



AUSTRALIAN
FOOD AND GROCERY
COUNCIL

SUBMISSION

SUBMISSION TO

The Australian Senate Community Affairs Committee

IN RESPONSE TO

The Protecting Children from Junk Food Advertising
(Broadcasting Amendment) Bill 2008

24 October 2008

PREFACE

The Australian Food and Grocery Council is the peak national organisation representing Australia's packaged food, drink and grocery products industry.

The membership of the AFGC comprises approximately 150 companies, subsidiaries and associates which constitutes in the order of 80 per cent of the gross dollar value of the highly processed food, beverage and grocery products sectors. (A list of members is included as Appendix 3.) The AFGC represents the nation's largest manufacturing sector. By any measure Australia's food, drink and grocery products industry is a substantial contributor to the economic and social welfare of all Australians. Effectively, the products of AFGC's member companies reach every Australian household.

The industry has annual sales and service income in excess of \$70 billion and employs more than 200,000 people – almost one in five of the nation's manufacturing workforce. Of all Australians working in the industry, half are based in rural and regional Australia, and the processed food sector sources more than 90 per cent of its ingredients from Australian agriculture.

The AFGC's agenda for business growth centres on public and industry policy for a socioeconomic environment conducive to international competitiveness, investment, innovation, employment growth and profitability.

The AFGC's mandate in representing member companies is to ensure a cohesive and credible voice for the industry, to advance policies and manage issues relevant to the industry and to promote the industry and the virtues of its products, enabling member companies to grow their businesses.

The Council advocates business matters, public policy and consumer-related issues on behalf of a dynamic and rapidly changing industry operating in an increasingly globalised economy. As global, economic and trade developments continue to test the competitiveness of Australian industry, transnational businesses are under increasing pressure to justify Australia as a strategic location for corporate production, irrespective of whether they are Australian or foreign owned. In an increasingly globalised economy, the ability of companies to internationalise their operations is as significant as their ability to trade globally.

Increased trade, rationalisation and consolidation of businesses, increased concentration of ownership among both manufacturers and retailers, intensified competition and dynamic, increasingly complex and demanding consumers are features of the industry across the globe. Moreover, the growing global middle class of consumers is more sophisticated and discerning, driving innovation and differentiation of products and services.

The AFGC is working with governments in taking a proactive, even tactical, approach to public policy to enable businesses to tackle the threats and grasp the dual opportunities of globalisation and changing consumer demands.

1 INTRODUCTION

The AFGC welcomes the opportunity to make this submission to the Australian Senate Community Affairs Committee into the *Protecting Children from Junk Food Advertising (Broadcasting Amendment) Bill 2008*.

The AFGC notes that the aim of the Bill is to encourage healthier eating habits among children and to prohibit the broadcasting of advertisements for certain foods during certain times. The AFGC also notes that the Bill has been referred for consideration because advertising to children is an ongoing issue of concern for the community. Reference was also made to the decision by the Australian Communications and Media Authority (ACMA) not to include restrictions of the kind outlined in the Bill.

In this submission the AFGC will:

1. state its position on regulatory policy relevant to advertising food and beverage products
2. provide a brief response to community concerns and the findings in the ACMA report
3. present an industry response to community concerns in the area of advertising to children.

The AFGC will not address the link between advertising and obesity in this submission. The AFGC supports ACMA's finding that the "factors influencing childhood obesity and overweight are complex, with public health literature identifying a range of actors, including the interplay of hereditary, social, cultural and environmental factors" and that it is difficult to determine the relative contribution of advertising amongst this mix¹. Previous research conducted by ACMA has indicated that the likely impact is less than 2%² and levels of overweight and obesity in children have not increased substantially over the past 10 years³. That said, the levels are still too high. Childhood overweight and obesity is still an important issue and one which the AFGC will be addressing in other areas.

In this submission the AFGC will refer to comments made in its submission to ACMA in relation to the *Draft Revised Children's Television Standards 2008* as they relate to ongoing community concern about advertising. Specifically they address comments made by ACMA that "industry should have regard to the strong concerns of interested parties in this area and consider how it can effectively address these concerns without additional regulation"⁴.

