



ADVERTISING STANDARDS



Advertising Codes of Practice 2014

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FROM THE ASA CHAIRMAN

The Advertising Standards Authority celebrated forty years of effective self-regulation in 2013. Today we represent an alliance of advertisers, their advertising agencies and all media, working collaboratively to support the founding objectives in a self-regulatory model which is recognised as best practice by peers around the world.

Advertising plays an important role in the New Zealand economy. Advertising informs consumers about the range of goods and services which are available in the market place. Without such information it would be difficult to decide what to buy and what is available. Like any industry, advertising needs to work to standards and codes which ensure the rights of consumers are protected. The Advertising Standards Authority is dedicated to ensuring that advertising complies with the law, is truthful, not misleading or deceptive and is socially responsible.

The independent Advertising Standards Complaints Board receives complaints when members of the public consider there has been a breach of the Codes. If the Chair of the Complaints Board (a public member) considers there is a case to answer, comments are sought from all interested parties and the Complaints Board adjudicates on the complaint.

If the complaint is upheld then the advertiser, advertising agency and media are requested to withdraw the offending advertisement immediately. This positive action ensures that the public is protected against any undesirable and unethical practices without the need for an expensive and complex legal process.

Our Chief Executive, Hilary Souter and the ASA team will willingly assist you with any enquiry that you may have. Please do not hesitate to contact them.

Lindsay Mouat
Chairman
Advertising Standards Authority

Contact the ASA:

PO Box 10-675, Wellington 6143.

Telephone (04) 472 7852

Free Phone 0800 AD HELP (0800 234 357) Fax (04) 471 1785

Email asa@asa.co.nz

Website www.asa.co.nz

CONSUMER COMPLAINTS PROCEDURE

1. A complaint is received via the online complaints form (www.asa.co.nz), via email or by mail.
2. In lodging a complaint, the complainant accepts that he/she will not pursue the same matter in any other forum and is required to sign a waiver to that effect.
3. The Chair of the Complaints Board rules whether the complaint is suitable for the Board's consideration and within jurisdiction.
4. If the Chair rules there are no grounds for the complaint to proceed, parties to the complaint will be advised and sent a brief written ruling (the first initial and surname of the complainant is part of the Ruling).
5. If accepted, the complaint (including the name and address) will be sent to the advertiser and if relevant, the agency and the media seeking comment within seven days.
6. Once a complaint is before the Board, it will determine whether the Codes of Practice have been breached and all parties are informed of the outcome. A formal written decision, (including the first initial and surname of the complainant), is sent to all parties.
7. If a complaint is upheld, the advertiser is requested to immediately withdraw the advertisement. ASA media members are also requested not to publish or broadcast an advertisement which has been found in breach. The requests are invariably followed.
8. Decisions of the Complaints Board may be appealed to the Advertising Standards Complaints Appeal Board on certain grounds. The main grounds are new evidence, the rules of natural justice were not followed, and the Decision was against the weight of evidence.
9. All Rulings of the Chair of the Complaints Board may be appealed to the Chairperson of the Appeal Board.
10. Full details on appeals are available from the Assistant Complaints Manager. The request for an appeal shall be made in writing within 14 days of receipt of the Complaints Board's full written Decision.
11. All Rulings and Decisions of the Complaints and Appeal Boards are released to the media via the ASA website in due course.

COMPETITOR COMPLAINTS PROCEDURE

Competitor complaints are dealt with via a user-pays process with adjudication hearings. Costs for a hearing range from \$5,500 to \$10,000 excluding GST.

The competitor complaints process aims to give fast and thorough consideration to conflicts for the benefit of the industry. It should be noted that once both parties agree to the complaint being dealt with using the process, they are required to forego the option of civil action through the courts. If you are seeking damages and/or costs from your competitor, this should be done through the normal court procedures.

▶ HOW TO WRITE AN EFFECTIVE COMPLAINT

Anyone can complain about any advertisement in any media which they consider to be in breach of the Codes. The complaint must be in writing to be considered. Your complaint must include:

Copies of advertisements:

In help ensure fast consideration of your complaints, please assist with the following:

For broadcast media: The date, approximate time and channel/station on which the advertisement was played. It is also preferable that the name of the advertiser is included.

For digital media: The URL or website address and a printout or screenshot of the relevant part of the site, or a copy of the actual advertisement.

For print advertisements: A copy of the advertisement together with the name and date of the publication.

For billboard or outdoor advertisements: A digital image of the billboard if possible. Other useful information includes the name of the billboard company, which is usually visible on the billboard, and its exact geographic location.

Complaint details:

As a complainant, you may wish to visit our website at www.asa.co.nz and look through the Advertising Codes, selecting what you feel is the most appropriate code and rule/s to cover your complaint.

When writing your complaint, please be specific. Examples:

“I find the advertisement offensive because the part where it says, “” demeans all young mothers ” is much more effective than a general statement such as “I did not like this advertisement.”

“I believe that the claim in the advertisement, “....” is misleading because...”

Please include your name in your complaint. However, only your first initial and last name will be used in the Decision or Ruling. We also need a postal address and an email address.

Extra Information

- Fill in the online complaints form at www.asa.co.nz or or email asa@asa.co.nz Post to PO Box 10-675, Wellington 6143 or fax (04) 471 1785.
- You may wish to read some of the Complaints Board’s previous Decisions. These are available on our website, www.asa.co.nz.
- If any assistance is required with any of the above do not hesitate to phone us on 0800 AD HELP (0800 234 357) or (04) 472 7852.
- Once a complaint is accepted, the Complaints Board will ask the advertiser, the advertising agency (if there is one) and the media to respond to the complaint. Responses are required within seven days.

HOW TO RESPOND TO A COMPLAINT

The Complaints Board reviews the information provided by parties and makes a decision on whether or not a complaint is in breach of the Advertising Codes of Practice, and should be upheld or not upheld.

The following guidelines are intended to assist those responding to a complaint.

1. Please read the complaint carefully before responding and address the specific points raised by the complainant/s.
2. If the complainant has challenged a claim made in the advertisement, the onus is on the advertiser to substantiate that claim. In the response, please detail and provide the information backing up the disputed claim. For example, survey results, a media story, independent research. When an advertiser is unable to properly substantiate a claim, the complaint is likely to be upheld.
3. The ASA guidance note on responding to a complaint about misleading claims is on our website, www.asa.co.nz and contains helpful information about different types of claims and the required level of substantiation.
4. If media placement is an issue raised in complaint, it is helpful to receive information about why that media was chosen in relation to the target market.
5. Please refer specifically to the Codes that have been applied to the complaint. These will be outlined in correspondence from the ASA. It may be useful for you to search the Decisions database, which is available on our website. The Decisions database has full copies of all the Decisions made by the Complaints Board for a seven year period and you can search the database by Code and keywords.

Extra Information

- Responses can be emailed to asa@asa.co.nz or posted to PO Box 10-675, Wellington 6143.
- The Complaints Procedure is available on our website under the heading "How to Make a Complaint".
- If any assistance is required with any of the above do not hesitate to phone us on 0800 AD HELP (0800 234 357) or (04) 472 7852.

ADVERTISING STANDARDS AUTHORITY INC (ASA).

The ASA is made up of representatives from:

- Association of New Zealand Advertisers (Inc)
- Communication Agencies Association of New Zealand (Inc)
- Interactive Advertising Bureau of New Zealand
- Letterbox Media
- Magazine Publishers' Association (Inc)
- Newspaper Publishers' Association (Inc)
- New Zealand Community Newspapers
- New Zealand Cinema Advertising
- New Zealand Marketing Association (Inc)
- New Zealand Post Limited
- Outdoor Media Association of New Zealand
- Pay Television Group
- Radio Broadcasters Association (Inc)
- ThinkTV

The three main objectives of the Authority are:

- (a) To seek to maintain at all times and in all media a proper and generally acceptable standard of advertising and to ensure that advertising is not misleading or deceptive, either by statement or by implication.
- (b) To establish and promote an effective system of voluntary self-regulation in respect to advertising standards.
- (c) To establish and fund an Advertising Standards Complaints Board.

To support these objectives the ASA introduces and amends Advertising Codes of Practice. These have been developed for specific categories of advertising where they are considered necessary. Where appropriate, Codes are developed in consultation with industry, consumer groups and relevant government agencies.

ADVERTISING STANDARDS COMPLAINTS BOARD

The Advertising Standards Complaints Board has five public members and four industry members. It considers complaints about advertisements in all media. Its three main functions are:

- (a) To adjudicate on complaints received about advertisements which may be in breach of the Codes of Practice.
- (b) To advise the ASA on interpretation of the Codes and possible improvements to the Codes.
- (c) To report to the ASA on any aspect of advertising which is causing concern.

Current members:

Public Representatives

Jenny Robson (Chair)

Philip Broughton (Deputy Chair)

Jerome Chapman

Prue Kelly

Deborah Read

Raewyn Anderson (Alternate)

Industry Representatives

Grant Maxwell

Rachel Prince

Sharon Daly

Cheryl Kortink

Wendy Schrijvers (Alternate)

Jessica Nikora (Alternate)

Kim Morgan (Alternate)

ADVERTISING STANDARDS COMPLAINTS APPEAL BOARD

The Advertising Standards Complaints Appeal Board adjudicates on appeals from Decisions of the Complaints Board. The main grounds for appeal are new evidence, the rules of natural justice were not followed or the Decision was against the weight of evidence. Full details of the appeal process are available from the Assistant Complaints Manager or on our website, www.asa.co.nz.

There are two public representatives on the Appeal Board and one industry representative.

Current members:

Public Representatives

Judi Jones (Chairperson)

Susan Taylor

Margaret McKee (Alternate)

Industry Representative

Paul Elenio

Nigel Keats (Alternate)

CODES OF PRACTICE

The Codes are developed by the ASA to cover the entire range of advertising activity, and amended whenever there is an issue that requires review or updating.

The Codes include a Code of Ethics, which is the overall philosophy covering fairness, respect for people, and honest practice, plus a number of Codes covering either particular issues (e.g. advertising to children) or product areas (e.g. financial services).

All of the Codes are to be applied taking into account the spirit and intention, as well as the specific requirements. The function of the Codes is to complement, not to replace, the laws of the land.

Interpretation Guidance

The Codes apply to the entire content of an advertisement, including all words and numbers (spoken and written), visual presentations, music and sound effects.

The conformity of any advertisement with the Codes will be judged primarily in terms of its impact upon the type of person who is likely to be exposed to it.

Where there is any doubt, the interpretation shall be adopted that best serves the purpose and intent of any Code. The Code of Ethics will also provide guidance.

The Advertising Standards Complaints Board and the Advertising Standards Complaints Appeal Board are the final arbiters of the interpretation of the Codes.

