

INTRODUCTION

Following the completion of a wide-ranging public review, the Australian Association of National Advertisers (AANA) has released a new Food and Beverages Code (the Code) effective 1 November 2021.

THE NEW FOOD AND BEVERAGES CODE

The new Code consists of two sections. Section 2 covers the advertising of Food and Beverage products while Section 3 covers the targeting of children.

Section 2 - Advertising for Food or Beverage Products

- 2.1. Advertising for Food or Beverage Products must not be misleading or deceptive or likely to mislead or deceive.
- 2.2. Advertising for Food or Beverage Products must not undermine the importance of healthy or active lifestyles nor the promotion of healthy balanced diets or encourage what would reasonably be considered to be excess consumption through the representation of product/s or portion sizes disproportionate to the setting/s portrayed or by means otherwise regarded as contrary to the Australian Dietary Guidelines.
- 2.3. Advertising for Food or Beverage Products that include what an Average Consumer might interpret as a Health Claim or Nutrition Content Claim must be supportable by appropriate scientific evidence meeting the requirements of the Australian Food Standards Code.
- 2.4. Advertising for Food or Beverage Products including claims relating to material characteristics such as taste, size, content, nutrition and health benefits, must be specific to the promoted product/s.
- 2.5. Advertising for Food or Beverage Products not intended or suitable as substitutes for meals must not portray them as such.

Section 3 - Advertising and Children

- 3.1. Advertising (including sponsorship advertising) of Occasional Food or Beverage Products must not target Children.
- 3.2. Sponsorship advertising that targets children must not show an Occasional Food or Beverage Product, or such product packaging, or depict the consumption of an Occasional Food or Beverage Product.
- 3.3. Advertising of Food or Beverage Products featuring a promotional offer of interest to Children must not create a sense of urgency or encourage the purchase or consumption of an excessive quantity.
- 3.4. Advertisers must not give to Children as awards or prizes Occasional Food or Beverage Products or vouchers that can be used for Occasional Food or Beverage Products.

KEY DEFINITIONS

Children means persons under the age of 15 and Child means a person under the age of 15.

Food or Beverage Products means any food or beverage products other than alcoholic beverages as defined in and subject to regulation by the Alcohol Beverages Advertising Code.

Occasional Food or Beverage Products means food or beverages products which do not meet the Food Standards Australia Nutrient Profiling Scoring Criterion as published from time to time by Food Standards Australia New Zealand (FSANZ).

Target Children is determined by the context of the advertisement and the following three criteria:

1. Nature and intended purpose of the product being promoted is principally or significantly appealing to Children;
 2. Presentation of the advertisements content (eg theme, images, colours, wording, music and language used) is principally appealing to Children
 3. Expected average audience at the time or place the advertisements appears includes a significant proportion of Children.
- Expected average audience for Out of Home (OOH) purposes means:
- Where data exists, 25 per cent or more of the predicted audience will be Children. In relation to OOH advertising, if across a campaign the data shows a predicted audience with less than 25 per cent Children, and there is a Children's event or concert that is incidental to the ad placement, the audience of that incidental Children's concert or event will not be captured.
 - Compliance with the Outdoor Media Association's Placement Policy and National Health and Wellbeing Policy which regulate the placement of advertising at primary and secondary schools which are locations where Children regularly and predictably gather.

For further information please contact the OMA:

Outdoor Media Association / Suite 504, 80 William Street, East Sydney NSW 2011
Telephone: 02 9357 9900 / Email: info@oma.org.au / Web: oma.org.au

KEY CONTENT CONSIDERATIONS

- The content of the advertisement must not be misleading or deceptive ie make health claims that are profoundly untrue.
- The content must not undermine the importance of healthy or active lifestyles or the promotion of a healthy and balanced diet.
- The content must not include a claim that could be a nutrition claim unless this is supported by the Australian Food Standards Code.
- The content must not make it seem like the food is appropriate as a complete meal if it is not intended to be such.
- If the advertisement is for an occasional food or beverage, it must not, through theme, images, colours, wording, music and language, have strong appeal to children.

KEY PLACEMENT CONSIDERATIONS

- Advertisements for occasional food and beverages cannot be targeted to children. One of the considerations as to whether an advertisement is targeted to children is through its placement.
- If the advertisement is compliant with the OMA National Health and Wellbeing Policy, it will be compliant with the AANA F&B Code.
- Where the average audience data for the campaign, as shown in MOVE, projects the percentage of audience of people under the age of 15 is less than 25 per cent of the total audience, the campaign will be compliant with the F&B Code.

OCCASIONAL FOOD AND BEVERAGES

The method for determining whether a food is an occasional food or beverage is slightly different to that of the OMA National Health and Wellbeing Policy.

The F&B Code uses the Food Standards Australia nutrient Profiling Scoring Criterion (FSANZ) while the OMA National Health and Wellbeing Policy uses the Health Star Rating System.

The systems are very similar and in almost all cases yield the same result in terms of whether an advertisement is deemed to be targeting children under the F&B Code or is captured by the OMA Placement Policy.

NEED MORE HELP?

Please contact the OMA Government Relations team:

(T) 02 9357 9900

(E) copyadvice@oma.org.au

Using the FSANZ Calculator

As with the OMA National Health and Wellbeing Policy it should be on the advertiser or agency to determine compliance with the AANA F&B Code prior to display. However, OMA members can also check that an advertisement is compliant using the FSANZ calculator.

The calculator can be accessed at: <https://www.foodstandards.gov.au/industry/labelling/Pages/Nutrient-Profiling-Scoring-Calculator.aspx>

Step 1: select the category of food

- Category 1 - Beverages
- Category 2 - Food other than those included in category 1 or 3
- Category 3 - Certain dairy/high fat products:
 - Cheese or processed cheese with calcium content greater than 320 mg/100 g*
 - edible oil
 - edible oil spreads
 - margarine
 - butter

* All other cheeses (with calcium content less than or equal to 320 mg/100 g) are classified as a category 2 food.

Step 2: enter the nutritional details of the food

- Energy (kJ)
- Saturated Fatty Acids (g)
- Sugars (g)
- Sodium (mg)
- Protein (g)
- Dietary Fibre (g)

Step 3: enter the proportion of fruit, vegetable, nuts and legumes (FVNL)

- Percentage of non FVNL ingredients
- Percentage of non-concentrated FVNL ingredients
- Percentage of concentrated fruit or vegetable ingredients

Step 4: receive your score

If the score is below these thresholds, it is not considered a discretionary food. If the score is higher, it cannot target children:

- **Category 1 - less than 1**
- **Category 2 - less than 4**
- **Category 3 - less than 28**

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