2 THE AFGC POLICY POSITION ON REGULATION OF ADVERTISING

The AFGC supports an evidence-based approach to regulation and considers that regulations should address demonstrated needs, and that they address those needs in the most cost effective manner.

¹ Review of Children's Television Standards 2005 Report of Review, August 2008, p.10

² ACMA Children's Television Standards Review Issues Paper June 2007 p.30

³ National Children's Nutrition and Physical Activity Survey, 2007

⁴ Review of Children's Television Standards 2005 Report of Review, August 2008, p.12

Advertising on free to air television is extensively regulated through formal and self-regulatory measures. This framework, which the AFGC supports, ensures advertisers have the opportunity to promote products and services in a manner that reflects community values.

The AFGC supports the objective of the Children Television Standards (CTS) to protect children from the possible harmful effects of television and supports the continued combination of legislation, co-regulation and self-regulation. The AFGC strongly supports the current provisions that prohibit advertising to pre-school aged children.

With respect to advertising food and beverage products, the AFGC supports the responsible advertising of food and beverage products and endorses the AANA's Food and Beverage Advertising and Marketing Communications Code adopted 1 November 2006.

There is no evidence to suggest that the current system of regulation for food and beverage advertising is failing and therefore the AFGC does not support further legislation or prohibitions in this area. However, the AFGC recognises that community values and requirements have changed and the industry is responsive not only to the needs of the community but also to their values.

The AFGC considers that it is appropriate to have a mix between full regulation and self-regulation. The Australian Competition and Consumer Commission (ACCC) supports self-regulation, stating that it often allows industry to set the bar far higher than would be possible with full regulation⁵. Industry has a strong record in applying self-regulatory measures in the advertising space as outlined in the following overview of the current regulatory framework.

3 RESPONSE TO COMMUNITY CONCERNS

The AFGC does not underestimate the levels of genuine community concern regarding childhood obesity. The levels of obesity in children are too high, and indeed most recent evidence indicates that whilst overweight and obesity levels in children have stabilised, most children do not eat according to the dietary guidelines⁶. The AFGC also recognises that primary school children are impressionable, and potentially vulnerable to promotions which may inappropriately influence their (or their parents) purchase and use of products (including foods).

Although the ACMA Review reported that there is a lack of evidence supporting a causal link between advertising and excessive consumption by children, the AFGC acknowledges that this is a matter of concern for many parts of the community and proposes further self-regulation in response.

The AFGC took particular note of comments made by ACMA about industry needing to have regard for continuing community concerns regarding advertising to children and that it should consider how it can effectively address these concerns without additional regulation.

The AFGC has worked in partnership with other sectors of the food industry and the Australian Association of National Advertisers (AANA) to determine how it might effectively

⁵ Graeme Samual, Chairman ACCC. Centre for Corporate Public Affairs 2003 Oration.

⁶ National Children's Nutrition and Physical Activity Survey, 2007.

address these concerns through a Responsible Children's Marketing Initiative. The AFGC considers that a self-regulatory approach that is responsive to community concerns will provide the best outcome.

4 THE RESPONSIBLE CHILDREN'S MARKETING INITIATIVE

The Australian Food and Beverage Industry has developed *The Responsible Children's Marketing Initiative* to demonstrate its commitment to responsible marketing of foods and beverages to children. The goal of this initiative is to ensure that a high level of social responsibility in marketing communication and marketing food and beverage products in Australia is maintained.

In developing the initiative, the industry has set out clear expectations in the form, spirit and context of advertising to children. This will be a transparent process with signatories being required to develop and publish individual company action plans which will be subject to monitoring and review processes.

The initiative was developed in collaboration with the AANA as part of the system of advertising and marketing self-regulation in Australia. Signatories to this initiative must also abide by:

- The AANA Code for Advertising & Marketing Communications to Children
- The AANA Food & Beverages Advertising & Marketing Communications Code
- The AANA Code of Ethics

This initiative is supported by major food and beverage manufacturers, AANA and other industry groups. These companies represent the majority of food and beverage manufacturing in Australia.

4.1 AGREEING TO CORE PRINCIPLES

In establishing this initiative, the AFGC and the AANA aim to provide a framework for food and beverage companies to help promote healthy dietary choices and lifestyles to Australian children.

