



Children's Advertising Code Review

AANA discussion paper for public comment

June 2022

Introduction

The Australian Association of National Advertisers (AANA) is the peak national body championing the interests of Australia's advertisers. We exist to inspire and promote responsible, innovative and respected marketing.

The AANA is reviewing the AANA Children's Advertising Code, to ensure that it continues to provide a robust framework for the self-regulation of advertising and marketing communication to children.

The objective of the Children's Advertising Code is to ensure that advertisers and marketers develop and maintain a high sense of social responsibility in advertising and marketing to children in Australia.

The AANA Children's Advertising Code is accompanied by Practice Notes which have been developed by the AANA. The Practice Notes provide guidance to advertisers and complainants on the intent of the Code's clauses and must be applied by the Ad Standards Community Panel in making its determinations.

The aim of the current review of the AANA Children's Advertising Code is to update and, where necessary, develop the Code and Practice Notes to ensure that it continues to meet community requirements and expectations. It is our intention that a revised AANA Children's Advertising Code will articulate world's best practice standards against which it can be measured and administered.

The purpose of this discussion paper is to promote dialogue with all stakeholders and to stimulate informed input to the review. It is not intended to be prescriptive and any other matters raised will be given due consideration.

Submissions received in response to this paper will assist the AANA in preparing a new AANA Children's Advertising Code for consideration by the AANA Board.

Consultation process

Consultation on the Discussion Paper will be undertaken through:

- written submissions from any interested party; and
- discussions between interested stakeholders and the AANA.

The AANA invites submissions from all interested parties by **5pm on Friday 5 August 2022**. Written submissions or enquires on this discussion paper may be made as follows:

By email: aanasubmissions@aana.com.au

AANA requests that all submitters clearly identify:

- the name of the party making the submission; or
- the organisation or interest group represented by the submission; and
- contact details – including telephone number and email address (if available).

THE AANA AND SELF-REGULATION

Background

The AANA has been the peak national body for advertisers for over 90 years. Advertising and marketing communication plays an important role in the economy and society, contributing approximately \$40 billion to the Australian economy and employing over 200,000 people¹. It takes many forms, including advertising in traditional and digital media, consumer engagement on social media platforms and direct-to-consumer marketing. Advertising helps consumers and wider society to be better informed, to achieve insights and understanding about products and services and to secure value for money. As a key driver of demand, it enables innovation to be brought to market and stimulates economic growth and employment. It underwrites the economic viability of commercial media, including news media, and enhances the variety of media content.

AANA's advertising self-regulatory system came into operation in 1997 following extensive consultation by AANA with consumers, consumer groups, advertisers, business and government representatives. The system, which has the support of all major media owners and their associations, includes both code making expertise and a complaints handling system administered by Ad Standards, providing independent determinations regarding breaches of the AANA Codes. It is a national system that is technology and platform neutral and applies to all consumer advertising and marketing communication, whether or not the brand owner is an AANA member.

AANA Codes

General

The AANA currently manages five advertising self-regulatory codes:

- **Code of Ethics** – this over-arching Code sets the standard for ethical behaviour by advertisers and marketers as well as by advertising and marketing agencies. The vast majority of complaints dealt with by Ad Standards relate to elements of this over-arching Code. This Code underwent a formal review in 2019 and was amended to:
 - prohibit harmful gender stereotypes;
 - prohibit the focus on body parts where not relevant to the product or service being advertised;
 - prohibit the use of overtly sexual images in outdoor advertising or shop front windows or where the image is not relevant to the product or service being advertised;
 - introduce additional restrictions for advertising containing violent or menacing content so that harmful content is not displayed where children form part of the audience;
 - impose a positive obligation on influencers to disclose commercial relationships in a clear, upfront manner that can be easily understood.
- **Food & Beverages Advertising Code (F&B Code)** – this Code regulates how food and beverages can be advertised in Australia and underwent a formal review in 2020. Guided by feedback from government, the F&B Code was strengthened to protect children by ensuring they are not targeted with advertising for occasional food or drinks.
- **Environmental Claims in Advertising & Marketing Code** – this Code sets standards to ensure that advertisers develop and maintain rigorous standards when making environmental claims and to increase consumer confidence to the benefit of the environment, consumers and industry.
- **Wagering Advertising & Marketing Communication Code** – this Code aims to ensure advertisers adopt a high sense of social responsibility when advertising wagering products in Australia.

