

ASAI GUIDANCE NOTE ON FOOD AND NON-ALCOHOLIC BEVERAGES



This Guidance Note is to be read in conjunction with the Code of Standards for Advertising and Marketing Communications (7th Edition) and is intended to provide interpretative assistance to the industry and consumers on Sections 8.20 and 8.22 of the Food and Non-Alcoholic Beverages Section of the Code. Confidential Copy Advice on a free and non-binding basis is available from the ASAI, www.asai.ie.

These Rules state:

8.2 References to food apply also to non-alcoholic beverages and food supplements.

Promotional offers

8.19 Marketing communications featuring a promotional offer should be prepared with a due sense of responsibility.

8.20 Marketing communications for food products that are targeted through their content directly at pre-school or primary school children should not include a promotional offer, subject to the exceptions listed below:

- (i) Marketing communications for fresh fruit and/or fresh vegetables;
- (ii) Marketing communications carried in media subject to the BAI [Children's Commercial Communications Code](#) for products characterised by that code as being permitted to be advertised to children;
- (iii) Point of sale displays, packages, wrappers, labels, tickets, timetables and menus.
See Guidance Note on Food and Non-Alcoholic Beverages on www.asai.ie

8.21 Additionally, for children under 16:

- (a) Except those for fresh fruit or fresh vegetables, marketing communications should not seem to encourage children to eat or drink a product only to take advantage of a promotional offer: the product should be offered on its merits, with the offer as an added incentive.
- (b) Marketing communications featuring a promotional offer should ensure a significant presence for the product.
- (c) Marketing communications featuring a promotional offer linked to a food product of interest to children should avoid creating a sense of urgency or encouraging the purchase of an excessive quantity for irresponsible consumption.
- (d) Marketing communications should not encourage children to eat more than they otherwise would.
- (e) Marketing communications for collection-based promotions should not seem to urge children or their parents to buy excessive quantities of food.

Licensed Characters and Celebrities

8.22 (a) Licensed characters and celebrities popular with children should always be used with a due sense of responsibility.

8.22 (b) Marketing communications for food products that are targeted through their content directly at pre-school or primary school children should not include licensed characters or celebrities popular with children, subject to the exceptions listed below:

- (i) Marketing Communications for fresh fruit and/or fresh vegetables;
- (ii) Marketing Communications carried in media subject to the BAI Children's Commercial Communications Code for products characterised by that code as being permitted to be advertised to children;
- (iii) Point of sale displays, packages, wrappers, labels, tickets, timetables and menus;
- (iv) The prohibition does not apply to advertiser-created equity brand characters (puppets, persons or characters), which may be used by advertisers to sell the products they were designed to sell;
- (v) Licensed characters and celebrities popular with children may present factual and relevant generic statements about nutrition, safety, education or similar.
See Guidance Note on Food and Non-Alcoholic Beverages on www.asai.ie.

Marketing Communications

A marketing communication includes, but is not limited to, advertising, as well as other techniques such as promotions, sponsorships and direct marketing, and should be interpreted broadly to mean any form of communication produced directly by, or on behalf of, advertisers intended primarily to promote products, to influence the behaviour of and/or to inform those to whom it is addressed. (S 1.1b)

Fresh Fruit or Vegetables

Fresh fruit or fresh vegetables means fresh fruit or fresh vegetables put up for sale to the final consumer or fresh fruit or fresh vegetables packed at the point of sale or pre-packaged fresh fruit or fresh vegetables with a view to imminent sale.

Point of Sale displays

Point of Sale displays for the purposes of the Code refer to displays within a retail environment, for example, shelf-edge stickers, on floor advertising and displays at aisle ends. For the avoidance of doubt it does not include out of home marketing communications, unless they are within a specific identifiable shop.

Content targeted at pre-school and primary school children

- Certain characters, such as those associated with children's movies, stories or programmes, would be considered as content targeting the pre-school and primary school children. For example, Toy Story, Dora the Explorer, Frozen.
- Use of simple language, bubble text, strong primary colours, etc., are likely to be considered content directly targeted at the pre-school and primary school children. In addition, where characters are associated with children's toys, such as Lego® Star Wars, the content would be considered as directed to children.
- The use animation and storylines could also be such that they would be considered content targeted at pre and primary school children, for example if animation or the tone is childish.
- Promotions involving mechanics that in themselves are likely to interest children (for example collecting stickers).