For the purposes of the Codes:

- The word “advertisement” is to be taken in its broadest sense to embrace any form of advertising and includes advertising which promotes the interest of any person, product or service, imparts information, educates, or advocates an idea, belief, political viewpoint or opportunity. The definition includes advertising in all traditional media and digital media such as online advertising, including websites and social media platforms. Emails and SMS messaging that are selling or promoting a product, service, idea or opportunity are also covered by the Codes, as are neck labels or promotions attached to a product. Other examples include posters, pamphlets and billboards (whether stationary or mobile) and addressed or unaddressed mail.
- The word “product” includes goods, services and facilities whether paid or given free.
- The word “consumer” refers to any person to whom an advertisement is addressed or is likely to be reached by it whether as a final consumer or as a trade customer or user.

Guidance notes to assist with code interpretation are available on the ASA website,

asa@asa.co.nz and include a Guidance Note on Social Media.

Jurisdiction for International Advertisements

Where complaints have been received concerning advertisements placed in publications, programmes or interactive media which originate outside New Zealand and are intended primarily for audiences outside New Zealand, but also reach New Zealand audiences, the ASCB and ASCAB will take into account the following guidelines:

1. Compliance with the advertising rules in the country of origin.
2. The size and composition of the New Zealand audience.
3. Whether the advertising is targeted at New Zealand consumers.
4. The accessibility of the product to New Zealand consumers.
5. Whether best endeavours have been made to exclude advertisements which would clearly breach the Advertising Codes of Practice. This could be particularly relevant in the case of live presentations of overseas events to a substantial number of New Zealanders.

▶ ADVERTISING CODE OF ETHICS

BASIC PRINCIPLES

1. All advertisements must comply with the laws of New Zealand.
2. No advertisement should impair public confidence in advertising.
3. No advertisement should be misleading or deceptive or likely to mislead or deceive the consumer.
4. All advertisements should be prepared with a due sense of social responsibility to consumers and to society.
5. All advertisements should respect the principles of free and fair competition generally accepted in business.

RULES

1. **Identification** - Advertisements should be clearly distinguishable as such, whatever their form and whatever the medium used; when an advertisement appears in a medium which contains news or editorial matter, it must be presented so that it is readily recognised as an advertisement.
2. **Truthful Presentation** - Advertisements should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation, abuses the trust of the consumer or exploits his/her lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading).
3. **Research, Tests and Surveys** - Advertisements should not use tests and surveys, research results or quotations from technical and scientific literature, in a manner which is misleading or deceptive.
4. **Decency** - Advertisements should not contain anything which clearly offends against generally prevailing community standards taking into account the context, medium, audience and product (including services).
5. **Offensiveness** - Advertisements should not contain anything which in the light of generally prevailing community standards is likely to cause serious or widespread offence taking into account the context, medium, audience and product (including services).
6. **Fear** - Advertisements should not exploit the superstitious, nor without justifiable reason, play on fear.
7. **Violence** - Advertisements should not contain anything which lends support to unacceptable violent behaviour.

8. **Denigration** - Advertisements should not denigrate identifiable products or competitors.
9. **Testimonials** - Advertisements should not contain or refer to any personal testimonial unless it is genuine, current, related to the experience of the person giving it and representative of typical and not exceptional cases. The claims in the testimonial should be verifiable.
10. **Privacy** - Unless prior permission has been obtained an advertisement should not portray or refer to any persons, whether in a private or public capacity, or refer to any person's property, in a way likely to convey the impression of a genuine endorsement.
11. **Advocacy Advertising** - Expression of opinion in advocacy advertising is an essential and desirable part of the functioning of a democratic society. Therefore such opinions may be robust. However, opinion should be clearly distinguishable from factual information. The identity of an advertiser in matters of public interest or political issue should be clear.
12. **Safety** - Advertisements should not, unless justifiable on educational or social grounds, contain any visual presentation or any description of dangerous or illegal practices or situations which encourage a disregard for safety.

CODE FOR ADVERTISING AND PROMOTION OF ALCOHOL

INTRODUCTION

All alcohol advertising and promotion shall adhere to the laws of New Zealand and the principles and guidelines set out in this Code. The ASA Code of Ethics and Codes on Comparative Advertising and People in Advertising should also be consulted, where relevant. This Code should also be read with its Guidance Notes – see www.asa.co.nz.

Alcohol is a restricted product in New Zealand. Because of the health and social impacts of the misuse of alcohol, this Code requires specific restraints on advertising and promotion. There are also a number of restrictions in legislation and in industry-supported initiatives. People involved in marketing alcohol should be familiar with the Sale of Liquor Act, the Gambling Act (Sales Promotions Schemes), and the National Protocol on Alcohol Promotions supported by Hospitality New Zealand, the Alcohol Advisory Council, the New Zealand Police and Local Government New Zealand. Attention is also drawn to the Standard Drink Guidelines at <http://www.alac.org.nz/alcohol-you/whats-standard-drink>.

This Code is designed to ensure that alcohol advertising and promotion is consistent with the need for responsibility and moderation in merchandising and consumption, and does not encourage consumption by minors. Particular care is also required in the advertising and promotion of products likely to have strong appeal to young adults over the legal purchase age.

In interpreting the Code, emphasis will be placed on compliance with both the principles and the spirit and intention of the Code. The guidelines are merely examples, by no means exhaustive, of how the principles are to be interpreted and applied. It is possible for advertising or promotions to be in breach of the principle without being in breach of a specific guideline. Upon complaint, the ASCB is vested with discretion to ensure a common-sense outcome and have regard to all relevant matters, including the overall impression conveyed, context and target market and in the case of promotions, their duration, entry mechanism, location, if there is a prize how it is awarded, and application of the ALAC low risk drinking advice. It is important to note that the likely audience (including the media advertisements are broadcast, printed, or displayed in) is a key factor in determining Code compliance.

APPLICATION OF CODE

This Code covers advertising and promotion of all pre-packaged and bulk alcoholic drinks with an alcoholic strength above 1.15% abv, which are advertised and promoted for sale and consumption in New Zealand.

This Code applies to products promoted primarily as alcoholic 'drinks', even if they are classified as foodstuffs rather than drinks for the purposes of licensing or customs and excise legislation, or even if they appear to be gaseous, solid or heavily textured (or can

be made to be, for example by freezing or shaking), rather than liquid.

For the avoidance of doubt, this Code does not apply to bona fide news, reviews, editorial and broadcast entertainment and sports programmes. This Code also does not apply to any advertising materials or activities whose purpose is solely and clearly to educate people about the responsible use and / or misuse of alcohol.

This Code does not apply to activities and promotions (other than advertising) for licensed on-premise (including all on, club and special licences) businesses initiated by those businesses. These activities and promotions are already covered under Hospitality New Zealand's National Protocol on Alcohol Promotions and Section 154A of the Sale of Liquor Act. Promotions that may appear on licensed premises but that are controlled by producers or distributors are covered by this Code.

It is the responsibility of all companies and enterprises connected with the alcoholic drinks industry in New Zealand (whether as producers, importers, wholesalers, distributors or retailers) to comply with this Code. This includes the provision of adequate and appropriate briefings to external agencies from whom the companies/ enterprises may commission design or promotional work. Approval by the Liquor Advertising Pre-vetting System (LAPS) is strongly recommended. See www.anza.co.nz/pre-vetting.

DEFINITIONS

“Alcohol advertising and promotion” means an advertisement, packaging, point of sale or other promotions, activities and materials (including dispenser units) generated by an alcohol producer, distributor or retailer that promotes alcohol by product, brand or outlet. This includes media releases, branded merchandise, competitions, word of mouth marketing, adver gaming, product displays and sampling, but does not include a sponsorship advertisement or an advertisement in which reference to, or the depiction of, alcohol or alcohol packaging or an alcohol outlet is incidental to its purpose. An advertisement including a reference to licensed premises is not automatically an alcohol advertisement - the intent of the advertisement must be to promote the consumption of alcohol.

“Alcohol advertiser” means an advertiser that markets or sells alcohol and uses its name or any identifying feature to promote the sale of alcohol in any way.

“Branded merchandise” means products available in New Zealand bearing liquor or outlet branding which have been produced by, on behalf of, or with the permission of, a liquor producer, distributor or retailer.

“Heroes and/or heroines of the young” means a person or character (and includes groups / teams) whose example is likely to be followed by minors or who has strong appeal to minors (see Guidance Notes, www.asa.co.nz).

“Light (or lite) alcohol” means liquor containing a maximum of 2.5% alcohol by volume.

“**Minors**” are people who are under the age at which they are legally entitled to purchase liquor.

“**Sponsorship**” means any agreement or part of an agreement involving payment or other consideration in lieu of payment by a liquor producer, distributor or retailer to support a sporting or cultural property, event or activity, in return for which the sponsored party agrees to be associated with or promote the sponsor’s drink(s) or outlet. The Code applies to the overall sponsorship agreement, including any material bearing the sponsor’s logo or trademark. It does not apply to any use to which that material might subsequently be put, or to the behaviour or activities of sponsored parties, if that is not required or specifically permitted by the sponsorship agreement.

“**Sponsorship advertisement**” means an advertisement which clearly indicates that the advertiser is sponsoring a person, competition, activity or event. Any advertisement referring to a sponsorship that does not comply with Guidelines 4(a) to 4(e) of Principle 4 is deemed to be an alcohol advertisement.

“**Websites**” means a website, or part of a website, managed by or on behalf of a liquor producer, distributor or retailer for the promotion of their brand(s) or outlets primarily to the New Zealand market. Producers, distributors and retailers are responsible for any part of the website over which they have editorial control.

“**User Generated Content**” means content on websites or emails where the public contributes to the content, such as the YouTube and Facebook websites and viral emails. The Code applies to promotions on such websites and emails where the producer, distributor or retailer provides a platform for, or distributes the user-generated content or endorses the user-generated content.

PRINCIPLE 1

Alcohol advertising and promotions shall observe a high standard of social responsibility.

Guidelines

- 1(a) Alcohol advertising and promotions shall not link alcohol with daring, aggressive, unruly, irresponsible or antisocial behaviour nor suggest any association with, acceptance of, or allusion to, tobacco, illicit drugs or volatile substances such as glue and petrol; explosives and weaponry.
- 1(b) While alcohol advertising and promotions may depict the consumption of alcohol as incidental to a friendly and happy social environment, it shall not promote drinking alcohol as a better or more attractive lifestyle choice nor imply that the success of a social occasion depends on the presence or consumption of alcohol.
- 1(c) Alcohol advertising and promotions shall not suggest that alcohol can lead to sexual, social, sporting or business success or popularity or is necessary to achieve social status with peers.