¹ *Advertising Pays: the economic, employment and business value of advertising*, June 2016
<http://www.advertisingpays.com.au/>

- **Code for Advertising & Marketing Communications to Children (Children’s Code)** – this Code applies to advertising of products or services which are targeted toward and have principal appeal to Children and is subject to the current formal review discussed in this Paper.

The AANA Codes are acknowledged and supported by Federal and state governments as an important self-regulatory mechanism to assist in achieving public policy outcomes. The self-regulatory system in Australia is rooted in the model of best practice developed with regulators, NGOs, consumer and public health groups, providing consensus not only on the model but the critical role that effective self-regulation plays to ensure robust qualitative advertising standards. The model ensures consultation of third parties in the development of codes and both complaints and decisions are dealt with transparently².

A key strength of the AANA self-regulatory system is the commitment to regular review and evolution of the Codes to maintain universality (application to all media and all brands) and to address specific problem areas.

Definition of advertising

In the AANA Codes, **Advertising or Marketing Communication** means:

- a. *any material which is published or broadcast using any Medium or any activity which is undertaken by, or on behalf of an advertiser or marketer,*
 - *over which the advertiser or marketer has a reasonable degree of control, and*
 - *that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct,*
- b. *but does not include*
 - *labels or packaging for products,*
 - *corporate reports including corporate public affairs messages in press releases and other media statements, annual reports, statements on matters of public policy and the like,*
 - *in the case of broadcast media, any material which promotes a program or programs to be broadcast on that same channel or station.*

Medium means *any medium whatsoever including without limitation cinema, internet, outdoor media, print, radio, television, telecommunications, or other direct-to-consumer media including new and emerging technologies.*

Platform neutral, national approach

The AANA Codes do not make a distinction between traditional media advertising and digital advertising. The definition of “Advertising or Marketing Communication” in the AANA Codes ensures virtually all commercial communication directed at consumers is captured (including direct-to-consumer public relations material, online, social media and outdoor). This means that the standards specified in the AANA Codes apply equally across all media.

The platform neutral, national self-regulatory model allows complaints to be made without the consumer having to consider the medium or geographical location in which the relevant advertisement appeared. The AANA Codes will continue to evolve as new technology and means of communication evolve so that they remain relevant and universal.

² <http://www.easa-alliance.org/>; <https://iccwbo.org/publication/icc-advertising-and-marketing-communications-code/>

The table below shows the number of cases considered by the Ad Standards Community Panel according to media type³.

ANALYSIS OF CASES BY MEDIA (%)

| | 2017 | 2018 | 2019 | 2020 | 2021 |
|-------------------------|-------------|-------------|-------------|-------------|-------------|
| TV - Free-to-air | 79.06% | 76.39% | 71.33% | 38.90% | 36.24% |
| Internet - social media | 2.49% | 2.61% | 3.99% | 15.93% | 23.59% |
| TV - On demand | - | - | 1.79% | 7.05% | 8.43% |
| TV - out of home | - | - | 0.65% | 1.31% | 5.34% |
| Internet | 2.93% | 2.15% | 1.67% | 5.48% | 4.21% |
| TV - Pay | 3.81% | 3.02% | 3.40% | 5.22% | 4.21% |
| Poster | 4.62% | 2.76% | 2.82% | 5.22% | 3.37% |
| Radio | 1.37% | 1.67% | 2.43% | 4.44% | 2.81% |
| Email | - | - | 0.36% | 1.57% | 2.25% |
| Transport | 1.12% | 1.85% | 2.05% | 2.61% | 2.25% |
| App | - | - | - | 3.13% | 1.69% |
| Billboard | 2.28% | 4.26% | 4.03% | 2.09% | 1.69% |
| Billboard - Digital | - | - | - | 1.57% | 0.84% |
| Outdoor | 0.33% | 0.60% | 1.26% | 1.83% | 0.84% |
| Print | 0.51% | 0.49% | 0.78% | 1.57% | 0.84% |
| Mail | 0.42% | 0.33% | 0.23% | 0.26% | 0.56% |
| Billboard - Mobile | - | - | - | 0.26% | 0.28% |
| Cinema | 0.12% | 0.40% | 0.34% | 0.26% | 0.28% |
| Promotional material | - | - | 1.62% | 1.31% | 0.28% |
| Other | 0.95% | 3.46% | 1.24% | - | - |
| TOTAL | 100% | 100% | 100% | 100% | 100% |

Compliance

Ad Standards

Ad Standards administers the complaint handling service for the AANA Codes. Complaints are adjudicated by the Ad Standards Community Panel, made up of an independent panel of individuals who are representative of the wider community. Complaints may be made by any member of the public and it only takes one complaint to spark a review of the advertisement by the Community Panel.

