

- BBC Homes And Antiques
- Belfast Telegraph
- Bella
- Best
- Boots Health & Beauty Magazine
- Brides
- Candis
- Chat
- Closer
- Company
- Cosmopolitan
- Country Living
- Daily Mail
- Daily Record Scottish Edition
- Daily Star
- The Daily Telegraph
- Decanter
- Delicious
- Derry Journal (Friday)
- Easy Living
- Elle
- Esquire
- Essentials
- Eve
- Evening Chronicle
- Evening Mail
- Evening Standard
- Express
- FHM
- Financial Times
- Four Four Two
- Glamour
- Golf Monthly
- Good Housekeeping
- GQ
- Grazia
- The Guardian
- Heat
- Hello
- Herald
- High Life
- Homes & Gardens
- House & Garden
- House Beautiful
- Ideal Home
- The Independent
- Metro London
- Mirror
- More
- Mother & Baby
- New!
- News Letter
- News of the World
- Now
- The Observer
- OK!
- Olive
- Pick Me Up
- Practical Parenting
- Pregnancy And Birth
- Prima
- Prima Baby
- Psychologies
- Radio Times
- Reader's Digest
- Real Homes
- Red
- Reveal
- Saga Magazine
- Sainsbury's Magazine
- Scotsman
- She
- Somerfield Magazine
- SpongeBob SquarePants
- Sun
- Sunday Daily Star
- Sunday Express
- Sunday Independent
- Sunday Mirror
- The Sunday Telegraph
- The Sunday Times
- Sunday Tribune
- Sunday World Northern Ireland Edition
- Take a Break
- That's Life!
- The Grocer
- The Irish Times
- thelondonpaper
- Times
- Time Out
- Top Sante Health & Beauty
- TV Choice

- The Independent on Sunday
- Inside Soap
- InStyle
- Irish Examiner
- Irish Independent
- Irish Mail on Sunday
- Irish News
- Jersey Evening Post
- Leicester Mercury
- Liverpool Echo
- Living etc
- Ulster Star
- Vogue
- Waitrose Food Illustrated
- What's on TV
- Woman
- Woman and Home
- Woman's Own
- Yorkshire Evening Post
- Yours
- Zest

3.5 Food and Soft Drink Categories

The food and soft drink categories identified within the Billets Media monitoring samples were:

FMCG

- Confectionery

DRINKS

- Beverages
- Non-alcoholic

FOOD

- Bakery goods
- Tinned
- Cereal
- Cooking Ingredients
- Dairy
- Food range
- Frozen
- Ready-to-eat meals
- Sauces and Condiments
- Soup
- Vegetarian
- Frozen

RETAIL

- Mail Order Food and Drink
- Stores: Department, Food
- Stores: Other, Fast Food
- Confectionery
- Stores: Supermarket
- Supermarket range.

4 Findings

4.1 Compliance rate

From a sample of food and soft drinks advertisements that appeared during July 2008, the Survey sought to establish the proportion that complied with the Codes.

Ten advertisements (1%) were found to breach a Code, a compliance rate of 99%.

The advertisements were placed into one of 21 categories listed by Billets Media Monitoring. Table 1 shows that the highest number (197) of advertisements were in the Drinks: Non-alcoholic category. No advertisements were in the Foods: Soup or Food: Vegetarian categories.

Table 1: Advertisements by media category and product category

	Broadcast			Non-Broadcast						
	TV HFSS	TV Non-HFSS	Radio	Press	Cinema	DM	Online	Posters	Circulars	Total
Confectionery	15	7	7	25	0	0	11	4	0	69
Drinks: Beverages	0	0	0	10	0	0	2	3	0	15
Drinks: Non-alcoholic	11	30	13	57	0	0	47	39	0	197
Food: Bakery	2	5	4	13	0	0	0	5	0	29
Food: Canned	1	1	0	1	0	0	0	0	0	3
Food: Cereal	22	2	0	17	0	0	10	0	0	51
Food: Cooking Ingredients	2	1	0	16	0	0	1	1	0	21
Food: Dairy	26	19	2	85	0	0	21	3	0	156
Food: Range	2	0	0	8	0	0	4	0	0	14
Food: Fresh	1	2	0	20	0	0	4	1	0	28
Food: Frozen	1	0	1	3	0	0	3	5	0	13
Food: Ready To Eat	9	5	0	19	0	0	3	2	0	38
Food: Sauces	8	2	4	18	0	0	1	6	0	39
Food: Soup	0	0	0	0	0	0	0	0	0	0
Food: Vegetarian	0	0	0	0	0	0	0	0	0	0

