

Statement of Outcomes

Phase Two Development of the Children's Advertising Code

Introduction

The Commission adopted a phased approach to the development of the Children's Advertising Code.

The first phase of the development of the code commenced in April 2003 and was completed in July 2003. Phase One sought opinions as to the Commission's proposed approach to the development of the code, the definition of key terms and the framework for the code – that is, the headings that would address the range of issues to be considered in the Children's Advertising Code.

On foot of the submissions received, the Commission **defined a child** as:

Any person under the age of 18, with a recognition that different levels of protection are required by children of different ages, in particular very young children and those over the age of fifteen.

Children's advertising has been defined as:

Advertising which promotes products, services or activities that are deemed to be of particular interest to children and/or which is broadcast during and between children's programmes.

A summary of the decisions taken during phase one can be found in the *Statement of Outcomes Document* for phase one available on www.bci.ie.

In October 2003, the Broadcasting Commission of Ireland launched the second phase of development of the children's advertising code. The second phase built on the decisions taken during Phase One and sought views on the actual rules to be contained within the code. Fourteen headings were presented under which the substance of the new code was discussed. The consultation process ended on December 22nd with over 540 submissions received. Summaries¹ of the submissions received from both adults and children are available on the BCI website at www.bci.ie.

In reaching its decisions, the Commission considered the diversity of views presented within the submissions. This document outlines in brief the range of views that were examined in the debate and discussion, which took place at Commission level. It sets out the decisions taken with regard to the fourteen headings, as well as the rationale for these decisions. These outcomes and the principles agreed upon will form the basis of the children's advertising code, a draft of which will be published in April 2004.

¹ *Children's Advertising Code Phase Two Consultation Document Review of Submissions Received; and What do you think? Summary of the responses received from children and young people to the Phase Two consultation.*

1. Social Values

The question as to whether a section on social values should be included in the code received an overwhelmingly positive response. In supporting its inclusion, respondents referred to:

- The influence of the media in teaching social values.
- The fact that children learn social values at a young age.
- The propensity for children to copy the behaviour they see on screen.
- The requirement for advertising to promote social values and socially acceptable behaviour.

The Commission agreed that social values should be included in the code. They considered three options emanating from responses received, namely, that the code should:

1. State the principle that children's advertising should portray and respect social values.
2. State the principle that children's advertising should portray social values, but specifying an indicative list of values.
3. Specify a full list of values that children's advertising should portray

The rationale for the first option is that it is broad, it responds to and reflects societal changes and it is open to interpretation.

There was huge support, for option two, whereby it is stated in principle but with some values specified. Respondents pointed to the current Advertising Standards Association of Ireland (ASAI)² code and the Televisions Without Frontiers Directive (TWF)³, both of which, while making a principled statement regarding social values, go on to make reference to a similar range of specific values. Generally, the Commission agreed that this second option is sufficiently broad, it responds to and reflects societal change and offers more unambiguous protection than that offered by option one.

The third option was regarded as potentially problematic, in that by specifying each value to be included, it could be argued that no list would be sufficiently exhaustive and it would require up-dating on a regular basis, to reflect changing values and social circumstances.

Outcome

The Commission agreed with the principle that children's advertising should portray social values and the code will state this principle while providing an indicative list of such values.

² Advertising Standards Association of Ireland (2002) Manual of Advertising Self-Regulation with theCode of Advertising Standards for Ireland (5th Edition).

³ Directive 89/552/EEC of the Council, 3 October 1989 (Television Without Frontiers); Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 (revisions to Television Without Frontiers directive).

2. Inexperience and Credulity

The Television Without Frontiers Directive states that advertising shall not directly exhort minors to buy a product by exploiting their inexperience and credulity. The overall view of respondents was that the wording of the TWF Directive needed to be augmented in the code to give it practical effect.

Two principles emerged which respondents wished to see included in the children's advertising code. These are:

- Advertising should not exploit the credulity and inexperience of children.
- Advertising must not mislead children with regard to the product/service being advertised.

Outcome

The Commission agreed that these two principles should be included in the code, as they reflect some of the overall objectives of the children's advertising code.

The principles are discussed again later in this document, in the section on factual presentation, as this section gives practical effect to these principles.

3. Avoiding Undue Pressure

The majority of respondents addressed this issue and it is under this heading that the discussion on "pester power" arose, one of the issues most frequently mentioned in the popular debate on children's advertising. The BCI had also asked for views as to whether advertising places pressure on children in terms of their self-image.

The key principles emerging from the submissions for consideration and discussion by the Commission were:

- Advertising should not encourage children to ask adults to buy them products or services.
- Advertising should not minimise the cost of products, or suggest that it is within the reach of all families.
- Advertising should not make children feel that they will be inferior, or that their family will be inferior, if they do not have the product.
- Advertising should not undermine the adult child relationship or the authority of the adult.
- Advertising should not make the child feel inferior, disloyal, or doubtful about their self-image.