Advertisers who are found by the Community Panel to be in breach of the AANA Children’s Code are required to withdraw or modify the material so that it is no longer published or broadcast in the same format. The resulting commercial consequences of breaching the Children’s Code include the direct and indirect costs of withdrawing an advertisement and the reputational cost when a non-compliance decision is made public, including possible adverse media coverage.

This complaints-based system offers the public an opportunity to participate in facilitating advertisers’ compliance with the Code. It provides a free, open and transparent mechanism to address concerns about the content of advertisements and other marketing communication.

³ Ad Standards, *Review of Operations 2021*, p 23. <https://adstandards.com.au/article/2021-review-operations>

Complaint volumes

Complaints under the Children’s Code represent a very small proportion of overall complaints adjudicated by the Ad Standards Community Panel each year. In 2021, 1.42% of total complaints related to issues covered by the Children’s Code according to the Ad Standards Review of Operations⁴, as outlined below:

ISSUES ATTRACTING COMPLAINT (%)

| | 2017 | 2018 | 2019 | 2020 | 2021 |
|--|-------------|-------------|-------------|-------------|-------------|
| Code of Ethics Section 2.4 (Sex, sexuality & nudity) | 14.59% | 36.39% | 16.37% | 32.29% | 21.31% |
| Code of Ethics Section 2.6 (Health & safety) | 12.55% | 4.83% | 5.25% | 7.96% | 16.50% |
| Other | 4.77% | 3.72% | 33.91% | 4.43% | 15.54% |
| Code of Ethics Section 2.3 (Violence) | 12.57% | 26.58% | 15.78% | 10.29% | 11.34% |
| Code of Ethics Section 2.1 (Discrimination or vilification) | 18.34% | 8.66% | 13.08% | 15.43% | 10.22% |
| Code of Ethics Section 2.5 (Language) | 18.79% | 7.09% | 5.82% | 5.59% | 9.77% |
| Code of Ethics Section 2.2 (Exploitative or degrading) | 9.06% | 5.87% | 5.96% | 18.29% | 3.34% |
| FCAI Code | 0.60% | 1.04% | 0.85% | 0.89% | 3.19% |
| Code of Ethics Section 2.7 (Distinguishable advertising) | 0.22% | 0.41% | 0.14% | 0.45% | 2.68% |
| Food and Beverages Code | 0.97% | 1.13% | 1.56% | 2.33% | 2.18% |
| Advertising to Children Code | 0.52% | 0.50% | 0.20% | 0.45% | 1.42% |
| Environmental Claims Code | 0.05% | 0.05% | 0.34% | 0.45% | 1.37% |
| Wagering Code | 6.66% | 3.35% | 0.31% | 0.45% | 1.01% |
| AFGC Responsible Childrens Marketing Initiative (RCMI) | 0.11% | 0.07% | 0.17% | 0.13% | 0.15% |
| AFGC Quick Service Restaurant Resp Childrens Marketing Initiative (QSRI) | 0.20% | 0.32% | 0.26% | 0.58% | - |
| TOTAL | 100% | 100% | 100% | 100% | 100% |

⁴ Ad Standards, *Review of Operations 2021*, p 20

Protection for Children Under AANA Codes

The various AANA Codes pay particular attention to children and contain specific protections for children which reflect community concern around what children see and the impact of advertising on children.

AANA Code of Ethics

The AANA Code of Ethics regulates how people are portrayed in advertising and also the need to ensure that advertising is obvious and distinguishable from genuine editorial, user generated content or product reviews so that consumers know when they are seeing advertising.

