in children kept in your jurisdiction? Are up to date statistics available? If so, at what cost?</p> | <p>In April 2005, the Department of Health published a report on obesity amongst children under 11. According to this report, the percentage of children classed as obese rose from 9.9% in 1995 to 13.7% in 2003. Similarly, the percentage of children classed as overweight rose from 22.7% in 1195 to 27.7% in 2003. The report can be accessed here.</p> |

Annexure 11

Report on the regulation of television food advertising to children – Jurisdiction: United States of America

| | Questions | Response |
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| 1. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that regulate television advertising of food?</p> <p>If so, please provide its (a) name; (b) date of introduction or amendment; (c) legal status (i.e. binding or non-binding); and (d) an internet link to the law or an annexure to this table containing relevant provisions (in English).</p> | <p>(a) Federal Food, Drug, and Cosmetic Act</p> <p>(b) 1938</p> <p>(c) Binding</p> <p>Apart from truth and accuracy requirements, there are no regulations of the advertising industry in general or for food in particular. The advertising industry is self-regulated: The Advertising Industry's Process of Voluntary Self-Regulation.</p> <p>In May 2004, the National Advertising Review Council issued a White Paper entitled Guidance for Food Advertising Self-Regulation</p> |
| 2. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that specifically regulate television advertising of food to children?</p> <p>If so, please provide its (a) name; (b) date of introduction or amendment; (c) legal status (i.e. binding or non-binding); and (d) a copy or internet link if available in English if not please provide a translation of the key provisions.</p> | <p>There is no regulation specific to television advertising of food to children, except for the <i>Self-Regulatory Guidelines for Children's Advertising</i> (see 3 below).</p> <p>However, there are commercial (advertising) time limitations. The Federal Communications Commission's (FCC) Rules limit the amount of commercial matter which may be aired in certain children's television programming to 10.5 minutes per hour on week-ends and 12 minutes per hour on weekdays (Rule 47 CFR 73.670). These requirements apply to television broadcasters and cable operators alike. These limitations are prorated for programs that are shorter than one hour duration. The commercial time limits do not apply to non-commercial educational television stations because these stations are prohibited from airing commercials.</p> |
| 3. | <p>Are there any laws, regulations, codes (including industry codes) or official guidelines that apply generally to the advertising of food or the advertising to children that (although not specifically directed at broadcasting) control what advertisements for food can be broadcast to children?.</p> | <ol style="list-style-type: none"> <li data-bbox="759 1626 1417 1720">1. Self-Regulatory Guidelines for Children's Advertising by Children's Advertising Review Unit (CARU) <li data-bbox="759 1749 1417 1843">2. The Guidelines exist since 1972 when they were published by the Association of National Advertisers. <li data-bbox="759 1872 1417 2040">3. Non-binding. CARU is the children's arm of the advertising industry's self-regulation program. CARU's basic activities are the review and evaluation of child-directed advertising in all media, and online privacy |

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| | | practices as they affect children. When these are found to be misleading, inaccurate, or inconsistent with the Self-Regulatory Guidelines for Children's Advertising, CARU seeks change through the voluntary cooperation of advertisers. |
| 4. | <p>Are there any government/industry proposals, reviews, enquiries or consultations (either current or contemplated) specifically relevant to television advertising of food to children?</p> <p>If so, please specify and briefly describe them</p> | <p>Yes, for advertising of food to children in general, and relevant to television advertising. The Federal Trade Commission (FTC) will submit a report to Congress by July 1, 2006 on "marketing activities and expenditures of the food industry targeted toward children and adolescents." To assist in the preparation of this report, the Commission sought relevant information and empirical data regarding food and beverage industry marketing to children and adolescents. All comments had to be submitted by April 3, 2006. The FTC provided a list of 4 questions, each with 2 to 4 subparts. See the list of the questions.</p> |
| 5. | <p>In particular, has the Government adopted or considered any alternatives to further regulation of television advertising of food to children? (e.g. campaigns or initiatives)</p> <p>If so, please specify and briefly describe them.</p> | <p>In July 2005, the FTC and the Department of Health and Human Services (HHS) held a public workshop to consider what the private sector can and should do to help lower childhood obesity rates. The workshop reviewed current food marketing practices and examined the actions that the food industry and media are taking to create and market healthier foods to children and to encourage positive changes in children's diet and health. It also reviewed current self-regulatory efforts governing food marketing to children. The FTC and the HHS released a Report recommending concrete steps that the industry can take to change its marketing and other practices to make progress against childhood obesity.</p> |
| 6. | <p>Please provide by way of brief summary of the material mentioned above (no more than a page) an overview narrative description of:</p> <p>(a) the regime that regulates broadcasting in your jurisdiction, identifying the statutes regulations, codes of practice and guidelines (if any) that make up the system of regulation. (If necessary, please provide this answer in an annexure to this table)</p> <p>(b) the rules that apply to advertising of food to children</p> | <p>(a) Title 47 Part 73 (Rules) of the Code of Federal Regulation regulates broadcasting. The Rules require commercial television stations to identify a core educational program at the beginning of the program (i.e., with a verbal announcement or an icon) and to provide information identifying these programs to publishers of program guides and TV listings. The rules also require commercial TV stations to complete and file with the Commission quarterly reports regarding their educational programming and to make these reports available to the public. Broadcast licensees must file with the FCC and place in their public inspection files at their stations a quarterly Children's Television Programming Report (FCC Form 398) identifying their core programming and other</p> |