Content not targeted at pre-school and primary school children

Content where the tone, style, language, etc., are not childish in nature. For example, the language used is not simple and the storyline not simplistic.

Equity Brand Characters and Licensed Characters

Equity brand characters are characters that have been created by the advertiser and have no separate identity outside their associated product or brand. Licensed characters are characters that are borrowed equities and have no historical association with the product.

Licensed Characters and Celebrities

The Code prohibits the use of licensed characters and celebrities popular with children where marketing communications for food are “targeted through their **content** directly at pre-school or primary school children”, subject to certain exemptions.

If the content is such that the marketing communication would not be considered targeted through content at children, then licensed characters and celebrities popular with children may be used. Advertisers and agencies must take care to ensure that when using such characters and celebrities, the content is clearly adult in tone and design. Depending on the treatment, characters from series such as Star Trek or movies such as Star Wars might not be considered as content targeting pre-school and primary school children.

Equity brand characters may be used by advertisers to sell the products they were designed to sell.

Promotional Offers

The Code prohibits sales promotions where marketing communications from food are targeted through their content directly at pre-school or primary school children. As with licenced characters, if the content is not targeted at this age group then the prohibition does not apply.

Media

The provisions of Sections 8.20 and 8.22 do not apply to the media regulated by the BAI. In addition they do not apply to “point of sale” irrespective of whether the point of sale is part of a wider campaign. This is in line with the approach adopted by the ASA in the UK in the CAP Code.

Additionally, in line with that Code the provisions do not apply to packaging, wrappers, labels, tickets, timetables or menus, unless the material is reproduced in another marketing communication. For example, if a label or package is shown in a print or poster marketing communication.

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W: www.asai.ie. E: standards@asai.ie.  @The_ASAI.

Section 8.20 and 8.22 Chart

| | Content targeted at pre- and primary school children (where product is not fresh fruit or vegetables) | | Content not targeted at children | |
|--|---|---|---|---|
| | Promotional offers | Licensed characters / popular celebrities | Promotional offers | Licensed characters / popular celebrities |
| Code Section 2: Scope | | | | |
| The Code applies to: | | | | |
| (a) Marketing communications in newspapers, magazines and other printed publications, including free distribution newspapers and magazines. | Not permitted | Not permitted | Permitted | Permitted |
| (b) Marketing communications in posters and other promotional media in public places, including moving images and digital screens. | Not permitted | Not permitted | Permitted | Permitted |
| (c) Marketing communications in brochures, leaflets, circulars, mailings, fax transmissions, emails and text transmissions. | Not permitted | Not permitted | Permitted | Permitted |
| (d) Marketing communications | | | | |
| broadcast on television or radio | Permitted when allowed by the BAI Code | | Permitted Except when prohibited by the BAI Code | |
| or screened in cinemas or with video, DVD or Blu-ray. | Not permitted | Not permitted | Permitted | Permitted |

| Code Section 2: Scope | Content targeted at pre- and primary school children (where product is not fresh fruit or vegetables) | | Content not targeted at children | |
|---|--|---|----------------------------------|---|
| | Promotional offers | Licensed characters and popular celebrities | Promotional offers | Licensed characters and popular celebrities |
| (f) Marketing communications carried on any digital and electronic storage materials, media and/or computer systems including, but not limited to, online advertisements in paid-for space (including banner or pop up advertisements and online video advertisements*); paid-for search listings; preferential listings on price comparison sites; viral advertisements; in-game advertisements; commercial classified advertisements; advergames that feature in-display advertisements; advertisements transmitted by Bluetooth; advertisements distributed through web widgets and online sales promotions and prize promotions. <i>*this includes video-on-demand (VOD)</i> | Not permitted | Not permitted | Permitted | Permitted |
| (f) Promotional marketing and sales promotions. | Not permitted EXCEPT Point of sale displays, packages, wrappers, labels, tickets, timetables or menus | | Permitted | Permitted |
| (g) Advertorials. | Not permitted | Not permitted | Permitted | Permitted |
| (h) Marketing communications in non-paid-for space online, under the control of the advertiser or their agent, including but not limited to advertisers' own websites, that are directly connected with the supply or transfer of goods, services, facilities, opportunities, prizes and gifts or which consist of direct solicitations for donations. | Not permitted | Not permitted | Permitted | Permitted |