The Code of Ethics contains the following rules aimed at protecting children:

- **Ban on sexual appeal involving minors** – section 2.2 states that *“Advertising shall not employ sexual appeal: (a) where images of Minors, or people who appear to be Minors, are used”*. This ban recognises that any advertising where minors, or people who appear to be minors, are used, sexual appeal is harmful, not acceptable and is exploitative or degrading. Under this rule, advertisements must not include sexual imagery, state or imply that minors, or people who appear to be minors, are sexual beings or that ownership or enjoyment of the advertised product will enhance their sexuality. Minors, or people who appear to be minors, must not be portrayed in a manner which treats them as objects of sexual appeal. Advertising featuring someone who appears to be a minor in a pose which indicates they are trying to appear alluring has been found to breach this section of the Code.
- **General ban on violence** – section 2.3 states that *“Advertising shall not present or portray violence unless it is justifiable in the context of the product or service advertised”*. With the exception of advertising aimed at preventing violence such as domestic violence or harmless horseplay involving only adults in humorous situations, violence is generally viewed by the Ad Standards Community Panel as being completely unacceptable unless it is relevant to the product or service advertised. Ads showing a man pouring a milkshake over a child’s head or a child having food thrown at them are examples of ads that have breached this section.
- **Restrictions on where sex, sexuality and nudity can be shown** – section 2.4 states that *“Advertising shall treat sex, sexuality and nudity with sensitivity to the relevant audience”*. This rule essentially requires advertisers to be sensitive to where and when advertising appears so that advertising in locations or at times with a broad audience should not contain images inappropriate for children. This rule explicitly bans overtly sexual images from being shown in outdoor advertising or shop front windows.
- **Restrictions on language** – section 2.5 states that *“Advertising shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided”*. While words and phrases which are innocuous and in widespread and common use in the Australian vernacular are permitted provided they are used with gentle humour and not used in a demeaning or aggressive manner, the “f” and “c” words are generally viewed as harmful, unacceptable and not permitted.

- **Restriction on unsafe or unhealthy portrayals** – section 2.6 states that “*Advertising shall not depict material contrary to Prevailing Community Standards on health and safety*”. This rule essentially requires that advertising must not depict content that would encourage or condone unhealthy or unsafe behaviour which may then encourage children to engage in such behaviour. Ads containing portrayals of unsafe electrical use or horseplay with appliances around water, even though humorous, are examples of advertising found in breach of this rule. Portrayals of unhealthy ideal body images are also caught by this rule and the Community Panel has found numerous ads portraying models who appear to be underweight or images which have been photoshopped as being in breach of this rule.

AANA Food and Beverages Advertising Code

The AANA Food & Beverages Advertising Code reflects community concern around what type of food and beverages advertising is targeted at children and contains the following rules aimed at protecting children:

- **Ban on ads that undermine healthy diets or lifestyles** – section 2.2 states that “*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*”. An ad which promoted a selection of bread rolls, including sweet rolls, as being a suitable school lunch was found in breach of this section.
- **Ban on occasional food and beverages ads targeting children** – section 3.1 states that “*Advertising (including sponsorship advertising) of Occasional Food or Beverage Products must not target Children*”. Likewise, section 3.2 states that “*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*”. These rules have adopted the Food Standards Code Nutrient Profile Score Criterion as the determinant for whether or not food and beverages are deemed to be occasional. At the same time, this rule also encourages the promotion of essential, healthy food to children in recognition that children do not currently eat enough healthy foods as per the Australian Dietary Guidelines.
- **Restrictions on collectibles or gifts** – section 3.3 states that “*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*”. This rule reflects community concern around pester power and overconsumption.
- **Restrictions around prizes and awards** – section 3.4 states that “*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*”. This rule reflects the fact that sporting organisations often approach brands to support sporting events by providing a prize for best player or other achievements however there is community concern that what is given out as awards or prizes not include occasional food or beverages.

CONSULTATION ON THE CHILDREN'S CODE

Objectives

The object of the Children's Code is to:

Ensure that advertisers and marketers develop and maintain a high sense of social responsibility in advertising and marketing to children in Australia.

Questions

1. **Does the Children's Code continue to meet its stated objectives? If not, why not?**
2. **Do the current objectives need to be amended? If so, what are the objectives that the Children's Code should address?**

Practice Notes

The AANA has developed and published Practice Notes to assist advertisers, their agencies and the community in the interpretation of specific provisions of the Children's Code.

The interpretations in these Practice Notes are based on the AANA's intent in relation to the Children's Code and relevant determinations of the Ad Standards Community Panel. The Children's Code Practice Note is applied by the Ad Standards Community Panel in making its determinations. In the event of any ambiguity, the provisions of the Code prevail.

The Practice Note is published separately to the Children's Code document however regard must be had to both the Children's Code and the Practice Note in order to fully understand the rules.