Mail Order Food	1	3	0	13	0	0	8	0	2	27
Stores: Confectionery	0	0	2	0	0	0	0	0	0	2
Stores: Dept. (Food)	1	0	0	3	0	0	0	0	0	4
Stores: Fast Food	11	2	16	0	0	3	36	17	16	101
Stores: Supermarket	4	2	5	70	0	0	0	0	2	83
Stores: Sup'mkt Range	2	9	4	0	0	3	2	2	15	37
TOTAL	119	90	58	378	0	6	153	88	35	927

4.2 Breaches by product category

Table 2: Number of breaches by product category

Product Category	No of ads	Breaches	Compliance rate (%)
Confectionery	69	0	100
Drinks: Beverages	15	0	100
Drinks: Non-alcoholic	197	8	96
Food: Bakery	29	0	100
Food: Tinned	3	0	100
Food: Cereal	51	0	100
Food: Cooking Ingredients	21	0	100
Food: Dairy	174	0	100
Food: Range	22	1	96
Food: Fresh	32	0	100
Food: Frozen	15	0	100
Food: Ready to Eat	40	0	100
Food: Sauces	36	0	100
Food: Soup	0	0	n/a
Food: Vegetarian	0	0	n/a
Mail Order Food	35	1	97
Stores: Confectionery	0	0	n/a
Stores: Department Stores (Food)	4	0	100
Stores: Fast Food	120	0	100
Stores: Supermarket: Food	78	0	100
Stores: Supermarket: Range	35	0	100
TOTAL	927	10	99

Eight of the ten breaches were in the “Drinks non-alcoholic” category. That category’s compliance rate was 96%. One breach from a sample of 22 ads was recorded in the “Food range” category; the other breach was recorded from a sample of 35 ads in the “Food mail order” category. Sample sizes for the “Food range” and “Food mail order” categories were too small to draw meaningful conclusions but the result for non-alcoholic drinks, although by no means unacceptable, suggested that that category might need closer attention in future.

Please refer to sections 4.4 and 4.5 for a description of the breaches.

4.3 Breaches by media type

Table 3: Number of breaches by media type

Media type	No of ads	Breaches	Compliance rate (%)
Television	209	1	99.6
Radio	58	0	100
Press	378	4	99
Circulars	35	0	100
Direct mail	6	0	100
Online	153	4	97
Cinema	0	0	n/a
Posters	88	1	99
Total	927	10	99

Four breaches were in press advertisements, which comprised almost 41% of the sample. The breach rate for press advertisements was 1%. The highest breach rate, 3%, was for online ads. One of the 88 posters breached the CAP Code, a compliance rate of 99%. One breach in a television ad gave that media a breach rate of 0.4%. We found no breaches in radio ads, circulars or direct mailings.

4.4 Complaints

Three food or soft drink advertisements that appeared during the one month period covered by the Survey (July) were the subject of formally investigated complaints to the ASA; one investigation about two of those ads continues at the time of writing.

The ASA upheld complaints about two television advertisements for a juice drink, one of which was captured in the survey, because the ads could be seen as condoning underage sex and teenage pregnancy and contained innuendo that was likely to cause serious or widespread offence. The ads were wrongly scheduled and might have discouraged good dietary practice by suggesting a drink containing sugar could replace water. See appendix 4 for the ASA adjudication.

The other investigation concerns a campaign by a confectionery advertiser to promote free sporting activities. The two posters being investigated were captured by the survey but the television advertisement was aired later in July, after the first week of the survey period (see section 3.1). The complainants objected that the ads: included a promotional offer in food ads that were targeted directly at primary school children; encouraged children to eat confectionery only to take advantage of a promotional offer; gave a misleading impression of the nutritional and health benefits of the products and encouraged poor nutritional habits and an unhealthy lifestyle in children.

Also, we identified seven advertisements for follow-on formula in the survey, two of which are being investigated by the ASA; those advertisements are discussed separately in section 4.6.