The Commission agreed that advertising should not encourage pester power, nor should it make a child feel inferior if they do not have a particular product. It agreed that this principle should be extended to include the family also, both in terms of advertisements that suggest that all families can afford a product or that the family is inferior if they do not have the product. There was some discussion regarding the subjectivity of words such as inferior, disloyal or doubtful. However, the Commission felt that it was important that the code captures the sentiment of this principle and more work will be undertaken during the drafting of the code to ensure the clarity of what is meant. Ultimately, insofar as these words or similar type words have been successfully included in codes in other jurisdictions they are seen to be workable.

Outcome

The Commission endorsed the inclusion in the code of all the above principles.

4. Special Protection for Children in Advertising

This heading covered a range of issues that concerned children not only as viewers and listeners but also as they are represented and portrayed in advertising.

Four areas were considered and each is dealt with separately.

(i) The Sexualisation of Children

There was a strong response to this issue. Respondents highlighted what they perceived as an increase in the representation of young girls as sexy, wearing make up and in 'skimpy' clothes. However, respondents also acknowledged that there is subjectivity in determining what is "skimpy" or indeed deliberately "sexy". Similarly, they referred to the use of children in varying states of undress in advertising, which do not sexualise the child. In some instances, for example nappy or holiday advertisements, the appearance of a child in a state of undress is natural and appropriate to the setting.

The Commission agreed that the code should incorporate provisions regarding the manner in which children are represented and portrayed in advertising. In framing these provisions however, it agreed to do so, not in terms of prohibitions as to the actual state of undress allowed in an advert or the use per se of make up or revealing clothes, but rather the outcome or overall impression given by the advert. That is, whether it portrays the child in a sexually provocative manner or provokes anxiety in children over their bodily appearance.

Outcome

The code will incorporate a principle that advertising should not portray children in a sexually provocative manner or provoke anxiety in them over their bodily appearance.

(ii) Privacy/Information

This refers to the privacy of the child and the child's family, and whether advertising should ask children to disclose personal information about themselves, their friends or their families, without having first obtained permission from their parents or guardians. It also deals with the issue of how this information is used.

There was unanimity among respondents that the code should address this issue. It should require that advertisers adopt a responsible attitude to this practice by ensuring that children are required to seek and demonstrate parental permission.

Outcome

The Commission agreed with the concerns expressed and with the necessity for the code to include this principle.

(iii) Use of Children in Testimonials

Children are used in advertising to demonstrate a wide range of products and services. In some instances, it is as users of the product, in others it is as elements of the setting for the advert.

Outcome

The Commission agreed that children should not be used to comment on products that they could not be expected to use or would not usually be interested in themselves. It was agreed that their inclusion in an advert should be either a natural element of the depicted environment or necessary in order to explain or demonstrate the use of the product.

(iv) Adults pretending to be Children

This was an issue on which there was divergence in the views of adults and children.

Some adults felt that this did not merit consideration, especially when placed alongside more weighty issues such as the sexualisation of children. They felt the practice of using adults to imitate children in advertising was humorous and used for comic effect. Others were of the view that to consider this practice as damaging or offensive to children was taking political correctness too far.

However, many children saw the practice as insulting and demeaning to children and it was something they felt should be prohibited.

Outcome

The Commission agreed to continue to allow this practice but to include a rule whereby the use of adults pretending to be children must not be offensive to the dignity of children.

Children will be able to make complaints against advertisements, using this code and will participate in the review of the code in three years time. The Commission agreed to review carefully how this less severe restriction has functioned based on that review and consideration as to whether it needs to be strengthened will be given at that time.

5. Safety and Avoidance of Harm

There were six issues identified for consideration under this heading, the purpose of which was to elicit the type of rules that would aim to prevent advertising that might mentally, socially, physically or morally harm a child or young person. Of the six issues presented, four attracted much comment and response, albeit they presented no controversy, insofar as there was general agreement as to the importance of their inclusion and the nature of the rules that should accompany that inclusion.

(i) General safety, safety in the home, road safety and behaviour.

In each case, the basic premise for the rule is that advertising should not present children in situations, which, if imitated in real life, might harm the child or others. In each case, support was given for the example set out in the Consultation Document, particularly for the type of rules in the ASAI code.

Outcome

The Commission agreed to incorporate rules regarding each of these four headings into the code: general safety, safety in the home, road safety and behaviour.

The two remaining issues were the use of **violence in advertising** and **diet and nutrition**. Each are dealt with separately below.

(ii) The Use of Violence in Advertising

There was agreement amongst all respondents – adults, children, advertisers and broadcasters – with the principle that violence should not be used in children’s advertising. The nature of the disagreement that arose was not with regard to the principle but rather the context in which the violence is presented. In particular, any disagreement voiced referred to a small number of products such as video games, whereby in order to show the product, it becomes necessary to show violent scenes, mostly of an animated nature.

In putting forward this view, reference was made to the Commission’s definition of a child, which recognises that children require different levels of protection, dependent on their stage of maturity. It was considered that if the code was to disregard the context in which violence is used in the advert, this would unfairly and unnecessarily prohibit advertising to older children who have an understanding of the context in which the violence is being presented.

A second issue that arose relates to public awareness campaigns and most notably the anti-smoking and drink-driving campaigns. Particular mention was made of the exposure of very young children to these adverts, which they found distressing. Respondents did not ask that the adverts be banned to children but rather than they be scheduled more responsibly, with particularly sensitivity to pre-school children.