Questions

3. **Are Practice Notes helpful in assisting the interpretation of the Code?**

Evolution

The evolution of the Children's Code began in 1999 when the AANA introduced the *Principles and Advisory Notes for Advertising to Children*, which was intended to complement the existing Children's Television Standards and other codes and standards in operation at the time. In 2007, the Principles were replaced with a *Code for Advertising to Children* as part of advertising self-regulation to ensure that advertisers developed and maintained a high level of social responsibility in relation to advertising to children in Australia.

The Children's Code was extensively reviewed in April 2008 with input from community and parent groups. A number of major changes resulted following this review, including a direct prohibition against the sexualisation of children and a ban on the use of sexual imagery in advertising targeted at children. The definition of 'advertising' was also expanded to capture other forms of 'marketing communication', so that direct-to-consumer marketing activity, such as product websites or sampling activity targeted primarily at children, can now be subject to the Code.

The Children's Code was again reviewed in 2012 and amended to align with Free TV's updated *Commercial Television Industry Code of Practice* and ACMA's updated *Children's Television Standards* (CTS). The amended Children's Code took effect in 2014.

Since then, the Code was subject to further amendments in both 2016 and 2017 to align with changes to definitions in other Codes and impose a blanket ban on the use of sexual imagery in advertising to children, regardless of prevailing community standards.

It is the current practice of the AANA to update its Codes and Practice Notes if/when a cogent reason exists. The constant evolution of the AANA Codes is seen as one of the benefits of the advertising self-regulatory system in that it can quickly respond to emerging issues and community concerns. This however can cause confusion within the advertising industry and, to minimise confusion and promote compliance, the AANA undertakes extensive consultation and training before proceeding with any changes.

The *Commercial Television Industry Code of Practice* was updated in 2015. In 2020, the ACMA released the *Broadcasting Services (Australian Content and Children's Television) Standards 2020 (TV Standards)*. The TV Standards revoked and replaced the *Broadcasting Services (Australian Content) Standard 2016* and the *Children's Television Standards 2009*. Both the Code of Practice and TV Standards contain rules aimed at protecting children from potentially harmful content and include rules relating to advertising.

In the past, the AANA has ensured alignment between the Children's Code, CTS and the Code of Practice. This review serves as an opportunity to review the Children's Code for the purposes of exploring alignment with these updated rules.

Questions

4. **Should the Children's Code and Practice Notes continue to evolve outside of formal public reviews?**
5. **Are changes required to the Children's Code to ensure consistency with the TV Standard?**
6. **Are changes required to the Children's Code to ensure consistency with the Code of Practice?**

Definitions

Advertising or Marketing Communications means:

a. any material which is published or broadcast using any Medium or any activity which is undertaken by, or on behalf of an advertiser or marketer,

- *over which the advertiser or marketer has a reasonable degree of control, and*
- *that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct,*

b) but does not include

- *labels or packaging for products*
- *corporate reports including corporate public affairs messages in press releases and other media statements, annual reports, statements on matters of public policy and the like*
- *in the case of broadcast media, any material which promotes a program or programs to be broadcast on that same channel or station.*

Advertising or Marketing Communication to Children means *Advertising or Marketing Communication which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product. The Community Panel shall have regard to the Practice Note to this Code in determining whether Advertising or Marketing Communication are to children under this definition.*

Alcohol Products means *products which have some association with alcohol including alcoholic beverages, food products that contain alcohol or other products that are associated in some way with alcohol including in the sense of being branded in that way.*

Children means *persons 14 years old or younger and Child means a person 14 years old or younger.*

Community Panel means *the panel appointed by Ad Standards from time to time, the members of which are representative of the community, to administer a public complaints system in relation to Advertising or Marketing Communication.*

Medium means any medium whatsoever including without limitation cinema, internet, outdoor media, print, radio, television, telecommunications, or other direct-to-consumer media including new and emerging technologies.

Premium means anything offered either free, at a reduced price, or with an additional cost and which is conditional upon the purchase of an advertised product.

Prevailing Community Standards means the community standards determined by the Community Panel as those prevailing at the relevant time in relation to Advertising or Marketing Communication to Children. Prevailing Community Standards apply to Section 2 below. The determination by the Community Panel shall have regard to Practice Notes published by AANA and any research conducted by the Ad Standards.

Product means goods, services and/or facilities which are targeted toward and have principal appeal to Children.