4.5 Breaches identified by the Compliance team

All the breaches identified by the Compliance team occurred in non-broadcast advertisements. The other breach identified in the survey resulted from an ASA adjudication (see Appendix 4).

A magazine advertisement for a range of fruit juice drinks described the products as a selection of real fruit juices. Although the Compliance team noted some products in the range were made entirely from fruit juice, the product pictured contained 12% fruit juice only. The Compliance team considered that the promotion misleadingly implied all the products were made entirely from fruit juice, in breach of CAP Code clauses 3.1 and 7.1.

A magazine advertisement, for a range of diet foods, claimed readers could lose a stone or more in one month and featured before-and-after photographs and a testimonial from a woman who said she had lost three stone in three months. Because the advertisement claimed that people could lose precise amounts of weight within a stated period and because the high rate of weight loss described in the testimonial suggested the woman had been obese, the Compliance team considered that the advertisement breached CAP Code clauses 51.2, 51.9 and 51.10.

A national press advertisement, for mail order wine, included an 0845 order line with no accompanying call cost information. Because the line was operational outside office hours and callers would, at those times, incur a higher than basic rate charge, the Compliance team considered that the advertisement should have included call cost information and had breached CAP Code clause 42.2.

A magazine advertisement for a fruit juice drink included a cut-out from a newspaper article that claimed one glass of the product contained a nutrient proven to prevent macular degeneration. Because that claim suggested the product could treat a prolonged medical condition, and might therefore

discourage readers from seeking essential medical treatment, we considered the ad breached CAP Code clauses 50.3 and 50.11.

A poster for fruit cordial included a promotion to win £1000. Because the poster did not include any significant conditions for the promotion, the Compliance team considered that it breached CAP Code clause 34.1.

Two online advertisements for fruit smoothies claimed to strengthen immunity and natural defences. Because they went beyond a simple health maintenance platform and seemed to suggest the products offered a medicinal benefit, the Compliance team considered that those health claims breached CAP Code clause 50.11.

Two online advertisements for fruit smoothies claimed to offer mental stimulation. Because the health claim went beyond a simple health maintenance platform and seemed to suggest the products offered a medicinal benefit, the Compliance team considered that the ads breached CAP Code clause 50.11.

4.6 Questionable follow-on formula advertisements

We identified seven advertisements for follow-on formula in the survey. Because the ASA was investigating complaints about two of them, looking at, for example, whether the products provided the same health benefits as breast milk, whether they could prevent children catching colds and whether the ads misled by suggesting that follow-on formula was a natural progression from breast feeding, we considered that those ads were questionable. The CAP and BCAP Codes do not provide specific guidance on follow-on formula advertisements and, because the FSA offers guidance on marketing of follow-on formula products and specific legislation exists to regulate them (Infant and Follow-on Formula Regulations 2007), the Compliance team decided not to comment on whether the ads complied with the Codes.

5 Conclusion

The Compliance team was encouraged by the findings of the survey: the high compliance rate recorded in the 2007 survey has been maintained. Only one of the ten 2008 breaches fell foul of the new food rules. The slight increase in the number of ads appearing in July 2008 versus the same month in 2007 suggested that the introduction of the new food rules has not inhibited the marketing of food and soft drinks. The good compliance rate for traditional advertising media suggested marketers had understood and adapted to the new rules. The lower compliance rate for online ads suggested that advertisers are sometimes either unaware that online ads fall within the scope of the CAP Code or consider that the rules are applied less stringently there. Online seems to be the only media category to merit closer attention.

Broadcast ads recorded a near-perfect compliance record. That result is testament to the way in which advertisers and their agencies have adapted to the new rules and to the good work of Clearcast and the RACC, who help ensure that broadcast ads meet the BCAP Codes' requirements.

Ofcom is conducting a compliance review of HFSS advertisements on television and will cover compliance with the scheduling rules. The report is due to be published imminently and Ofcom will include the relevant results of our survey as part of its evaluation of the content rules.

We shall continue to work with broadcasters and advertisers to ensure that the high level of compliance is maintained.

