

Children's Advertising Code
Phase Three
Consultation Document

Review of Adult Submissions Received

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Introduction

On 19 April 2004, the Broadcasting Commission of Ireland (BCI) launched its *Children's Advertising Code – Phase 3 Consultation Document*.¹ This marked the third stage of a process designed to culminate in the creation of a code on children's advertising in Ireland. The impetus to respond to this area of commercial activity comes from the *Broadcasting Act, 2001* which requires the BCI to identify set standards to govern advertising and related practices aimed at children.² When finalised, the code will be the first of its kind in Ireland.

The practical application of the children's advertising code will affect home-based broadcast media exclusively. It will apply equally to public and private broadcasters in Ireland. In addition, it will apply to those who make use of a frequency or satellite capacity or up-link in Ireland. More specifically, it will apply to RTÉ radio and television services, TG4, to those television and radio stations licensed under the *Radio and Television Act, 1988* (including the national broadcasters, TV3 and Today FM) as well as content contractors licensed by the BCI under the *Broadcasting Act, 2001*. It will not apply, however, to those services received from abroad – for example, Nickelodeon and MTV – which remain subject to the rules and regulations of their country of origin.

The scope of application may be limited but the number of influences being brought to bear on the process is not. Phase 1 of the process marked the release of the first consultation document to the public accompanied by an advertisement in the national press inviting people to participate. *Phase 2 Consultation Document* was designed to continue raising public awareness vis-à-vis the development of a children's advertising code. In addition to the circulation of materials to groups, representative organisations and industry related bodies, the public was invited, through a series of advertisements in print and broadcast media, to participate in the second phase of the process. Participants could reply by post or on line at the BCI's website.³ The BCI

¹ The launch took place at the BCI's offices at Warrington Place, Dublin 2. From here on, the document will be referred to as *Phase 3 Consultation Document*.

² The BCI coordinates principal activities unfolding in Irish radio and television. Legislation outlining its functions, and thus underpinning its work, is the *Radio and Television Act, 1988* and the *Broadcasting Act, 2001*. Relevant sections in this regard are Sections 19.1(c), 19.2, 19.5, 19.7, 19.9 and 19.10 of the *Broadcasting Act, 2001*.

³ www.bci.ie.

sought to invite and to accommodate diverse opinions while also being able to facilitate pertinent new material arising in the process. In addition, children were consulted – firstly, through the release of a document specifically designed for a child audience and secondly, through a children’s event which took place in Croke Park, Dublin on 24 January 2004.

The process for developing the code is divided into three principal parts. Information gathered and reviewed in the first two phases fed directly into the third, and final, phase. Once again consultation with the general public, children and key organisations underpinned this stage in the process of developing the children’s advertising code. In Phase 3, the BCI produced a draft version of the code based on views expressed in the Phase 1 and Phase 2 consultative processes and the Commission’s own decisions arising directly from these processes. This draft code was made available to the public and all interested parties for comment and discussion. Advertisements were placed in the national press inviting all to participate. Viewed collectively, this emphasis on consultation, participation and inclusion indicates that the ultimate aim of the process is to devise a code which is feasible, easily applied and representative of views expressed.

Consultation document

Similarly to the other consultation documents, a series of questions was posed in *Phase 3 Consultation Document*. It is therefore advised that the document be read in conjunction with this *Review of Adult Submissions*.

Material reviewed in this document emanated from adult responses to the Phase 3 consultation exclusively. A child friendly version of the children’s advertising code was produced and circulated on request to schools which had participated in Phase 2 of the consultative process and to those children who had attended the children’s event in Croke Park in January 2004.

Present report

This report summarises information submitted by adults in response to the *Phase 3 Consultation Document*. The approach taken is linear. It outlines the relevant section of the BCI draft code, specifies the question asked and the information received under fifteen principal headings. These form the sections which follow:

- Social values;
- Inexperience and credulity;
- Undue pressure;
- Special protection for children in advertising;
- General safety;
- Violence;
- Diet and nutrition;
- Parental responsibility;
- Programme characters;
- Product prohibitions and restrictions;
- Identification and separation;

- Insertion of advertising;
- Scheduling children’s advertising;
- Assessment;
- Code administration.

Approach taken

The approach taken to the consideration of submissions was systematic and analytic. As this was a general call, all representations were afforded equal weighting.⁴ Each individual submission was counted as one irrespective of the numbers represented therein. Representations made by individual members of key organisations were counted separately. The method applied allowed for a thorough appraisal of information received in terms of respondent’s objectives, context and content and his/her overall contribution to the code currently being developed.

The format of this review differs somewhat from those issued in Phases 1 and 2 albeit having some common ground. Similarly to those documents, it reacts to the nature of the material provided but in this instance, the type of material submitted differed significantly. The following details must therefore be taken into account. Approximately 950 English language versions and 65 Irish language versions of the *Phase 3 – Consultation Document* (adult) were requested and/or sent to relevant organisations and individuals. Through the BCI website, email and post, 121 adults chose to comment on the contents of the BCI draft code. The majority of those responding were interested parties, those whose work will be directly affected by the implementation of the finished code. In addition, no single submission or respondent dealt with every section. Information was sought on all categories but respondents were also invited to respond to individual sections if desirable. As a result, some questions attracted considerable attention – for example, the section on ‘Diet and nutrition’ – while other sections – for example, on ‘Code administration’ – was referred to by just a few. Unlike reviews produced on the other two phases, concluding remarks are not provided in each section but general conclusions are drawn at the end of the report.

This report deals with specifics. It records specific comments to specific clauses of the draft code. It does not detail opinions for and against the general topic of children’s advertising but has at its core the analysis of the BCI draft code in light of comments made. Representing such opinions was the purpose of review documents released after Phases 1 and 2.

In the third Phase, it was inevitable that those affected by these rules would respond in greatest numbers. Those who were generally supportive of the provisions signalled their endorsement. In some instances, however, they did not provide detailed responses as it was often assumed that material submitted in earlier stages would influence the outcome.

⁴ It should be noted that the number attributed to respondents using the web changes. This occurs due to the sequence in which their responses were recorded for individual responses.

Other respondents made quite detailed responses to the provisions of the Draft Code. It should be noted that in criticising certain elements, many respondents suggested alternatives. They engaged in the process, using their own experience to build on, rather than merely rejecting, what the BCI had proposed. Where differing opinions were provided, these were duly recorded. Context is of particular importance in this respect. Consequently, it is advised that this review of submissions made in Phase 3 be read in conjunction with review documents produced during the first and second phases.

The reporting style of the document is informative rather than analytic. It aims to record rather than to advance/discuss suggestions made. Where additional comments and/or observations were made by respondents, consideration was given as appropriate.⁵ Viewed as a whole, this document should be seen as part of the overall process in the development of the code for children's advertising rather than a stand alone report.

* * * * *

Phase 3 is the culmination of the process. Information supplied, and comments made, during all phases of the process combine to influence the final code. Throughout no one voice was perceived as louder than any other.

⁵ These are presented in the final section of this report: 'Matters arising'.

1. Social values

The Draft Code stated...

- 1.1. Children's advertising shall reflect a range of values that are consistent with the moral and ethical standards and diversity of contemporary Irish society. It shall respect human dignity and not discriminate on grounds of gender, marital status, family status, sexual orientation, religion, age, disability, race or membership of the Traveller community. Nor shall it be offensive to religious or political beliefs or encourage behaviour that is damaging to the environment. It shall respect the principle of equality and avoid sex stereotyping and any exploitation or demeaning of men, women or children.

The Broadcasting Commission of Ireland asked...

What are your views on the rules contained under this heading?

Feedback

Among submissions made, general support was voiced for the inclusion of a section on social values. Certain points were raised which merit further consideration. These are summarised hereunder.

Responses given

The inclusion of 'health' among social values specified was requested. In this sense, it was envisaged that 'health' would be interpreted as a broad concept, 'not just physical or nutritional health but the mental health of young people (ala bullying etc).'

⁶ Similar emphasis was placed on including 'health' by *Safefood*. It believed that children's advertising should promote the health of children and not encourage behaviour damaging to children's health.⁷ According to *Safefood*, inclusion of 'health' would mirror Article 24 of the *UN Convention on the Rights of the Child* (1989) which requires States to 'recognise the right of the child to the enjoyment of

⁶ Martin Caraher: web submission 11.

⁷ *Safefood*: email submission 6, p.4.

the highest attainable standard of health.’ According to *Safefood*, under the terms of this Article - and arising from the overall requirements of the Convention - ‘the State is obliged to take action to promote the health of children and to ensure that institutions and agencies do not by their actions damage children’s health.’⁸

In their joint submission, the Association of Advertisers in Ireland (AAI) and the Institute of Advertising Practitioners in Ireland (IAPI) also asked that an inclusion be made. Here they requested that the phrase ‘in accordance with existing laws’ be inserted at the end of the clause.⁹

The Advertising Standards Authority of Ireland (ASAI) voiced concerns vis-à-vis the emphasis of this section on social values. Such emphasis, it believed, was incorrect, that the BCI draft code was requiring advertisements to reflect social values rather than requiring advertisers not to breach them which, according to the ASAI, is the position of its own code. Furthermore, it stated that ‘The underlying principle behind the requirements in the ASAI Codes relating to social values is that an advertisement should contain nothing that is likely to cause grave or widespread offence.’¹⁰ This, it believed, is in direct contrast to the BCI draft code’s emphasis on seeking ‘to actively promote specific social values’, an emphasis which it believes is ‘hardly the role of commercial advertising.’¹¹

⁸ *Safefood*: email submission 6, p.4.

⁹ AAI/IAPI: written submission 10, p.2.

¹⁰ ASAI: written submission 30, p.3.

¹¹ ASAI: written submission 30, p.3.

2. Inexperience and credulity

The Draft Code stated...

2.1. Inexperience and credulity

Children's advertising shall not take advantage of the natural credulity and sense of loyalty of children. It must not by implication, omission, ambiguity or exaggerated claim mislead or deceive or be likely to mislead or deceive children, abuse their trust or exploit the lack of knowledge of children. It shall not exploit or without justifiable reason play on fear. These principles are given practical effect under the headings Factual Presentation and Price of Product.

2.2. Factual Presentation

In particular, children's advertising shall:

- 2.2.1. Give children an indication of the actual size of the product.
- 2.2.2. Clearly indicate what parts, elements or accessories are included as part of the normal purchase of the product or service and which are only available at extra cost.
- 2.2.3. Clearly indicate when batteries are required for the operation of the product and whether these are supplied with the product.
- 2.2.4. Clearly indicate when a product has to be assembled and what age level is generally required to assemble and use the product.
- 2.2.5. Avoid the use of language, special effects or imaginative scenes that could confuse pre-school and young children [those under 8 years of age] and have them believe that the product or service has capabilities and characteristics that it does not have in reality e.g. 'magical'.
- 2.2.6. In the case of toys or children's possessions,¹² avoid making direct comparisons between existing and 'improved' versions/models of the product, even when the statements or claims are valid.
- 2.2.7. Ensure that 'small print' on children's advertising is clear, simple and legible and remains on screen for a sufficient length of time to enable the child to read it. In the case of children's advertising for products or services to pre school children, any on screen

¹² These are products that persons under 18 years of age could ordinarily be expected to possess.

messages should be stated orally in order to ensure that children of this age understand the message.

2.3. *Price of product/service*

With regard to how the price of a product or service is presented in children's advertising, the following rules shall apply:

- 2.3.1. The price, when given, shall be in euro and be inclusive of VAT or any other extra or related charges.
- 2.3.2. The price shall be presented in a clear large font and where appropriate be voiced as part of the audio.
- 2.3.3. If the price is dependent on the purchase of another item, then this must be made clear in the advert.
- 2.3.4. If there are a number of products in the advert and the price of an item/or items is highlighted, then it must be made clear that the price refers to this item/items only.
- 2.3.5. The language used in presenting the price shall not minimise its cost, e.g. through the use of words such as 'only' or 'just'. The advert shall not imply that the price of the product is affordable to all families.
- 2.3.6. Expensive toys shall state the price in the advert. In this instance, expensive is defined as over €30 for the total price of the product or service being advertised.
- 2.3.7. Children's advertising that refers to 'free gifts' must include all qualifying conditions, e.g. any time limit, how many products need to be bought, how many wrappers need to be collected, etc.

The Broadcasting Commission of Ireland asked...

What are your views on the rules contained under this heading?

Feedback

Responses made in this section were specific in approach. The majority of those making submissions tended to group their comments under individual clauses rather than provide an overview of the section's contents.

Section 2.1. *Inexperience and Credulity*

This section elicited two main comments. Firstly, Margaret-Ann Lawlor believed the word 'fear' was inappropriate in this context and asked that it be changed to 'disappointment'.¹³ Secondly, the Green Party asked that the clause 'without justifiable reason' be deleted as it could not 'imagine any justifiable pretext for defending advertisers in their desire to 'play on the fear' of children.'¹⁴

¹³ Margaret-Ann Lawlor: written submission 20, p.3.

¹⁴ Green Party: email submission 17, p.4.