- 1(d) Alcohol advertising and promotions shall not depict alcohol as a necessity, nor required for relaxation nor suggest it offers any therapeutic benefit.
- 1(e) Alcohol advertising and promotions shall not actively link alcohol with the use of potentially dangerous machinery or driving or any other hazardous or unsafe practices. Alcohol advertising and promotions may include sporting or other physical activities but shall not imply that those activities have been undertaken after the consumption of alcohol.
- 1(f) Where it is necessary to purchase alcohol as a condition of entry, alcohol advertising and promotions shall not offer any potentially hazardous prizes in any competition. Examples include motor vehicles, boats or any other potentially dangerous machinery.
- 1(g) Alcohol advertising and promotions shall not cause widespread or serious offence, taking into account prevailing community standards, context, audience, medium and product.
- 1(h) Alcohol advertising and promotion shall not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive or is likely to deceive or mislead the consumer. Obvious hyperbole, identifiable as such, is not considered to be misleading.

PRINCIPLE 2

Alcohol advertising and promotions shall be consistent with the need for responsibility and moderation in alcohol consumption.

Guidelines

- 2(a) Alcohol advertising and promotions shall not emphasise a product's alcoholic strength, except where the product is a light (or lite) alcohol product but can include factual information about the alcoholic strength.
- 2(b) Alcohol advertising and promotions shall not feature, imply, condone or encourage irresponsible or immoderate drinking. That applies to both the amount of drink and the way drinking is portrayed.
- 2(c) Where the prize in an alcohol promotion is a large quantity of alcohol, it should not be supplied in one delivery and any such prize should be consistent with the Alcohol Advisory Council's standard drink guidelines.

PRINCIPLE 3

Alcohol advertising and promotions shall be directed at adult audiences. Alcohol advertising and promotions shall not be directed at minors nor have strong or evident appeal to minors in particular. This applies to both content and placement.

Guidelines

- 3(a) Alcohol advertising and promotions in non-restricted areas shall not use or refer to identifiable heroes or heroines of the young. See Guidance Notes at www.asa.co.nz.
- 3(b) Alcohol advertising and promotions shall not use designs, motifs, or cartoon characters that have strong or evident appeal to minors or that create confusion with confectionary or soft drinks.
- 3(c) Anyone visually prominent in alcohol advertising and promotions depicting alcohol being consumed shall be, and shall appear to be, at least 25 years of age with their behaviour and appearance clearly appropriate for people of that age or older. Minors may appear in alcohol advertising and promotions only in situations where they would naturally be found, for example at a family barbecue, provided that there is no direct or implied suggestion that they will serve or consume alcohol.
- 3(d) Alcohol Advertisements shall not be shown on television between 6.00 am and 8.30 pm.
- 3(e) Broadcasters shall avoid the impression that alcohol promotion is dominating the viewing or listening period when broadcasting alcohol advertisements, including alcohol sponsorship advertisements taking into account the context of the programme.
- 3(f) Television alcohol advertising shall not exceed six minutes per hour, and there shall be no more than two advertisements for alcohol in a single commercial break.
- 3(g) Alcohol branded merchandise, point of sale materials and other promotions for alcohol must not be available in unrestricted areas at events or activities where more than 25% of the expected audience is minors.
- 3(h) Websites that provide online retail sale of alcohol products shall require purchasers to certify that they are 18 years of age or over.
- 3(i) Websites that primarily promote an alcohol brand and contain games, competitions or other interactive activities shall have an Age Verification Page at entry. Verification shall be by way of input of the visitor's date of birth.

PRINCIPLE 4

Sponsorship advertisements shall clearly and primarily promote the sponsored activity, team or individual. The sponsor, the sponsorship and items incidental to them, may be featured only in a subordinate manner.

Guidelines for sponsorship advertisements

- 4(a) Shall not contain a sales message.
- 4(b) Shall not show a product or product packaging.

- 4(c) Shall not imitate or use any parts of product advertisements from any media.
- 4(d) Shall not portray consumption of alcohol.
- 4(e) Shall only briefly and in a subordinate way mention or portray the sponsor's name and/or brand name and/or logo orally and/or visually.
- 4(f) May be broadcast at any time except during programmes intended particularly for minors.

Guidelines for sponsorship

- 4(g) Alcohol producers, distributors or retailers should not engage in sponsorship where those under 18 years of age are likely to comprise more than 25% of the participants, or spectators.
- 4(h) Sponsors shall not require or permit sponsored parties to feature alcohol branding on children's size replica sports kit or on any promotional material distributed to minors.

CHILDREN'S CODE FOR ADVERTISING FOOD

INTRODUCTION

All advertisements for food and beverages ("food") that influence children, whether contained in children's media or otherwise, shall adhere to the Principles and Guidelines set out in this Code.

The Code recognises that children are not a homogeneous group but have varying levels of maturity and understanding. Care should be taken to ensure that the product and style of advertisement is appropriate for the intended audience.

The Code recognises the need to extend a duty of care to protect children pursuant to the United Nation's Convention on the Rights of the Child ("Convention"). Special notice is to be taken of Article 3 of the Convention, which states, "the best interests of the child shall be a primary consideration". Article 13 recognises the child's right to freedom of expression. "This right shall include the freedom to seek, receive and impart information and ideas of all kinds." Children therefore have the right to receive all kinds of information, including advertisements. However, Article 17(e) calls for "appropriate guidelines for the protection of the child from information and material injurious to his or her well-being." This Code provides the "appropriate guidelines" for food advertisements that influence children.

It is noted that the Convention defines the age of a child as under 18. This Code defines the age of a child as under 14 in line with the Children, Young Persons and their Families Act 1989 and aligns with the Broadcasting Standards Authority definition of a child. The Code for Advertising Food specifically makes reference to young people aged 14 – 17 years.

Food advertisements should not undermine the food and nutrition policies of Government, the Ministry of Health Food and Nutrition Guidelines nor the health and well-being of children. Advertisements for nutritious foods important for a healthy diet are encouraged to help increase the consumption of such foods. However, advertisements should not encourage over-consumption of any food.

In interpreting the Code emphasis will be placed on compliance with both the principles and the spirit and intention of the Code. The guidelines are examples, by no means exhaustive, of how the principles are to be interpreted and applied. Upon considering a complaint, the ASCB is vested with discretion to ensure a commonsense outcome.

Advertisements should comply with the laws of New Zealand and appropriate industry codes including the New Zealand Television Broadcasters Code "Getting It Right for Children" available on www.nztbc.co.nz. Attention is also drawn to the "CF" rating system applied by the Commercial Approvals Bureau to all food advertising that is to be screened during children's television programming times.

For the purposes of this Code:

“Children” means all persons below the age of 14.

“Food and Nutrition Guidelines” are the current version of the Food and Nutrition Guidelines for Healthy Children (aged 2-12 years): A background paper, published by the Ministry of Health.

“Social Responsibility” is embodied in the principles and guidelines of the Code and is integral to the consideration of the Advertising Standards Complaints Board. Previous decisions of the Complaints Board also guide its determinations, as do generally prevailing community standards.

“Treat food” is food high in fat, salt, or sugar intended for occasional consumption. Food high in fat, salt, or sugar is also known as energy dense and nutrient poor food (refer to Ministry of Health’s “Food and Nutrition Guidelines for Healthy Children (aged 2-12 years): A background paper.”

PRINCIPLE 1

All advertisements should be prepared with and observe a high standard of social responsibility to consumers and to society.

Guidelines

- 1(a) Advertisements should not undermine the role of parents in educating children to have a balanced diet and be healthy individuals.
- 1(b) Children should not be urged in advertisements to ask their parents, guardians or caregivers to buy particular products for them.
- 1(c) Advertisements for treat food, snacks or fast food should not encourage children to consume them in excess.
- 1(d) Advertisements for treat food, snacks or fast food should not encourage children to consume them in substitution for a main meal on a regular basis, nor should they undermine the Food and Nutrition Guidelines for Healthy Children.
- 1(e) Advertisements for food should not portray products as complete meals unless they are formulated as such.
- 1(f) The quantity of the food depicted in the advertisement should not exceed serving sizes that would be appropriate for consumption by a person or persons of the age depicted.
- 1(g) Benefits of foods for a nutritious diet should not be exaggerated and should not imply that a single food should replace a healthy diet nor undermine the importance of consuming a variety of foods.
- 1(h) Nutrient, nutrition and health claims (when permitted) should comply with the requirements of the Food Standards Code*. Such claims should not mislead or deceive the consumer.

- 1(i) Advertisements should not promote inactive or unhealthy lifestyles nor should they show people who choose a healthy active lifestyle in a negative manner.
- 1(j) Advertisements for slimming products or foods sold as an aid to slimming should not be directed at children.

*Note: The regulation of nutrition, health and related claims is currently under review. Please refer to the Food Standards Australia New Zealand (FSANZ) website www.foodstandards.govt.nz for details. The Food Standards Code is available on the FSANZ website.

PRINCIPLE 2

Advertisements should not by implication, omission, ambiguity or exaggerated claim mislead or deceive or be likely to mislead or deceive children, abuse their trust or exploit their lack of knowledge or without reason play on fear.

Guidelines

- 2(a) Advertisements should be clearly recognisable as such by children and separated from editorial, programmes or other non-advertising content.
- 2(b) Advertisements should take into account the level of knowledge, sophistication and maturity of the intended audience.
- 2(c) Care should be taken to ensure advertisements do not mislead as to the nutritive value of any food. 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.
- 2(d) Food advertisements containing obvious hyperbole, identifiable as such by the intended audience, are not considered misleading.
- 2(e) Advertisements should not claim or imply endorsement by any government agency, professional body or independent agency unless there is prior consent, the claim and the endorsement are verifiable and current and the agency or body named. An endorser represented as an expert should have qualifications appropriate to the expertise depicted.
- 2(f) Care should be taken with advertisements promoting a competition, premium or loyalty/continuity programme to ensure that advertisements do not encourage frequent repeat purchases of foods high in fat, salt and sugar.
- 2(g) Advertisements for foods high in sugar should not claim to be “low fat” or “fat free” which could mislead the consumer to believe the food is low in energy or beneficial to health.
- 2(h) Advertisements for food high in fat should not claim to be “low in sugar” or “sugar-free” which could mislead the consumer to believe the food is low in energy or beneficial to health.

Principle 3

Persons or characters well-known to children shall not be used in advertisements to promote food in such a way so as to undermine a healthy diet as defined by the Food and Nutrition Guidelines for Healthy Children.

- 3(a) Persons or characters well-known to children may present factual and relevant statements about nutrition and health.
- 3(b) Persons or characters well-known to children should not be used to endorse food high in fat, salt and /or sugar.

