

A Children's Advertising Code: Response to the BCI Consultation Phase 2



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Submission on behalf of **safefood**, the Food Safety Promotion Board

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1. Introduction

safefood, the Food Safety Promotion Board, welcomes the consultation being undertaken by the Broadcasting Commission of Ireland (BCI) regarding the development of a Children's Advertising Code and is grateful for the opportunity to participate and contribute to this process.

Advertising affects our diet and health. Recent research indicates that the diet advertised to children contrasts strongly with the recommended diet (Hastings et al 2003). The majority of food advertisements promotes pre-sugared breakfast cereals, confectionery, savoury snacks, soft drinks, and latterly, fast-food outlets. The recommended diet gets little support.

Globally there is a rapid rise in obesity. In Ireland the levels of overweight and obesity have increased since 1998. The 2003 National Health and Lifestyles Survey (SLÁN 2003) reports that 42% of males and 27% of females in Ireland are overweight while 14% of males and 12% of females are obese. The WHO/FAO report of 2003 concludes that there is convincing evidence that the high intake of energy-dense micronutrient-poor foods promotes weight gain and obesity and that the marketing of these foods 'probably' causes this obesity (WHO/FAO 2003 p. 63). Energy-dense micronutrient-poor foods tend to be processed foods that are high in fat and/or sugar.

In light of this alarming rise in the levels of overweight and obesity and the negative effect of advertising on children's diet it is appropriate and necessary to adopt a precautionary approach in relation to the advertising of food to children.

Fundamental principles to underpin the code

The application of the precautionary approach requires that all developments in respect of the Children's Advertising Code be underpinned by principles that protect the health and well-being of all children. These fundamental principles include:-

1. that advertising should not be used to promote energy-dense micronutrient-poor foods;
2. that the Children's Advertising Code should support advertising that promotes messages related to public good and human well-being that are endorsed by government policies;
3. that there must be restrictions placed on the use of personalities to promote foodstuffs;
4. that the times during which advertising to children is allowed must be regulated;
5. that the amount of advertising to children, by types or category of food advertised, must be regulated;
6. that advertising as a whole and not just individual advertisements must be monitored.

These six principles must govern the development of the Children's Advertising Code. **safefood** therefore urges the BCI to adopt them and assimilate them into the Code.

Furthermore, **safefood** is concerned that the Children’s Advertising Code is governed by the country of origin principle, which restricts the application of the Code. **safefood** wishes to express its full support for the Irish submission in respect of the Television Without Frontiers Directive (TWFD), particularly that relating to the country of origin principle as follows:

Ireland is concerned that its ability to introduce meaningful national measures is being eroded. It is contended that the objective of ensuring the free movement of television broadcasts can be achieved and the impact on smaller Member States lessened, if jurisdiction is determined on the basis of where a broadcast service is targeted rather than where a broadcaster has its headquarters.

safefood fully supports this position and urges the BCI to pursue the implementation of the Irish position.

2. The Questions

In addition to the fundamental principles outlined, **safe food** wishes to respond to the specific questions in the Consultation and these are addressed below.

Q 1 *Social Values*

Should reference be made to social values in the Children’s Advertising Code and, if so, what social values should be included?

safe food welcomes the inclusion of social values in the Children’s Advertising Code. The Advertising Standards Authority of Ireland (ASAI) code should apply.

Q 2 *Inexperience and credulity*

What is considered to be a child’s credulity, that is, their tendency to believe what they see or hear?

The TWFD should be augmented to include the following:

Children should not be made to feel inferior or unpopular for not buying, or not having bought for them, an advertised product.

Q 3 *Avoiding undue pressure*

How much influence does advertising have on children e.g. ‘pester power’, that is, when a child repeatedly asks their parents for a product or service?

In relation to energy-dense micronutrient-poor foods, the wording of the TWFD should be augmented to include the following:

1. That advertisers may not promise rewards to win a new purchaser and that children must not be made to feel inadequate, inferior or disloyal if they or their family do not use a particular product or service.
2. An exemption to this rule should apply to advertisements that promote messages concerned with public good and human well-being that are endorsed by government policies.

Q 4 *Special protection for children in advertising*

The ultimate aim of a Children’s Advertising Code is to offer protection to children, as viewers and listeners. However, are rules necessary in order to give protection to the way children are represented or portrayed in advertising?

safe food believes strongly in offering protection to children as viewers and listeners, and proposes the incorporation of article 16 and article 16(c) of the TWFD reworded as follows:

1. ‘television advertising shall not cause moral or physical HARM to minors’.
2. However, in the case of advertisements that promote messages concerned with public good and

human well-being that are endorsed by government policies, appropriate social marketing techniques should be permitted.

Q 5 Safety/avoidance of harm

The aim is to prevent advertising that would mentally, socially, physically or morally harm a child or young person.

The code should refer to General Safety and Food, Diet and Nutrition because of their impact on general well-being and health. **safe food** agrees with the inclusion of both the TWFD article 16(d) and the Irish statutory code.

1. In order to avoid harm and promote safety, advertising should not be used to promote energy-dense micronutrient-poor foods. The application of the precautionary approach to the advertising of foods to children will require that certain restrictions be imposed i.e. times advertising to children is allowed and the amount of advertising to children, by types or category of food advertised.
2. In the case of advertisements that promote messages concerned with public good and human well-being, appropriate social marketing techniques should be permitted.

Q 6 Parental responsibility

This concerns the balance of responsibility between advertisers and parents/guardians.