6 Compliance advice

Seeking confidential and free advice from the Copy Advice team is the best way to ensure that non-broadcast marketing communications do not break the CAP Code and advertisers are urged to use that service. The dedicated and experienced team can draw on ASA research and previous adjudications when advising on compliance as well as the likely reaction of both the public and competitors. Consult the Copy Advice team on 020 7492 2100 (telephone), 020 7242 3696 (fax) or e-mail copyadvice@cap.org.uk. The team responds to almost all written enquiries within 24 hours.

Advertisers, their agencies and the media can minimise the chances of their campaign breaching the rules by using AdviceOnline. This is an up-to-date database of advice that informs advertisers about what they can and cannot do and links users to relevant Code clauses, Help Notes and past ASA decisions. CAP encourages users to subscribe to Update@CAP, its e-mail newsletter. Both services are free and available on www.cap.org.uk.

For TV or radio pre-clearance advice, advertisers are urged to consult Clearcast (www.clearcast.co.uk) for TV ads or the RACC (www.racc.co.uk) for radio ads. Pre-clearance is an explicit requirement of the BCAP Radio Code.

7 Appendices

Appendix 1

Help Note for food or soft drink product advertisements and children

CAP Help Notes offer guidance for non-broadcast marketing communications under the British Code of Advertising, Sales Promotions and Direct Marketing (the CAP Code).

These guidelines, drawn up by CAP, are intended to help marketers and their agencies interpret the rules in the British Code of Advertising, Sales Promotion and Direct Marketing (the CAP Code). They neither constitute new rules nor bind the ASA Council in the event of a complaint about a marketing communication that follows them.

These guidelines should be read in conjunction with the other rules in the CAP Code. References to food apply also, where relevant, to beverages.

These definitions apply to the rules in this section:

- Children - persons below the age of 16, unless otherwise qualified as in “pre-school or primary-school children”.
- Licensed characters - those characters that are borrowed equities and have no historical association with the product.
- Equity brand characters - those characters that have been created by the advertiser and have no separate identity outside their associated product or brand.

47.6 Marketing communications should not condone or encourage poor nutritional habits or an unhealthy lifestyle in children.

Notes to 47.6:

(1) This rule does not preclude responsible advertising for any products including those that should be eaten only in moderation. An advertisement may show someone enjoying a chocolate bar but not someone eating whole boxes of chocolates in one sitting. Interpretation of the rule should be by reference to generally accepted nutritional advice.

(2) Marketing communications should not encourage excessive consumption of any food or drink, frequent eating between meals or eating immediately before going to bed. The notion of excessive consumption relates to the frequency of consumption as well as the amount consumed.

(3) Marketing communications should not condone or encourage attitudes associated with poor diets, for example, a dislike of green vegetables.

(4) Portion sizes or quantities of food shown should be responsible and relevant to the scene depicted, especially if children are involved. No marketing communication should suggest that a portion intended for more

than one person is to be consumed by a single individual or an adult's portion, by a small child.

(5) Marketing communications for food should not suggest that an inactive or sedentary lifestyle is preferable to physical activity.

(6) Marketing communications should not encourage frequent consumption throughout the day of potentially cariogenic products such as those containing sugar.

47.7

(a) Although children might be expected to exercise some preference over the food they eat or drink, marketing communications should be prepared with a due sense of responsibility and should not directly advise or ask children to buy or to ask their parents or other adults to make enquiries or purchases. (see 47.4a)

Notes to 47.7.a:

(1) This extends to behaviour; for example, a child should not be shown asking for a product or putting it into the parent's trolley in the supermarket.

(2) Phrases such as "Ask Mummy to buy you" are not acceptable.

(b) Marketing communications should neither try to sell to children by directly appealing to emotions such as pity, fear, or self-confidence nor suggest that having the advertised product somehow confers superiority, for example making a child more confident, clever, popular, or successful.

(c) Marketing communications addressed to children should avoid "high pressure" and "hard sell" techniques; they should neither directly urge children to buy or persuade others to buy nor suggest that children could be bullied, cajoled or otherwise put under pressure to acquire the advertised item.

(d) Products and prices should not be presented in marketing communications in a way that suggests children or their families can easily afford them.

Note to 47.7(d):

If an advertisement for a product to be bought or consumed by children contains a price, the price should not be minimised by words such as "only" or "just".