CODE FOR ADVERTISING TO CHILDREN

INTRODUCTION

All advertisements in all forms of media that influence children whether contained in children's media or otherwise shall adhere to the principles and guidelines set out in this Code. Food and beverage advertisements that influence children are subject to the Children's Code for Advertising Food. Reference should be made to the Interpretation section of the Codes of Practice.

The Code recognises that children are not a homogeneous group but have varying levels of maturity and understanding. Care should be taken to ensure that the product and style of advertisement are appropriate for the intended audience.

The Code recognises the need to extend a duty of care to protect children pursuant to the United Nation's Convention on the Rights of the Child ("Convention"). Special notice is to be taken of Article 3 of the Convention, which states, "the best interests of the child shall be a primary consideration". Article 13 recognises the child's right to freedom of expression. "This right shall include the freedom to seek, receive and impart information and ideas of all kinds." Children therefore have the right to receive all kinds of information, including advertisements. However, Article 17(e) calls for "appropriate guidelines for the protection of the child from information and material injurious to his or her well-being." This Code provides the "appropriate guidelines" for advertisements that influence children.

It is noted that the Convention defines the age of a child as under 18 years. This Code defines the age of a child as under 14 years in line with the Children, Young Persons and their Families Act 1989 and aligns with the Broadcasting Standards Authority definition of a child.

In interpreting the Code emphasis will be placed on compliance with both the principles and the spirit and intention of the Code. The guidelines are examples, by no means exhaustive, of how the principles are to be interpreted and applied. Upon considering a complaint, the ASCB is vested with discretion to ensure a commonsense outcome.

Advertisements should comply with the laws of New Zealand and appropriate industry codes including the New Zealand Television Broadcasters code "Getting It Right for Children" available on www.nzdbc.co.nz.

For the purposes of this Code:

"Children" means all persons below the age of 14 years.

"Social Responsibility" is embodied in the principles and guidelines of the Code and is integral to the consideration of the Advertising Standards Complaints Board. Previous decisions of the Complaints Board also guide its determinations, as do generally prevailing community standards.

PRINCIPLE 1

Advertisements should be prepared with and observe a high standard of social responsibility.

Guidelines

- 1(a) Children should not be urged in advertisements to ask their parents, guardians or caregivers to buy particular products for them.
- 1(b) Advertisements should not portray violence, undue aggression, or menacing or horrific elements likely to disturb children.
- 1(c) Advertisements should not encourage anti-social behaviour or depict children behaving in an anti-social manner, eg. vindictiveness and bullying, unless the purpose of the advertisement is to discourage such behaviour.
- 1(d) Advertisements should not suggest to children that they are inferior or will lack social acceptance for not having the advertised product.
- 1(e) Advertisements, except safety messages, should not contain any statement or visual presentation that could have the effect of portraying children in unsafe acts, showing them in unsafe situations, encouraging them to consort with strangers, or behaving in an unsafe way.
- 1(f) Advertisements, except safety messages, should not show products being used in an unsafe or dangerous manner, or which would be unsafe if used by children without proper supervision.
- 1(g) Advertisements should not depict toy weapons which are realistic (in size, shape and colour) and can be confused with real weapons.
- 1(h) Advertisements should not include sexual imagery and should not state or imply that children are sexual beings and /or that ownership or enjoyment of a product will enhance their sexuality.
- 1(i) Advertisements should not include images that are degrading to any individual or group.
- 1(j) Advertisements to children should not promote gambling or gaming. However, the responsible use of sales promotions schemes to children is permitted. (Refer to the Code for Advertising Gaming and Gambling)

PRINCIPLE 2

Advertisements should not by implication, omission, ambiguity or exaggerated claim mislead or deceive or be likely to mislead or deceive children, abuse their trust or exploit their lack of knowledge or without reason play on fear.

Guidelines

- 2(a) Advertisements should be clearly recognisable as such by children and separated from editorial, programmes or other non-advertising content.
- 2(b) Advertisements should be understood by children to whom they are directed,

not be ambiguous, and not mislead as to the true size, value, nature of the advertised product.

- 2(c) If extra items are needed to use the product (eg. batteries) to produce the result shown or described (eg. paint, dolls clothes) this should be made clear. A product that is part of a series should be clearly indicated as such as well as the method of acquiring the series.
- 2(d) In the case of a product that must be assembled, this should be made clear, and where appropriate, the source of power and performance should be indicated.
- 2(e) If price is mentioned, the complete price of the product should be made clear, and advertisements should clearly indicate the cost of those items that constitute the original purchase and additional items that must be purchased separately.
- 2(f) Where reference is made to a competition the rules should be made clear and the value of prizes and the chances of winning should not be exaggerated.
- 2(g) Any reference to a premium (eg. an additional product or service offered free, at a reduced price or as a prize) should be clearly displayed and conditions relating to it should be clearly represented.
- 2(h) Advertisements soliciting responses incurring a charge should state, "Children ask your parents first" or similar words.
- 2(i) Extreme care should be taken in requesting or recording the names, addresses and other personal details of children to ensure children's privacy rights are fully protected and the information is not used in an inappropriate manner.*
- 2(j) Care should be taken with advertisements promoting a competition, premium or loyalty/continuity programme to ensure that advertisements do not encourage excessive repeat purchase.

***Note: Notice should also be taken of Principle 3 of the Privacy Act 1993.**

CODE FOR COMPARATIVE ADVERTISING

INTRODUCTION

All advertising shall adhere to the laws of New Zealand and the principles and guidelines set out in this Code. This Code should be read in conjunction with the Code of Ethics, Basic Principles 1-5 and in particular Rules 2, 3 and 8.

Comparative advertising, or advertising that identifies a competing product or service (directly or by implication) should comply in three distinct areas:

It should be accurate and informative;

It should explicitly or by implication make clear the nature of the comparison; and
It should not mislead or deceive the consumer, including about other products or services with which comparisons might be made.

It should be noted that it is not required to name a specific competitor in order for an advertisement to be considered under this Code. A comparison could be made with all competition within an industry. It should also be noted that the Trademarks Act provides for the honest use of competitor trademarks in advertising. Please also refer to the Commerce Commission Fact Sheets on comparative advertising and pricing under the Fair Trading Act, see www.comcom.govt.nz/fair-trading-act-fact-sheets/.

In interpreting the Code emphasis will be placed on compliance with both the principles and the spirit and intention of the Code. The guidelines are merely examples, by no means exhaustive, of how the principles are to be interpreted and applied. It is also possible for an advertisement to be in breach of the principle without being in breach of a specific guideline. Upon complaint, the ASCB is vested with discretion to ensure a common-sense outcome. It is important to note that in considering a complaint both the likely audience and media placement, that is when and where the advertisement is broadcast, printed, or displayed, are key factors in determining Code compliance. Please note there may also be guidance notes to assist with Code interpretation for this code, see www.asa.co.nz.

PRINCIPLE 1

Comparisons in advertisements should not mislead or deceive or be likely to mislead or deceive consumers. (Obvious hyperbole, identifiable as such, is not considered to be misleading)

Guidelines

1(a) Comparative elements should be accurate and informative and should offer a product or service on its positive merits.

1(b) Where an advertisement makes a comparison, whether explicitly or implicitly, it should be clear with what the comparison is being made, i.e. price to price, dimension to dimension, feature to feature.

- 1(c) Price comparisons should not mislead by falsely claiming a price advantage.
- 1(d) Where appropriate, comparative advertising claims should be supported by documentary evidence which is easily understood by the target audience at which it is directed.
- 1(e) If the advertisement refers to a comparative test, such a test should have been conducted or verified by an independent and objective body, using industry-accepted methodology so there will be no doubt as to the veracity of the test. In all cases the results of the test must be current and supportive of all claims in the advertising that are based on the test. Partial results or insignificant differences should not be used.

PRINCIPLE 2

Advertisements that make comparative claims should fairly and properly identify the competitors and not denigrate them or identifiable products.

Guidelines

- 2(a) Trade marks or registered brands or makes can be used for honest comparison but cannot be used to upgrade by association or for passing off purposes, or to mislead or otherwise take unfair advantage of the goodwill associated with the trade name, symbol or brand.
- 2(b) Advertisements should not be so similar to a competitor's advertisements in general layout, copy, slogans, visual presentation, music, or sound effects as to be likely to mislead or deceive consumers.
- 2(c) The intent and connotation of advertisements should be to inform and not to denigrate competitors, or competing products or services.

CODE FOR ENVIRONMENTAL CLAIMS

INTRODUCTION

The object of this Code is to ensure that advertisers and marketers develop and maintain rigorous standards when making environmental claims in advertising and to increase consumer confidence to the benefit of the environment, consumers and industry.

Providing clear, straightforward, environmental information has benefits for consumers and business alike. Information about the environmental impacts and qualities of products and services and environmental claims (sometimes called 'green' claims) can help consumers make informed buying choices.

All advertising shall adhere to the laws of New Zealand and the principles and guidelines set out in this Code. The ASA Code of Ethics and the Code for Comparative Advertising should also be consulted, where relevant.

Advertisers should also be aware of the relevant Fact Sheets published by the Commerce Commission including Guidelines for Green Marketing, December 2008, Guidelines for Carbon Claims, July 2009 and Environmental Claims, August 2010 – see <http://www.comcom.govt.nz/environmental-claims/>.

This Code covers all words and visual depictions in all advertising containing environmental claims and includes packaging shown in advertisements.

In interpreting the Code emphasis will be placed on compliance with both the principles and the spirit and intention of the Code. The guidelines are merely examples, by no means exhaustive, of how the principles are to be interpreted and applied. It is also possible for an advertisement to be in breach of the principle without being in breach of a specific guideline. Upon complaint, the ASCB is vested with discretion to ensure a common-sense outcome. It is important to note that in considering a complaint both the likely audience and media placement, that is when and where the advertisement is broadcast, printed, or displayed, are key factors in determining Code compliance. Please note there may also be guidance notes to assist with interpretation for this Code, see www.asa.co.nz.

Definitions

“Environment” includes ecosystems and their constituent parts, including people and communities; natural and physical resources; and the qualities and characteristics or locations, places and areas.

“Environmental claim” means any statement, symbol or graphic that indicates an environmental aspect of a service, product, component or packaging and includes references to sustainability, recycling, carbon neutrality, energy efficiency, use of natural products or impact on animals and the natural environment.

“Environmental impact” means any change to the environment, whether adverse or beneficial, wholly or partially resulting from an organisation’s activities or products.

“**Life cycle**” means consecutive and interlinked stages of a product from raw material acquisition or generation of natural resources to final disposal or use, and recycling.