Companies will sign up to this initiative as a minimum commitment and will develop and publish individual Company Action Plans that outline their specific commitments including individual nutritional standards, if applicable, in order to meet the core principles of this initiative.

Because companies and their product lines vary, the way companies comply with this framework will differ. However, all commitments will be consistent with the core principles outlined in this initiative.

Companies participating in this initiative will publicly commit to marketing communications to primary school aged children (children under 12), only when it will further the goal of promoting healthy dietary choices and healthy lifestyles. The Company Action Plans, which

each participant will develop, will outline how they will meet a set of core principles. These principles relate to:

- Advertising Messaging
- Use of Popular Personalities and Licensed Characters
- Product Placement
- Use of Products in Interactive Games
- Advertising in Schools
- Use of Premium Offers

Full details are outlined in Appendix 1 but the intent is that participants will not market food and beverage products to children under 12 unless:

1. those products represent healthy dietary choices, consistent with established scientific or Australian government standards.

AND

2. the advertising and/or marketing communication activities, reference or are in the context of a healthy lifestyle, designed to appeal to the intended audience through messaging that encourages:
 - good dietary habits, consistent with established scientific or government criteria
 - physical activity.

4.2 WHAT THIS MEANS IN PRACTICAL TERMS

This initiative will apply to all media. That is, television, radio, print, cinema and third-party internet sites. These provisions will apply where the audience is predominantly children under 12 and/or the program or media, having regard to the theme, visuals, and language used, are directed primarily to children. The types of television programs to which this initiative would apply are outlined in Appendix 2.

The intended result of this initiative will be to change the mix of advertisements during such programming. It applies to the use of popular or licensed characters such as Shrek, Kung Fu Panda, the Wiggles or HI-5 in television advertisements that screen during children's programs or where the audience is predominantly children under 12.

To advertise food and beverage products within this programming, participants will need to demonstrate that those products represent healthy dietary choices and the advertising must be presented in the context of a healthy lifestyle.

4.3 MONITORING, COMPLAINTS AND COMPLIANCE

To support this initiative, the AFGC will commission a study to monitor food and beverage advertising to children over a period 12 months from the commencement of the initiative. The purpose of this study will be to measure industry's response, determine the nature of improvements in performance and to report on the findings.

Key criteria will be established to assess how companies' marketing communications to children meet the core principles outlined in this initiative.

The AFGC will work with the AANA to formulate a transparent compliance program, including the administration of a public complaints system, in relation to the Responsible Children's Marketing Initiative.

Sanctions will be developed to ensure that participants meet their obligations under the terms of this initiative. The compliance program will publicly issue reports detailing its activities.

5 CONCLUSION

The AFGC accepts that there is genuine community concern regarding advertising to children and has responded to ACMA's statement that it should have regard to the strong concerns of interested parties in this area.

The AFGC and the food and beverage industry has responded to comments made by ACMA that it needs to consider how it can effectively address these concerns without additional regulation and has proposed the Responsible Children's Marketing Initiative.

This initiative is an additional self-regulatory measure that aims to provide a framework for food and beverage companies to help promote healthy dietary choices and lifestyles to Australian children.

6 RECOMMENDATIONS

The AFGC recommends that:

- a) the Australian Senate Community Affairs Committee note the industry's response to community concerns about advertising to children.
- b) the Australian Senate Community Affairs Committee endorse the direction being taken by the industry through the development of its The Responsible Children's Marketing Initiative.

APPENDIX 1: DRAFT - THE RESPONSIBLE CHILDREN'S MARKETING INITIATIVE OF THE AUSTRALIAN FOOD AND BEVERAGE INDUSTRY

Introduction

The Australian Food and Beverage Industry has developed this initiative to demonstrate its commitment to responsible marketing of foods and beverages to children.

The goal is to ensure that a high level of social responsibility in marketing communication and marketing food and beverage products in Australia is maintained.

This initiative will provide confidence in the responsible marketing practices via clear expectations of the form, spirit and context, and a transparent process for monitoring and review of practices. The aim is to provide a framework for food and beverage companies to help promote healthy dietary choices and lifestyles to Australian children.