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| | <p>efforts to comply with their educational programming obligations.</p> <p>Commercial television broadcasters are required to place in their local public inspection files certifications that they have complied with the commercial time limits, and must identify any overages. At the time the station files an application to renew its FCC license, it must certify that no commercial overages occurred during the license term, or it must explain any overages.</p> <p>(b) There are no rules regulating advertising of food to children. The advertising industry is self-regulated. The National Advertising Review Council (NARC) is an independent self-regulatory body and was established to provide guidance and set standards of truth and accuracy for national advertisers. The self-regulatory system developed by the NARC supports advertiser compliance by focusing on three goals:</p> <ul style="list-style-type: none"> (i) minimize government involvement in the advertising business; (ii) maintain a level playing field for settling disputes among competing advertisers; and (iii) foster brand loyalty by increasing public trust in the credibility of advertising. <p>NARC establishes the policy and procedure for the National Advertising Division (NAD) of the Council of Better Business Bureaus to review national advertising for truthfulness and accuracy.</p> <p><i>The Self-Regulatory Guidelines for Children's Advertising</i> by CARU apply to advertising addressed to children under twelve years of age in all media, including print, broadcast and cable television, radio, video, point-of-sale and online advertising and packaging. The Guidelines provide 7 principles for advertisers: 1) advertisers should always take into account the level of knowledge, sophistication and maturity of the audience; 2) advertisers should not exploit unfairly the imagination of children; 3) Inappropriate products or content should not be advertised to children; 4) advertising may play an important part in educating children and advertisers should communicate truthful and accurate information understandable to children; 5) advertisers should</p> |
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| | | <p>present positive and beneficial social behavior in advertising; 6) pro-social roles, role models and incorporation of minority groups should be taken into account; and 7) advertisers should contribute to the parent-child relationship in a constructive manner.</p> |
| 7. | <p>Is there any official national statistical data on obesity in children kept in your jurisdiction? Are up to date statistics available? If so, at what cost?</p> | <p>Yes. The Health Data for All Ages (HDAA) from the HHS provides data on health conditions and risk factors including a data on Overweight among Children: US, 1999-2002 compiled by the National Health and Nutrition Examination Survey (NHANES). NHANES is a national survey designed to collect information on the health and nutritional status of the U.S. civilian non-institutionalized population through in-home interviews and physical examinations. The data is available for free. There is also the American Obesity Association (supported by corporate donations and membership dues) which provides some statistical data on obesity in children available at http://www.obesity.org/subs/childhood/prevalence.shtml.</p> |

Annexure 12

New rules relating to television advertising of food and drink products to children in the UK

On 22 February 2007, OfCom published its [final statement](#) introducing new rules relating to the advertising of food and drink products to children (**Statement**). There are new rules relating to scheduling (set out in Annex 3 to the Statement) and new rules relating to content (set out in Annex 4 to the Statement).

The new rules will apply to all channels transmitted by UK broadcasters (whether aimed at UK audiences or outside the UK). In accordance with Ofcom's co-regulation arrangements, the Broadcast Committee of Advertising Practice will have responsibility for interpreting the rules and the Advertising Standards Authority will have responsibility for securing compliance with them.