PRINCIPLE 1

Advertisements making an environmental claim should be prepared with a due sense of social responsibility to consumers and to society.

Guidelines

- 1(a) Absolute environmental claims shall be assessed on the complete life-cycle of the product and its packaging, taking into account any effects on the environment of its manufacture, distribution, use, disposal, etc. Examples include: environmentally friendly / safe / kind.
- 1(b) Qualified claims such as “environmentally friendlier/safer/kinder” require an ability to prove a meaningful environmental advantage over competitors or a meaningful improvement on a previous formulation, components, packaging, method of manufacture or operation.
- 1(c) Environmental claims shall be relevant, specific and clearly explain the significance of the claim in language readily understood by consumers.
- 1(d) Environmental claims shall only be made where there is a genuine benefit, not where they are simply promoting the observance of existing law.
- 1(e) Environmental claims shall not overstate the level of scientific acceptance.

PRINCIPLE 2

Advertisements making environmental claims should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive or is likely to deceive or mislead the consumer. (Obvious hyperbole, identifiable as such, is not considered to be misleading)

Guidelines

- 2(a) Environmental claims shall be accurate and able to be substantiated by evidence that is current and reflects legislative, scientific and technological developments.
- 2(b) Environmental claims shall be consistent with information on the label or packaging.
- 2(c) Advertisements shall not claim or imply endorsement by any government agency, professional body or independent agency unless there is prior consent and the claim and endorsement are current and verifiable.

- 2(d) Environmental signs and symbols shall not be used in such a way as to falsely suggest official approval or third party endorsement.
- 2(e) Environmental claims shall meet relevant local or international standards as appropriate if a particular benefit is claimed (eg “biodegradable”, “organic” etc), and explain clearly the nature of the benefit.
- 2(f) Environmental claims based on the absence of a harmful chemical or damaging effect are not acceptable if no other products in the category include the chemical or cause the effect.
- 2(g) Scientific terminology, technical language and statistics are acceptable provided they are relevant and used in a way readily understood by consumers without specialist knowledge. Publication of research results must identify the researcher and source references.
- 2(h) Statements about aspirations of future environmental performance shall be clear and able to be substantiated.

▶ CODE FOR FINANCIAL ADVERTISING

INTRODUCTION

The object of this code is to ensure that advertisers maintain rigorous standards in financial advertising.

All advertising shall adhere to the laws of New Zealand and the Principles and Guidelines set out in this Code. The ASA Code of Ethics and the Code for Comparative Advertising should also be consulted, if appropriate, along with any relevant legislation. Advertisers should also be aware of requirements of their professional codes of conduct in relation to advertising. Relevant websites include www.fma.govt.nz, www.comcom.govt.nz and www.sorted.org.nz.

This Code covers all words and visual depictions in all advertising for the lending, saving or investment of money, for guarantees, financial instruments and the purchase or sale of securities.

In interpreting the code emphasis will be placed on compliance with both the principles and the spirit and intention of the code. The guidelines are merely examples, by no means exhaustive, of how the principles are to be interpreted and applied. It is also possible for an advertisement to be in breach of the principle without being in breach of a specific guideline. Upon complaint, the ASCB is vested with discretion to ensure a common-sense outcome. It is important to note that in considering a complaint both the likely audience and media placement, that is when and where the advertisement is broadcast, printed, or displayed, are key factors in determining code compliance. Please note there may also be guidance notes to assist with interpretation for this Code, see www.asa.co.nz.

For the avoidance of doubt, where relevant legislation that affects this Code has been updated and if a conflict occurs in relation to legislative and Code requirements, legislative requirements will prevail.

Definition:

'Financial advertisements' are advertisements for the lending, saving or investment of money, financial instruments, financial transactions, offers of securities and include category 1 and category 2 products as defined in the Financial Advisers Act 2008. Advertisements for the provision of advice or services in respect of financial products, investments or securities are also deemed to be financial advertisements for the purposes of this Code.

PRINCIPLE 1

Financial advertisements should observe a high standard of social responsibility particularly as consumers often rely on such products and services for their financial security.

Guidelines

- 1(a) Advertisements shall be set out in a way that allows them to be readily understood by the audience being addressed. All relevant information should be disclosed.
- 1(b) Advertisements shall not portray unrealistic or exaggerated financial expectations or outcomes.
- 1(c) Advertisements shall not state or imply that investments are safe or free from risk.
- 1(d) If examples of past performance are used, financial advertisements should make clear this does not necessarily give a guide for the future. Examples used should not be unrepresentative unless clearly identified as such.

PRINCIPLE 2

Advertisements should strictly observe the basic tenets of truth and clarity. Advertisements should not or should not be likely to mislead, deceive or confuse consumers, abuse their trust, exploit their lack of knowledge or without justifiable reason, play on fear. This includes by implication, omission, ambiguity, exaggerated claim or hyperbole.

Guidelines

- 2(a) Advertisements shall be accurate and statements and claims able to be substantiated.
- 2(b) Key information shall be legible and / or audible with care taken to ensure disclosure commensurate with the importance of the information.
- 2(c) Advertisements shall not claim or imply endorsement by any government agency, professional body or independent agency unless there is prior consent and the claim and endorsement are current and verifiable.
- 2(d) Technical language and statistics are acceptable provided they are relevant and used in a way readily understood by consumers without specialist knowledge. Publication of research results must identify the researcher and source references.

CODE FOR ADVERTISING FOOD

INTRODUCTION

The purpose of the Code is to ensure that advertising of food will be conducted in a manner that is socially responsible and does not mislead or deceive the consumer.

Advertisements for food and beverages consumed by humans (“food”) shall adhere to the Principles and Guidelines set out in this Code. The Code for Advertising Food applies to food advertising to persons 14 years and over. However, Advertisers are also required to exercise a particular duty of care for food advertisements directed at young people aged 14 to 17 years.

Food advertisements that influence children are subject to the Children’s Code for Advertising Food. Children are defined in the ASA Codes as persons below the age of 14 years.

Advertisements should not undermine the food and nutrition policies of Government, the Ministry of Health ‘Food and Nutrition Guidelines’ nor the health and well-being of individuals. Advertisements for nutritious foods important for a healthy diet are encouraged to help increase the consumption of such foods. However, no advertisement should encourage over-consumption of any food.

In interpreting the code emphasis will be placed on compliance with both the principles and the spirit and intention of the code. The guidelines are examples, by no means exhaustive of how the principles are to be interpreted and applied. Upon considering a complaint, the ASCB is vested with discretion to ensure a commonsense outcome.

Advertisements should comply with the laws of New Zealand and appropriate industry codes.

For the purposes of this Code:

“Appropriate industry codes” includes the Infant Nutrition Council “Code of Practice for the Marketing of Infant Formula” and any other industry code recognised by the ASA.

“Food and Nutrition Guidelines” are a series of nutrition policy papers aimed at specific population groups published by the Ministry of Health.

“Social Responsibility” is embodied in the principles and guidelines of the Code and is integral to the consideration of the Advertising Standards Complaints Board. Previous decisions of the Complaints Board also guide its determinations, as do generally prevailing community standards.

PRINCIPLE 1

All food advertisements should be prepared with a due sense of social responsibility to consumers and to society. However food advertisements containing nutrient, nutrition or health claims*, should observe a high standard of social responsibility.

Guidelines

- 1(a) Nutrient, nutrition and health claims (when permitted) should comply with the requirements of the Food Standards Code*. Such claims should not mislead or deceive the consumer.
- 1(b) Advertisements for food should not portray products as complete meals unless they are formulated as such.
- 1(c) The quantity of the food depicted in the advertisement should not exceed serving sizes that would be appropriate for consumption by a person or persons of the age depicted.
- 1(d) Advertisements should not encourage excessive consumption or depict inappropriately large portions of any particular food.
- 1(e) Benefits of foods for a nutritious diet should not be exaggerated and should not imply that a single food should replace a healthy diet or undermine the importance of consuming a variety of foods.
- 1(f) Advertisements should not promote inactive or unhealthy lifestyles nor should they show people who choose a healthy active lifestyle in a negative manner.

***Note:** The regulation of nutrition, health and related claims is currently under review. Please refer to the Food Standards Australia New Zealand (FSANZ) website www.foodstandards.govt.nz for details. The Food Standards Code is available on the FSANZ website.

PRINCIPLE 2

Advertisements should not by implication, omission, ambiguity or exaggerated claim mislead or deceive or be likely to mislead or deceive consumers, abuse the trust of or exploit the lack of knowledge of consumers, exploit the superstitious or without justifiable reason play on fear.

Guidelines

- 2(a) All nutrient, nutritional and health claims should be factual, not misleading, and able to be substantiated. Claims should comply with the Food Standards Code*.
- 2(b) Care should be taken to ensure advertisements do not mislead as to the nutritive value of any food. Foods high in sugar, fat and/or salt should not be portrayed in any way that suggests they are beneficial to health.
- 2(c) Food advertisements containing obvious hyperbole, identifiable as such by the intended audience are not considered misleading.

- 2(d) Claims in an advertisement should not be inconsistent with information on the label or packaging of the food.
- 2(e) Advertisements should not claim or imply endorsement by any government agency, professional body or independent agency unless there is prior consent, the claim and the endorsement are verifiable, current and the agency or body named. An endorser represented as an expert should have qualifications appropriate to the expertise depicted.
- 2(f) Care should be taken with advertisements promoting a competition, premium or loyalty/continuity programme to ensure that advertisements do not encourage excessive repeat purchases of foods high in fat, salt and sugar.
- 2(g) Advertisements for foods high in sugar should not claim to be “low fat” or “fat free” which could mislead the consumer to believe the food is low in energy or beneficial to health.
- 2(h) Advertisements for food high in fat should not claim to be “low in sugar” or “sugar-free” which could mislead the consumer to believe the food is low in energy or beneficial to health.

***Note:** The regulation of nutrition, health and related claims is currently under review. Please refer to the Food Standards Australia New Zealand (FSANZ) website www.foodstandards.govt.nz for details. The Food Standards Code is available on the FSANZ website.

▶ CODE FOR ADVERTISING GAMING AND GAMBLING

All advertisements for gambling and gaming (herein called gaming) shall adhere to the Principles and Guidelines set out in this Code. The Code is designed to ensure that advertising of gaming will be conducted in a manner that is socially responsible and does not mislead or deceive the consumer.

In interpreting the Code, emphasis will be placed on the Principles and the spirit and intention of the Code. An advertisement which does not adhere to the letter of a particular guideline nevertheless may or may not be in breach of the Code, depending on its compliance with the Principles and respect of the spirit and intention of the Code.

DEFINITIONS

“**Minors**” means people under the age at which they are legally entitled to participate in the particular gaming activity advertised.