2.2. *Factual presentation*

The suitability/applicability of the code to all those under 18 was raised throughout the sections of this code and in particular, at this juncture. Here it was believed that, while laudable, most of these requirements were superfluous in advertising to the older age groups who were not in need of such protective measures.¹⁵

2.2.1. With reference to providing an accurate size of product, advertising for food which promotes inappropriate portion size was referred to. More specifically, advertisements which promote larger portions, two for the price of one, etc. were seen as posing a significant risk to weight gain and obesity.¹⁶ For TV3, information on product size should be relevant to the purchase decision – for example, given for ‘a bike rather than confectionery.’¹⁷

2.2.4. With reference to the assembly of the product, the Toy Industries of Europe (TIE), believed that while announcing the need to assemble a toy in an advertisement was the correct approach, specifying the age level required for such assembly was ‘over-prescriptive.’ Its reasoning was as follows:

Toys are produced for specific age ranges of children. This information, along with assembly instructions are generally mentioned on the packaging and/or inside the packaging of the toy. Adding this supplementary information within an advertisement is highly unlikely to add value to the purchasing choices of the consumer. Arguably, alongside the many other messages that need to be transmitted within children’s advertising, this message is unlikely to have a high impact. Indications on the box at the point of sale are more likely to be a decisive factor in consumer choice.¹⁸

2.2.5. With reference to the use of imaginative scenes in children’s advertising, the Association of Advertisers in Ireland (AAI) and the Institute of Advertising Practitioners in Ireland (IAPI) stated that this clause places unreasonable limitations upon the ability of advertisers to represent their product: ‘Special effects and imaginative scenes are legitimate creative tools in the art of representing play and how a product can be used.’¹⁹ These representative organisations state that they already advise advertisers not to misrepresent their products. Consequently, they ask that the clause in the BCI draft code be replaced with the following:

Care should be taken not to exploit a child’s imagination. Fantasy, including animation, is appropriate for younger as well as older children. However, it should not create unattainable performance expectations nor exploit the younger child’s difficulty in distinguishing between real and fanciful.²⁰

¹⁵ See, for example, Youthreach: email submission 19, p.3.

¹⁶ *Safefood*: email submission 6, p.5; National Taskforce on Obesity: written submission 32, p.3.

¹⁷ TV3: written submission 7, p.7.

¹⁸ TIE: email submission 18, p.2.

¹⁹ AAI/IAPI: written submission 10, p.3.

²⁰ AAI/IAPI: written submission 10, p.3.

Concerns were also voiced by the Advertising Standards Authority of Ireland (ASAI) and the TIE. The ASAI believed that ‘The removal of ‘magical’ or imaginative scenes from advertisements will be difficult to interpret and could lead to an unnecessary dumbing down of presentations.’²¹ Tom Doherty’s comment develops this further by saying that the implementation of this clause would ‘impinge on the creative process and would be very hard to quantify.’²² The TIE supported the alternative clause proposed by the AAI and IAPI. It did not agree that the use of imaginative techniques is ‘tantamount’ to taking advantage of a child’s natural credulity. Furthermore, it stated that

A key part of play and an integral part of child development is the use of the imagination and fantasy. Children, in their imaginative play will clearly consider, for example, wizards to be “magical”. This does not mean that they believe a toy wizard will cast spells or turn the sky pink if special effects or imaginative scenes are included in advertising. It does mean that they will use a toy that is associated with magic to use their creativity, to develop stories and communicate with others.²³

2.2.6. Referring to claims between new and existing products, the AAI and IAPI said advertisers should be able to make valid product claims, ‘provided they are substantiated.’ Acknowledging that the code is attempting to alleviate pressure placed on parents, they asserted that this is already covered in the section on undue pressure and consequently, it is unnecessary to reiterate it at this point. Age differentiation was referred to when the AAI and IAPI asked for a clause to be inserted at the end of the section: ‘The section is particularly relevant to children under 10 years of age only.’²⁴

For the AAI and IAPI, ‘The age groups are again critical to the reasonable interpretation and application of this clause.’²⁵ The ASAI voiced similar concerns, saying that ‘Children’s possessions as defined in relation to late teenagers introduces in real life practically the whole range of products that persons over 18 could ordinarily be expected to possess from cars to TVs, mobile phones, expensive clothing and gear.’²⁶ The ASAI continued: ‘This is just one example of the need for proper distinctions to be drawn between minors of different ages. The more detailed the rules are, in the context of the proposed definition of a child being anyone under 18 years, the greater the need to make this distinction throughout the code.’²⁷

The TIE also concurred with sentiments expressed by the AAI and IAPI.²⁸ In addition, it suggested the existing clause be replaced by: ‘If objective claims are made in an advertisement directed to children, the advertiser should be able to supply adequate substantiation.’²⁹

²¹ ASAI: written submission 30, p.3.

²² Tom Doherty (QMP Publicis): web submission 19.

²³ TIE: email submission 18, p.2.

²⁴ AAI/API: written submission 10, p.3.

²⁵ AAI/API: written submission 10, p.3.

²⁶ ASAI: written submission 30, p.3.

²⁷ ASAI: written submission 30, p.3.

²⁸ TIE: email submission 18, p.2.

²⁹ TIE: email submission 18, pp 2-3.

2.2.7. Referring to the inclusion of ‘small print’ in advertisements, the AAI and IAPI voiced the following concerns. For these organisations, ‘...orally delivered messages could take a commercially punitive length of time to deliver and may be unworkable for edits or 10/20 sec cut downs of full commercials.’ Moreover, they suggested this measure was more suitable for those under 10 than the more global approach of all under 18.³⁰ For Tom Doherty of QMP Publicis, ‘the time factor on reading something out seems to have been ignored here.’³¹

Martin Caraher wondered if there was sufficient time to display and read the message given. In addition, Caraher suggests that the message be given aurally, a point echoed by the Irish Society for the Prevention of Cruelty to Children (ISPCC).³² This, the ISPCC continued, would provide information accessible to all children thus including those with hearing or visual disability and those with literacy problems.³³ Glanbia sought clarification on what constitutes ‘small print’ and an ‘on-screen message.’³⁴

* * * * *

Taking an overview of 2.2., it was suggested that in meeting all requirements specified, the advertisement produced would be cluttered with information. More particularly, such information would not be instantly accessible due to the volume of details required and the short duration of a television advertisement.³⁵

2.3. *Price of product/service*

Referring to clauses 2.3.2. through to 2.3.4., the AAI and IAPI asked for the phrase ‘when given’ to be inserted where the price for products is referred to. In reference to the use of ‘only’ or ‘just’ (2.3.5.), they asked for the second sentence to be removed ‘as affordability is a relative measure and the issue of cost minimisation is covered in the first sentence.’ They provided the following suggestion for a replacement clause: ‘The language used in presenting the price shall not minimise its cost, e.g. through the use of words such as “only” or “just”.’³⁶

Some felt the use of the term ‘expensive’ required clarification as it was unclear how and by whom such a determination would be made.³⁷ Specifying a minimum price of €30 also elicited concern. The ASAI, for example, believed this to be a transient amount of no apparent significance and could be difficult to apply to products aimed at older children. Indeed, it added, ‘A requirement to state a price in an advertisement is unusual and might not be practical if the product is to be sold at different prices. Could this have implications for competition law?’³⁸ The ISPCC, while agreeing that all prices should be stated orally and on screen, believed ‘that the minimum price of €30 be dropped.’³⁹

³⁰ AAI/IAPI: written submission 10, p.3.

³¹ Tom Doherty (QMP Publicis): web submission 19.

³² Martin Caraher: web submission 8.

³³ ISPCC: email submission 15, p.2; see also Anon: web submission 6.

³⁴ Glanbia: email submission 16, p.2.

³⁵ AAI/IAPI: written submission, 10, p.3; TV3: written submission 7, p.7.

³⁶ AAI/IAPI: written submission 10, p.4.

³⁷ ASAI: written submission 30, p.3.

³⁸ ASAI: written submission 30, p.4.

³⁹ ISPCC: email submission, p.2.

The TIE found the section over-prescriptive, believing the criteria specified would be difficult to introduce in practice. More specifically, it stated that

Retail prices can differ greatly between geographic markets and locations and between retailers, and are not in any sense controlled by the manufacturers advertising the products. Many manufacturers do not as a practice provide recommended retail prices to their customers/the trade. Even if recommended retail prices are provided by manufacturers/advertisers, actual retail prices can still vary widely. We agree that the price of a toy should not be presented in a language to suggest that it is affordable to all (as mentioned in 2.3.5.), however, while retailers are able to say categorically how much they charge for a toy, for a manufacturer, stating the price is more difficult. As a result, this provision could as a result be more confusing for the consumer than not mentioning the price at all.⁴⁰

⁴⁰ TIE: email submission 18, p.1.

3. Undue pressure

The Draft Code stated...

- 3.1. Children's advertising shall not directly encourage or exhort children to ask adults to buy them the products or services being advertised.
- 3.2. Children's advertising should not imply that possession or use of the product or service will make the child or his or her family superior, either physically, socially or psychologically. It should not imply that the child or his or her family will be inferior or open to ridicule or contempt if they do not possess the particular product or service.
- 3.3. Children's advertising must be particularly careful to avoid the implication that possession of a product or service will contribute to or detract from the child's popularity or acquisition of friends.
- 3.4. Children's advertising should not make the child feel inferior, disloyal or doubtful about their self-image.
- 3.5. Children's advertising must not offer prizes or rewards to children for attracting new purchasers for the product or service.

The Broadcasting Commission of Ireland asked...

What are your views on the rules contained under this heading?

Feedback

In general, support was voiced for the contents of this section. Certain concerns, however, were also articulated – some based on specific clauses while others pertained to an overview of the section. These are outlined hereunder.

3.1. The use of the word 'directly' was queried. The Green Party believed that the clause included an unnecessary restrictive qualifier in this word as 'Professional advertising is based largely on implicit messages and indirect associations.'⁴¹ Continuing on this theme, Glanbia asked for clarification vis-à-vis what was meant by

⁴¹ The Green Party: email submission 17, p.4.

‘direct encouragement’ as it contended that ‘making a product attractive to children should not be considered a “direct encouragement”.’⁴²

3.2. The AAI and IAPI had no issue with this clause. They did say, however, that it was contingent on the interpretation and application of the clause being handled in a reasonable manner.⁴³

Tom Doherty of QMP Publicis perceived this rule as difficult to interpret. According to Doherty, ‘In a playground on a hot sunny day surely the possession of an ice cream or soft drink would make a child superior to a child that doesn’t have an ice cream or soft drink?’⁴⁴

* * * * *

Principal concerns centred on the BCI draft code’s definition of a child as being all those under the age of 18. The need for different levels of development to be identified and different degrees of protection to be afforded was highlighted once more.⁴⁵ Voicing agreement with this section generally, RTÉ did stress that ‘when this section is read with a 17-year old in mind, it loses [sic] much of its meaning.’⁴⁶ The Association of Advertisers in Ireland (AAI) and the Institute of Advertising Practitioners in Ireland (IAPI) suggested the following clause be inserted at the end of the section: ‘Cognizance of varying levels of protection required for the different age groups should be taken into account when this clause is being interpreted and applied.’⁴⁷

⁴² Glanbia: email submission 16, p.3.

⁴³ AAI/API: written submission 10, p.5.

⁴⁴ Tom Doherty (QMP Publicis): web submission 16.

⁴⁵ See, for example, AAI/API: written submission 10, p.6.

⁴⁶ RTÉ: written submission 28, p.2.

⁴⁷ AAI/API: written submission 10, p.6.

4. Special protection for children in advertising

The Draft Code stated...

In general, children may appear in children's advertising if their appearance is as a natural element in the depicted environment or necessary to explain or demonstrate the use of the product or service. The following restrictions will apply:

4.1. Children endorsing products

Children shall only be used in children's advertising to comment on or endorse products that they could reasonably be expected to use and would usually be interested in themselves.

4.2. Sexualisation of children

Children's advertising shall not portray a child in a sexually provocative manner or provoke anxiety in children over their bodily appearance.

4.3. Privacy and provision of information

Children's advertising shall, where possible, avoid the practice of asking children to send private information or details regarding themselves, their family or friends. When this practice is used, children's advertising shall state that children must seek adult approval before sending the information and children's advertising must ensure that children seek the permission of their parents/guardians.

Where information has been given, extreme care must be taken to ensure that all personal details are fully protected and used in a socially responsible manner and in accordance with relevant legislation.

4.4. Adults pretending to be children

The use of adults pretending to be children in children's advertising must not be offensive to the dignity of children.

The Broadcasting Commission of Ireland asked...

What are your views on the rules contained under this heading?

Feedback

Specific and general comments were made regarding the contents of Section 4. Comments made on individual clauses are considered first, with more generally based statements considered thereafter.