Question

7. Are any changes required to the definitions in the Children’s Code? If yes, please give reasons.

Children’s Code Rules

Section 2.1 Prevailing Community Standards

Advertising or Marketing Communication to Children must not contravene Prevailing Community Standards.

Complaints Under Section 2.1

There are very few complaints made under this section and there have been no recent breaches.

Question

8. Are any changes required to Section 2.1 of the Children’s Code? If yes, please give reasons.

Section 2.2 - Factual Presentation

Advertising or Marketing Communication to Children:

(a) must not mislead or deceive Children;

(b) must not be ambiguous; and

(c) must accurately represent, in a manner that is clearly understood by Children:

(i) the advertised Product;

(ii) any features (including the size and performance of the product) which are described or depicted or demonstrated in the Advertising or Marketing Communication;

(iii) the need for and the price of any accessory parts; and

(iv) that the Advertising or Marketing Communication is in fact a commercial communication rather than program content, editorial comment or other non commercial communication.

(d) Price

(i) Prices, if mentioned in Advertising or Marketing Communication to Children, must be accurately presented in a way which can be clearly understood by Children and must not be minimised by words such as “only” or “just”;

(ii) Advertising or Marketing Communication to Children must not imply that the Product being promoted is immediately within the reach of every family budget.

Complaints Under Section 2.2

There have been very few complaints under this section and only one recent breach. The advertisement found to have breached section 2.2 involved a YouTube advertisement depicting four plastic miniature versions of food products available as collectibles from a grocery store. The Community Panel noted that the voiceover to the advertisement did not mention prices although the advertisement included disclaimers on screen with text large enough to read on a computer screen. The Panel considered that the wording in the disclaimers was targeted towards adults, not children, and that many young children would not be able to read or understand the disclaimers on the screen. The Panel noted that the Code clearly requires pricing information to be presented in a manner that is clearly understood by children and the Panel considered that the pricing information in the advertisement was not presented in a way which would be clearly understood by children 14 and under, in particular by young children. The Panel determined that the advertisement breached Section 2.2 (d) (i) of the Children's Code. Read the full decision [here](#).

Question

9. Are any changes required to Section 2.2 of the Children's Code? If yes, please give reasons.

Section 2.3 - Placement

Advertising or Marketing Communication to Children must not be placed in Media where editorial comment or program content, in close proximity to that communication, or directly accessible by Children as a result of the communication, is unsuitable for Children according to Prevailing Community Standards.

Complaints Under Section 2.3

There have been very few complaints under this section and only one recent breach which involved the above advertisement for collectibles which was found to have breached multiple sections of the Code. In that case, the ad was inadvertently played before a YouTube video featuring a review of an adult video game rated MA15+. The Panel considered that most members of the community would consider a video of this nature to be unsuitable for children aged 14 and under. As such, the Panel determined that the advertisement breached Section 2.3 of the Children's Code. Read the full decision [here](#).

Question

10. Are any changes required to Section 2.3 of the Children's Code? If yes, please give reasons.

Section 2.4 - Sexualisation

Advertising or Marketing Communication to Children:

(a) must not employ sexual appeal;

(b) must not include sexual imagery; and

(c) must not state or imply that Children are sexual beings and that ownership or enjoyment of a Product will enhance their sexuality.

Complaints Under Section 2.4

There have been very few complaints and no recent breaches under this section.

Question

11. Are any changes required to Section 2.4 of the Children's Code? If yes, please give reasons.

Section 2.5 - Safety

Advertising or Marketing Communication to Children:

(a) must not portray images or events which depict unsafe uses of a Product or unsafe situations which may encourage Children to engage in dangerous activities or create an unrealistic impression in the minds of Children or their parents or carers about safety; and

(b) must not advertise Products which have been officially declared unsafe or dangerous by an authorised Australian government authority.

Complaints Under Section 2.5

There have been very few complaints and no recent breaches under this section.

Question

12. Are any changes required to Section 2.5 of the Children's Code? If yes, please give reasons.

Section 2.6 – Social Values

Advertising or Marketing Communication to Children:

(a) must not portray images or events in a way that is unduly frightening or distressing to Children; and

(b) must not demean any person or group on the basis of ethnicity, nationality, race, gender, age, sexual preference, religion or mental or physical disability.

Complaints Under Section 2.6

There have been very few complaints and no recent breaches of this section.