(e) Marketing communications addressed to or targeted directly at children should not actively encourage them to eat or drink at or near bedtime, to eat frequently throughout the day or to replace main meals with confectionery or snack foods.

47.8 Marketing communications featuring a promotional offer should be prepared with a due sense of responsibility. Except those for fresh fruit or fresh vegetables, food or drink advertisements that are targeted directly at pre-school or primary school children through their content should not include promotional offers.

Notes to 47.8:

(1) For the avoidance of doubt, this prohibition applies to food or drink advertisements only.

(2) Fresh fruit or fresh vegetables means non-pre-packaged 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.

(a) Marketing communications featuring a promotional offer linked to food products of interest to children should avoid creating a sense of urgency or encouraging the purchase of excessive quantities for irresponsible consumption.

(b) 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. Marketing communications featuring a promotional offer should ensure a significant presence for the product. Marketing communications for fresh fruit or fresh vegetable products are exempt from this restriction.

(c) Marketing communications for collection-based promotions should not seem to urge children or their parents to buy excessive quantities of food.

Note to 47.8(c):

They should not suggest “Hurry and buy”, not directly encourage children only to collect promotional items and not emphasise the number of items to be collected. If promotional offers can also be bought, that should be made clear. Closing dates for collection-based promotions should enable the whole set to be collected without having to buy excessive or irresponsible quantities of the product in a short time.

(d) Marketing communications should not encourage children to eat more than they otherwise would.

Notes to 47.8(d):

(1) The notion of responsible consumption relates to the frequency of consumption as well as the amount consumed.

(2) Marketers should be particularly mindful of this rule if the marketing communication features large pack sizes or promotional offers, for example “3 for the price of 2”.

47.9 Licensed characters and celebrities popular with children should be used with a due sense of responsibility. Except those for fresh fruit or fresh vegetables, food or drink advertisements that are targeted directly at pre-school or primary school children through their content should not include licensed characters or celebrities popular with children.

Notes to 47.9:

(1) For the avoidance of doubt, this prohibition applies to food or drink advertisements only. 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.

(2) Marketing communications should not suggest that consuming the advertised product will enable children to resemble an admired figure or role-model or that by not doing so children will fail in loyalty or let someone down.

(3) Persons such as professional actors or announcers who are identified with characters in TV or radio programmes that appeal to children may not be used as presenters.

(4) Celebrities and characters well-known to children may present factual and relevant generic statements about nutrition, safety, education and the like.

(5) Fresh fruit or fresh vegetables means non-pre-packaged 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.

47.10 Marketing communications should not give a misleading impression of the nutritional or health benefits of the product as a whole. Except those for fresh fruit or fresh vegetables, food or drink advertisements that are targeted directly at pre-school or primary school children through their content should not include nutrition or health claims.

Notes to 47.10:

(1) For the avoidance of doubt, this prohibition applies to food or drinks advertisements only.

(2) Nutritional claims (for example “full of the goodness of vitamin C”) or health claims (for example “aids a healthy digestion”) must be supported by sound scientific evidence. Factual nutrition statements should not imply a nutritional or health claim that cannot be supported. Ambiguous wording that could be understood as a nutritional claim should be avoided. For example, “goodness” should not be used as a synonym for “wholesomeness” and, if a claim relates to taste, that should be made clear, for example “It tastes good”, not “It is good”. The scientific meaning of the word “energy”, calorific value, should not be confused with its colloquial meaning of physical vigour. Nutritional claims and health claims should relate to benefits that are significant and relevant to groups likely to be strongly interested in or affected

by the advertisement. Claims should be presented clearly and without exaggeration. The fact that a food product is a good source of certain nutrients does not justify generalised claims of a wider nutritional benefit.

(3) Claims of nutritional or health benefits should be considered in the context of a balanced diet or lifestyle or both.

(4) A wide range of guidelines that offers best-practice advice for nutritional claims and healthy eating is available. For example, The Food Standards Agency's Guidelines for the Use of Certain Nutrition Claims in Food Labelling and Advertising include a recommendation to avoid "% fat-free" claims (issued November 1999). The ASA will give suitable consideration to and uniform application of, such guidelines.

(5) Fresh fruit or fresh vegetables means non-pre-packaged 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.