Opening statement The inclusion of the opening paragraph was questioned. Carat Ireland, for example, contested the necessity of it, stating that the use of children in advertising is ‘generally a reflection of their role in a family environment.’ Consequently, it felt ‘advertisers that reflect children’s natural role in a family environment should not be penalised.’⁴⁸

The Association of Advertisers in Ireland (AAI) and the Institute of Advertising Practitioners in Ireland (IAPI) also questioned the inclusion of this paragraph. For them, a child’s ‘endorsement of a product targeting an adult is generally a subtle strategy and not one likely to cause widespread offence.’ ‘If the clause is retained’, they continued, ‘care must be taken that its application should be reasonably applied.’⁴⁹

RTÉ also focussed on this clause. Here it said

In the opening paragraph under this section RTÉ believes that the BCI may have inadvertently included in its proposed prohibition the kind of advertising for “adult” products which includes the participation of children as members of the family or household. Many domestic products are advertised in family settings where children play a role. These products are aimed at adults and the inclusion of children should be encouraged rather than discouraged.⁵⁰

4.2. Much support was expressed for the inclusion of this section on the sexualisation of children. The Advertising Standards Authority of Ireland (ASAI), while supporting this clause, believed that without recognition of different stages of development in children, this would be difficult to apply, ‘especially as children are becoming sexually aware and active at younger ages than in the past.’⁵¹ The AAI and IAPI are also supportive of this clause but ask that the following point be noted: that ‘social anxiety is often used as a creative strategy in many toiletry and personal care ads and should be allowed provided it reflects rather than provokes that natural anxiety.’⁵² Following on, they asked for the following sentence be inserted at the end of this section: ‘Social anxiety as a creative approach in toiletry and personal care

⁴⁸ Carat Ireland: written submission 11, n.pag.

⁴⁹ AAI/IAPI: written submission 10, p.6.

⁵⁰ RTÉ: written submission 28, p.2.

⁵¹ ASAI: written submission 30, p.4.

⁵² AAI/IAPI: written submission 10, p.6.

advertisements will be allowed, provided it reflects rather than provokes that natural concern.’⁵³

Margaret-Ann Lawlor suggested the following changes. Firstly, she asked that the following rewrite be considered: ‘Children’s advertising shall not portray a child in a sexually provocative manner, *either implicitly or explicitly*.’ And secondly, she requested that the reference to provoking anxiety over children’s bodily image be expanded to ‘Advertising should not offer or propagate stereotypical bodily images and/or provoke anxiety in children over their bodily appearance.’⁵⁴

4.3. Referring to the section on privacy and provision of information, the Family and Media Association (FMA) believed the phrase ‘where possible’ was imprecise and could be open to exploitation. RTÉ focused on the role of the broadcaster in this regard, stating that broadcasters should not be responsible for information gathered by advertisers. More specifically, it stated that ‘This responsibility rests under Data Protection legislation with those who commissioned the advertisement.’⁵⁵

Brendan Cooney and Kevin Healy believed no information should ever be requested directly from children.⁵⁶ Similar sentiments were expressed by the ISPCC which believed that the practice of eliciting information from children should not merely be avoided, it should be banned.⁵⁷ Carla Peelman-Moens felt that companies should obtain parents’ information rather than details regarding the child as such specifics would not be directly necessary for advertisement purposes.⁵⁸

4.4. Regarding the section dealing with adults pretending to be children, ASAI questioned its relevance, believing such protection was already expressed satisfactorily in Section 1.1. of the BCI draft code.⁵⁹ The FMA queried who would judge whether or not an adult was acting offensively in this context, a viewpoint echoed by Gerard Roe of QMP Publicis.⁶⁰ In order to maintain the spirit of what was intended in this clause, the AAI and IAPI suggested the following amendment: ‘Care should be taken to not cause widespread offence by the use of adults pretending to be children in children’s advertising.’⁶¹

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The subject of age emerged once again in this section. The ASAI, for example, believed that with reference to the sexualisation of children, different levels of protection were necessary. It perceived this as yet another example of why such differentiation is required.⁶² The AAI and IAPI echoed these sentiments when they said ‘The appropriate interpretation of the clause relative to the different age groups is fundamentally important here. Teenagers often look to their peers for affirmation and

⁵³ AAI/API: written submission 10, p.6.

⁵⁴ Margaret-Ann Lawlor: written submission 20, n.pag.

⁵⁵ RTÉ: written submission 28, p.2.

⁵⁶ Brendan Cooney: web submission 8; Kevin Healy: web submission 7.

⁵⁷ ISPCC: email submission 15, p.3.

⁵⁸ Carla Peelman-Moens: web submission 10.

⁵⁹ ASAI: written submission 30, p.4.

⁶⁰ FMA: written submission 26, p.2; Gerard Roe (QMP Publicis): web submission 14,

⁶¹ AAI/API: written submission 10, p.7.

⁶² ASAI: written submission 30, p.4.

information and advertising which reflect this should not be penalised.’⁶³ Based on this, they suggest the inclusion of the following clause at the end of the section: ‘Cognizance of varying levels of protection required for the different age groups should be taken into account when this clause is being interpreted and applied.’⁶⁴

⁶³ AAI/IAPI: written submission 10, p.6.

⁶⁴ AAI/IAPI: written submission 10, p.6.

5. General safety

The Draft Code stated...

5.1. Activity

- 5.1.1. Children's advertising shall not encourage children to enter into unsafe situations or strange places or to talk to strangers.
- 5.1.2. Children's advertising shall not show children in morally or physically dangerous situations or behaving dangerously in the home or outside, except when the sole purpose of the advert is to promote safety.
- 5.1.3. Children's advertising shall show children using safety rules when engaged in activities that require such and with adult supervision where appropriate, for example as passengers in vehicles, as pedestrians, cyclists, when rollerblading, skateboarding, swimming, water sports or horse riding.
- 5.1.4. Children's advertising should not show children using or close to dangerous substances for example – matches, gas appliances, petrol, certain household substances or in possession of or administering medicines unless under direct adult supervision.
- 5.1.5. An open fire shall always have a fireguard clearly visible when a child is included in the scene.
- 5.1.6. Children's advertising shall not show children in close proximity to dangerous equipment without direct adult supervision.
- 5.1.7. Children's advertising shall not show children using the Internet without adult supervision.
- 5.1.8. Children shall not be shown unattended in street scenes unless they are old enough to take responsibility for their own safety.

5.2. Behaviour

- 5.2.1. Children's advertising shall not encourage children to engage in, or be portrayed engaging in, anti-social behaviour, in particular bullying, taunting or teasing of other children.
- 5.2.2. Children's advertising should not disparage education or condone aggression or greed as admirable qualities.

The Broadcasting Commission of Ireland asked...

What are your views on the rules contained under this heading?

Feedback

Comments made were divided between specific references to individual clauses and those providing an overview of the section. Points made are summarised hereunder.

5.1.1.-5.1.4. The Irish Society for the Prevention of Cruelty to Children (ISPCC) asked that children's advertising show none of the scenarios 'regardless of adult supervision unless the focus is on a health and safety, public safety or child protection campaign.'⁶⁵

5.1.5. Referring to scenes where open fires are present, two principal comments were made. Firstly, the ISPCC asked for this clause to be reworded to read: 'an open fire shall always be covered by a fireguard...'⁶⁶ The Toy Industries of Europe (TIE) believed that adult supervision could be an alternative way of showing a child in a safe environment. Consequently, they suggested the clause be changed to 'An open fire should always have a fireguard or adult supervision clearly visible when a child is included in the scene.'⁶⁷

5.1.4. and 5.1.6. The TIE suggested that these two clauses be merged as there 'is currently a certain degree of repetition between the two texts.' Consequently, it proposed the following revamped clause to substitute for the existing 5.1.4.: 'Children's advertising should not show children using or in close proximity to dangerous substances or equipment, for example – matches, gas appliances, petrol, certain household substances, or in possession or of administering medicines, unless under direct adult supervision.'⁶⁸ Should this clause be adopted, the TIE suggested the original 5.1.6. should therefore be deleted.

5.1.6.-5.1.7. The ISPCC believed this clause contravened 5.1.2. which referred to children being portrayed in morally or physically dangerous situations. It reiterated its point that 'children should not be shown in close proximity to dangerous equipment regardless of adult supervision, unless the focus is on a health and safety, public safety or child protection campaign.'⁶⁹

The TIE also referred to 5.1.7. While adult supervision of the Internet is desirable, it suggested that 'it is better that this is explicitly encouraged through messages such as "ask your parents before going on line" rather than simply showing an adult supervising a child.' On the basis of this view, the TIE suggested the following revision: 'Children's advertising shall not show young children (under 10) using the Internet without encouraging adult supervision i.e. "ask your parents before going on line".'⁷⁰

⁶⁵ ISPCC: email submission 15, p.2.

⁶⁶ ISPCC: email submission 15, p.2.

⁶⁷ TIE: email submission 18, p.3.

⁶⁸ TIE: email submission 18, p.3.

⁶⁹ ISPCC: email submission 15, p.2.

⁷⁰ TIE: email submission 18, p.3.

5.1.8. Glanbia suggested that the phrase ‘street scene’ was inappropriate. It recommended ‘safe environment’ be put in its stead.

5.2.2. At this point, the Green Party asked that advertisers and broadcasters refrain ‘from condoning “envy”.’⁷¹ The Association of Advertisers in Ireland (AAI) and the Institute of Advertising Practitioners in Ireland (IAPI) said they had no issue with this ‘provided the interpretation...is reasonable in its analysis of normal children’s play and activity.’ They asked that an addition be made at the end of this clause which reads as follows: ‘This does not exclude normal children’s playing activities e.g. horseplay.’⁷²

The Advertising Standards Authority of Ireland (ASAI) also had concerns. As there are innumerable situations in which a child might be considered to be in danger, the ASAI contended that any list could ‘only be indicative.’ Consequently, it stated that ‘It would be more appropriate for the BCI code to state the broad principle that advertising should not encourage dangerous behaviour or show unsafe practices except in the context of promoting safety.’⁷³ Overall, it asserted that all contents of 5.2. be stated broadly as ‘this could with advantage be replaced by the more general principle that an advertisement should contain nothing that condones or is likely to condone anti-social behaviour.’⁷⁴ The TIE asked that the existing 5.2.2. be merged with 5.2.1. to read: ‘5.2.1. Children’s advertising shall not encourage children to engage in, or be portrayed engaging in, anti-social behaviour.’⁷⁵

Comments passed on the overall contents of Section 5 centred on the issue of age differentiation. Throughout the notion was expounded that while certain provisions were suitable for young children, they were largely inappropriate for older children and adolescents. Referring to 5.1.3., for example, RTÉ believed this paragraph was

unnecessarily restrictive as it does not differentiate between young children and older children. RTÉ cannot accept, for example, that a 17 year-old should not be seen skate-boarding without adult supervision. A 17-year old can hold a driving licence, marry, etc. why shouldn’t s/he be able to skate board on her/his own?⁷⁶

For RTÉ, it was also unrealistic that a 17 year old would warrant adult supervision while using the internet. Similar sentiments were expressed by the AAI and IAPI. They believed that the following should be included at the end of certain clauses: ‘Cognizance of varying levels of protection required for the different age groups should be taken into account when [clauses are] being interpreted and applied.’ Examples of where this might be inserted include 5.1.4. and 5.1.8.⁷⁷

⁷¹ The Green Party: email submission 17, p.5.

⁷² AAI/IAPI: written submission 10, p.9.

⁷³ ASAI: written submission 30, p.5.

⁷⁴ ASAI: written submission 30, p.5.

⁷⁵ TIE: email submission 18, p.3.

⁷⁶ RTÉ: written submission 28, p.3.

⁷⁷ AAI/IAPI: written submission 10, p.8.

5.1.8. emerged as particularly problematic in this respect as many respondents asked how old is ‘old enough’.⁷⁸ The ISPCC thought this too general, asking that an age limit be applied.⁷⁹ Youthreach believed the ‘degree to which protection is required is an issue.’⁸⁰ TV3 thought it problematic and not cognisant of the fact that ‘Children, by definition, are not uniform in their maturity.’⁸¹

* * * * *

Viewed collectively, comments made are indicative that a general approach may not be suitable. Combined, these comments identify the need to recognise different levels of development in children and consequently, for different degrees of protection to be afforded. RTÉ contended that a graded approach be used throughout the code and in particular in this section. Furthermore, ‘It is RTÉ’s view that the Commission must accept this reality and reflect it where appropriate throughout the Code.’⁸²

⁷⁸ See, for example, AAI/IAPI: written submission 10, p.8; RTE: written submission 28, p.3; TV3: written submission 7, p.8; ISPCC: email 15, p.2; Glanbia: email submission 16, p.5; Youthreach: email submission 19, p.4.

⁷⁹ ISPCC: email submission 15, p.2.

⁸⁰ Youthreach: email submission 19, p.4.

⁸¹ TV3: written submission 7, p.8.

⁸² RTÉ: written submission 28, p.3.

6. Violence

The Draft Code stated...

6.1. Children's advertising should not generally, as a principle, include violence or include scenes that will cause distress to children. In instances where the inclusion of violent scenes may be necessary as part of a public service message or in order to demonstrate the product, advertisers must have regard to the likely age group of the children watching and must schedule responsibly so as to ensure that such advertising does not cause distress, in particular to young children.

The Broadcasting Commission of Ireland asked...

What are your views on the rules contained under this heading?

Feedback

In general, support was voiced for this clause. Some comments were made and these are outlined as follows.