Responses from children were very strident on this issue and many referred to their younger siblings being upset by the public awareness campaign adverts. Throughout the consultation, where appropriate, respondents made exceptions for public service type advertisements. This is one area in which the exceptions are more guarded.

Summary of deliberations

In considering this issue the Commission discussed the desired outcome of the code in this context, which it viewed to be the avoidance of distress to the child through exposure to violent material. It endorsed the principle that children's advertising should not include violence but acknowledged that in some contexts, such as advertisements for video games and in public service advertising, violence in various forms (including animated violence) is integral to the message being communicated or to the nature of the product. The Commission's definition of a child, takes cognisance of the differing levels of protection required by different age groups and so the Commission felt that with responsible scheduling some exceptions could be made for particular products or for public service adverts. Such scheduling would have to be cognisant of the likelihood of the any material causing distress to young children.

Outcome

The Code will include the principle that in general children's advertising should not include violence or cause distress to children. However, the code will allow for some exceptions to be made for particular products and for public service adverts on the understanding that these are scheduled responsibly.

(iii) Diet and Nutrition

Food advertising emerged as the central theme in the Phase Two Consultation Process. The level of response on the issue of diet and nutrition is not surprising given the current public discussion and media attention on the issue of obesity in western society and the debate as to the role that advertising plays in this.

The majority of adults, children's organisations and health organisations highlighted their concerns around the advertising of food, specifically the type of food being advertised and the level/volume of food advertising. With regard to the type of food being advertised, concerns were expressed regarding 'junk' food and food that is high in salt, sugar and fat.

Advertisers, broadcasters and food industry respondents also highlighted the issue of advertising and food, and, specifically, that advertising is only one influence in the problem of obesity. They highlighted the need for a balanced debate and the need for regulation to respond proportionately.

The issue of food advertising and its place in the debate around obesity is complex. Arguments are presented that make a direct link between food advertising and obesity. Counter arguments are presented to what is described as this notion of 'singular causation' - i.e. advertising results in obesity. Advertising and broadcasting interests argue that while advertising may be one influence, it is not the only cause of obesity. They say that such a view oversimplifies the debate and ignores the role of lifestyle changes, parental preferences with regard to food and an increasingly sedentary lifestyle for both children and adults.

There is also the argument that food *per se* is not 'good' or 'bad' but that rather this evaluation relates to the moderation with which any food is consumed and to its place within a balanced diet and a healthy active lifestyle. The Hastings Report published in 2003 received much media attention and concluded that there is a clear link between television viewing and obesity. However, it also acknowledged that it is impossible to say

whether this effect is caused by advertising, by the sedentary nature of television viewing or is a result of the snacking that takes place during viewing. The debate within the submissions received echoed this global debate on advertising and food.

EU and Global Developments

There are a number of developments currently underway across Europe in relation to this debate and these were considered by the Commission in its discussion as to the provision that might be made in the Children's Advertising Code regarding the advertising of food.

The World Health Organisation published its 'Draft global strategy on diet, physical activity and health' in December 2003⁴. In its strategy, it recommends that a code of practice on food advertising generally should be explored and that young children's exposure to heavy marketing practices of energy dense, micro-nutrient poor foods be limited.

It identifies that food advertising affects food choices and influences dietary habits and that food and beverage advertising should not exploit children's inexperience and credulity. It advises that messages that encourage unhealthy dietary practices or physical inactivity should be discouraged and positive health messages encouraged. It also says that Governments should work with consumer groups and with industry (including the advertising sector) to develop appropriate approaches to deal with the marketing of food to children.

At EU level, proposals for two directives are being considered which will impact on the manner in which food is advertised. The first is a proposal for a directive on unfair commercial practices that is expected to have specific categories on misleading and aggressive advertising, as well as provisions relating to children. Secondly, there is a proposal for a health claims directive that will regulate the nutrition and health claims made by advertisers regarding food products. This second directive is expected to allow foods to make health claims under strict conditions only, with all food products providing nutrient profiling, following a mandatory authorisation period of approximately six months.

It is expected that both directives will be adopted during 2005.

Within particular countries, a number of measures have been taken. In the UK, the broadcasting regulator, OFCOM, has been requested by the Minister to strengthen its advertising code in relation to food advertising. In France, the advertising industry itself has developed additional self-regulatory provisions on food advertising. This has also occurred in Australia and the advertising industry across Europe is encouraging its members to adopt more self-regulatory measures.

Consultation Responses - Adults and Health Interests

In presenting their arguments in response to the Children's Advertising Code Phase 2 Consultation Document 2003⁵, parents, guardians and members of the public made specific reference to their concerns regarding the advertising of high salt, high fat and high sugar

⁴WHO (2003), *Integrated prevention of non communicable diseases Draft global strategy on diet, physical activity and health*.

⁵ Any future reference to this document will refer to the Phase Two Consultation Document

products. They believe that fast or junk food is presented to children as something to be eaten every day rather than a treat or occasional event. Reference was made to the health and "thinness" of the actors used to advertise this food. Members of the public complained that food which claims to be healthy, frequently, on examination, contain ingredients that are, for example, high in saturated fats.