47.11 Marketing communications should not disparage good dietary practice or the selection of options such as fresh fruit and vegetables that accepted dietary opinion recommends should form part of the average diet.

Notes to 47.11:

(1) Marketing communications should not seem to contradict or ignore good dietary practice.

(2) To reflect generally accepted good dietary practice, a reasonable variety of other foods should be shown if the advertised product is presented as part of a meal.

(3) Food products not intended as substitutes for meals should not be presented as such.

Advice on specific marketing communications is available from the Copy Advice team by telephone on 020 7492 2100, by fax on 020 7404 3404 or by e-mail on copyadvice@cap.org.uk. The CAP website at www.cap.org.uk contains a full list of Help Notes as well as access to the AdviceOnline database, which has links through to relevant Code rules and ASA adjudications. (April 2007)

Appendix 2

Food Standards Agency – Nutrient Profiling Model

A nutrient profiling model has been developed by the Food Standards Agency to determine those foods and soft drinks that are high in fat, salt or sugar (HFSS).

This model is what is known as a 'simple scoring' system, where points are allocated on the basis of the nutritional content in 100g of a food or drink.

There are three steps to working out the overall score for the food or drink.

1. Work out total 'A' points

A maximum of ten points can be awarded for each nutrient.

Total 'A' points = (points for energy) + (points for saturated fat) + (points for sugars) + (points for sodium)

The following table indicates the points scored, depending on the content of each nutrient in 100g of the food:

Points P	Energy (kJ)	Sat Fat (g)	Total Sugar (g)	Sodium (mg)
0	≤ 335	≤ 1	≤ 4.5	≤ 90
1	>335	>1	>4.5	>90
2	>670	>2	>9	>180
3	>1005	>3	>13.5	>270
4	>1340	>4	>18	>360
5	>1675	>5	>22.5	>450
6	>2010	>6	>27	>540
7	>2345	>7	>31	>630
8	>2680	>8	>36	>720
9	>3015	>9	>40	>810
10	>3350	>10	>45	>900

If a food or drink scores 11 or more 'A' points then it cannot score points for protein unless it also scores 5 points for fruit, veg and nuts.

2. Work out total 'C' points

A maximum of five points can be awarded for each nutrient/food component.

Total 'C' points = (points for fruit, veg & nut content) + (points for fibre [either NSP or AOAC]) + (points for protein)

The following table indicates the points scored, depending on the content of each nutrient/food component in 100g of the food:

Points P	Fruit, Veg & Nuts (%)	NSP Fibre ' (g)	Or AOAC Fibre ' (g)	Protein (g)
0	≤ 40	≤ 0.7	≤ 0.9	≤ 1.6
1	>40	>0.7	>0.9	>1.6
2	>60	>1.4	>1.9	>3.2
3	-	>2.1	>2.8	>4.8
4	-	>2.8	>3.7	>6.4
5*	>80	>3.5	>4.7	>8.0

*If a food or drink scores 5 points for fruit, veg & nuts the 'A' nutrient cut-off no longer applies.

3. Work out overall score

If a food scores less than 11 'A' points then the overall score is calculated as follows:

Overall score = (total 'A' points) minus (total 'C' points)

If a food scores 11 or more 'A' points but scores 5 points for fruit, vegetables and nuts then the overall score is calculated as follows:

Overall score = (total 'A' points) minus (total 'C' points)

If a food scores 11 or more 'A' points but also scores less than 5 points for fruit, veg and nuts then the overall score is calculated as follows:

Overall score = (total 'A' points) minus (fibre points + fruit, veg and nuts points only) [i.e. not allowed to score points for protein]

A food is classified as 'less healthy' where it scores 4 points or more. A drink is classified as 'less healthy' where it scores 1 point or more.

Appendix 3

Restrictions on TV advertising for HFSS products:

Content restrictions:

7.2.3 Promotional offers

Promotional offers should be used with a due sense of responsibility. They may not be used in HFSS product advertisements targeted directly at pre-school or primary school children.

7.2.4 Use of characters and celebrities

Licensed characters and celebrities popular with children must be used with a due sense of responsibility. They may not be used in HFSS product advertisements targeted directly at pre-school or primary school children.