The Advertising Standards Association of Ireland (ASAI) made three principal points. Firstly, while agreeing with this section, it stated that it was 'at odds with much cartoon "violence" in programme content which is regularly broadcast to children.'⁸³ Secondly, it highlighted that the general principle which appears in its own code on general advertising might be more suitable at this juncture, where advertisements should not cause fear or distress. And finally, it referred once more to the need for children to be broken down into age categories as different age groups 'presumably respond differently to violence real or pretended.'⁸⁴

Concern was also expressed that any violence be used in commercial messages. Gary and Susan Healy argued 'that violence should only be for public safety messages and only then after advertisers have regard to the age of the children targeted.'⁸⁵ Similar

⁸³ ASAI: written submission 30, p.5.

⁸⁴ ASAI: written submission 30, p.5.

⁸⁵ Gary and Susan Healy: email submission 1, n.pag.

sentiments were expressed by the Green Party when it said ‘Paragraph 6.1. should explicitly restrict violent scenes to public service information broadcasts. The current paragraph is insufficient in setting this restriction.’⁸⁶ Youthreach thought the response was ‘reasonable’ but felt that in certain instances – for example, the Laura Croft-styled cartoon in Lucozade advertisement – some fine tuning might be required.⁸⁷

⁸⁶ The Green Party: email submission 17, p.4.

⁸⁷ Youthreach: email submission 19, p.4.

7. Diet and nutrition

The Draft Code stated...

- 7.1. Children's advertising shall not portray or refer to celebrities, sports stars or children's heroes, to promote food or drink products, unless the advert is part of a public health or education campaign.
- 7.2. Children's advertising shall not encourage an unhealthy lifestyle or unhealthy eating and drinking habits such as excessive or compulsive eating.
- 7.3. Children's advertising representing mealtime should clearly and adequately depict the role of the product within the framework of a balanced diet.
- 7.4. All children's advertising for products or services coming within the recognised character of, or specifically concerned with confectionery, must show a toothbrush symbol on the screen. For example, cakes, biscuits, sweets and chocolate.
- 7.5. Children's advertising must not contain any misleading or incorrect information about the nutritional value of the product.
- 7.6. All children's advertising for fast food products, outlets and/or brands must display an acoustic or visual message stating that this type of food should be eaten in moderation and as part of a balanced diet. Fast food is defined as food coming under the recognised character of fast food and/or inexpensive cooked food that is prepared and served quickly.
- 7.7. Children's advertising must not make unjustified comparisons between foods or imply that particular foods are a substitute or replacement for fruit and/or vegetables.

The Broadcasting Commission of Ireland asked...

What are your views on the rules contained under this heading?

Feedback

Regarding ‘diet and nutrition’, comments made were both substantial and significant as the following summary will highlight. Specific comments were made vis-à-vis individual clauses and general comments were also proffered.

7.1. The use of celebrities in food advertisements generated quite diverse opinions. Approval was voiced by a small number of people as it was generally felt that this played on a false sense of loyalty to encourage children to buy certain products.⁸⁸ The Green Party considered this to be a ‘modest proposal.’ In addition, it voiced concern regarding ‘how such a restriction on action heroes will work in practice and [it] would recommend that it include all cartoon characters which children easily identify with and see as heroes.’⁸⁹ The Food and Drink Industry of Ireland (FDII) also sought clarification on the BCI’s definition of ‘a children’s hero?’ In addition, it asked ‘How does the BCI determine which programme characters can/cannot be used?’⁹⁰

Manufacturers, organisations representing industry and advertisers fervently disagreed with the inclusion of this clause. C&C stated that this was ‘an unfair, unnecessary and disproportionate restriction on our industry. Use of celebrities is a valid communication strategy for all goods and services and serves in many instances as positive role models.’⁹¹ Glanbia was of similar mind, believing ‘the use of celebrities, sports stars and children’s heroes can be a useful tool in encouraging young people to live a healthy lifestyle and eat a balanced nutritional diet.’⁹² The FDII also felt this was a disproportionate restriction on the food and beverage industry while echoing that using celebrities et al was ‘a valid communications strategy for all goods and services, including those targeting children.’⁹³ For Tom Doherty of QMP Publicis, celebrities could have a positive influence on children. His objection hinged on the belief that it ‘seems to [suggest] that all celebrities are somehow bad/evil.’⁹⁴ The Beverage Council of Ireland stated that the use of celebrities should be subject to the same stringent requirements as other advertising techniques. Moreover, it asserted that ‘If a product does not encourage excessive or compulsive eating, the use of celebrities, sports stars or children’s heroes in advertising should be permitted.’⁹⁵

Some respondents asked what evidence was provided to substantiate ‘why food producers should be singled out for this restriction?’⁹⁶ Following on this theme, the Association of Advertisers in Ireland (AAI) and the Institute of Advertising Practitioners in Ireland (IAPI) proffered the following view:

⁸⁸ See, for example, The National Heart Alliance: written submission 33, p.2; Kevin O’Donnell: web submission 1; the Green Party: email submission 17, p.5; Children’s Rights Alliance: written submission 12, p.1; INDI: written submission 16, p.1.

⁸⁹ The Green Party: email submission 17, p.5.

⁹⁰ FDII: written submission, p.7.

⁹¹ C&C: email submission 7, p.2. Others voicing a similar opinion included: Carat Ireland: written submission 11; FDII: written submission 14, p.6; PepsiCo International: written submission 15; Beverage Council of Ireland: written submission 22, p.2; Coca-Cola Ireland: written submission 18, n.pag.

⁹² Glanbia: email submission 16, p.6.

⁹³ FDII: written submission 14, p.6.

⁹⁴ Tom Doherty (QMP Publicis): web submission 26.

⁹⁵ Beverage Council of Ireland: written submission 22, p.2.

⁹⁶ Owens DDB: written submission 19, p.1; see also Coca-Cola Ireland: written submission 18, n.pag.

We contend that the stipulation to ban ‘Celebrity’ endorsement of food promotions is a barrier to trade and an unfair restriction on the food industry’s ability to raise product awareness in its target markets. Why should food producers be singled out for particular restriction, especially as the case that advertising is the root cause of childhood obesity is in no way proven.⁹⁷

While rejecting the draft clause, the AAI and IAPI provided an alternative. Their suggestion centred on such celebrities being used responsibly in advertising, particularly in regard to products targeting those under 10 years of age.⁹⁸

Queries were also raised regarding the affect this might have on children. Here PepsiCo International stated that banning the use of celebrities would ‘have little impact on levels of obesity generally and of the occurrences of obesity in childhood specifically.’⁹⁹

7.2. Again opinion was divided on children’s advertising not encouraging an unhealthy lifestyle or dietary habits. While the Irish Nutrition and Dietetic Institute (INDI) welcomed the inclusion of this clause, the AAI and IAPI felt it was too broad, left open to interpretation and also to misinterpretation. In its stead, they suggested the following: ‘Children’s advertising needs to be responsible in the manner that food and drink are portrayed. Care should be taken not to promote excessive eating or drinking in advertisements.’¹⁰⁰

The National Taskforce on Obesity and the National Heart Alliance remained unconvinced that this clause could deal satisfactorily with the perceived problem.¹⁰¹ The National Heart Alliance felt that despite the code placing restrictions on the promotion of these foods, advertising would continue to portray them as ‘desirable choices.’ Furthermore, it believed that there was ‘the added concern of how this provision is interpreted and what constitutes an unhealthy lifestyle, unhealthy eating etc. How will these categories be defined, what criteria will be used?’¹⁰²

7.3. Referring to the depiction of the role of the product within the framework of a balanced diet, the general opinion was ‘how?’¹⁰³ The INDI welcomed this but was ‘concerned at how this will be achieved.’¹⁰⁴ Similarly, Glanbia asked for clarification regarding how a healthy lifestyle and balanced diet might be depicted – ‘Would an aural depiction be sufficient?’¹⁰⁵ The AAI and IAPI also questioned the practicality of ‘depicting’ the role of a product in this context. More specifically, they stated that

⁹⁷ AAI/API: written submission 10, p.9.

⁹⁸ AAI/API: written submission 10, p.9.

⁹⁹ PepsiCo International: written submission 15.

¹⁰⁰ AAI/API: written submission 10, p.10.

¹⁰¹ National Taskforce on Obesity: written submission 32, p.3; National Heart Alliance: written submission 33, p.2.

¹⁰² National Heart Alliance: written submission 33, p.2.

¹⁰³ See, for example, Mark Doyle (Green-Isle foods): web submission 9; Gerard Roe (QMP Publicis): web submission 27.

¹⁰⁴ INDI: written submission 16, p.2.

¹⁰⁵ Glanbia: written submission 16, p.5.

Advertising will naturally focus on the brand being advertised, e.g. a yoghurt or a cereal. Advertisements do not feature other, potentially competitive products. A balanced diet is not just an individual meal and cannot properly be depicted as such.¹⁰⁶

For the AAI and IAPI, sufficient safeguards already appear in the BCI draft code. Consequently, they recommend the deletion of this clause.

One respondent suggested that the food pyramid be included with an illustration of how that product fits into this framework.¹⁰⁷ Kevin Healy suggested that the word ‘depict’ be replaced with ‘emphasise.’¹⁰⁸

7.4. Referring to the use of a toothbrush on screen, Kevin O’Donnell suggested the use of an audible ‘bing’ to signify when the toothbrush appeared, a recognisable sound applicable to both television and radio.¹⁰⁹ Regarding the products specified, some respondents believed the list did not stretch far enough – that it should include sweetened/fizzy drinks ‘and acid foods that can cause tooth decay and erosion.’¹¹⁰ One respondent suggested saying that certain products were ‘harmful to teeth’ or ‘are not good for teeth.’¹¹¹

Objections – there were many. Not confined to any one section, they spread across the dappled spectrum of respondents. Primarily, clarification was sought regarding the definition of ‘confectionery’ – what was included and as importantly, what was excluded. Wrigley Ireland and UK stated that ‘confectionery’ would include sugar-free gum which has been ‘clinically recognised dental health benefits and [is] positively good for teeth...’¹¹² For RTÉ, the list of products requiring the toothbrush symbol is too vague. Moreover, it also inquired about low-sugar products and whether or not they were to be included in the definition of ‘confectionery.’¹¹³ TV3 concurred with this view that the ‘foods affected are not defined in any clear and coherent manner.’¹¹⁴ The National Taskforce on Obesity recommended that consultation take place to determine which food substances fall within the scope of ‘confectionery.’¹¹⁵ Glanbia and the FDII also sought clarification vis-à-vis the BCI’s definition of ‘confectionery’.¹¹⁶

Questions were posited regarding the presentation of the symbol. RTÉ stated that ‘A detailed specification for the size and appearance of the symbol is necessary and a clear statement that it is the responsibility of the advertiser and its agency who are

¹⁰⁶ AAI/IAPI: written submission 10, p. 10.

¹⁰⁷ Anon: web submission 4.

¹⁰⁸ Kevin Healy: web submission 20.

¹⁰⁹ Kevin O’Donnell: web submission 1.

¹¹⁰ INDI: written submission 16, p.2. See also: Anon: web submission 5; and Claire Hearty: web submission 16; National Taskforce on Obesity: written submission 32, p.3.

¹¹¹ Kevin Healy: web submission 20.

¹¹² Wrigley’s Ireland and UK: email submission 8.

¹¹³ RTÉ: written submission 28, p.3.

¹¹⁴ TV3: written submission 7, p.9.

¹¹⁵ National Taskforce on Obesity: written submission 32, p.3.

¹¹⁶ Glanbia: email submission, p.6; FDII: written submission 14, p.7.

responsible for the symbol, not the broadcaster.’¹¹⁷ Tom Doherty of QMP Publicis provided the following points:

I cannot agree with this rule or even comment on it without the following information: How big will this symbol have to be? How long must this symbol appear on the screen? Is there any specific position that this symbol should occupy? Will this symbol’s use be determined by the commercial length? Does this symbol have to appear over specific footage (e.g. product footage)?’¹¹⁸

The actual symbol was perceived as confusing. It was suggested that children would not be clear about its meaning, that it presupposed a level of understanding which might not exist, particularly among younger children. Consequently, rather than linking teeth brushing to the consumption of the product advertised, some children might take it as a message to brush their teeth every time the toothbrush came on. Over brushing, it was contended, ‘could lead to problems of fluorosis in young people. Brushing 5 times a day or more could cause fluorosis.’¹¹⁹ The FDII also felt the symbol might be confusing, that it might have an adverse effect implying to some people that a particular product is ‘good for teeth’.¹²⁰ The Society of Chief and Principal Dental Surgeons of Ireland and The Oral Health Promotion Research Group – Irish Link in their joint submission also substantiated the point that the use of the symbol could be ambiguous. Here they said that ‘It could be misleading, in that it is in itself a health symbol, and the use of it may be misinterpreted with children and their parents thinking that the product was actually safe for teeth.’¹²¹ Instead of using the symbol of a toothbrush, these organisations proposed a warning be ‘placed with the advertisement, that frequent consumption of sugary foods and drinks can lead to tooth decay. The evidence is there to advise the public to reduce the frequency and consumption of sugary foods and drinks, and to keep them to mealtimes.’¹²² Following this theme, *Safefood* said ‘It is imperative...that the toothbrush symbol and the message indicating that fast food products should be eaten in moderation as part of a balanced diet, are presented in such a way so as to ensure that they may be easily comprehended by children.’¹²³ The National Heart Alliance wondered whether or not the use of symbols could ‘be counter productive and add further attention to the advertising for foods high in fat, sugar and salt?’¹²⁴

Some respondents alleged that isolating ‘confectionery’ out of all other food products was discriminatory. The AAI and IAPI said that ‘Whilst we support the need to teach children to adopt a good oral hygiene as one of the fundamental elements of a healthy lifestyle, we believe that this provision unfairly discriminates between the

¹¹⁷ RTÉ: written submission 28, p.3.

