



20 February 2018

Advertising Standards Authority Inc
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NEW ZEALAND

Email: hilary@asa.co.nz

Dear Hilary

Attached are the comments that the New Zealand Food & Grocery Council wishes to present on the current review of several advertising codes in order to create a single code, the proposed new *Advertising Standards Code*.

Yours sincerely

Katherine Rich
Chief Executive



*The Advertising Standards Code:
Consultation on replacement proposals*

**Submission by the New Zealand Food & Grocery
Council**

20 February 2018

NEW ZEALAND FOOD & GROCERY COUNCIL

1. The New Zealand Food & Grocery Council (“NZFGC”) welcomes the opportunity to comment on the proposed new *Advertising Standards Code*, and the consultation on replacement proposals.
2. NZFGC represents the major manufacturers and suppliers of food, beverage and grocery products in New Zealand. This sector generates over \$34 billion in the New Zealand domestic retail food, beverage and grocery products market, and over \$31 billion in export revenue from exports to 195 countries – some 72% of total merchandise exports. Food and beverage manufacturing is the largest manufacturing sector in New Zealand, representing 44% of total manufacturing income. Our members directly or indirectly employ more than 400,000 people – one in five of the workforce.

COMMENTS

3. Overall, NZFGC, is generally supportive of the proposed amalgamation of the following Codes that have been operating under the administration and oversight of the Advertising Standards Authority (ASA):
 - Advertising Code of Ethics
 - Code for Comparative Advertising
 - Code for Environmental Claims
 - Code for Advertising of Food
 - Code for People in Advertising
 - Code for Advertising Vehicles.
4. We appreciate that the goal in developing a single code for advertising is to reduce repetition and to have all the rules for responsible advertising in New Zealand within one code. This would mean that most advertisers would only have one code to consult during the preparation and placement of their advertisements.
5. We are supportive of a ‘one-stop-shop’ approach. We see it as efficient, simple and leading to less likelihood of omission and misinterpretation that might otherwise occur where multiple Codes are in place.
6. We have tracked many of the provisions set out for inclusion in the proposed new *Advertising Standards Code* and our comments below refer to these in the order they appear.

Introduction

7. In terms of the Introduction, turning the opening line into a positive statement (replacing ‘deceptive’ with ‘honest’) sets the tone of the new *Advertising Standards Code* whilst maintaining consistency with the existing provisions in the *Advertising Code of Ethics* concerning principles of fair competition and adherence to New Zealand laws.

Application of the Code

8. We support application of the new *Advertising Standards Code* in being ‘platform and technology neutral’. This will future-proof the Code so that it maintains relevance in the face of future technological developments particularly as ‘off-label’ information for consumers increases over time.

Principle 1: Social Responsibility

9. NZFGC recognises that the bulk of the rules in this section are drawn from the existing *Advertising Code of Ethics* and the *Code for People in Advertising* although they include some provisions from the Vehicle and Food Codes. As a result our few comments are:
- a) the Guidance notes for Rule 1(a) on identification state that content ‘must not be disguised as something other than an advertisement’. Adding to this by reinserting the provision that an advertisement should be easily recognisable as such by the public would confirm this provision.
 - b) Rule 1(c) appears to us to be new but we consider it appropriate for an advertiser to have permission from the consumer before engaging in personalised direct advertising communications.
 - c) Rule 1(i) is particularly relevant in the current environment with its focus on healthier consumers.

Principle 2: Truthful Presentation

10. We note that many of the rules in this section are drawn from the *Code of Ethics* and the *Code of Comparative Advertising*.
11. We are concerned, in relation to Rule 2(b) Use of data, that the statement ‘Test results should be current’ is open to narrow interpretation and that while it has featured in the *Code of Comparative Advertising* to date, we wonder about including additional guidance to the effect that time is not the only factor determining currency. We are concerned that where a body of evidence is generally accepted for a particular aspect, even if it is some years old, it remains ‘current’ by virtue of remaining generally accepted.
12. In relation to Rule 2(e) we note and support the guidance around exceptions to permissions for vistas in advertisements and consider that an exception for crowd scenes and property in outdoor scenes appropriate.
13. In relation to Rule 2(f) Food and Beverage Claims, many of the provisions exist now in the *Code of Advertising for Food*. However, the Guidance relating to Infant Formula is not correct and we suggest that the Guidance should more accurately read:
- “The marketing of infant formula and follow-on formula must comply with the *Infant Nutrition Council Code of Practice for the Marketing of Infant Formula* [the Code of Practice] and the *Infant Nutrition Council New Zealand Follow-on Formula Marketing Guidelines* [the Guidelines] respectively.”
- By taking this approach, it avoids re-interpreting any provisions in the Code of Practice or the Guidelines. For example, it is incorrect to say that advertisements for follow-on formula must comply with the Code [of Practice] and the requirements of the Guidelines, since in some areas the Code of Practice and the Guidelines are quite different.