

## Advertising to children in South Africa

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In a country faced with the daily realities of under-nutrition, HIV/AIDS and tuberculosis, it is easy to assume that obesity is not a problem which ranks high on the list of South Africa's priorities. However, the problem is indeed as rife in South Africa as it is in other more developed countries. Obesity in children has been identified as a particular cause for concern, with the National Household Food Consumption survey having revealed that 17.1 percent of South African children between the ages of one and nine living in urban areas are overweight.

Traditionally, the rules governing advertising to children in South Africa have been relatively mild and there is currently no specific restriction or limitation on the type of product or service that may be advertised to children (with the exception of alcohol and tobacco). However, the obesity issue has caught the attention of both the government and the private sector. Proposed regulations have been mooted which, if promulgated, will have a far-reaching effect on the way in which advertisers can advertise foodstuffs to children. In addition, a special interests group has been set up under the Consumer Goods Council of South Africa, consisting of retailers, fast-food outlets and local and international manufacturers and importers. This group is said to be planning a proposed amendment to the current self-regulation code, the Advertising

Standards Authority of South Africa's Code of Advertising Practice ("the ASA code"), which will deal with these issues.

Currently, therefore, there is a system of self-regulation that is relevant to advertising to children and, to a lesser extent, certain legislation that governs the advertisement of foodstuffs that are typically sold to or for children. These will be discussed briefly below but we have also mentioned the proposed regulations that are currently being debated since, if they come into effect, they will change the position regarding advertising to children in South Africa substantially.

### Self-regulation

Currently, the ASA code, at clause 14 of section II, addresses broadly the issue of advertising to children by way of various general principles.

The first general principle is that "advertisements addressed to or likely to influence children should not contain any statement or visual presentation which might result in harming them, mentally, morally, physically or emotionally."

The stated aim of this general principle is that children should not be brought under the impression that it is acceptable and safe to be in certain surroundings and that the depiction of a particular activity or circumstances should not have the likely effect that children would attempt to emulate it with the concomitant risk of physical, moral or mental harm or that the

impression is created that it is acceptable to act in a certain manner.

Certain examples are given in the ASA code and these include advertisements where children are seen leaning dangerously over bridges or out of windows or advertisements where children are seen to be playing in the road, unless it is clearly shown that they are playing in a play area or other safe area.

Possible justifications exist for depicting children in unsafe situations and these include advertisements promoting safety or safe practices or clearly surrealistic activities that could be perceived as such by the child as the likely viewer.

The second general principle is that "advertisements should not exploit the natural credulity of children or their lack of experience and should not strain their sense of loyalty."

This covers the type of advertisement where a child is led to believe that, should he not buy the advertised product or use the advertised service, he will be somehow inferior to other children or be open to ridicule.

Finally, the third general principle contained in clause 14 stipulates that children should not be portrayed as sexually appealing, provocative or in a way that involves any form of sexual innuendo.

It is important to note that the ASA Code applies to all forms of media, including internet advertising.

If an advertisement contravenes one of the above principles, a complaint may be lodged by either a consumer or a competitor with the ASA. If the ASA rules that an advertisement is in breach of a clause of the ASA code, the advertiser will be ordered to withdraw the offending advertisement within a particular time period, depending on the form of media involved. Repeat offenders

can have additional sanctions imposed on them, namely compulsory pre-clearance of future advertising, adverse publicity statements or being ordered to publish a summary of the ASA's ruling in local newspapers.

### Legislation

In addition to the above basic principles, certain legislation deals with the advertisement of specific products to children.

The Foodstuffs Cosmetics and Disinfectants Act 54 of 1972 deals with the regulation of various different categories of foodstuffs and there are specific regulations under this act which deal with foodstuffs for infants, young children and children. Currently, they essentially require that labelling of these products contain certain information, such as nutritional information.

As mentioned, however, there are also new draft proposed regulations relating to foodstuffs for infants and children. If these do come into effect, these will be onerous indeed. The draft regulations aim to improve public health through healthy food choices and improved nutrition through special food formulations, which are based on the latest scientific evidence. Examples of foods that are categorized as non-essential to a healthy lifestyle are carbonated drinks, sugar confectionary, chocolate confectionary, potato crisps and fast foods of certain specifications.

The proposed regulations, if they come into effect, will mean that such foods or beverages cannot be advertised or promoted to children or in school tuck shops or on school or pre-school premises.

According to the Department of Health, the new regulations will mean that such foods "shall not advertise in

any manner, including the label of a foodstuff, to a child younger than 16 years or use a child actor younger than 16 years or use any cartoon-type character or puppet, computer animation or similar strategy or token or gift, in order to encourage the use of such foodstuff".

The identified foodstuffs will also have to carry labels that warn the consumer to use the produce in moderation, and that excessive consumption on a regular basis may lead to poor health.

The regulations also aim to promote breastfeeding over formula feeding. The products must state that formula powder is not sterile, may contain harmful enzymes and may contain harmful organisms that may grow once it is prepared with water. Furthermore, on the packaging, only pictures of cups or bottles can be used and information on how the product is to be mixed. No pictures of babies or infants being fed either with a cup or with a bottle may appear on the packaging.

Furthermore, the proposed legislation prevents the label on any product that constitutes an infant formula from showing any graphic representation, including logos and brand names and drawings, other than those which show how the formula should be prepared and how the product should be sterilized. Even the use of the established trademark properties and brands will not be permitted on the label of these specific food types.

No health claims may be applied to a designated list of products, including formula milk, nor may any negative claims be made about products, nor may any comparisons be made between formula milk and human milk. It will even no longer be possible to claim that the product is suitable for infants.

Currently, the words "health" or "healthy", or other words or symbols implying that the foodstuff has health-giving properties as part of the name or description of the foodstuff, are prohibited in terms of the above act. Under the proposed regulations, however, the prohibition of the use of the words "health" or "healthy" is broadened and will no longer be limited to the prohibition only as part of the name or description of the foodstuff. Use of these words anywhere on the product will be prohibited.

The proposed regulations will also prohibit the use of the words "wholesome" and "nutritious".

Many feel that the proposed regulations go too far and the public has until 26 January 2008 to comment on them. Much public debate has already taken place and more is expected.

In summary, therefore, the current rules relating to advertising to children in South Africa are relatively lenient. However, the marketing communications industry in South

Africa, as well as the various regulators of advertising, are becoming increasingly aware of the controversies and possible dangers of advertising unhealthy products directly to children. While at the moment there are no direct bans on advertising certain products or services directly to children, advertisers would do well to be aware of the sensitivities and the proposals which have been made, and to exercise caution in future advertising campaigns.