¹¹⁸ Tom Doherty (QMP Publicis): web submission 16.

¹¹⁹ Wrigley Ireland and UK: email submission 8, n.pag.

¹²⁰ FDII: written submission 14, p.7; Evelyn Crowley: web submission 12.

¹²¹ The Society of Chief and Principal Dental Surgeons of Ireland and The Oral Health Promotion Research Group – Irish Link: email submission 21, p.1.

¹²² The Society of Chief and Principal Dental Surgeons of Ireland and The Oral Health Promotion Research Group – Irish Link: email submission 21, p.1.

¹²³ *Safefood*: email submission 6, p.7.

¹²⁴ The National Heart Alliance: written submission 33, p.2.

confectionery sector and all other types of carbohydrate-based foods.’¹²⁵ This opinion trickled down through other submissions where substantial information, data and findings were provided to substantiate the view that consumption of confectionery alone did not lead to tooth decay or poor dental hygiene.¹²⁶ To use the symbol of a toothbrush when advertisements for confectionery were shown or broadcast, it was contended, was not evidence based. The AAI and IAPI, for example, stated that ‘Scientific evidence unanimously concludes that diet can play an influential role in tooth decay, only in the absence of three key factors important for a good oral health.’ These were identified as (i) toothpaste with fluoride; (ii) regular oral hygiene to remove plaque from teeth; and (iii) good salivary flow.¹²⁷ Supporting the view that singling out confectionery was not evidence based, the Chocolate, Confectionery and Biscuits Council of Ireland made the following comment: ‘In Sweden, where a total advertising ban has already exists [sic] for children, the evidence shows that the incidence of caries has remained unchanged for 15 years. Thus, providing evidence that there is no link between confectionery advertising and the incidence of tooth decay.’¹²⁸ Evelyn Crowley also supported the view that using a toothbrush in the advertisement of confectionery was not evidence based. Furthermore, she suggested that it might be ‘more appropriate to consider the use of tooth friendly/tooth unfriendly symbols on advertisements so that parents can make the choice for themselves being aware of the dangers or even better to limited the number of advertisements of these products altogether during daytime...’¹²⁹

7.5. Referring to advertising for fast food products, outlets and brands, the INDI asked for clarification regarding what this proposed rule might include.¹³⁰ Glanbia also requested clarification in this respect, asking that a definition be provided to identify what is considered to be ‘nutritional information.’¹³¹

7.6. Opinion differed on the clause dealing with the advertisement of ‘fast food’. While welcoming this rule, the Irish Society for the Prevention of Cruelty to Children (ISPCC) asked for it to be extended to include all ‘unhealthy foods – e.g. chocolate, cakes, crisps, etc.’¹³² The National Heart Alliance also asked for the definition to be extended to cover ‘all foods high in fat, sugar and salt including high fat and high salt snacks as well as chocolate and confectionery foods.’¹³³ The ISPCC requested that any warning signals be accessible to all children including those with hearing, learning or visual difficulties while the National Taskforce on Obesity asked that proper consideration be given to portion size being included in this acoustic or visual message.¹³⁴

¹²⁵ AAI/IAPI: written submission 10, p.10. See also: CCBCI: written submission 14, p.2; Cadbury Ireland Limited: written submission 21, n.pag.; FDII: written submission 14, p.7; TV3: written submission 7, p.9.

¹²⁶ See, for example, AAI/IAPI: written submission 10, p. 10; Carat Ireland: written submission 11.

¹²⁷ AAI/IAPI: written submission 10, p.10.

¹²⁸ CCBCI: written submission 14, p.2.

¹²⁹ Evelyn Crowley: web submission 12.

¹³⁰ INDI: written submission 16, p.1.

¹³¹ Glanbia: email submission 16, p.6.

¹³² ISPCC: email submission 15, p.4.

¹³³ National Heart Alliance: written submission 33, pp 2-3.

¹³⁴ ISPCC: email submission 15, p.4; National Taskforce on Obesity: written submission 32, p.3.

Conversely, the AAI and IAPI considered this clause to be unnecessary ‘as these foods are designed to be consumed as treats and not to form a staple diet.’ Moreover, they contended that this clause ‘is unfairly placing blame for childhood obesity at the door of the fast food manufacturer.’¹³⁵ They suggested that, should the BCI insist on the inclusion of such a clause, it be reworded as follows: ‘Children’s advertising for Fast Food outlets must display an acoustic or visual message stating that all food should be eaten in moderation and as part of a balanced diet.’¹³⁶

The definition of ‘fast food’ was found by many to be unsatisfactory, open to interpretation and to misinterpretation.¹³⁷ There is ‘fast food and/or inexpensive cooked food that is prepared and served quickly’ which is nutritional, many contended.¹³⁸ According to RTÉ, to ‘describe as “fast food” economically produced and quickly served foods is to unwittingly include, for example, stir fries.’¹³⁹ Consequently, it was suggested that the wording be more specific about the type and content of the food.¹⁴⁰ RTÉ believed, for example, that ‘a definition based on empirically verifiable ingredients would be better (e.g. salt, fat and sugar levels).’¹⁴¹

McDonald’s Restaurants of Ireland referred to the perceived need for clarification on what constitutes ‘fast food’ while raising the subject of advertising fast food outlets. More particularly, they asked

What exactly is your definition of “fast food” and what is as you refer to the “recognised character”? Does a “fast-food” outlet include all players within the informal eating out category which include: sandwiches sold at deli counters, sandwich shops, CTN outlets, does it include ready meals purchased at top end grocery outlets such as Tesco, Marks and Spencer or the like? Does it include pizza, pasta or any other food outlet where your food is served “fast”?¹⁴²

McDonald’s Restaurants of Ireland also suggested that this rule was not evidence based. More specifically, they said ‘In terms of “balanced diet” independent nutritionists from various countries...agree that McDonald’s food products can fit very well into a balanced diet...Nutrition experts concur that there is no such thing as good or bad food, there are only good or bad diets.’¹⁴³ Supporting this view, the FDII stated that obesity is a complex issue, caused by more factors than food. It continued on to say that ‘No manufacturer encourages excess consumption of their product and it lies within the parental remit to ensure children do not consume any product to

¹³⁵ AAI/IAPI: written submission 10, p.12

¹³⁶ AAI/IAPI: written submission 10, p.12.

¹³⁷ See, for example, Anon web submission 4; RTÉ: written submission 28, p.3; Beverage Council of Ireland: written submission 22, p.2; McDonald’s Restaurants of Ireland: written submission 23, pp 1-2; Owens DDB: written submission 19, p.2; TV3: written submission 7, p.9; FDII: written submission 14, p.7.

¹³⁸ Anon: web submission 4; Mark Doyle (Green-Isle foods): web submission 7; Shelia King: web submission 8.

¹³⁹ RTÉ: written submission 28, p.3.

¹⁴⁰ Anon: web submission 4.

¹⁴¹ RTÉ: written submission 28, p. 3.

¹⁴² ISPPC: email submission 15, p.4.

¹⁴³ McDonald’s Restaurants of Ireland: written submission 23, p.2.

excess. If an advertiser, by showing a child consuming their product, is *de facto* encouraging excess, then the clause is unworkable.’¹⁴⁴ For C&C, ‘Advertising fundamentally drives brands, not diet.’¹⁴⁵

Allegations of discrimination were made once more. The Beverage Council of Ireland expressed the view that ‘the measure as proposed unfairly discriminates against particular food manufacturers, and the focus of education and other child-focused programmes should be on promoting a balanced diet and an active lifestyle rather than focusing on any particular types of foodstuffs.’¹⁴⁶ According to Owens DDB, ‘By singling out companies such as McDonald’s and requiring that they “tag” their advertising with a message that is going to raise unfair concerns about the quality of balance of their food is both unfair and indeed is a barrier to fair trade.’¹⁴⁷ This point was also made by McDonald’s.¹⁴⁸ RTÉ highlighted what it believes are legal implications in respect of this rule when it said ‘that if this section remains in the code unaltered the BCI will leave itself open to legal challenge by some food manufacturers who will not accept that their products should be categorised as “fast food” or carry a health warning.’¹⁴⁹ The Independent Broadcasters of Ireland (IBI) was concerned regarding definitions of ‘confectionery’ and ‘fast food.’ More specifically, they said ‘There is a wide range of food that could fit into the category of fast food that is of high nutritional content. Here...we would question unilateral action by the BCI impacting only on broadcasters when the Department of Health and Children have signalled an interest in broad reform in this area.’¹⁵⁰ TV3 was of a similar view. Here it said

The proposed code in section 7.6. implies that inexpensive and quickly prepared food is of lower health and nutritional standard than foods acquired from other sources or prepared in the home, which is extraordinary...The definition is illogical and defining the food source as “fast food” in this way is not in any way reflective of its nutritional value. This section is clearly pandering to special interest groups without proper reflection on what is the case. Section 7.6. is unworkable and discriminatory.¹⁵¹

According to TV3, sections 7.4. and 7.6. should be excluded. If the BCI is to ‘insist’ on their inclusion, it contends that the phrase ‘during children’s programmes’ should be inserted. ‘This is because’, TV3 continued, ‘whilst the other rules in this section are more general and nuanced, the effect of these specific sections is something that should be a matter of parental control and common sense, i.e. a 16 year old should know – from their parents or school – that sugary foods may lead to tooth decay if proper dental regimes are not allowed.’¹⁵²

¹⁴⁴ FDII: written submission 14, p.2.

¹⁴⁵ C&C: email submission 7, p.2.

¹⁴⁶ The Beverage Council of Ireland: written submission 22, p.2.

¹⁴⁷ Owens DDB: written submission 19, p.2.

¹⁴⁸ McDonald’s Restaurants of Ireland: written submission 23, p.2.

¹⁴⁹ RTÉ written submission 28, p.3.

¹⁵⁰ IBI: written submission 9, n.pag.

¹⁵¹ TV3: written submission 7, p.9

¹⁵² TV3: written submission 7, p.9.

7.7. Discouraging unjustified comparisons between foods or suggesting that particular foods are a substitute or replacement for fruit and/or vegetables elicited few comments. Ann McGrath suggested that the calorie and fat content of food should be displayed on screen so clear information was received.¹⁵³

General comments

While some in the food manufacturing and advertising sectors believed the BCI draft code went too far, there were those who were disappointed with it. The Green Party, for example, voiced the following opinion:

Overall we...find the section on Diet and Nutrition remarkably weak, given the public concerns that have been raised in Ireland and abroad on this issue...The Language used in subparagraphs 7.2. to 7.7. largely reflect the ambiguous language deployed by the advertising and foods/drinks industry. We lament the influence of industry on the BCI's decisions in this regard. The language will be largely ineffectual and we call on the BCI to monitor and report on the impact of the code as soon as possible after its introduction.¹⁵⁴

For the Children's Rights Alliance, clauses 7.2. to 7.7. did 'not go far enough'. It stated that 'To defer any substantive regulation for another year in this area effectively places the economic interests of the relevant industries ahead of the important health rights of children.' Consequently, it reiterated its call for a ban on all junk food advertising.¹⁵⁵

While generally supportive of Section 7 of the BCI draft code, *Safefood* also expressed reservations. It identified its main concerns as follows: '...the draft code continues to allow the promotion of energy-dense, micronutrient-poor foods, without any restrictions on the volume of these foods being targeted at children. This is particularly pertinent given that the majority of food advertising promotes pre-sugared breakfast cereals, confectionery, savoury snacks, soft drinks and fast-food outlasts while the public health recommendations for a balanced diet for good health get little support.'¹⁵⁶

In general, the Advertising Standards Association of Ireland (ASAI) believed that much of the proposed Section 7 reflected what was already in its own code. It did express concerns, however, regarding 7.1., 7.4. and 7.6. as it contended that 'the justification and effectiveness of [these are] not yet apparent.'¹⁵⁷

¹⁵³ Ann McGrath: written submission 6, n.pag.

¹⁵⁴ The Green Party: email submission 17, p.5.

¹⁵⁵ Children's Rights Alliance: written submission 12, p.2.

¹⁵⁶ *Safefood*: email submission 6, p.7.

¹⁵⁷ ASAI: written submission, p.5.

8. Parental responsibility

The Draft Code stated...

8.1. Parents and guardians have primary responsibility for children but advertisers should support the parent/guardian/child relationship by scheduling responsibly and by not undermining the authority, responsibility or judgement of parents or guardians in the content of the advertisement. This includes the use of plot lines that encourage children to deceive or manipulate adults into purchasing or providing the product or service advertised. Children's advertising shall not suggest that a parent or adult who purchases or provides a product or service for the child is better, more intelligent or more generous than one who does not.

The Broadcasting Commission of Ireland asked...

What are your views on the rules contained under this heading?