Summary of amendments

Scheduling rules

In relation to scheduling, there is a total ban at all times of day and night and on all channels on advertising of food and drink products that are high in fat, salt and sugar (**HFSS**) (rated according to the Nutrient Profiling scheme developed by the Food Standards Agency) in or adjacent to all programs that have particular appeal to children under 16. This includes, for example:

- all pre-school children's programs;
- all programming in children's airtime on commercial public service broadcast channels;
- all cable and satellite children's channels;
- youth-oriented programming (such as music programs) and programs intended for adults that attract a significantly higher than average proportion of viewers under the age of 16 (including, for example, some general entertainment programs).

Content rules

In relation to content, there are new restrictions aimed at providing a further level of protection for primary school children. These restrictions prohibit advertisers who promote HFSS food and drink products from:

- showing television advertisements targeted at primary school children that use celebrities or characters licensed from third-parties (such as cartoon characters) that are popular with children;
- using promotional activity, such as free gifts, in television advertisements targeted at primary school children; and
- making nutritional or health claims in television advertisements targeted at primary school children.

The restrictions on product advertising apply equally to product sponsorship.

There is no prohibition on brand advertising by companies whose portfolios include HFSS food or drink products.

Scope and Timing

The new scheduling rules will take effect as follows:

- from 1 April 2007, advertisements for foods that are HFSS will not be permitted in or around programs made for children or in or around programs that are likely to be of particular appeal to children aged 4 to 9 years old;
- from 1 January 2008, advertisements for foods that are HFSS will not be permitted in or around programs made for children or in or around programs that are likely to be of particular appeal to children aged 4 to 15 years old.

Ofcom has announced that broadcasters may be required to satisfy Ofcom that they will have in place satisfactory arrangements for giving effect to these rules for all licensed channels by 1 April 2007.

The advertising restrictions in relation to dedicated children's channels will be phased in over time, with full implementation required by 1 January 2009.

The new content rules will take effect as follows:

- the new rules will come into effect immediately for new advertising campaigns;
- existing advertising campaigns or those in the final stages of creative execution can be broadcast until the end of June 2007. However, from 1 July 2007 all advertising campaigns must comply with the new content rules.

Ofcom intends to review the effectiveness and scope of new restrictions in approximately one year after the full implementation of the new content rules (early 2008).

Nutrient Profiling Scheme

The new rules provide that HFSS products are food and drink products that are assessed as high in fat, salt or sugar in accordance with the [Nutrient Profiling scheme](#) published by the Food Standards Agency on 6 December 2005.

Nutrient profiling model

In accordance with the Nutrient Profiling model, any foods that score four points or more and any drinks that score one point or more are classified as HFSS. Points are allocated on the basis of the nutritional content in 100g of food or 100ml of drink as follows:

- the first step involves working out "A" points, which are points for energy, saturated fat, sugar and sodium content;
- the second step involves working out "C" points, which are points for fruit, vegetable and nut, fibre content and protein content; and
- the final step requires a calculation of "A" and "C" points to determine the overall score for the food and drink product.

Examples of food and drink products that are not HFSS in accordance with the Nutrient Profiling model include: Diet Coke, Tip Top Gold White Bread, Sanitarium Weet-Bix and Baked Beans.

Examples of food and drink products that are HFSS in accordance with the Nutrient Profiling model include: Coke, Kellogg's Nutri-Grain, Capilano Honey, Dairy Farmers Strawberry Yoghurt, Coon Tasty Cheese, Mars Bar and Milo chocolate powder.

As it is difficult to easily determine the fruit, vegetable and nut content of foods and drinks, the Food Standards Agency provides a [guide](#) to assist with quantifying the fruit, vegetable and nut content of a processed product.

Criticisms of model

The Nutrient Profiling model has been subject to some adverse comment in the UK. For example, it was reported in "[Ofcom cooks up TV controls Package](#)" that the Incorporated Society of British Advertisers has called the model "flawed" and has observed that the restrictions will prohibit advertising of cheese and Marmite.

In an article entitled "[Labelling cheese as junk food 'unfair'](#)", it was reported that the dairy industry condemned the new advertising rules, which would officially label cheese as "junk food", as unfair, misleading and counter-productive. The article also reports that the industry points out that, if breast milk were covered by the rules, it would also be classified as "junk food".

Another criticism observed in this article is that the model assesses the fat, sugar and salt content in a 100g or 100ml serving of food or drink, rather than a typical serving of the particular food or drink. This means that some foods, for example, tomato ketchup and marmite and most cheeses, will be classified HFSS even though most people would only eat a small amount with a meal.