Parents also highlighted their concerns as to the volume of food and beverage advertising being directed at children and what they saw as the imbalance in the types of food that are advertised. In their view, snack/junk/convenience foods are advertised with few counterbalancing adverts that point to the importance of eating healthily. There were also concerns expressed as to the associations made with these types of food. In particular, advertising that implies increased popularity at school or among friends if the child has a particular food in their lunch-box, was a cause of concern. Many parents also complained that some food advertisements use plot lines that show children "fooling" their parents or "being manipulative" in order to get their parents to give them/or purchase the desired food product/s.

Many members of the public called for a complete ban on food advertising to children. For others, their concerns centre on the claims that food advertising makes about the products and the associations they made with the food.

A number of organisations that work in the area of food and health made submissions. Their concerns echoed that of members of the public. *Safefood* suggested six fundamental principles that it believes should underpin the code. These include a restriction on the use of personalities to promote food, regulating the times during which advertising to children is allowed, regulating the volume of advertising to children by types or categories of food, and prohibiting the promotion of energy-dense micronutrient-poor foods. The Irish Nutrition and Dietetic Institute called for a total ban on all advertising of food products, which are high in fat, sugar and salt, during children's television viewing times. This view is echoed by the North Western Health Board, which called for a ban or curtailment on the advertising of unhealthy foods during children's viewing time. Similarly, the Irish Heart Foundation called for such a ban or, in the event that this is not possible, a balance between the promotion of junk food and the promotion of healthier foods such as fruit and vegetables. *Bodywhys*, a support organisation for those with eating disorders, asked that all fast food advertising carry health risk warnings particularly relating to obesity and that diet and low calorie foods, such as diet drinks, not be advertised during children's viewing.

Consultation Responses - Children

The response from children on this issue was rather more muted. Children who answered this question endorsed the idea that advertising should promote healthy eating and exercise. They also indicated an awareness that "junk" food should be eaten in moderation. Two main points arose from their responses. The first concerned the perception that fast food advertising presents fast food as an everyday food. Children put forward the view that this type of advertising should remind children that fast food is a family treat, not something to be eaten every day. The second point related to the advertising of diet products or slimming foods, which they felt should not be advertised to children.

Consultation Responses - Food Industry, Advertisers and Broadcasters

Representatives from the food industry, advertisers and broadcasters made a number of counter arguments in their submissions. Nestlé Ireland urged that commercial interests be taken into account when developing the code. Specifically, the BCI should give

consideration to the fact that the code will only apply to Irish stations. Given the level of non-indigenous channel viewing in Ireland, local producers could find themselves competing with foreign producers on unequal terms. This is echoed by Tayto Ireland, who argued that the code should not place unfair obligations on indigenous manufacturers. Food and Drink Industry Ireland reiterated the argument that food and beverages are not unsafe in themselves and they endorse the present ASAI code provisions. Among broadcasters and advertisers there is support for the ASAI code provisions. Respondents also pointed to the forthcoming Directive on EU Health Claims and proposed that the Commission not pre-empt this development.

Summary of Deliberations

The Commission considered a number of options in relation to the code and how it might deal with food advertising.

The Commission considered a ban on food advertising to children and specifically a prohibition on the advertising of 'junk' food or food 'high' in salt, sugar or fat. This raised an issue regarding the definition of what is "junk" food and what is "high" salt, sugar and fat. The Commission considered whether the code should attempt to become an arbiter of what is good and bad food. While seemingly intuitive, there would no doubt be a range of foods that occupy an ambiguous position between 'bad' and 'good'. This type of ambiguity could impact on the successful implementation of the code.

One way to address this problem would be to prohibit the advertising of ALL food and drink to children. This would potentially include products that are regarded as 'good' foods.

The Commission considered the proportionality of such a measure. The Commission had regard to the fact that Irish children are exposed to food advertising on other non-Irish channels and as the Commission's research has shown, the level of non-indigenous channel viewing by Irish children is not insignificant. It also had regard to the proposed EU Directive on Health Claims, which may provide clearer indications on the nutrient profiles of foods. Indeed, it may be that measures introduced through this directive will address some of the concerns of parents or at least provide a system of nomenclature that will make it easier for an advertising code to identify categories of food that are deemed to require restrictions. Measures introduced under the Directive would pertain to all channels watched by Irish children, not just the indigenous channels.

The Commission also considered the option of restricting the volume of food and drink advertising to children and in particular:

- The volume of certain *categories* of food and drink
- The volume of food advertising broadcast during certain *times of broadcast*
- The volume of food advertising broadcast during programmes aimed at certain *age groups e.g. pre-school children*

A number of issues arose for discussion regarding this type of measure. The first relates to the identification of categories of food. The second relates to the potential of such a measure to skew the advertising market. If, for example, the Commission were to say that no more than 50% of advertising during a break in a children's programme can be for food or drink, then this could increase the cost of such advertising and as a result only

disadvantage smaller food producers or indeed producers of what are deemed to be ‘good’ foods.

It could also be argued that given that children are watching a range of channels, including non-indigenous channels, the issue of volume will never be dealt with adequately under this code, given the level of viewing to non-Irish channels.