Feedback

Few chose to reply to this section. The following summary outlines opinions proffered.

Some respondents believed this was a positive inclusion but a few reservations voiced.¹⁵⁸ While welcoming this section, John Murray wonders 'how will this be observed in practice?'¹⁵⁹ Therese Brady asked for a 'clear aural indication' to occur when programming moves into advertising as 'too often the programmes seem to slide into the ads without giving the parent the opportunity to distract the child or turn down/off the t.v. [sic] while the ads are on.'¹⁶⁰ The National Heart Alliance suggested that the responsibility of advertisers be made stronger. Substituting the word 'should'

¹⁵⁸ See, for example, Kevin O'Donnell: web submission 1; John Murray: web submission 4; Brian MacGabhann: web submission 7; Bob Quinn: web submission 8; Patrician MacGabhann: web submission 9.

¹⁵⁹ John Murray: web submission 4.

¹⁶⁰ Therese Brady: web submission 5.

in ‘but advertisers *should* support the parent/guardian/child relationship...’ with the word ‘must’ could, it asserted, achieve this.¹⁶¹

Tony Murray questioned the relevance of this clause. For him, it had the potential of letting the advertisers off the hook’. In his view, it expects parents to supervise child viewing at all times which is not always possible¹⁶²

Similarly to the *Review of Submissions* in Phase 2, advertising organisations stated that responsibility should be tilted in favour of parents and thus away from advertisers.¹⁶³ For the Advertising Standards Association of Ireland (ASAI), ‘The particular instances mentioned in the second and third sentence take away from the overriding principle that parents have the primary responsibility for their children. Advertisements should not attempt to diminish or obstruct this.’¹⁶⁴ The Association of Advertisers in Ireland (AAI) and the Institute of Advertising Practitioners in Ireland (IAPI) concurred with this view. They asked for the rule to be redrafted ‘to ensure the point is made that parents have ultimate responsibility for their children.’ It continued on to say ‘The broadcaster and advertisers responsibilities are well covered in all the other clauses of the code. This section should refer to parents alone and should not infer that parents do not have to actively monitor their children’s viewing habits.’ Consequently, the AAI and IAPI suggested the following rephrasing: ‘Parents and guardians have the primary and ultimate responsibility for children and their viewing habits. Advertisers should also support and respect the primacy of the parent/guardian/child relationship.’¹⁶⁵

¹⁶¹ National Heart Alliance: written submission 33, p.3.

¹⁶² Tony Murray: web submission 3.

¹⁶³ See R-BM Quinn (2004), *Children’s Advertising Code – Phase Two Consultation Document – Review of Adult Submissions Received*, March, pp 40-45.

¹⁶⁴ ASAI: written submission 30, p.5.

¹⁶⁵ AAI/IAPI: written submission 10, p.12.

9. Programme characters

The Draft Code stated...

9.1. Characters and personalities from children's programmes that are broadcast on indigenous services shall not be used to endorse or advertise products or services in children's advertising. This provision does not apply to children's advertising for products, events or services, directly associated with the programme in which the characters and personalities normally appear.

In the case of children's advertising for products, events or services directly associated with the children's programme, then these two adverts must not be broadcast for two hours prior to the beginning and end of the programme in question.

The Broadcasting Commission of Ireland asked...

What are your views on the rules contained under this heading?

Feedback

There were few responses to this section. Of these, some support was voiced for the rule.¹⁶⁶ Reservations, however, were in greater evidence.

The Green Party believed the section to be inadequate in a number of respects. Firstly, it contended that 'The qualification in Paragraph 9.1 ("This provision does not apply to children's advertising for products, events or services directly associated with the programme in which the character and personalities normally appear") presents a serious loophole in this restriction.'¹⁶⁷ This will, it continued, 'encourage advertisers and producers to accelerate the trend whereby branded products and companies are directly linked (through programme sponsorship) with children's programmes.'¹⁶⁸

¹⁶⁶ See, for example, Kevin O'Donnell: web submission 2; Donal Kehoe: web submission 7; Brian MacGabhann: web submission 8; Bob Quinn: web submission 10; Patricia MacGabhann: web submission 11.

¹⁶⁷ The Green Party: email submission 17, p.6.

¹⁶⁸ The Green Party: email submission 17, p.6.

Consequently, it made the following request: ‘that this section should...be amended to ensure that a wider ban on the use of children’s entertainment characters is put in place, namely those from the other media e.g. cinema, cartoons, brand-created characters/animations be subject to the same restrictions to cartoon characters shown on the terrestrial broadcasting services.’¹⁶⁹ For the Green Party, the two hour restriction undermines the intention of the section and its deletion was therefore proposed.

The timeframe specified elicited a few comments. The Irish Society for the Prevention of Cruelty to Children (ISPCC) recommended that research be included to support this two hour break.¹⁷⁰ The Association of Advertisers in Ireland (AAI) and the Institute of Advertising Practitioners in Ireland (IAPI) felt the possibility for rescheduling was omitted from this clause. More specifically, they said: ‘Advertisers cannot make clear plans about endorsement related advertising as there is always the risk of programme scheduling changes making today’s campaign illegal tomorrow...’ if broadcast schedules are rearranged.¹⁷¹ They believed it would be more appropriate to combine merchandising advertising and indigenous character related endorsements and prohibit them from appearing in or adjacent to their associated programmes. Based on the information supplied, the AAI and IAPI suggested the following alternative phrase: ‘Advertising for merchandise associated with indigenous programming or endorsed by indigenous programme characters and personalities must not be broadcast in or adjacent to the associated programme in which they appear.’¹⁷²

RTÉ asked that the term ‘currently’ be included before the verb ‘broadcast’ in the first sentence. It contends that if this were not to occur, ‘a prohibition on programme characters could continue long after the programmes that contained [these] characters had ceased broadcasting.’¹⁷³

The Toy Industries of Europe (TIE) also questioned the two hour rule. While accepting that advertisements featuring the same character should not be broadcast immediately before or after a programme, it regarded the two hour period as excessive. As a result, it also suggested the ‘two hour’ clause be replaced with ‘adjacent’ and provided the following alternative clause: ‘In the case of children’s advertising for products, events or services directly associated with the children’s programme, then these adverts must not be broadcast adjacent to the beginning and end of the programme in question.’¹⁷⁴

Allegations of discrimination emerged once again. The AAI and IAPI alleged that ‘the first section of this clause unfairly discriminates against domestic broadcasters as non terrestrial television characters are unrestricted.’¹⁷⁵ Carat Ireland also took this view, believing the clause ‘unfairly discriminates against domestic broadcasters and does not allow advertisers to make clear plans about endorsement related advertising,

¹⁶⁹ The Green Party: email submission 17, p.6.

¹⁷⁰ ISPCC: email submission, p.2.

¹⁷¹ AAI/IAPI: written submission 10, p.13.

¹⁷² AAI/IAPI: written submission 10, p.13.

¹⁷³ RTÉ: written submission 28, p.3.

¹⁷⁴ TIE: email submission 18, p.4.

¹⁷⁵ AAI/IAPI: written submission 10, p.13.

as there is a risk that a domestic broadcaster may buy in a non-terrestrial programme.’¹⁷⁶ RTÉ also believed that this clause could inadvertently discriminate against indigenous broadcasters. Here it stated that ‘Children are just as likely to be influenced by characters they see on non-Irish channels as those aired on regulated Irish channels. To permit one and not the other appears illogical.’¹⁷⁷

* * * * *

At this point, the Advertising Standards Association of Ireland (ASAI), withdrew from making direct comments on Sections 9-14. Its reasons for doing so were explained thus:

Apart from stating some general principles in relation to the headings 1 to 8, it is considered that the BCI code should be confined largely to the issues raised in 9 to 14 as being almost exclusively within the BCI proper area of operation. They are matters that are specific to broadcast media and over which the media has direct control, in contrast to the actual content of many advertisements.¹⁷⁸

¹⁷⁶ Carat Ireland: written submission 11, n.pag.

¹⁷⁷ RTÉ: written submission 28, p.3.

¹⁷⁸ ASAI: written submission 30, p.5.

10. Product prohibitions and restrictions

The Draft Code stated...

- 10.1. *The Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting services* sets out prohibitions and restrictions on a range of products and services. These include medications, alcohol, tobacco and financial and legal products. These restrictions also apply to children's advertising.

In addition to the restrictions and prohibitions listed in that document, the following products, services, treatments or establishments shall not be advertised in children's advertising:

- 10.2. Betting and Gaming services or products (except the National Lottery as permitted by the National Lottery Act 1986).
- 10.3. Slimming products, services, treatments or establishments, (slimming being defined as weight reduction, limitation or control).
- 10.4. Introduction and dating services.
- 10.5. Services of a sexual nature.

The Broadcasting Commission of Ireland asked...

What are your views on the rules contained under this heading?

Feedback

A small number of comments were made in reference to specific clauses. These are summarised as follows.

10.1. Despite reassurances that the matter was covered by *The Code of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting services*, and being dealt with by the Department of Health and Children, some respondents were concerned that the issue of alcohol advertising

and its affect on children had not been properly addressed. Such a situation, they believed, was unsatisfactory.¹⁷⁹

10.2. The clause referring to betting and gaming services gained most attention among respondents. This was largely due to the exclusion of the National Lottery from services prohibited. It was felt that the National Lottery should be included, that advertising of such should not appear during children’s programming.¹⁸⁰ John Murray wondered why it was allowed when other services were not: ‘Why exempt the National Lottery? Just because the government makes money out of it?’¹⁸¹

10.3. Regarding slimming products, services, treatments or establishments, the Irish Society for the Prevention of Cruelty to Children (ISPCC) asked that this rule be extended to include cosmetic products ‘with the exception of those that [children] could reasonably be expected to use and would usually be interested in themselves.’¹⁸² Glanbia requested clarification at this point. Here it asked ‘whether a “low fat” reference in a commercial could be construed as a “slimming” claim?’¹⁸³

In general, *Safefood* supported the contents of this section. It asked, however, that a prohibition on the advertising of vitamins and minerals to children be included.¹⁸⁴

¹⁷⁹ See, for example, submissions from the National Children’s Advisory Council: written submission 24; Irish National Alliance for Action on Alcohol: written submission 27; the Children’s Rights Alliance: written submission 12; the Pioneer Total Abstinence Association: written submission 31; and the National Children’s Office: email submission 13.

¹⁸⁰ ISPCC: email submission, p.2; Family and Media Association: written submission 26, p.3; Anon: web submission 3; Kevin Healy: web submission 6; John Murray: web submission 11.

¹⁸¹ John Murray: web submission 11.

¹⁸² ISPCC: email submission 15, p.2.

¹⁸³ Glanbia: email submission 16, p.8.

¹⁸⁴ *Safefood*: email submission 6, p.9.

11. Identification and separation

The Draft Code stated...

- 11.1. Children's advertising must be clearly distinguishable from programming content with respect to image, text and sound. It must not include excerpts from children's programmes that might blur the distinction between advertising and programme content.
- 11.2. Children's advertising shall be clearly separated from programming content. Broadcasters are required to provide a visual or acoustic cue to the child during and around children's programming to alert the child when a commercial break is beginning and ending. Such a cue shall not be sponsored or itself contain advertising material.

The Broadcasting Commission of Ireland asked...

What are your views on the rules contained under this heading?

Feedback

Of the few responses received, there was general support for this section.¹⁸⁵ With regard to clause 11.2., requests were made that this include a visual *and* acoustic signal to alert parents who may be nearby but not watching.¹⁸⁶

The Association of Advertisers in Ireland (AAI) and the Institute of Advertising Practitioners in Ireland (IAPI) generally agreed with this section. They suggested the following alternative clause, however:

Children's advertising shall be clearly separated from programming content. Where sponsorship stings are concerned, they should be adjacent to the programme they sponsor. A station ident should then follow, preceding and

¹⁸⁵ See, for example, Anon: web submission 2; Therese Brady: web submission 7; Brian MacGabhann: web submission 9; Bob Quinn: web submission 10; Patricia MacGabhann: web submission 11.

¹⁸⁶ See, for example, Therese Brady: web submission 7; Anon: web submission 2; ISPC: email submission 15, p.2.

heralding the ad break. Such a cue shall not be sponsored or itself contain any advertising material.¹⁸⁷

¹⁸⁷ AAI/IAPI: written submission 10, p.15.

12. Insertion of advertising

12.1. The Draft Code stated...

- 12.1. A children's programme of less than 30 minutes scheduled duration may not be interrupted by advertising.
- 12.2. Christmas themed children's advertising may not be broadcast prior to November 1st each year. Christmas themed advertising refers to advertising that contains references, either visual or acoustic, to Christmas.

The Broadcasting Commission of Ireland asked...

What are your views on the rules contained under this heading?

Feedback

Of those responding, there was support for the contents of this section.¹⁸⁸ Comments were made and suggested modifications were proposed. These are presented hereunder.