Question

13. Are any changes required to Section 2.6 of the Children's Code? If yes, please give reasons.

2.7 Parental Authority

Advertising or Marketing Communication to Children:

(a) must not undermine the authority, responsibility or judgment of parents or carers;

(b) must not contain an appeal to Children to urge their parents, carers or another person to buy a Product for them;

(c) must not state or imply that a Product makes Children who own or enjoy it superior to their peers; and

(d) must not state or imply that persons who buy the Product are more generous than those who do not.

Complaints Under Section 2.7

There have been very few complaints and no recent breaches of this section.

Question

14. Are any changes required to Section 2.7 of the Children's Code? If yes, please give reasons.

2.8 Qualifying Statements

Any disclaimers, qualifiers or asterisked or footnoted information used in Advertising or Marketing Communication to Children must be conspicuously displayed and clearly explained to Children.

Complaints Under Section 2.8

There have been very few complaints and only one recent breach of this section involving the collectibles advertisement above which breached multiple sections of the Code. The Panel considered that the wording of the disclaimers in the advertisement were not clearly explained to children. The Panel considered that the disclaimers used language which targeted adults, not children, and that there was nothing in the content of the advertisement itself which explained to children that the products would only be available with a \$30 purchase from the advertiser's stores. The Panel determined that the advertisement did breach Section 2.8 of the Code. Read the full decision [here](#).

Question

15. Are any changes required to Section 2.8 of the Children's Code? If yes, please give reasons.

2.9 Competitions

An Advertising or Marketing Communication to Children which includes a competition must:

- (a) contain a summary of the basic rules for the competition;*
- (b) clearly include the closing date for entries; and*
- (c) make any statements about the chance of winning clear, fair and accurate.*

Complaints Under Section 2.9

There have been very few complaints and no recent breaches of this section.

Question

16. Are any changes required to Section 2.9 of the Children's Code? If yes, please give reasons.

2.10 Popular Personalities

Advertising or Marketing Communication to Children must not use popular personalities or celebrities (live or animated) to endorse, recommend, promote or advertise or market Products or Premiums in a manner that obscures the distinction between commercial promotions and program or editorial content.

Complaints Under Section 2.10

There have been very few complaints and no recent breaches of this section.

Question

17. Are any changes required to Section 2.10 of the Children's Code? If yes, please give reasons.

2.11 Premiums

Advertising or Marketing Communication to Children, which include or refer to or involve an offer of a Premium:

- (a) must not create a false or misleading impression in the minds of Children about the content of the Product;*
- (b) must be presented conspicuously;*
- (c) must not create a false or misleading impression in the minds of Children that the product being advertised or marketed is the Premium rather than the Product;*
- (d) must not refer to the premium in more than an incidental manner to the advertised product;*
- (e) must make the terms of the offer clear as well as any conditions or limitations; and*
- (f) must not use Premiums in a way that promotes irresponsible use or excessive consumption of the Product.*

Complaints Under Section 2.11

There have been very few complaints and only one recent breach of this section involving the collectibles advertisement above which breached multiple sections of the Code. The Panel considered that the collectibles would meet the definition of a Premium as they are offered free with the purchase of other products. The Panel considered that:

- the advertisement featured a promotion for the collectibles exclusively and the Panel considered that Children viewing the advertisement would view it as an advertisement for collectibles, not for the grocery store, and that this was a breach of Section 2.11 (c).
- the collectibles were the focus of the advertisement and were not mentioned in an incidental manner, and that this was a breach of Section 2.11(d).
- the advertisement did not make the terms of the offer clear in a way which would be understood by Children viewing the advertisement, and that the advertisement breached Section 2.11 (e).

Question

18. Are any changes required to Section 2.11 of the Children’s Code? If yes, please give reasons.

2.12 Alcohol

Advertising or Marketing Communication to Children must not be for, or relate in anyway to, Alcohol Products or draw any association with companies that supply Alcohol Products.

Complaints Under Section 2.12

There have been very few complaints and no recent breaches of this section.

Intersection Between This Section And Other Regulation Of Alcohol Advertising

In addition to s2.12, alcohol advertising is covered by multiple Codes and laws, including:

- Federal Competition and Consumer Act and State Fair Trading legislation;
- State and Territory Liquor Licensing alcohol promotion requirements;
- Australia New Zealand Food Standards Code;
- ABAC Responsible Alcohol Marketing Code;
- Commercial Television Industry Code of Practice;
- Commercial Radio Code of Practice; and
- Outdoor Media Association Code of Ethics and Alcohol Advertising Policy.