The Commission then considered an option whereby a range or package of activities and provisions are built into the code that specifically address some of the concerns of parents/guardians, but which acknowledge the difficulties outlined above. This option does not rely on one specific approach to dealing with the issue of food advertising to children, but rather attempts to capture some of the complexity of the issue by addressing it through a range of activities.

Outcome

The key outcomes to be undertaken in respect of food advertising to children are:

1. The development of a number of specific provisions relating to food advertising to children. These include measures such as the following, the full list of measures will be available in the draft code:
 - (a) Food and drink advertising must not imply that a child will be more popular at school or among friends if they purchase the product.
 - (b) No children’s advertising for food or drink can use celebrities, sports stars or children’s heroes to promote that food or drink, unless the advertisement is part of a public health or education campaign.
 - (c) Advertising must not encourage an unhealthy lifestyle or unhealthy eating or drinking habits such as excessive or compulsive eating.
 - (d) Advertisements representing ‘mealtime’ should clearly and adequately depict the role of the product within the framework of a balanced diet.
 - (e) Snack food should not be represented as a substitute for meals.
 - (f) All advertising for sweets, cakes, biscuits and confectionery must show a toothbrush symbol on the screen.
 - (g) Advertising must not contain any misleading or incorrect information about the nutritional value of the product.
 - (h) The advertisement must not undermine the authority, responsibility or judgement of parents or carers, such as using plot lines that show children manipulating their parents.
 - (i) All advertising to children for fast food outlets must display an on screen message that this type of food should be eaten in moderation, as part of a balanced diet.
2. A full review of the issue of food and children’s advertising will be undertaken one year from the introduction of the code. While the children’s code will be reviewed fully in three years, the Commission, in recognition of the depth of feeling regarding this issue, gave a commitment to review the impact of its provisions in relation to food advertising after one year.
3. This review will be supported through the production of data regarding the volume, type and nature of food advertising to children on Irish channels and other channels. Monitoring data will also be produced regarding the implementation of the code.

4. Monitoring of developments at EU level with regard to the EU Health Claims Directive and the EU Directive on Unfair Commercial Practices and an examination of the impact of these developments for the advertising of food to children.
5. Liaison with the industry including advertisers, broadcasters and food producers to ensure that there is clarity regarding the objectives of the code's provisions and its implementation.

Rationale for this approach

This is a new code and there is an opportunity to start from a less restrictive position. The code will be reviewed after one year and, if necessary or desirable, more restrictive measures can be taken at that time. This allows the Commission to respond and strengthen the code, if it arises that the food, advertising and broadcasting industries have not responded responsibly in its implementation.

The Commission is statutorily obliged to review the code every three years, but has given a commitment to review this specific issue one year after the code has been implemented. This approach affords the Commission the opportunity to consider the research produced, review how the type of measures outlined above have worked, and how the industry has responded to their implementation. It would also provide sufficient time to examine any developments in other jurisdictions, as well as developments at EU level under the Health Claims Directive. It could be argued that to adopt a very restrictive position at this time could pre-empt any protection the Directive will offer and place Irish broadcasters at a disadvantage to their UK neighbours.

Furthermore, this approach affords the public the opportunity to re-examine the issue in light of the effectiveness of these measures.

In summary, the Commission believed that the issue of obesity and the influence that advertising plays in this is very complex. It has been recognised by all that advertising is one influence and therefore advertising regulations have a role to play. However, the debate persists as to the extent of the influence of advertising on obesity. The proportionality of the regulatory response is the question in this debate, rather than the principle of whether regulations should respond to this concern. The Commission believes that its approach will provide an appropriate response to the key concerns expressed in the consultation at this time. Crucially it will also provide an opportunity to review how this approach has functioned in the context of increased information as to its impact.

6. Parental Responsibility

There was unanimity among parents, children, advertisers and broadcasters for the inclusion of this topic within the code. Broadcasters and advertisers were anxious that the code would acknowledge the important role of parents, while parents and guardians were anxious that advertisers would acknowledge that they have a responsibility also for the welfare of the child. The issue for consideration was where the balance of responsibility lay and how it could be given practical effect in the code.

There was almost complete unanimity among respondents that responsibility should be shared between parents and broadcasters. Any dissenting views related to who has primary responsibility and how this responsibility is shared at different times of the broadcast day.

The Commission shared the view expressed by many, that parents or guardians have primary responsibility for children but that advertisers and broadcasters should support that relationship. A core issue is that of scheduling and the ability of parents or guardians to have a reasonable expectation of the type of advertising a child will be exposed to, if they are permitted to watch certain programmes. In continuing the shared responsibility theme, the Commission also agreed that broadcasters in turn might expect some level of parental supervision/intervention in determining the programming children are permitted to watch.

A second theme that ran through the consultation response was that advertising should not undermine the adult-child relationship on screen. The example was given of advertising that undermines the authority of parents and guardians, through the use of plot lines that encourage children to deceive or manipulate their parents.