It is important that children and parents must not be made to feel inadequate, inferior or disloyal if they or their family do not use a particular product or service.

Q 7 Promotion by programme characters, advertiser generated characters and personal endorsements

1. In line with the precautionary approach proposed, it is recommended that well-known programme characters, puppets, advertiser-generated characters or personal endorsements should not be permitted to promote/endorse foodstuffs that are energy-dense and micronutrient-poor.
2. However, these techniques could be used in advertisements that promote messages concerned with public good and human well-being that are endorsed by government policies.

Q 8 Product prohibitions

There are a number of products that are prohibited from being advertised to children or have restrictions attached to the way they are advertised.

1. Given the ambiguity surrounding the ability of children to comprehend the nature and purpose of advertising (Hastings et al 2003 p34) all energy-dense micronutrient-poor food products should be prohibited from being advertised to children.
2. **safe food** endorses the ban on the advertising of alcoholic drinks, vitamins, minerals and slimming products to children.
3. Within the code, food products bearing unsubstantiated, misleading or meaningless claims, including claims concerning the nutritional value of foods, should not be permitted.

Q 9 **Factual presentation**

This concerns the way in which a product or service is presented to children in an advertisement

1. **safefood** concurs that all elements of the ASAI code should be included in the Children's Code.
2. Within the code, food products bearing unsubstantiated, misleading or meaningless claims, including claims concerning the nutritional value of foods, should not be permitted.

Q 10 **Price and purchase terms/comparison claims**

This addresses the manner in which the price and purchase terms of a product or service are presented in children's advertising. This includes comparison of services/products and substantiation.

1. Unsubstantiated or meaningless claims should not be permitted. Careful attention must be paid to the language used, as claims may constitute *a priori* judgements, which are inappropriate for those who are credulous.
2. **safefood** wishes to express concern at the possible use of advertising which promotes inappropriate portion size through price reductions, e.g. two for the price of one. WHO/FAO have indicated that large portion sizes increase the risk of weight gain and obesity.

Q 11 **Identification and separation of advertising**

The majority of codes include the requirement that advertisements must be clearly distinguishable from other programme content.

1. **safefood** fully endorses the need for advertising to be clearly distinguishable from other programme content.
2. Given the lack of visual prompts in the case of radio broadcasting, there should be a difference between the rules for radio and television.

Insertion and scheduling of advertising

This could deal with when, where and how often the advertisement is placed in the broadcasting schedule.

1. Together with the six principles outlined, **safefood** also holds that there be specific scheduling restrictions in the case of pre-school children (children under the age of 5), given their inability to discriminate between television advertising and programming (Hastings et al 2003, p. 34).
2. **safefood** recommends that the BCI consider that no interruptions for advertising during children's programming should take place.

Q 12 Use of split-screen, virtual and interactive advertising

These are new advertising techniques and there are no current regulations governing them at European level.

With regard to the advertising of foodstuffs, **safefood** proposes that new and emerging advertising techniques should be treated in the same manner as conventional forms of advertising. The use of these technologies as forms of advertising has very significant potential and **safefood** therefore proposes that they be closely monitored, particularly within the context of the review of the code.

Q 13 Assessment

This covers how individual advertisements should be assessed in the light of the existence of a new Children's Advertising Code.

1. As has already been indicated (p. 7), provision should be made in the case of pre-school children in so far as advertising of foodstuffs to this group should not be permitted.
2. **safefood** fully endorses the view that adult members of the public should be easily able to identify what is not children's advertising when programming is scheduled for adult viewing.

Q 14 Administration and implementation of the code

This asks for responses and views as to how the code will be administered, managed and reviewed in the future.

1. The implementation of the proposed code by broadcasters appears to be on a voluntary basis, as it seems that no penalties are applied to any breach of the code. In any such statutory code **safefood** recommends the consideration of penalties as instrument. This is particularly the case given that the rights of children form a central tenet of the code.
2. It is also the case that the proposed monitoring of the code suggests the examination of individual advertisements. In light of the precautionary approach, **safefood** emphasises the need for total monitoring and advocates the application of the code to advertising as a whole and not just to individual advertisements, so that the cumulative nature of the advertising can be assessed.
3. Baseline data needs to be established so as to enable the impact of the code and future developments to be evaluated. In a rapidly developing environment and where advertising has an effect on children, **safefood** proposes that a three-year period is too long an interval between reviews. The code and its implementation should be reviewed on a more frequent and regular basis.

3. Concluding Remarks

With regard to the alarming increase in the levels of overweight and obesity in Ireland, the time is ripe for policy change relating to advertising and children. There is currently a need at government level to lead on the development of standards on children and advertising. A key focus for action needs to be the promotion of healthy lifestyles and well-being. **safefood** urges that all developments in respect of the Children's Advertising Code be underpinned by principles that protect the health and well-being of all children. These fundamental principles include:-

1. that advertising should not be used to promote energy-dense micronutrient-poor foods;
2. that the Children's Advertising Code should support advertising that promotes messages related to public good and human well-being that are endorsed by government policies;
3. that there must be restrictions placed on the use of personalities to promote foodstuffs;
4. that the times during which advertising to children is allowed must be regulated;
5. that the amount of advertising to children, by types or category of food advertised, must be regulated;
6. that advertising as a whole and not just individual advertisements must be monitored.

4. References

Hastings G, Stead M, McDermott L, Forsyth A, MacKintosh A-M, Rayner M, Godfrey C, Caraher M and Angus K (2003) *Review of research on the effects of food promotion to children. Final Report*. Food Standards Agency: London.

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