PRINCIPLE 1

Advertisements should comply with the laws of New Zealand.

Guidelines

- 1(a) Advertisements should comply with the restriction on the sale of various gaming products and particularly age restrictions. The laws of New Zealand have various age restrictions for different gambling activities. Attention is drawn to the Racing Act 2003 and the Gambling Act 2003.

PRINCIPLE 2

Advertisements should observe a high standard of social responsibility.

Guidelines

- 2(a) Advertisements should not be directed at minors, have strong or evident appeal to minors, nor portray minors participating in activities in which they are under the legal age. Minors may appear in situations in which they would be naturally found (e.g. a family meal), provided there is no direct or implied suggestion that they will participate in the gaming.
- 2(b) Advertisements should not promote reliance on gaming as a means of relieving a person's financial or personal difficulties.
- 2(c) Advertisements should not encourage consumers to participate excessively or beyond their means.
- 2(d) Advertisements should not state or imply a promise of winning nor portray unrealistic outcomes.
- 2(e) Advertisements should not exaggerate the connection between the gaming activity and the use to which the profits may be put.

PRINCIPLE 3

Advertisements should not by implication, omission, ambiguity or exaggerated claim mislead or deceive or be likely to mislead or deceive consumers, abuse the trust of or exploit the lack of knowledge of consumers, exploit the superstitious or without justifiable reason play on fear.

Guidelines

- 3(a) Winning claims should be factual and able to be proven. The chances of winning or the size of the prize should not be exaggerated.
- 3(b) Advertisements should not state or imply that a player's skill can influence the outcome of a game unless the skill can affect the outcome of the game.

CODE FOR PEOPLE IN ADVERTISING

BASIC PRINCIPLES

1. Advertisements should comply with the laws of New Zealand. Attention is drawn to the Human Rights Act 1993 and the New Zealand Bill of Rights Act 1990.
2. Advertisements should not portray people in a manner which is reasonably likely to cause serious or widespread hostility, contempt, abuse or ridicule.
3. Advertisements should not portray people in a manner which, taking into account generally prevailing community standards, is reasonably likely to cause serious or widespread offence on the grounds of their gender; race; colour; ethnic or national origin; age; cultural, religious, political or ethical belief; sexual orientation; marital status; family status; education; disability; occupational or employment status.
4. Stereotypes may be used to simplify the process of communication in relation to both the product offered and the intended consumer. However, advertisements should not use stereotypes in the portrayal of the role, character and behaviour of groups of people in society which, taking into account generally prevailing community standards, is reasonably likely to cause serious or widespread offence, hostility, contempt, abuse or ridicule.
5. Advertisements should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people in society to promote the sale of products or services. In particular people should not be portrayed in a manner which uses sexual appeal simply to draw attention to an unrelated product. Children must not be portrayed in a manner which treats them as objects of sexual appeal.
6. Humour and satire are natural and accepted features of the relationship between individuals and groups within the community. Humorous and satirical treatment of people and groups of people is acceptable, provided that, taking into account generally prevailing community standards, the portrayal is not likely to cause serious or widespread offence, hostility, contempt, abuse or ridicule.

Note: Attention is drawn to the Code for Advertising to Children.

► THERAPEUTIC PRODUCTS ADVERTISING CODE

PREFACE

The following code was adapted from the code formulated during the process to establish Trans-Tasman Harmonisation of Therapeutic Products. However, this did not proceed. In New Zealand, the Medicines Act 1981 and the Medicines Regulations 1984 continue to apply to therapeutic product advertising.

All advertisements for therapeutic products shall adhere to the Principles and Guidelines set out in this Code. The Code is designed to ensure that advertising for such products will be conducted in a manner which is socially responsible and does not mislead or deceive the consumer. Other ASA Codes may also be relevant. In interpreting the Code emphasis will be placed on the Principles and spirit and intention of the Code. An advertisement which does or does not adhere to the letter of a particular ethic or guideline nevertheless may or may not be in breach of the Code, depending on its compliance with the Principles and respect of the spirit and intention of the Code. In interpreting standards of advertising of various services there will be reference to the appropriate industry Code of Ethics as it relates to advertising.

For the avoidance of doubt, where relevant legislation that effects this Code has been updated and if a conflict occurs in relation to legislative and Code requirements, legislative requirements will prevail.

PRINCIPLE 1

Advertisements must comply with the laws of New Zealand

PRINCIPLE 2

Advertisements must be truthful, balanced and not misleading. Claims must be valid and have been substantiated.

PRINCIPLE 3

Advertisements must observe a high standard of social responsibility.

A6. DEFINITIONS

Therapeutic product

(a) means:

- (i) a product that is represented in any way to be, or that is, whether because of the way in which the product is presented or for any other reason, likely to be taken to be for therapeutic use;
- (ii) an ingredient or component in the manufacture of a product referred to in subparagraph (i) above;
- (iii) a container or part of a container for a product, ingredient or component referred to in subparagraphs (i) or (ii) above; or
- (iv) a product falling within a class of products the sole or principal use of which is, or ordinarily is, a therapeutic use; and

(b) includes:

- (i) a product which the law provides shall be treated as a therapeutic product for the purposes of the Code; and
- (ii) a product which is declared to be a therapeutic product by statutory authorities

(c) does not include:

- (i) a product which the law provides shall not be treated as a therapeutic product for the purposes of this code; or
- (ii) a product which is declared not to be a therapeutic product statutory authorities.

Therapeutic use

(a) means use in or in connection with:

- (i) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury in humans;
- (ii) influencing, inhibiting or modifying a physiological process in humans; (iii) testing the susceptibility of humans to a disease or ailment (iv) influencing, controlling or preventing conception in humans; (v) testing for pregnancy in humans; or
- (vi) the replacement or modification of parts of the anatomy in humans; and

(b) includes any other use which the law provides shall be treated as a therapeutic use for the purposes of the code; but

(c) does not include any use which the laws provides shall not be treated as a therapeutic use for the purposes of this code.

PART B1

ADVERTISING MEDICINES TO CONSUMERS

The advertising of all medicines, other than controlled drugs as defined in the Misuse of Drugs Act 1975, directly to consumers is legal in New Zealand. The Researched Medicines Industry Association of New Zealand (RMI) Code of Practice contains additional requirements, which must be taken into account for such advertising.

Requirement 1

Advertisements must not encourage, or be likely to encourage, inappropriate or excessive use.

Requirement 2

Advertisements must contain the mandatory information to encourage responsible use.

Any advertisement for therapeutic products must include all of the required statements in paragraphs (a) to (e), other than where:

- the advertisement does not contain a therapeutic claim and displays only the:
- brand/name/picture of the therapeutic products or

- the name of the sponsor and/or the price and/or point of sale; or
- the advertisement is an unbranded, or a reminder, or a sponsorship advertisement.

All required statements (a) to (e) must be prominently displayed or communicated, i.e. standing out so as to be easily read from a normal viewing distance, and/or be heard and understood.

For all required statements, other than 'Always read the label', words conveying the same meaning may be used.

(a)

(i) Advertisements to consumers for medicines must contain:

- the trade name; and indications consistent with those included in the database of therapeutic products maintained by Medsafe; and
- a list of the active ingredients; and
- for all medicines, (except for prescription medicines) the following mandatory statement:

ALWAYS READ THE LABEL

- and the following statement or words with the same meaning:

USE ONLY AS DIRECTED

and the following statement, or words with the same meaning, where relevant to the product i.e. if the indication is for symptomatic relief, or a similar indication.

IF SYMPTOMS PERSIST SEE YOUR HEALTHCARE PROFESSIONAL

(ii) If the product, when used according to the directions:

- has known serious adverse effects (in terms of severity and clinical importance);
- or is contraindicated for a known group of people because it could cause serious adverse effects which are reflected in the regulatory requirements on the label or in the Consumer Medicine Information (CMI), an appropriate warning of those effects must be given.

(Where a warning reflects the regulatory requirements for the label of the Consumer Medicine Information (CMI), an approval for use of a restricted representation is not required).

Most prescription medicines would be likely to meet the above criteria. Categories of non-prescription medicines which would be likely to meet the above criteria include sedating anti-histamines, pseudoephedrine and non-steroidal anti-inflammatory drugs.

(iii) Additional mandatory statements based on the scheduling classification of the therapeutic product, as follows:

- If it is a restricted/pharmacist only medicine, the words:

**YOUR PHARMACIST'S ADVICE IS REQUIRED; or
AVAILABLE ONLY FROM YOUR PHARMACIST**

- If it is a prescription medicine, the words:

PRESCRIPTION MEDICINE, CONSULT YOUR DOCTOR [OR OTHER REGISTERED HEALTHCARE PRACTITIONER] TO SEE IF THIS MEDICINE IS RIGHT FOR YOU

- If there is a charge for a prescription medicine in excess of the standard prescription fee, this should be indicated, e.g.

A CHARGE APPLIES, CONSULT YOUR DOCTOR OR PHARMACIST

(iv) Where an advertisement is for the sale or supply of therapeutic products by mail order, direct mail, or the internet, the advertisement must contain, in addition to the above:

- any mandatory advisory statements required to be included on the product label, prominently displayed on each page that features the relevant therapeutic product/s;
- if the product, when used according to the directions:
 - has known serious adverse effects (in terms of severity and clinical importance);

or

- is contraindicated for a known group of people because it could cause serious adverse effects which are reflected in the regulatory requirements on the label or in the Consumer Medicine Information (CMI);

an appropriate warning of those effects must be given.

(Where a warning reflects the regulatory requirements for the label of the Consumer Medicine Information (CMI), an approval for use of a restricted (representation is not required),

- a full list of the active ingredients.

(Where the product name is also the single active ingredient, the pack shot displaying the product name will be sufficient to meet this requirement).

(b)

When advertising prescription medicines, consumers must be notified that additional product information can be obtained, and the methods for doing so. Such information shall include the name and quantities of the active ingredients, authorised uses, appropriate precautions, contra-indications, and adverse reactions. Various acceptable methods include, but are not limited to, instructions for consumers to contact their doctor, pharmacist or health practitioner; referring consumers to the labelling of the product or the Consumer Medicine Information; provision of a toll-free telephone number; the advertiser's internet website address; the advertiser's postal address; reference to the Consumer Medicines Information, where applicable, and referring consumers to advertisements with full information appearing concurrently in other media.

(c)

In addition to the requirements specified above, analgesics require the following statement:

INCORRECT USE COULD BE HARMFUL

An advertisement for analgesics must not represent that:

- (a) analgesic consumption is safe; and/or
- (b) analgesics will relax, relieve tension, sedate or stimulate.