Outcome

The Commission agreed that the code should give practical effect to these two issues. In summarising its views, the Commission agreed to express its understanding of parental responsibility as follows:

Parents and guardians have primary responsibility for children but advertisers should support the adult-child relationship by scheduling responsibly and by not undermining the adult-child relationship within the context of advertising content.

Some members of the public also made suggestions as to how parents could be more informed; specifically that the BCI would release data annually detailing the programmes that children are watching, what different age groups are watching particular programmes etc. The Commission, as part of its promotional role in relation to the code, undertook to make this data available to parents/guardians.

7. Promotion by Programme Characters, Advertiser-generated Characters and Personal Endorsements

(i) Programme Characters

There was overall support from respondents for a prohibition on the use of programme characters to endorse and advertise products and services in children's advertising. This support was based on what was seen as the potential for this practice to exploit the loyalty or emotional attachment that a child has for a character or presenter from a children's programme and the potential for this practice to increase 'pester power'.

Outcome

The Commission agreed to apply this principle, namely that characters from children's programmes that are broadcast on channels indigenous to the jurisdiction should not be permitted to endorse or advertise products in children's advertising.

That means that programme characters and personalities from children's programming on Irish channels shall not be permitted to endorse or advertise products and services in children's advertising. The Commission may also introduce some restrictions as to the scheduling of children's advertising for merchandise based on children's programming.

(ii) Advertiser Generated Characters

A second consideration, under this general heading, refers to whether advertiser-generated characters and personalities should be permitted to promote and endorse products.

The Commission believe that there is a distinction to be made between this practice and the one discussed above. The use of personalities and characters from children's television programmes is seen to capitalise on the ongoing relationship and emotional attachment that the child has with the character. There are concerns as to how this can cause confusion and blur the distinction for children between the programme and the advertisement. However, advertiser-generated characters are associated specifically with the product or brand being advertised and, as such, advertisers argue, do not have the same emotional resonance for children and do not play on what is seen as children's special characteristics of loyalty, credulity, vulnerability and lack of experience. In addition, there is not the same danger of confusion as might happen between programming and advertising content.

Outcome

The Commission did not introduce any restrictions on this practice.

(iii) Use of Famous People

A third consideration that arose under this heading, albeit to a lesser extent, but which featured quite strongly in children's responses, was the use of "famous" people, particularly sports people, to advertise products. The use of famous people, be they pop stars, sports stars or famous actors, is a common practice in advertising affecting a wide variety of products and services. Restrictions in this area tend not to be applied as a blanket-ban in other jurisdictions.

Outcome

The Commission decided not to introduce blanket measures. However, one principle exception, as already outlined, is the use of famous people is included in the restrictions pertaining to the advertising of food and drink to children.

8. Product Prohibitions

Respondents proposed that a number of products would be prohibited from inclusion in children's advertising. These are detailed in the summary document. In some cases, respondents were not seeking a complete prohibition of the product being advertised but rather that any advertisements for that product would be scheduled responsibly and with a view to not exposing young children (or, in some instances, children under 16) to such products.

In some instances, products highlighted by respondents are already either prohibited from being advertised or already have some restrictions placed upon them in relation to children, within existing advertising restrictions.

For example, with regard to medication, prescription medicines and treatments for specific illnesses are already prohibited. Tobacco products are prohibited. The advertising of financial and legal products and services are subject to rules already in place, albeit these rules do not address children specifically. There are currently restrictions relating to alcohol and young people.

Outcome

The Commission agreed to re-examine the list of products put forward for prohibition or restriction in light of the decisions made regarding the key principles and objectives to be enshrined in the code.

The principles may mean that many of the concerns expressed regarding particular products are otherwise addressed (and would not allow for these products to be advertised as children's advertising, thus negating the need to name them each specifically.) For example it could be argued that the section on social values could be invoked to prevent the broadcasting of sex lines or other inappropriate material within children's advertising rather than try to capture each and every product that could possibly come under this heading.

The Commission will consider this issue further in March 2004 and will finalise a list of products, which are to be prohibited or restricted in children's advertising.

9. Factual Presentation

There was little dissent with regard to the points made under this heading. There was no disagreement among respondents regarding the general provisions within the TWF Directive and the ASAI code and examples from other jurisdictions were cited as good provisions to include.

However, it is notable that this heading attracted the most comment from children. Indeed, children were perhaps more specific than adults in their responses under this heading and in outlining specifically what rules should be included. This is the section in which their views were most vociferous. In many cases, children referenced their responses to recent experiences, most usually their experience of the disparity between the toy in the advertisement and the toy in reality. In their responses, children were quite specific as to what the code should do to address their concerns in a particular area.