This Initiative has been developed in collaboration with the AANA as part of the system of advertising and marketing self-regulation in Australia. Signatories to this initiative must also abide by:

- The AANA Code for Advertising & Marketing Communications to Children
- The AANA Food & Beverages Advertising & Marketing Communications Code
- The AANA Code of Ethics

This document outlines the minimum commitments required by signatories. Companies may choose to adopt additional commitments.

Core Principles

Companies participating in this initiative will publicly commit to marketing communications to children under 12, only when it will further the goal of promoting healthy dietary choices and healthy lifestyles.

Each participant will develop an individual company action plan that outlines how they will meet the following core principles:

▪ Advertising Messaging

Participants will not advertise food and beverage products to children under 12 in media unless:

1. those products represent healthy dietary choices, consistent with established scientific or Australian government standards.

And

2. the advertising and/or marketing communication activities reference, or are in the context of, a healthy lifestyle, designed to appeal to the intended audience through messaging that encourages:
 - good dietary habits, consistent with established scientific or government criteria
 - physical activity.

- **Use of Popular Personalities and Licensed Characters**

Participants will not use Popular Personalities or Licensed characters' in advertising primarily directed to children under 12 unless such advertising complies with the messaging options set out above and the specific requirements of the Children's Television Standards in relation to promotions and endorsement by Program Characters (CTS section 22).

- **Product Placement**

Participants will commit to not paying for or actively seeking to place their food or beverage products in the program/editorial content of any medium primarily directed to children under 12 for the purpose of promoting the sale of those products unless those products are consistent with healthy dietary choices under #1 above.

- **Use of Products in Interactive Games**

Participants will commit that, in any interactive game primarily directed to children under 12 where the company's food or beverage products are incorporated into the game, the interactive game must incorporate or be consistent with healthy dietary choices under #1 above and healthy lifestyle messaging under #2 above.

- **Advertising in Schools**

Participants will refrain from product-related communications in primary schools, except where specifically requested by, or agreed with, the school administration for educational or informational purposes, or related to healthy lifestyle activities under the supervision of the school administration or appropriate adults.

- **Use of Premium Offers**

Participants will commit to not advertising premium offers unless the reference to the premium is merely incidental to product being advertised in accordance with the AANA codes and in the Children's Television Standards (CTS Section 20).

Individual Company Action Plans

Companies will sign up to this initiative as a minimum commitment and will develop and publish individual *Company Action Plans* that outline their specific commitments including individual nutritional standards if applicable in order to meet the core principles of this initiative.

Because companies and their product lines vary, the way companies comply with this framework will differ. However, all commitments will be consistent with the core principles outlined in this initiative.

This initiative outlines the minimum commitments required by signatories. Companies may choose to go further if they wish to.

Compliance and Complaints

Key criteria will be established to assess how companies' marketing communications to children meet the core principles outlined in this initiative.

The AFGC will work with the AANA to formulate a transparent compliance program including the administration of a public complaints system in relation to the Responsible Children's Marketing Initiative.

Sanctions will be developed to ensure that participants meet their obligations under the terms of this initiative.

The compliance program will publicly issue reports detailing its activities.

The compliance program, in consultation with the participants, will periodically review its procedures and the overall impact of this initiative. The first such review shall be started after the new program has been operational for at least 1 year.

Monitoring

The Australian Food and Grocery Council will commission a study to monitor food and beverage advertising to children over a period 12 months from the commencement of this initiative. This will be repeated periodically.

The purpose of this study will be to measure the industry's response, determine the nature of improvements in performance and to report on the findings.

Implementation

1. Agreement to this initiative to be finalised by the end of 2008.
2. The position statement will become effective from 1 January 2009.
3. Company Action Plans will be required to be submitted by 1 January 2009.
4. The AFGC and the AANA undertake to review this initiative in 2010.

DEFINITIONS

In this Initiative:

Marketing Communications means

- a) matter which is published or broadcast using any medium in all of Australia or in a substantial section of Australia for payment or other valuable consideration and which draws the attention of the public or a segment of it, to a product, service, person, organisation, or line of conduct in a manner calculated to promote or oppose directly or indirectly that product, service, person, organisation or line of conduct;
- b) any activity which is undertaken by or on behalf of an advertiser or marketer for payment or other valuable consideration and which draws the attention of the public or a segment of it to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly the product, service, person, organisation or line of conduct,

but does not include Excluded Advertising or Marketing Communications.