12.1. The National Taskforce on Obesity welcomed the rule on not interrupting children's programming with advertisements. It would, however, 'like to see it strengthened by setting a definite limit on the frequency of unhealthy food advertisements per advertising segment and overall daily frequency restrictions.'¹⁸⁹

The subject of age was raised once again at this juncture. Carat Ireland believed that 'Uninterrupted scheduling of 30 minute programmes should relate to young children only (10 years and younger).'¹⁹⁰

¹⁸⁸ See, for example, The National Heart Alliance: written submission 33, p.3; Kevin O'Donnell: web submission 2; Justin Harkin: web submission 4; Brian MacGabhann: web submission 15; Bob Quinn: web submission 16.

¹⁸⁹ National Taskforce on Obesity: written submission 32, p.4.

¹⁹⁰ Carat Ireland: written submission 11, n.pag.

TV3 believed that most programmes last less than 30 minutes. It disagreed with the inclusion of this section but stated that if the BCI insists on including this clause, the 30 minute stipulation be reduced to 25 to reflect the reality of programming.¹⁹¹

According to the Association of Advertisers in Ireland (AAI) and the Institute of Advertising Practitioners in Ireland (IAPI), the *Television Without Frontiers* directive statement on uninterrupted scheduling of 30 minute programming only relates to traditionally defined young children's programmes. Consequently, they recommended the following alternative clause: 'A children's programme targeting young children of less than 30 minutes scheduled duration, may not be interrupted by advertising.'¹⁹²

12.2. In reference to Christmas themed children's advertising not being broadcast prior to November 1st, there were some respondents who would have preferred that Christmas advertising not begin until December 1st.¹⁹³ The Green Party, however, wonders if this section can sufficiently address the problem: 'The high wall-to-wall promotion of toys in the run up to 25 December does not – in many cases – explicitly refer to Christmas themes.'¹⁹⁴ Consequently, it recommended a limit be placed on the number of toy advertisements at this time, an opinion echoed by the ISPCC.¹⁹⁵ The Advertising Standards Association of Ireland (ASAI) raised the following query: 'Is this intended to forbid advertising before 1 November for pantomimes and ice shows, etc. that are traditionally associated with the Christmas period and booking for which is probably necessary well in advance. If so, presumably the advertising will simply be given to other non-BCI regulated broadcast media and to other non-broadcast media.'¹⁹⁶

¹⁹¹ TV3: written submission 7, p.11.

¹⁹² AAI/IAPI: written submission 10, p.15.

¹⁹³ See, for example, Anon: web submission 5; Professor Patrick J. Quinn: web submission 7; Fiona Murphy: web submission 14.

¹⁹⁴ The Green Party: email submission 17, p.7.

¹⁹⁵ ISPCC: email submission 15, p.2.

¹⁹⁶ ASAI: written submission 30, p.5.

13. Scheduling children's advertising

The Draft Code stated...

- 13.1. A children's programme is defined with reference to the profile of those watching or listening to that programme. Therefore, a children's programme is one commonly referred to as such and/or a programme where over 50% of those watching the programme are under 18 years of age. The code recognises the principle of parental responsibility. In general terms, programmes broadcast after 10pm and where viewers are warned that it contains adult content, if the audience profiling shows that over 50% of the audience is under 18, this programme will not be classified as a children's programme as in this instance the primary responsibility for what the child is watching is seen to lie with the parents/guardians.
- 13.2. Broadcasters will use audience profiling to determine what is a children's programme. In the case of long running programmes, broadcasters will take an average of the audience figures over a reasonable period of time in determining whether the programme is a children's programme.
- 13.3. Broadcasters will use audience profiling to determine what is a children's programme. In the case of long running programmes, broadcasters will take an average of the audience figures over a reasonable period of time in determining whether the programme is a children's programme.
- 13.3. In the case of once off programming or short series, it may not be always possible to predict what will be the audience profile of those watching the programme. In these instances, broadcasters should refer to the indicative scheduling guidelines outlined below. These are indicative times during which particular age groups most usually watch television. In scheduling children's advertising and making an assessment as to the appropriateness of the advertisement, broadcasters are requested to assess this in light of the likely age group watching at that time.
- 13.4. Regular programmes that ordinarily are not classified as children's programmes may in exceptional circumstances attract an audience of which over 50% of those watching are children. Broadcasters

are required to be mindful of the likelihood of this happening in view of upcoming storylines or programmes and schedule children's advertising accordingly.

- 13.5. *Indicative scheduling guidelines* These guidelines are intended to provide an indicative framework for both advertisers and parents/guardians.

In scheduling children's advertising, broadcasters shall consider the appropriateness of the advert or the likely distress that an advert may cause to a child, in particular to pre-school children. Scheduling of children's advertising shall take cognisance of the appropriateness of the advert, not in and of itself, but is appropriateness at the time the advert is broadcast, considering the likely audience profile at that time. The primary means of determining the correct scheduling of children's advertising will be based on audience profiling.

Where this is not possible, broadcasters shall refer to the following indicative guidelines:

If broadcasters consider that particular children's advertising is inappropriate for pre-school children, then it should not be broadcast during and between children's programmes that target that age group.

If broadcasters consider that particular children's advertising is inappropriate or likely to cause distress for children from 5-10 years of age then it should be broadcast post 9pm. This would avoid viewing by the majority of those in this age group.

If broadcasters consider that children's advertising contains material, of a sexual or violent nature not suitable for children under 15, then a post 11pm restriction must be considered.

The Broadcasting Commission of Ireland asked...

What are your views on the rules contained under this heading?

Feedback

Some respondents focussed on specifics while the majority made comments vis-à-vis the overall contents of Section 13. These views are outlined as follows.

13.1. John Murray voiced his concerns about how children's programming is to be defined. Certain programmes might attract high levels of children but not enough to define them as 'children's'. For Murray, such programmes might be inappropriate viewing; examples cited include 'The Simpsons', 'Friends' and 'Jack Ass'. He continued, 'This is a fact, which no amount of hand-wringing about "parental

responsibility” can change.’ When this occurs, ‘inappropriate advertising could easily “slip through the net”, whether by design or not.’¹⁹⁷

13.4. One respondent asked if this clause could be adjusted to reflect school holidays where children might be watching television late into the evening.¹⁹⁸

There was general resistance to the watersheds suggested as respondents felt 9pm was the accepted watershed. It was believed this cut-off point should extend across the board, to cover programming *and* advertising. There was general agreement that after 9pm, children should be under the care of their parents, that it was up to parents to supervise what children watched after that.¹⁹⁹ The Food and Drinks Industry of Ireland (FDII) and C&C supported this view and asked ‘why is the BCI diverging from this?’²⁰⁰ For Glanbia, ‘the progressive easing of advertising restrictions, which mirrors the maturity of the viewer, would be a more practical solution.’²⁰¹

Broadcasters also had concerns. RTÉ asserted that it does not broadcast advertising aimed at children which is ‘likely to cause distress’. Consequently, it did

not see the need to include any reference to watersheds of this kind of advertising...RTÉ would not welcome any proposal that imposes a 22.00 or 23.00 watershed. Broadcasters use the watershed as a means of broadcasting programming that deals with adult issues and adult themes at a time when it is less and less likely that children are viewing. This process should not be subject to a 22.00 or 23.00 restriction, but should be left to the good sense and experience of the broadcasters.²⁰²

TV3 added to this viewpoint. Changing the watershed, it believed, would place indigenous broadcasters at a disadvantage: ‘To introduce a notion that is so out of touch with practice and custom worldwide is simply to raise an even greater spectre of non-compliance by advertisers by moving their advertising to Irish children beyond regulation.’²⁰³

The issue of defining age groups and assigning different levels of protection was raised once more. Youthreach felt this was particularly relevant here: ‘The use of the definition of a child as being under 18 makes it very difficult to reconcile the stated rule with the Commission’s stated view that “different levels of protection are needed by difficult age groups” or to calibrate advertising to different groups.’ It also believed that there may be a need to differentiate between live sports coverage and other programmes.²⁰⁴ Dr. Charles Spillane perceived the overall section to be weak due to this absence of age differentiation. Here he stated that ‘The Code should

¹⁹⁷ John Murray: web submission 19; see also Kevin O’Donnell: web submission 1 (in response to section 14).

¹⁹⁸ Anon: web submission 2.

¹⁹⁹ See, for example, AAI/IAPI: written submission 10, pp 15-17; TV3: written submission 7, pp 11-12; FDII: written submission 14, p.7; C&C: email submission 7, p.2; Pat Gill: web submission 9.

²⁰⁰ FDII: written submission 14, p.7; C&C: email submission 7, p.2.

²⁰¹ Glanbia: email submission 16, p.10.

²⁰² RTÉ: written submission 28, p.3.

²⁰³ TV3: written submission 7, p.12.

²⁰⁴ Youthreach: email submission 19, p.5.

develop differential provisions for the 1-12 (primary school) and 12-18 (secondary school) groups. This would recognise that children cannot fully distinguish between advertising and programming until about the age of 12.’²⁰⁵

The Beverage Council of Ireland expressed the opinion that programmes broadcast after 10 pm are not children’s programmes. Furthermore, it stated its belief that ‘while a range of watersheds governing types of programmes for children of different ages is appropriate, it should be framed in an overall context of a 12-14 age boundary rather than 18 years for defining children.’²⁰⁶

While agreeing with the broad principle of audience profiling outlined in this section, the Association of Advertisers in Ireland (AAI) and the Institute of Advertising Practitioners in Ireland (IAPI) did not agree with changes being made to the watershed. They did suggest the following alternative clause, however:

A children’s programme is defined with reference to those watching or listening to that programme. Therefore, a children’s programme is one commonly referred to as such and/or a programme where over 50% of those watching the programme are under 18 years of age. The code recognises the principle of parental responsibility. In general terms, programmes broadcast after 9pm are not regarded as children’s programmes.²⁰⁷

²⁰⁵ Dr. Charles Spillane: web submission 10.

²⁰⁶ The Beverage Council of Ireland: written submission 22, p.2.

²⁰⁷ AAI/IAPI: written submission 10, p.15.

14. Assessment

The Draft Code stated...

- 14.1. Each example of children's advertising or advert will be assessed on its own merit. This means that each advert will be assessed based on its content but also the context in which it appears. That means the time it is broadcast, the type of programme that is on when it is broadcast and the likely profile of the audience that is watching when it is broadcast.

The Broadcasting Commission of Ireland asked...

What are your views on the rules contained under this heading?

Feedback

A variety of comments were made in response to this section. These are summarised hereunder.

For many respondents, it was unclear who was to assess advertisements and what formal input might be invited from parents.²⁰⁸ TV3 reasserted its belief, voiced in earlier phases, that there should be 'an element of self-co-regulation [sic].' On this point, it believed that the Broadcasting Complaints Commission (BCC) and the Advertising Standards Association of Ireland (ASAI) should work together.²⁰⁹

The need for pre-clearance was raised again. Dual concepts were at work here. On the one hand, there was a need to regulate the perceived arbitrary dismissal of advertisements while on the other hand, to vet advertisements that might be seen by children.²¹⁰ The Association of Advertisers in Ireland (AAI) and the Institute of Advertising Practitioners in Ireland (IAPI) also supported a clearing house. This would develop, they contended, pre-vetting systems already operated by RTÉ and

²⁰⁸ See, for example, Aine Ui Ghiollagain: web submission 2; Tony Deane: web submission 3; John McCann: web submission 6; Tom Doherty (QMP Publicis): web submission 13; Sarah O'Brien: web submission 16.

²⁰⁹ TV3: written submission 7, p.12.

²¹⁰ Anon: web submission 5.

through the Central Copy Clearance Ireland (CCCI). More specifically, they said: ‘There is a need for a process going forward. We suggest a process would be put in place that would develop the current procedures in copy clearance to include the formal pre-vetting of children’s advertising (along the lines of the BACC [Broadcast Advertising Clearance Centre] in the UK).’²¹¹ The perceived need for continuation linked the Broadcasting Commission of Ireland (BCI), the BCC and the advertising industry in developing a formal pre-vetting system for children’s advertising. Taking all information provided into account, the AAI and IAPI suggest the following rewording for this clause: ‘Each example of children’s advertising or advert will be assessed on its own merit. This means that each advert will be assessed based on its content, but also the context in which it appears.’²¹²

C&C asked for a flexible approach to be adopted by the BCI with regard to both the management and review of the code. Similarly to others, it believed there was scope for pre-vetting by industry. Clarification, however, was also sought: ‘We urgently require terms of reference and clarification on both the administrative process and criteria for review of the code. In terms of reviewing the code, we believe co-regulation would be most useful, where the assessment would be carried out by cross business government agencies.’²¹³

In general, support was voiced for this section albeit with some reservations. The National Children’s Office (NCO) differed in this respect: ‘The methods outlined in the code are insufficient to address the NCO’s recommendations.’²¹⁴ Those recommendations had referred to the definition of ‘children’s advertising, the prohibition on alcohol advertising and the advertising of food.’

²¹¹ AAI/API: written submission 10, p.18.

²¹² AAI/API: written submission 10, p.18.

²¹³ C&C: email submission 7, p.4.

²¹⁴ NCO: email submission 13, p.3.

15. Code administration

Introduction

After introducing the draft children's advertising code, *Phase 3 Consultation Document* referred to 'code administration'. Only a handful of people responded to this section. Their comments are outlined hereunder. Comments made did not centre on themes. Consequently, they are presented in point form.

The Broadcasting Commission of Ireland asked...

What are your views on the period of time that should be allowed before the code is fully implemented?