(d)

An advertisement for vitamins must not represent that vitamin supplements:

- are a substitute for good nutrition or a balanced diet; and/or
- are superior to, or more beneficial than, dietary nutrients or that normal health may be affected by not taking vitamin supplements.

(e)

Advertisements for therapeutic products containing claims for weight management, meaning weight loss, measurement reduction, clothing size loss and weight control/maintenance, must have an appropriate balance between those claims and references to healthy energy-controlled diet and physical activity.

Requirement 3

To assist consumers to make informed decisions, advertisements must contain truthful and balanced representations and claims that are valid and have been substantiated and:

- a) for medicines - must be consistent with the indications included on the database of therapeutic products maintained by Medsafe; and
- b) for exempt therapeutic products - must be compliant with the Code.

Requirement 4

Advertisements must not directly nor by implication, omission, ambiguity, exaggerated claim or comparison:

- a) mislead or deceive, or be likely to mislead or deceive; or
- b) abuse trust, or exploit lack of knowledge; or
- c) exploit the superstitious or, without justifiable reason, play on fear or cause distress.

R4.1 An advertisement must not:

- i) contain any claim, statement or implication that the products are safe or that their use cannot cause harm or that they have no side effects or risks associated with use;

- ii) contain any claim, statement or implication that the product is effective in all cases of a condition;
- iii) contain any claim, statement or implication that it is infallible, unailing, magical, miraculous, or that it is a certain, guaranteed or sure cure;
- iv) contain any matter which is likely to lead persons to believe that; - they
 - are suffering from a serious ailment, or
 - harmful consequences may result from the therapeutic product not being used.

R4.2 Comparative advertising

Comparative advertising must be balanced and must not be misleading, or likely to be misleading, either about the product advertised or any therapeutic products, or classes of therapeutic products, with which comparison is made.

Comparative advertisements must not be disparaging but must be factual, fair and already substantiated, referenced to the source and reflective of the body of available evidence.

In comparing products, advertisements must not discourage consumers from taking therapeutic products prescribed by a healthcare practitioner.

R4.3 Scientific information

Scientific information within an advertisement must be presented in an accurate manner. Scientific terminology must be appropriate, clearly communicated and able to be readily understood by the audience to whom it is directed.

Publication of research results in an advertisement must identify the researcher and the financial sponsor of the research.

Requirement 5

Advertisements must not unduly glamorise products or services, or prey on the vulnerability of particular audiences.

Requirement 6

Advertisements may include reference to sponsorship of any government agency, hospital or other facility providing healthcare services, provided that sponsorship is explicitly acknowledged and cannot be misconstrued as an endorsement of a product.

Advertisements may contain or imply an endorsement by individual, or individual groups of, healthcare practitioners in their professional capacity, bodies or associations representing the interests of the health of consumers, conducting or funding medical research or representing health practitioners, provided that the endorsement does not in any way imply endorsement by any government agency, hospital or other facility providing healthcare services. However, such endorsements must have prior consent from the endorser, be authenticated and the advertisement must contain, prominently displayed, the name of the endorser and acknowledgment of any valuable consideration.

Requirement 7

Testimonials in advertisements, where not prohibited by law, must comply with the Code, be authenticated, genuine, current, typical and acknowledge any valuable consideration.

Requirement 8

Advertisements directed to consumers must not refer directly or by implication to serious diseases, conditions, ailments or defects without approval from Medsafe.

PROHIBITIONS

Advertisements for Class A, Class B and Class C controlled drugs other than Exempted Controlled Drugs, as defined in the Misuse of Drugs Act 1975, may only be directed to healthcare practitioners and in appropriate media.

PART B2

ADVERTISING MEDICAL DEVICES TO CONSUMERS

Requirement 1

Advertisements must not encourage, or be likely to encourage, inappropriate or excessive use.

Requirement 2

Advertisements must contain the mandatory information to encourage responsible use.

Any advertisement for therapeutic products must include all of the required statements in paragraphs (a) to (e), other than where:

- the advertisement does not contain a therapeutic claim or intended purpose for use and displays only the brand/name/picture of the therapeutic products and/or the price and/or point of sale; or
- the advertisement is an unbranded, or a reminder, or a sponsorship advertisement.
- All required statements in paragraph (a) must be prominently displayed or communicated, i.e. standing out so as to be easily read from a normal viewing distance, and/or heard and understood.

(a)

Advertisements to consumers for medical devices must contain the following statements:

- the trade name;
- the intended purpose consistent with that included in the WAND database of medical devices maintained by Medsafe; and
- the following mandatory statement (except where the advertisement is for a

health service or treatment program that includes a reference to the use or administration of a particular device as part of that service or treatment):

ALWAYS READ THE LABEL

and/or, where appropriate,

FOLLOW THE INSTRUCTIONS (or words to that effect)

If the medical device has contraindications or specific warnings that may affect the safe use of the device, which are reflected in the regulatory requirements for the product label or in the patient information, an appropriate warning must be given.

Requirement 3

To assist consumers to make informed decisions, advertisements must contain truthful and balanced representations and claims that are valid and have been substantiated and:

- a) for medical devices - must be consistent with the manufacturer’s intended purposes included on the WAND database for medical devices maintained by Medsafe; and
- b) for exempt therapeutic products - must be compliant with the Code.

Requirement 4

Advertisements must not directly nor by implication, omission, ambiguity, exaggerated claim or comparison:

- a) mislead or deceive, or be likely to mislead or deceive; or
- b) abuse trust, or exploit lack of knowledge; or
- c) exploit the superstitious or, without justifiable reason, play on fear or cause distress.

R4.1 An advertisement must not:

- i) contain any claim, statement or implication that the products are safe or that their use cannot cause harm or that they have no side effects or risks associated with use;
- ii) contain any claim, statement or implication that the product is effective in all cases of a condition;
- iii) contain any claim, statement or implication that it is infallible, unfailing, magical, miraculous, or that it is a certain, guaranteed or sure cure;
- iv) contain any matter which is likely to lead persons to believe that:
 - they are suffering from a serious ailment, or
 - harmful consequences may result from the therapeutic product not being used.

R4.2 Comparative advertising

Comparative advertising must be balanced and must not be misleading, or likely to be misleading, either about the product advertised or any therapeutic products, or

classes of therapeutic products, with which comparison is made.

Comparative advertisements must not be disparaging but must be factual, fair and already substantiated, referenced to the source and reflective of the body of available evidence.

In comparing products, advertisements for medical devices must only make comparisons between products with a similar intended purpose of use.

R4.3 Scientific information

Scientific information within an advertisement must be presented in an accurate manner. Scientific terminology must be appropriate, clearly communicated and able to be readily understood by the audience to whom it is directed.

Publication of research results in an advertisement must identify the researcher and the financial sponsor of the research.

Requirement 5

Advertisements must not unduly glamorise products or services, or prey on the vulnerability of particular audiences.

Requirement 6

Advertisements may include reference to sponsorship of any government agency, hospital or other facility providing healthcare services, provided that sponsorship is explicitly acknowledged and cannot be misconstrued as an endorsement of a product.

Advertisements may contain or imply an endorsement by individual, or individual groups of, healthcare practitioners in their professional capacity, bodies or associations representing the interests of the health of consumers, conducting or funding medical research or representing health practitioners, provided that the endorsement does not in any way imply endorsement by any government agency, hospital or other facility providing healthcare services. However, such endorsements must have prior consent from the endorser, be authenticated and the advertisement must contain, prominently displayed, the name of the endorser and acknowledgment of any valuable consideration.

Requirement 7

Testimonials in advertisements, where not prohibited by law, must comply with the Code, be authenticated, genuine, current, typical and acknowledge any valuable consideration.

Requirement 8

Advertisements directed to consumers must not refer directly or by implication to medical devices, or procedures involving medical devices, that are intended to be used and/or administered solely by healthcare practitioners, without approval from Medsafe.

PART B3**ADVERTISING DIRECTED TO HEALTHCARE PRACTITIONERS****Preface**

The Advertising Principles and relevant Advertising Requirements included in this part of the Code apply specifically to advertisements for therapeutic products that are directed to healthcare practitioners.

PART A of the Code applies to the advertising of therapeutic products directed both to consumers and to healthcare practitioners.

All advertising directed to healthcare practitioners must encourage the responsible and quality use of therapeutic products. Because healthcare practitioners have expert and professional knowledge in their relevant fields, and are able to discriminate between information of value and advertising hyperbole, not all of the Advertising Requirements in Sections B1 and B2 (i.e. advertising directed to consumers) apply.

The following requirements for advertising to healthcare practitioners have been developed by the relevant industry associations in New Zealand with reference to their existing codes of practice. These requirements will continue to be reflected in the industry association codes. Where applicable, the requirements are the same as those for advertising to consumers.

While this Code sets the minimum standard for advertising requirements, additional requirements may be applied to particular industry sectors through the industry association codes. These additional requirements can be found in the individual industry association codes, which also provide additional guidance on the application of these requirements.

Requirement 1

Advertisements must not encourage, or be likely to encourage, inappropriate or excessive use.

Requirement 2

Advertisements must contain the mandatory information to ensure responsible use.

Requirement 3

Advertisements must contain truthful and balanced representations and claims that are valid and have been substantiated, and:

(a) for medicines:

must be consistent with the approved Product Information, or other substantiation of efficacy provided by the sponsor to Medsafe;

(b) for medical devices:

must be consistent with the manufacturer's intended purposes, included on the WAND database for medical devices maintained by Medsafe; and

- (c) for exempt therapeutic products:
must be compliant with this Code.

Requirement 4

Advertisements must not directly nor by implication, omission, ambiguity or comparison mislead or deceive, or be likely to mislead or deceive.

Claims and representations made in advertisements must be truthful and have been substantiated.

R4.1 An advertisement must not:

- i) contain any claim, statement or implication that the products are safe or that their use cannot cause harm or that they have no side effects or risks associated with use;
- ii) contain any claim, statement or implication that it is effective in all cases of a condition;
- iii) contain any claim, statement or implication that it is infallible, unfailing, magical, miraculous, or that it is a certain, guaranteed or sure cure;

R4.2 Comparative advertising

Comparative advertising must be balanced and must not be misleading, or likely to be misleading, either about the product advertised or any therapeutic products, or classes of therapeutic products, with which comparison is made.

Comparative advertisements must not be disparaging but must be factual, fair and already substantiated, referenced to the source and reflective of the body of available evidence.

R4.3 Substantiating Data

Any information used to support a claim must include sufficient detail, and be of adequate quality, to allow evaluation of the validity of results and hence of the claim.

Requirement 5

Advertisements must not unduly glamorise products or services.

Requirement 6

Advertisements may include reference to sponsorship of any government agency, hospital or other facility providing healthcare services, provided that sponsorship is explicitly acknowledged and cannot be misconstrued as an endorsement of a product.