The Commission considered the rules identified and proposed by children and these fell broadly under seven headings. These are outlined below, and include the sub-heading, the rationale for its proposed inclusion and a suggested means of remedy:

Issue	Why?	Rule
Size of product	Products are made to look bigger than they are in reality	Advertising should give an indication of the real size of the product
Range of products/accessories included	Children think that they will get all the accessories and pieces that they can see in an ad and are disappointed when they receive the product and it is only one piece with everything else costing extra	Advertising should let children know what they will get when they buy the product and what they have to pay extra for
Batteries	Children do not realise that the toy needs batteries	Advertising should indicate clearly when batteries are needed
Has to be assembled	Children think the toy comes assembled They are disappointed when they realise it doesn't. Or they don't realise that they need to be older to be able to make the toy	Advertising should indicate clearly when a toy has to be built and what age you need to be to be able to make the toy

<p>Language</p>	<p>If an advertisement says that something is magic, then younger children might believe this.</p>	<p>Advertising should not use language that could confuse younger children and make them think that the product can do something it can't</p>
<p>Use of special effects</p>	<p>It makes the product look better and bigger than it is and young children may not understand the difference between what the special effects are doing and what the product can do on its own. They might think it has special powers.</p>	<p>Advertising should not use special effects to make a thing look like it can do things that it can't.</p>
<p>Small Print</p>	<p>Small print is too small and is of no use to younger children who can't read it or who don't notice it is there.</p>	<p>Small print should be big print and if possible the ad should 'say' it out loud as well.</p>

Outcome

The Commission agreed with the rules and the rationale proposed for each and the code will incorporate all of the above.

10. Price, Purchase Terms and Comparison Claims

There was general support for the inclusion in the code of rules relating to the manner in which price and purchase terms are presented to children and the manner in which products are compared.

The key principles that emerged for inclusion in the code are:

- The price of an item should be given in Euro.
- The price indicated should be inclusive of VAT and any other extra/related charges.
- If the price is dependent on the purchase of another item, then this should be made clear.
- The language used in presenting a price should not minimise the cost e.g. the use of "only", "just" should not be permitted. In addition, an advertisement should not imply that the price of the product is within the reach of every family.
- Expensive toys should state the price in the advert.

Children highlighted three rules in particular that they would like included:

- Children's advertising should not present products as 'newer' or 'improved' versions of older products, as this puts children under pressure to have the newer version.
- If there are a number of products in the advert and the price of one item is highlighted, it should be made clear that the price refers to the single item only.
- Any print should be presented in a large size and should stay on the screen long enough to be read. Alternatively, it should be voiced as part of the audio of the advert, as this would assist younger and illiterate children that do not have the requisite reading skills.

Outcome

The Commission agreed all the principles outlined above.

11. Identification, Separation, Insertion and Scheduling of Advertisements

(i) Identification

All respondents agreed that the distinction between advertising content and programming content should be readily identifiable. They made reference to the visual appearance of the advert, the use of the same presenters or characters as confusing the distinction and the increased relevancy of this issue in relation to young children whose ability to discern such distinctions is only developing.

Outcome

The Commission agreed that the code would specify that advertising must be clearly distinguishable from programming.

(ii) Separation

While the principle of separation is contained within current advertising codes, respondents voiced particular concern regarding children, as it is debatable at to what age a child can discern an ad from a programme. There was unanimous support for the principle of separation. However, some respondents went further and suggested means by which it could be given practical effect either by topping and tailing ad breaks or providing a visual or aural cue to the child, to alert him/her to the beginning and end of the ad break.

Outcome

The Commission agreed that in light of the special susceptibilities of children, the code will not only endorse the principle of separation but will also require broadcasters to use mechanisms that provide visual or aural cues to the child that an advertising break is beginning and ending during children's programming.

(iii) Insertion and Scheduling of Adverts and Volume of Advertising

This heading brought together a number of concerns for parents, in particular the time of broadcast, and the type and volume of adverts broadcast. A number of concerns were raised in relation to each of these scheduling issues and these are outlined hereunder:

(a) Insertion

There was general support for the TWF Directive requirement that prevents programmes of less than 30 minutes duration from being interrupted by advertising. The Commission considered that in many ways this addresses concerns regarding advertising during pre-school programming given that many of these programmes are of less than 30 minutes duration.

Outcome

The Commission endorsed this principle.

(b) Trailers and programme promotions

Concerns were voiced regarding the promotion of films and programmes to be broadcast later in the evening. Insofar as the content of these films may not be suitable for younger

children, it was felt that the trailers should not be broadcast during the earlier part of the day when children are likely to be watching. The Commission acknowledged this concern. The issue does not fall under an advertising code, but will be addressed by the Commission when it is developing a code later this year under Section 19(a) of the Broadcasting Act 2001, specifying standards and rules to be observed in respect of the taste and decency of programme material. However, the Commission will, in the children's advertising code, develop guidelines around the appropriate scheduling of advertising, requiring broadcasters to schedule responsibly in relation to the likelihood of particular age groups watching. Further details regarding these guidelines will be made available with the draft code.

Outcome

The Commission will develop guidelines within the code regarding responsible scheduling of advertising.

(c) Christmas advertising

Christmas advertising was highlighted, in particular the practice of beginning Christmas advertising anywhere from August to November. Respondents had called for restrictions, in particular restrictions regarding the time of year these adverts begin to air.

Outcome

The Commission has decided that the children's code will contain a restriction on the introduction of Christmas-themed advertising prior to November 1st each year. The Commission will further clarify what it means by 'Christmas themed' when it issues its draft code.

(d) Volume

There were concerns expressed regarding the volume of children's advertising.