The above laws, regulations and Codes regulate the content and placement of alcohol advertising as well as the labelling of alcohol products.

Question

19. Are any changes required to Section 2.12 of the Children’s Code? If yes, please give reasons.

20. With the growth in the zero-alcohol market, are any amendments required to the Children’s Code?

2.13 Privacy

If an Advertising or Marketing Communication indicates that personal information in relation to a Child will be collected, or, if as a result of an Advertising and Marketing Communication, personal information of a Child will or is likely to be collected, then the Advertising or Marketing Communication must include a statement that the Child must obtain a parent or guardian’s express consent prior to engaging in any activity that will result in the collection or disclosure of such personal information.

Personal information is information that identifies the child or could identify the child.

Complaints Under Section 2.13

There have been no breaches of this section.

Question

21. Are any changes required to Section 2.13 of the Children's Code? If yes, please give reasons.

2.14 Food And Beverages

(a) Advertising or Marketing Communication to Children for food or beverages must neither encourage nor promote an inactive lifestyle or unhealthy eating or drinking habits;

(b) Advertising or Marketing Communication to Children must comply with the AANA Food & Beverages Advertising & Marketing Communications Code.

Question

22. Are any changes required to Section 2.14 of the Children's Code? If yes, please give reasons.

2.15 AANA Code Of Ethics

Advertising or Marketing Communication to Children must comply with the AANA Code of Ethics.

Question

23. Are any changes required to Section 2.15 of the Children's Code? If yes, please give reasons.

Other topics

This Discussion Paper poses a range of questions in relation to the Children's Code. The issues and related questions raised are presented to facilitate discussion and are not intended to be exhaustive. Stakeholders and interested parties are invited to comment on any other matters they wish to raise.

Question

- 24. Are there any other issues, rules or standards that should be included in the Children's Code? If so please, give details.**
- 25. Do you know of any other evidence-based research which could inform the evolution of the Children's Code? If so, please give details.**
- 26. Do you have any additional suggestions or comments on the review of the Children's Code?**

LIST OF CONSULTATION QUESTIONS

1. Does the Children's Code continue to meet its stated objectives? If not, why not?
2. Do the current objectives need to be amended? If so, what are the objectives that the Children's Code should address?
3. Are Practice Notes helpful in assisting the interpretation of the Code?
4. Should the Children's Code and Practice Notes continue to evolve outside of formal public reviews?
5. Are changes required to the Children's Code to ensure consistency with the TV Standard?
6. Are changes required to the Children's Code to ensure consistency with the Code of Practice?
7. Are any changes required to the definitions in the Children's Code? If yes, please give reasons.
8. Are any changes required to Section 2.1 of the Children's Code? If yes, please give reasons.
9. Are any changes required to Section 2.2 of the Children's Code? If yes, please give reasons.
10. Are any changes required to Section 2.3 of the Children's Code? If yes, please give reasons.
11. Are any changes required to Section 2.4 of the Children's Code? If yes, please give reasons.
12. Are any changes required to Section 2.5 of the Children's Code? If yes, please give reasons.
13. Are any changes required to Section 2.6 of the Children's Code? If yes, please give reasons.
14. Are any changes required to Section 2.7 of the Children's Code? If yes, please give reasons.
15. Are any changes required to Section 2.8 of the Children's Code? If yes, please give reasons.
16. Are any changes required to Section 2.9 of the Children's Code? If yes, please give reasons.
17. Are any changes required to Section 2.10 of the Children's Code? If yes, please give reasons.
18. Are any changes required to Section 2.11 of the Children's Code? If yes, please give reasons.
19. Are any changes required to Section 2.12 of the Children's Code? If yes, please give reasons.
20. With the growth in the zero-alcohol market, are any amendments required to the Children's Code?
21. Are any changes required to Section 2.13 of the Children's Code? If yes, please give reasons.
22. Are any changes required to Section 2.14 of the Children's Code? If yes, please give reasons.
23. Are any changes required to Section 2.15 of the Children's Code? If yes, please give reasons.
24. Are there any other issues, rules or standards that should be included in the Children's Code? If so please, give details.
25. Do you know of any other evidence-based research which could inform the evolution of the Children's Code? If so, please give details.
26. Do you have any additional suggestions or comments on the review of the Children's Code?