Advertisements may contain or imply an endorsement by individual, or individual groups of, healthcare practitioners in their professional capacity, bodies or associations representing the interests of the health of consumers, conducting or funding medical research or representing health practitioners, provided that the endorsement does not in any way imply endorsement by any government agency, hospital or other facility providing healthcare services. However, such endorsements must have prior consent from the endorser, be

authenticated and the advertisement must contain, prominently displayed, the name of the endorser and acknowledgment of any valuable consideration. Industry codes of practice address appropriate transparency requirements in relation to the funding of research by sponsors.

Requirement 7

Testimonials in advertisements, where not prohibited by law, must comply with the Code, be authenticated, genuine, current, typical and acknowledge any valuable consideration. The use of testimonials in advertisements to promote therapeutic products is acceptable, provided the testimonial:

- is genuine;
- complies with the Code;
- is current;
- has been authenticated; and
- presents the typical case, not the exceptional.

“**Current**” means that the content of a testimonial must be up to date and hold true at the time of the publication of the advertisement.

“**Typical**” means that which reflects the characteristics of a group. i.e. a result obtained from the use of a product which would be likely to be attained by most people using the product within the audience to which the advertisement is directed.

The following Advertising Requirement is applicable only to advertising directed to healthcare practitioners.

Requirement 9 (medicines)

All communications made by company representatives must comply with the Code. Where the product being advertised is a finished product, therapeutic claims for unlicensed products and unapproved indications must not be made, unless the product is exempt from product licensing.

Whenever a therapeutic claim is made for a product for which the sponsor is required to hold a product licence, a company representative must offer the approved PI, or other data used by the sponsor as the basis for obtaining the product licence for the product.

Whenever a therapeutic claim is made for

- an active ingredient that may be used in the manufacture of therapeutic products; or
- a product which is exempt from product licensing;

the data used by the supplier to verify the claim must be offered by the company representative. Advertisements directed to healthcare practitioners for extemporaneously compounded therapeutic products (as finished goods which are exempt from product licensing) are required to comply with the Code.

Requirement 9 (medical devices)

The representation of medical devices/diagnostics included on the database for therapeutic products maintained by Medsafe must be consistent with the manufacturer's intended purposes and be consistent with the essential principles for the product.

When requested, the representative must be able to supply a copy of the sponsor's product information consistent with the manufacturer's intended purpose and essential principles.

Claims outside the manufacturer's intended purpose and essential principles must not be made.

For non-therapeutic claims the sponsor must hold substantiating data to support the claims.

▶ THERAPEUTIC SERVICES ADVERTISING CODE

All advertisements for therapeutic services shall adhere to the Principles and Guidelines set out in this Code. The Code is designed to ensure that advertising for such services will be conducted in a manner which is socially responsible and does not mislead or deceive the consumer. Other ASA Codes may also be relevant. In interpreting the Code emphasis will be placed on the Principles and spirit and intention of the Code. An advertisement which does or does not adhere to the letter of a particular ethic or Guideline nevertheless may or may not be in breach of the Code, depending on its compliance with the Principles and respect of the spirit and intention of the Code. In interpreting standards of advertising of various services there will be reference to the appropriate industry Code of Ethics as it relates to advertising.

DEFINITIONS

“Appropriate industry Code of Ethics”; includes any industry or professional code endorsed by the ASA.

“Therapeutic services”; are therapeutic, medical or health services or services which claim a therapeutic purpose.

PRINCIPLE 1

Advertisements should comply with the laws of New Zealand and the appropriate industry Code of Ethics.

PRINCIPLE 2

Advertisements should observe a high standard of social responsibility particularly as consumers rely on therapeutic services for their health and well-being.

PRINCIPLE 3

Advertisements should not by implication, omission, ambiguity or exaggerated claim mislead or deceive or be likely to mislead or deceive consumers, abuse the trust of or exploit the lack of knowledge of consumers, exploit the superstitious or without justifiable reason play on fear.

Guidelines

- 3(a) Therapeutic claims should be factual and able to be proved.
- 3(b) Advertisements should not have depictions which unduly glamorise the service or portray unrealistic outcomes.

PRINCIPLE 4

Any scientific information in an advertisement should be presented in an accurate manner. Scientific terminology should be appropriate, clearly communicated and able to be readily understood by the audience to whom it is directed.

PRINCIPLE 5

Advertisements should not claim or imply endorsement by any government agency, professional body or independent agency unless there is prior consent, the endorsement is verifiable and the agency or the body is named.

Guideline

- 5(a) Testimonials, where not prohibited by law, should be valid, true, current, documented and exceptional cases should be represented as such, not as typical. The claims in testimonials should be verifiable.

▶ CODE FOR ADVERTISING VEHICLES

INTRODUCTION

All advertisements for vehicles shall adhere to the Principles and Guidelines set out in this Code. The purpose of the Code is to ensure that advertising of vehicles will be conducted in a manner which is socially and environmentally responsible and does not encourage unsafe practices.

In interpreting the Code emphasis will be placed on the compliance with both the Principles and the spirit and intention of the Code. The Guidelines are examples, by no means exhaustive of how the Principles are to be interpreted and applied. Upon complaint the Advertising Standards Complaints Board is vested with discretion to ensure a commonsense outcome and take into account obvious hyperbole and humour.

DEFINITION

“**Vehicle**” includes, but is not restricted to; motorised and non-motorised conveyances such as passenger vehicles; trucks; light commercial vehicles; offroad vehicles; motorcycles; all-terrain vehicles (ATV); tractors; bicycles; scooters; skateboards and rollerskates.

PRINCIPLE 1

Advertisements should comply with the laws of New Zealand.

Guideline

- 1(a) Advertisements should not demonstrate any action by any road user or vehicle on a public road which would constitute a traffic offence, unless the advertising has the aim of discouraging unlawful practices.

PRINCIPLE 2

Advertisements should not encourage unsafe practices.

Guidelines

- 2(a) Advertisements should not glorify excessive speed and/or unsafe driving practices.
- 2(b) Advertisements for all off-road activities should not portray unsafe practices such as cyclists, motorcyclists and ATV drivers not wearing approved safety helmets, nor persons not wearing seatbelts where they are normally worn.
- 2(c) Advertisements should not associate driving with alcohol consumption unless the consumption is clearly after the completion of driving or the advertising has the aim of discouraging unlawful practices.

- 2(d) Advertisements should not depict unsafe road practices which may not breach the law but are not desirable from a safety point of view, for example skateboarders or rollerskaters on the roadway.

PRINCIPLE 3

Advertisements portraying off-road driving should observe a due sense of responsibility to the environment.

Guideline

- 3(a) Advertisements should not encourage environmental damage to areas of significant conservation value. These may include beaches, dunes, riverbeds, wetlands, tussocklands, lake margins and estuaries.

Note: Advertisers are able to seek advice from the New Zealand Transport Agency on matters relating to safety and roadside advertising.

CODE FOR ADVERTISING OF WEIGHT MANAGEMENT

INTRODUCTION

All advertisements for weight management shall adhere to the Principles and Guidelines set out in this Code. The purpose of the Code is to ensure that advertising of weight management goods or services will be conducted in a manner which is socially responsible and does not mislead or deceive the consumer.

In interpreting the Code emphasis will be placed on the Principles and the spirit and intention of the Code. An advertisement which does or does not adhere to the letter of a particular Guideline nevertheless may or may not be in breach of the Code, depending on its compliance with the Principles and respect of the spirit and intention of the Code.

This Code applies to weight management products (including services) which include nutrition and exercise as features.

The Code does not apply to advertisements with therapeutic claims that advertise medicines, dietary supplements or medical devices; in those cases the Therapeutic Product Advertising Code applies.

DEFINITION

For the purposes of this Code:

“Appropriate industry standards” are industry standards, guidelines or codes set by a recognised industry group and endorsed by the ASA.

PRINCIPLE 1

Advertisements should comply with the laws of New Zealand and appropriate industry standards.

Guidelines

- 1(a) There are a number of laws which can affect slimming or weight loss advertising. Attention is drawn to the Medicines Act 1981, Medicines Regulations 1984, Food Act 1981, Food Regulations 1984 and the Dietary Supplement Regulations 1985.
- 1(b) Particular attention is drawn to Section 4(e) of the Medicines Act 1981 which includes in the definition of ‘therapeutic purpose’ “Altering the shape, structure, size or weight of the human body”. The effect of this is that a food, tablet or substance which reduces weight is classified as a “medicine” and an apparatus as a “medical device”, thus bringing them within the ambit of the Medicines Act 1981. In such cases the Therapeutic Product Advertising Code applies. Weight reduction programmes may not be subject to the Medicines Act 1981, but are subject to this Code. Advice from the Therapeutic Advertising Pre-vetting Service (TAPS) is strongly recommended.

PRINCIPLE 2

Advertisements should observe a high standard of social responsibility.

Guidelines

- 2(a) Advertisements should not suggest or imply that consumers should have a diet which is not nutritionally well-balanced nor advertise a diet plan with less than 3500 kilojoules (800 calories) per day.
- 2(b) Advertisements should not promise unrealistic or unsafe rapid weight reduction.
- 2(c) Advertisements should neither be directed at, nor have strong or evident appeal to people under the age of 18 in particular.
- 2(d) Advertisements should not suggest that it is desirable to be underweight or use underweight models. Models of generally accepted height/weight ratios should be used.
- 2(e) Advertisements for intensive exercise programmes should encourage users to check with a doctor or professional advisor before commencing.
- 2(f) Advertisements should not imply that the advertised product is a substitute for a balanced diet.

PRINCIPLE 3

Advertisements should not by implication, omission, ambiguity or exaggerated claim, mislead or deceive or be likely to mislead or deceive consumers, abuse the trust of or exploit the lack of knowledge of consumers, exploit the superstitious or without justifiable reason play on fear.

Guidelines

- 3(a) Claims for specific weight loss or reduction in body measurement should be typical, realistic, factual and able to be proved.
- 3(b) Advertisements should not have depictions which unduly glamorise the product or portray unrealistic outcomes.
- 3(c) Claims such as “Eat as much as you like”, “Eat, eat, eat” or “Eat and get slim” are unacceptable.

PRINCIPLE 4

Advertisements should not claim or imply endorsement by any government agency, professional body, independent agency or person unless there is prior consent and the endorsement verifiable.

Guideline

4(a) Testimonials, where not prohibited by law should be valid, current, documented and exceptional cases should be represented as such, not as typical. The claims in testimonials should be verifiable.

Note: Current law effectively prohibits testimonials (Section 58(1)(c) Medicines Act) in a large number of cases, so extreme care must be taken.



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