Outcome

With regard to concerns regarding the volume of children's advertising, the Commission has decided not to introduce any restrictions at this time. The children's code will not be able to address the total volume of advertising watched by children, given that it will only impact on the indigenous channels.

12. Use of Split Screen, Virtual and Interactive Advertising

There was a low uptake on the questions posed in the consultation document under this heading. This may be explained by people's lack of familiarity with the techniques. Generally, it was considered that these techniques will require rules in the Children's Advertising Code in the future. In view of the fact that there are no definitions at EU level as yet and the limited exposure to these techniques currently, it is recommended that the BCI keep this area under review.

It is expected that the EU will shortly circulate an interpretative communication in respect of these techniques. Any emerging definitions or recommendations will be incorporated into the children's code.

Outcome

The Commission agreed to review these techniques again in light of any interpretative communications issued by the EU and in the context of its review of the existing general advertising regulations, which will begin in 2005. For the present, the privacy/information provision under *Special Protection for Children*, which requires that children ask for parental permission before submitting information about themselves or their family, covers the main concerns expressed regarding interactive advertising.

13. Assessment

This section focused primarily on defining children's programming. This question arose for the following reasons:

- The definition of children's advertising as that which targets children and which is broadcast during a children's programme means that it is critical that the code has a way by which we identify a children's programme. This will determine whether advertising broadcast during that programme falls under the scope of the children's advertising code.
- The definition of a child as any person under the age of 18 means that potentially children's programmes are any programmes watched by children under 18.

BCI research echoes much of the anecdotal evidence that children are watching programmes that are not solely intended for children and that there is ambiguity as to what constitutes a children's programme.

There was general agreement among adults and children that there is a blurring in the distinction between children's and adults' programming. In response to the question posed, the Commission considered two options. The first defines a children's programme as such with reference to the time of day at which it is broadcast, for example, all programmes broadcast pre 6pm, pre 9pm etc. Time is considered to be an unambiguous measure. However, there are issues as to its accuracy, fairness and, ultimately, whether it is a blunt instrument that may not produce an effective outcome for the code. For example, frequently, sports events, such as popular football matches and films, cross over the 9pm mark. Also a rigid application of time does not acknowledge the actual viewing patterns of children, and it is inflexible as children's viewing patterns change. It can also be argued that the video recorder makes time irrelevant.

The Commission also considered audience indexing. This system uses audience measurement figures to determine if a programme should be regarded as a children's programme and, therefore, whether advertising broadcast during that programme is children's advertising. If a programme is seen to be of more appeal to children, then it is classified as a children's programme. This is measured using audience figures. So, for example, if it emerged that 51% of viewers to Coronation Street were under the age of 18, then advertising broadcast during that programme would have to comply with the children's advertising code. The rationale for this approach is that it is fair and accurate and it responds in tandem with changes in children's viewing patterns.

Summary of deliberations

The Commission felt that this system allows for a more accurate use of the Commission's principle of affording different levels of protection for different age categories. For example, if audience indexing shows that the audience is primarily 15-17 year olds, then the type of advertising permitted during that time will be different than if the figures had shown that there were mostly children aged 4-8 years watching. This affords greater flexibility to the code.

The indexing system is also an unambiguous way of determining whether a programme is a children's programme and reduces the need for subjective opinions as to whether a

programme is 'intended' for children. Rather it concentrates on what they are actually watching, e.g. if more than half of those watching are under 18.

Outcome

In summary, the Commission will develop a system that, while primarily based on audience indexing, will also provide an indicative set of guidelines regarding time. These guidelines will draw on the Commission's research into children's viewing patterns and also its principle regarding parental responsibility. The guidelines will function as a tool for both parents and broadcasters. Details regarding this system will be made available as part of the draft code.

14. Administration and Implementation of Code

The consultation asked for views as to the manner in which the Commission should monitor, administer and review the code.

(i) How should the code be monitored?

Outcome

The Commission will again consider the administration of the code in March 2004.

(ii) How should we review the Code?

The proposal to review the code was warmly welcomed by all. There was huge support for the code to be reviewed by way of public consultation and for the inclusion of children in the process once again.

Outcome

The Commission will review the section of the code pertaining to food and drink advertising after one year. It will also monitor the impact of the code at that time. A full review of the code using public consultation methods, including consultation with children, will be undertaken after three years.

(iii) Education role for the BCI

The BCI was seen to have an important educative role to play, with broadcasters, advertisers, parents, the general public and children. This role related to educating the public, including children, on the existence of the code, the interpretation and application of the code, and on how to make a complaint, arising from the code.

Outcome

The Commission acknowledged its educational role and will develop a range of initiatives to support the implementation of the code and to raise awareness of its existence among the public. It will also undertake to make data regarding children's viewing patterns and data regarding the volume, nature and type of children's advertising available as well as exploring opportunities to develop media literacy.

(ii) When should the code be implemented?

There were some concerns expressed that advertisers and broadcasters be permitted a period of time before implementation of the code in order to allow for old campaigns to run their course and for personnel to become acquainted with the code.

Outcome

The draft code will be available from early April, will be finalised in June 2004 and launched in July. The Commission felt that this period of time from April to July allows for a period of grace for the industry. Once finalised and launched, however, the code will be fully implemented.