Excluded Advertising or Marketing Communications means labels or packaging for products.

Advertising or Marketing Communications to Children is defined by the AANA Code for Advertising and Marketing Communications to Children and means advertising or marketing communications which, having regard to the theme, visuals, and language used, are directed primarily to children and are for product

Media means television, radio, print, cinema and third-party internet sites where the audience is predominantly children and/or having regard to the theme, visuals, and language used are directed primarily to children.

Children means children under 12.

Popular Personalities and Licensed Characters means:

- a personality or character from a C program or P program
- a popular program or movie character
- a non-proprietary cartoon, animated or computer generated character

Premium means anything offered free or at a reduced price and which is conditional upon the purchase of a children's food or beverage product.

APPENDIX 2: INDICATIVE TELEVISION PROGRAM LIST

Under The Responsible Children's Marketing Initiative, participants will not advertise food and beverage products to children under 12 in media unless it meets core principles in relation to advertising messaging.

In this initiative media is defined as: television, radio, print, cinema and third-party internet sites where the audience is predominantly children and/or having regard to the theme, visuals, and language used are directed primarily to children.

The following list has been provided to illustrate the types of programs covered by the initiative. It should be noted that this is not an exhaustive list. It is indicative only and will be updated from time to time to reflect current programming.

Puzzle Play	Sharky's Friends
Rock it!	M-Barbie Mariposa
Hercules	Pucca
Kid's WB on Nine	Get Ed
I Got a Rocket	The Proud Family
H2O - Just Add Water	Ben 10
G2G: Got to Go	Hannah Montana and Miley Cyrus: Best of Both Worlds
Erky Perky	Sea Princesses
Bush Beat	My Friends Tigger and Pooh
Blinky Bill's Around the World Adventures	Stanley
Holly's Heroes	Flipper and Lopaka - The Search for Neptune's Trident
Hi-5	W.I.T.C.H.
Faireez	Life is Ruff
Master Raindrop	The Backyardigans
New Macdonald's Farm	Yin Yang Yo!
Lab Rats Challenge	Now You See It
Here's Humphrey	Doctor Dolittle
Double Trouble	The Cat in The Hat
Playhouse Disney	Stuart Little
Dive Olly Dive	Curious George
Totally Wild	Jimmy Neutron: Boy Genius
Pirate Islands 2 - The Lost Treasure of Fiji	Barbie in the Diamond Castle
The Sleepover Club	Thunderbirds
The Shak	The Adventures of Rocky & Bullwinkle
Dora the Explorer	Mickey Mouse Clubhouse
Go, Diego Go	Spy Kids
Saturday Disney	Free Willy
Toon Disney	Rugrats Go Wild!
Toasted TV	