Feedback

- Claire Hearty stated that a 6 month lead-in was a sufficient time period to allow before the code is fully implemented.²¹⁵
- The Family and Media Association (FMA) asked why references to offending broadcasters being issued with a breach of contract did not feature in this phase when this had occurred in Phase 2. Referring to the statement that 'there may be a number of areas that will need to be clarified with broadcasters and advertisers before the code can become fully operational', the FMA asked that this also include parent organisations. In conclusion, the FMA believed 'the period of time allowed before the Code is fully implemented should be such time as is necessary to achieve the best Children's Advertising Code as possible in the shortest period of time.'²¹⁶
- The National Heart Alliance sought clarification on the following three points: (i) will the BCI monitor the code on an on-going basis? (ii) will the BCI be responsible for resolving disputes? and (iii) will sanctions be imposed for breach of the code? While welcoming the review after one year, it concluded by asking how advertisements on diet and nutrition would be measured, 'will a baseline and follow up survey be used to measure any changes in the impact from ads.'²¹⁷

²¹⁵ Claire Hearty: web submission 8.

²¹⁶ FMA: written submission 26, p.4.

²¹⁷ The National Heart Alliance: written submission 33, p.3.

- The National Taskforce on Obesity recommended ‘that the BCI consult with dieticians and other relevant health professionals in drawing up criteria for the rules concerning diet and nutrition.’ In addition, it asked how the code is to be monitored and what specific criteria are to be used?²¹⁸
- The Advertising Standards Authority of Ireland (ASAI), Association of Advertisers in Ireland (AAI) and the Institute of Advertising Practitioners in Ireland (IAPI) did not respond to this section.

²¹⁸ The National Taskforce on Obesity: written submission 32, p.4.

Matters arising

Recurring themes

Points raised throughout the first and second phases recurred in Phase 3. The following provides a summary of information re-presented. It was believed that:

- the role of self-regulation/co-regulation did not receive sufficient attention;²¹⁹
- the current position, and the future role it might play, of the Advertising Standards Association of Ireland (ASAI) was left unaddressed;²²⁰
- when introduced, the code would move advertisers away from indigenous broadcasters and towards foreign broadcasters, thus diverting much needed revenue outside the State while not protecting children who continue to watch non-national stations in growing numbers;²²¹
- the actions being taken by the BCI were largely out of step with the British regulator, OfCom, and other European equivalents;²²²
- despite reassurances that the matter was dealt with in *The Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting services*, and is currently under review at by the Department of Health and Children, some respondents were concerned that the issue of alcohol advertising and its affect on children had not been adequately addressed. This was considered unsatisfactory;²²³
- the definition of a ‘child’ as referring to all those under 18 was too broad to be feasible. It did not take into account different levels of maturity and thus, the need for different levels of protection.²²⁴ Suggestions were made that the four main stages of development be built into the code or reflected more clearly;²²⁵

²¹⁹ TV3: submission 7; AAI/IAPI: written submission 10; ASAI: written submission 30.

²²⁰ AAI/IAPI: written submission 10; ASAI: written submission 30.

²²¹ TV3: submission 7; IBI: written submission 9; AAI/IAPI: written submission 10; RTÉ: written submission 28; Carat Ireland: written submission 11; FDII: written submission 14; Beverage Council of Ireland: written submission 22.

²²² TV3: written submission 7; IBI: written submission 9.

²²³ National Children’s Advisory Council: written submission 24; Irish National Alliance for Action on Alcohol: written submission 27; Children’s Rights Alliance: written submission 12; Pioneer Total Abstinence Association: written submission 31; National Children’s Office: email submission 13.

²²⁴ TV3: written submission 7; AAI/IAPI: written submission 10; RTÉ: written submission 28; ASAI: written submission 30; IBI: written submission 9; Coca-Cola Ireland: written submission 18; Carat Ireland: written submission 11; FDII: written submission 14; PepsiCo: written submission 15;

- concern was voiced once more regarding trailers for adult films and for those with violent or sexual content prior to 9pm.²²⁶

New material

Due to the specific nature of the draft code, new issues emerged for consideration. These included the following points:

Section 2

- In specifying €30, it was asked ‘Could this have implications for competition law?’²²⁷
- It was felt that the number of criteria specified in this section would be impossible to reach, taking into account the short duration of the advertisement.

Section 7

- In specifying that a symbol of a toothbrush must appear in advertisements for confectionery, it was argued that this ‘discriminates’ against confectionary manufacturers, singles them out from all food manufacturers. It was also contended that in using a toothbrush, the implication was that confectionary alone causes tooth decay when, in fact, it is the result of a combination of different factors;²²⁸
- Many believed there was a lack of scientific basis for singling out certain foods as harmful when compared to others;
- The term ‘fast food’ was considered too vague and thus, in need of clarification as it can be used to apply to food that can be prepared quickly (e.g. stir-fries, omelettes, etc.) as well as to energy-dense-micronutrient-poor foods;²²⁹
- A belief was expressed that the code could possibly be in contravention of the Treaty of Rome, Article 49, as advertising produced in Europe for some franchise products of Irish based companies could not be broadcast on radio or television in Ireland.²³⁰

Margaret-Ann Lawlor: written submission 20; Beverage Council of Ireland: written submission 22; Glanbia: email submission 16; Youthreach: email submission 19; WITH: web submission.

²²⁵ Age groups: 0-4 (pre-school); 5-11 (primary school); 12-14 and 15-17 (minors/youths).

²²⁶ See, for example, Anon: web submission 4; Anon: web submission 17 (both in response to section 13).

²²⁷ ASAI: written submission 30, p.4.

²²⁸ AAI/IAPI: written submission 10; Cadbury Ireland: written submission ; RTÉ: written submission 28; Carat Ireland: written submission 11; CCBCI: written submission 14; FDII: written submission 14; Beverage Council of Ireland: written submission 22; The Society of Chief and Principal Dental Surgeons of Ireland and the Oral Health Promotion Research Group-Irish Link: email submission 21.

²²⁹ TV3: written submission 7; IBI: written submission 9; AAI/IAPI: written submission 10; RTÉ: written submission 28; IBI: written submission 9; Coca-Cola Ireland: written submission 18; FDII: written submission 14; Beverage Council of Ireland: written submission 22; MacDonald’s Restaurants of Ireland: written submission 19; Owens DDB: written submission 23; Glanbia: email submission 16.

²³⁰ C&C: email submission 7, p.2.

General

- There should be a period of grace before the code takes effect. This would accommodate the lead in to advertising campaigns which can span many months. The suggestion is that advertisers would require a moratorium for six months after the introduction of the code to make the necessary adjustments;²³¹
- The code will have a negative impact on indigenous manufacturers of food and drink, diverting customers towards brands advertised on non-national channels;²³²
- Clarification was sought on whether or not programme sponsorships (stings) will have to follow the same rules as television advertisements?²³³

²³¹ AAI/IAPI: written submission 10; Carat Ireland: written submission 11; FDII: written submission 9; C&C: email submission 7.

²³² FDII: written submission 14; C&C: email submission 7.

²³³ AAI/IAPI: written submission 10; FDII: written submission 14.

Concluding remarks

Comments made and views expressed indicate general support for the BCI draft code or at the very least an acceptance that this is happening. Approximately 1015 adult versions of the draft code were requested and 121 individuals and/or organisations chose to respond. Their views have been represented in this document.

It must be remembered that this report records suggestions for revisions, modifications and deletions with the view to enhancing the relevance, applicability, workability and overall effectiveness of the final code introduced. It is not by design or intention a catalogue of opinions on the general subject of advertising to children.

Agreement was more forthcoming on broad principles whereas specific rules elicited most dissent. Some points – for example, advertising food – were more contentious than others. In part, this reflects the subjectivity which permeates the topic and activity of advertising to children. Moreover, in this instance it also reflects the move from theory to practice, of looking at the reality of implementing rules and conditions proposed.

Throughout, the definition of a ‘child’ as referring to all those under 18 years of age attracted recurring attention. While the Phase 3 Consultation Document said that the code ‘also recognises the principle that children of different ages require different levels of protection, in particular very young children and those over the age of 15’, many respondents did not believe this was adequately reflected in the BCI draft code.²³⁴ They asked for this to be reflected at key junctures in the code rather than having children represented as a monolith. Consequently, the Association of Advertisers in Ireland (AAI) and the Institute of Advertising Practitioners in Ireland (IAPI) asked for the following phrase to be included as appropriate: ‘Cognizance of varying levels of protection required for the different age groups should be taken into account when [clauses are] being interpreted and applied.’²³⁵

²³⁴ Broadcasting Commission of Ireland (2004), *Children’s Advertising Code – Phase 3 Consultation Document*, Dublin: BCI, p.4

²³⁵ AAI/IAPI: written submission 10, p.8.

* * * * *

In Phase 3, the actual style of comments made was in itself interesting. Individuals and organisations responding engaged in the process. They did not merely choose to criticise but used their own experience – often substantial – to offer alternative approaches when gaps and/or problems were perceived.

Submissions²³⁶

Advertising Standards Association of Ireland (ASAI) (Orla Twomey)
Association of Advertisers in Ireland (AAI) and the Institute of Advertising
Practitioners in Ireland (IAPI) - Joint submission (Michael Caraher/Steve
Shanahan)
Beltoise, Sara
Beverage Council of Ireland (Bernard Murphy)
Boate, Carol
Boland, Peter
Bowman, David
Brady, Therese
Brennan, Prof. Michael
Brennan, Nuala
Brophy, Garrett
C&C Ireland (Fiona Curtin)
Cadbury (Graham Mosey)
Cahill, Niamh
Callanan, Tom
Campbell, Jane
Cannon, Christina
Caraher, Martin
CARAT Ireland (Ciarán Cunningham)
Cassidy, Eibhlin
Cavaliero, Richard
Children's Rights Alliance (Raymond Dooley)
Chocolate, Confectionery and Biscuit Council of Ireland
Coca Cola Ireland (Jennifer Heaphy)
Conway, Christine
Conway, Jacki
Cooney, Brendan
Coughlan, Mary, TD.
Crowley, Evelyn
De Bhaldráithe, Padraic

²³⁶ This list represents those who provided their own name or that of their organisation. It should be noted that many responses given through the BCI web site were done so anonymously.

Deane, Tony
Delaney, John P.
Dental Foundation of Ireland (Deirdre Sadlier)
Doherty, Tom
Donnelly, Cormac
Doyle, Mark
Drew, David, MP.
Enright, Cadogan
Family and Media Association (Ivo W. O'Sullivan)
Food and Drink Industry of Ireland (Ciarán Fitzgerald)
Gill, Pat
Glanbia (Brian Reid)
GlaxoSmithKline (Peter Harding)
Gordon, Nicola
Green Party (Eoin Ryan)
Green, Ben
Gregory, B.
Halpin, Dave
Harkin, Justin
Healy, Christine
Healy, Kevin
Healy, Gary and Susan
Hearty, Claire
Hodgins, Patrick
Hughes, Kathleen
Hurley, Michelle
Independent Broadcasters of Ireland (Eamonn Buttle)
Irish Breakfast Cereals Association of Ireland
Irish Nutrition and Dietetic Institute (Deborah Griffin)
ISPCC (Alison O'Reilly)
Keating, Gerard
Kehoe, Donal
Kiely, Dr. B.A.
King, Sheila
La Leche League of Ireland (Margaret McGuigan)
Lawlor, Margaret-Anne
Maguire, Rachel
Mc Cann, John
McDonald's Restaurants of Ireland (Lucy Murray)
McGabhann, Brian
Mc Gabhann, Patricia
McGrath, Ann
Mc Keague, Kathleen
Mulvey, Carmel
Murphy, Fiona
Murray, John
Murray, Tony
National Alliance for Action on Alcohol
National Children's Advisory Council (Peter O'Brien)
National Children's Office (Ann O'Donnell)

National Heart Alliance (Maureen Mulvihill)
National Taskforce on Obesity (John Treacy)
Ni Rian, Mai
O'Brien, Sarah
O'Donnell, Kevin
Ó Drisceoil, Fachtna
O'Flynn, Sheila
O'Higgins, Killian
O'hEallaithe, Donncha
O'Neachtain, T.
O'Neill, Mary
O'Riordain, Mairead
O'Shea, Cormac
Owens DDB (Mark Hogan)
Peelman-Moens, Carla
PepsiCo International (Martin Glenn)
Pioneer Total Abstinence Association
Quinn, Bob
Quinn, Prof. Patrick J.
Roe, Gerard
Rolsma, Jorinde
Rooney, Shane
RTÉ
Safefood (Charmaine Clarke)
Scoil Íosa Parents Association (Eileen Murphy)
Snack Food Association of Ireland
Spillane, Dr. Charles
Tallon, Gerard
TG4 (Padraig Ó Ciardha)
The Society of Chief and Principal Dental Surgeons of Ireland and The Oral
Health Promotion Research Group – Irish Link – Joint submission
Toy Industries of Europe
Tumelty, Catriona
TV3 (David Mc Munn)
Women In The Home (WITH) (Aine Ui Ghiollagain)
Woulfe, Anne
Wrigley Ireland and UK
Wynne, Carmel
Youthreach (Dermot Stokes)