APPENDIX 3: AFGC MEMBERS AS AT 24 SEPTEMBER 2008

AAB Holdings Pty Ltd	Kellogg (Australia) Pty Ltd	Waters Trading Pty Ltd
Arnett's Biscuits Limited	Day Dawn Pty Ltd	Wyeth Australia Pty Ltd
Snack Foods Limited	Kikkoman	Yakult Australia Pty Ltd
The Kettle Chip Company Pty Ltd	Kimberly-Clark Australia Pty Ltd	
Asia-Pacific Blending Corporation Pty Ltd	Kerry Ingredients Australia Pty Ltd	
Barilla Australia Pty Ltd	Kraft Foods Asia Pacific	
Beak & Johnston Pty Ltd	Lion Nathan Limited	
BOC Gases Australia Limited	Madura Tea Estates	Associate members
Bronte Industries Pty Ltd	Manildra Harwood Sugars	Accenture
Bulla Dairy Foods	Mars Australia	Australia Pork Limited
Bundaberg Brewed Drinks Pty Ltd	Mars Food	ACI Operations Pty Ltd
Bundaberg Sugar Limited	Mars Petcare	Amcor Fibre Packaging
Cadbury Schweppes Asia Pacific	Mars Snackfood	CHEP Asia-Pacific
Campbell's Soup Australia	McCain Foods (Aust) Pty Ltd	Concurrent Activities
Cantarella Bros Pty Ltd	McCormick Foods Aust. Pty Ltd	Dairy Australia
Cerebos (Australia) Limited	Merino Pty Ltd	Exel (Aust) Logistics Pty Ltd
Christie Tea Pty Ltd	Merisant Manufacturing Aust. Pty Ltd	Focus Information Logistics Pty Ltd
Clorox Australia Pty Ltd	National Foods Limited	Food Liaison Pty Ltd
Coca-Cola Amatil (Aust) Limited	Nerada Tea Pty Ltd	FoodLegal
SPC Ardmona Operations Limited	Nestlé Australia Limited	Food Science Australia
Coca-Cola South Pacific Pty Ltd	Nestlé Foods & Beverages	Foodbank Australia Limited
Colgate-Palmolive Pty Ltd	Nestlé Confectionery	IBM Business Cons Svcs
Coopers Brewery Limited	Nestlé Ice Cream	innovations & solutions
Dairy Farmers Group	Nestlé Nutrition	KPMG
Danisco Australia Pty Ltd	Foodservice & Industrial Division	Lawson Software
Devro Pty Ltd	Novartis Consumer Health	Legal Finesse
Dole Australia	Australasia	Linfox Australia Pty Ltd
DSM Food Specialties Australia Pty Ltd	Nutricia Australia Pty Ltd	Meat and Livestock Australia Limited
DSM Nutritional Products	Ocean Spray International, Inc	Monsanto Australia Limited
Earlee Products	Parmalat Australia Limited	PricewaterhouseCoopers
Ferrero Australia	Patties Foods Pty Ltd	Promax Applications Group Pty Ltd
Fibrisol Services Australia Pty Ltd	Peanut Company of Aust. Limited	Sue Akeroyd & Associates
Fonterra Brands (Australia) Pty Ltd	Procter & Gamble Australia Pty Ltd	Swire Cold Storage
Foster's Group Limited	Gillette Australia	Swisslog Australia Pty Ltd
Frucor Beverages (Australia)	PZ Cussons Australia Pty Ltd	The Nielsen Company
General Mills Australia Pty Ltd	Queen Fine Foods Pty Ltd	Touchstone Cons. Australia Pty Ltd
George Weston Foods Limited	Reckitt Benckiser (Aust) Pty Ltd	Visy Pak
AB Food and Beverages Australia	Ridley Corporation Limited	Wiley & Co Pty Ltd
AB Mauri	Cheetham Salt Limited	
Cereform/Serrol	Sanitarium Health Food Company	
Don	Sara Lee Australia	PSF members
GWF Baking Division	Sara Lee Foodservice	Amcor Fibre Packaging
George Weston Technologies	Sara Lee Food and Beverage	Bundaberg Brewed Drinks Pty Ltd
Jasol	SCA Hygiene Australasia	Cadbury Schweppes Asia Pacific
Weston Cereal Industries	Sensient Technologies	Coca-Cola Amatil (Aust) Limited
GlaxoSmithKline Consumer Healthcare	Simplot Australia Pty Ltd	Foster's Group Limited
Golden Circle Limited	Specialty Cereals Pty Ltd	Golden Circle Limited
Goodman Fielder Limited	Spicemasters of Australia Pty Ltd	Lion Nathan Limited
Meadow Lea Australia	Stuart Alexander & Co Pty Ltd	Owens Illinois
Quality Bakers Aust Pty Ltd	Sugar Australia Pty Ltd	Visy Pak
H J Heinz Company Australia Limited	SunRice	
Hans Continental Smallgoods Pty Ltd	Swift Australia Pty Ltd	
Harvest FreshCuts Pty Ltd	Symrise Pty Ltd	
Heimann Foodmaker Group	Tate & Lyle ANZ	
Hoyt Food Manufacturing Industries Pty Ltd	The Smith's Snackfood Co.	
Johnson & Johnson Pacific Pty Ltd	The Wrigley Company	
Pfizer Consumer Health	Unilever Australasia	

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