8.3.1 Accuracy in food advertising

(c) No nutrition or health claim may be used in HFSS product advertisements targeted directly at pre-school or primary school children

Scheduling restrictions:

Children and young people 4.2.1

(b) The following may not be advertised in or adjacent to children's programmes or programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 10:
(iii) food or drink products that are assessed as high in fat, salt or sugar in accordance with the nutrient profiling scheme published by the Food Standards Agency (FSA) on 6 December 2005.

Differentiating HFSS product TV ads from brand TV ads

Principles:

The HFSS product-specific rules do not apply to TV advertisements for food or drink products that are assessed as not being high in fat, salt or sugar in accordance with the nutrient profiling scheme published by the Food Standards Agency on 6 December 2005 or as amended.

Scenarios:

Likely to be regarded as an ad for an HFSS product	Unlikely to be regarded as an ad for an HFSS product
An advertisement refers to or prominently features an identifiable HFSS product.	An advertisement neither refers to nor prominently features an identifiable HFSS product.
OR	
An advertisement contains a direct response mechanic relating to a specific HFSS product.	An advertisement does not contain a direct response mechanic relating to an HFSS product but may encourage the audience to buy a non-HFSS product or may promote a range, or ranges, of different products.
OR	
An advertisement refers to or features a brand name that is synonymous with a specific HFSS product. ¹ That name could be featured on other products or product variants but is inextricably linked to a specific HFSS product.	An advertisement refers to or features a brand name. That name is synonymous not with a specific HFSS product but with a range, or ranges, of products that are sold under that name. ¹
OR	
An advertisement refers to or prominently features a product but does not provide enough information for the audience to identify it as a product that can be nutrient profiled. The advertiser does not provide evidence that its range of that type of product is mainly non-HFSS. (For the avoidance of doubt, an advertisement that refers to a brand name that incorporates the name of a type of food or drink product will not be subject to the HFSS restrictions merely because it mentions that brand name.)	An advertisement refers to or prominently features a product but does not provide enough information for the audience to identify it as a product that can be nutrient profiled. The advertiser provides evidence that its range of that type of product is mainly non-HFSS.
OR	
An advertisement for a brand refers to or features, for example, a strapline, celebrity, licensed character, brand-generated character or branding synonymous with a specific HFSS product. ¹	An advertisement for a specific non-HFSS product refers to or features, for example, a strapline, celebrity, licensed character, brand-generated character or branding synonymous with a specific HFSS product. ¹

Appendix 4

ASA Adjudication

Coca-Cola Great Britain

Number of complaints: 32

Date: 8 October 2008

Media: Television

Sector: Food and drink

Agency: Mother London

Ad

Two TV ads for Oasis:

a. The first ad started with a young American female voice-over, which stated "I guess you could say mom's got her own ideas about right and wrong". The mother and daughter were shown in the kitchen and the voice-over continued "now I ain't gonna say she's always wrong but I don't reckon she's hardly ever right either. Had to break it to her that me and my new man Cactus Kid only drink Oasis and don't mess around with no water".

A man was shown in the doorway. He was green with cactus spikes covering his body and was holding a bottle of Oasis. The voice-over continued as the daughter was shown touching her stomach with both hands: "she 'bout turned white as a sheet when I told her I was fixing to have his baby". The mother shouted "he's a freak" and the voice-over stated "that's about when we figured it was time to say so long to mom".

The girl and 'Cactus Kid' were shown running from the house and speeding away in a car, with the daughter drinking a bottle of Oasis as they drove. The voice-over said "I reckon now she knows how I ended up getting sunburn on the bottom of my feet". Text on screen stated "FOR PEOPLE WHO DON'T LIKE WATER".

b. The second ad showed the girl and 'Cactus Kid' in a diner. The voice-over stated "after driving clear across three states I was feeling a might parched myself. This old gal Kerry tried to push a couple glasses of plain old table water on us. I asked her just as nice as I could to find us some Oasis, 'cos Cactus Kid would no sooner try and milk a she-wolf than touch him a glass of water". The ad ended with text on screen which stated "Oasis FOR PEOPLE WHO DON'T LIKE WATER".

Issue

32 viewers complained about the ads.

1. Eight viewers believed the girl in ad (a) appeared to be a minor and it therefore condoned underage sex.

2. Eleven felt ad (a) was offensive and harmful because it condoned teenage pregnancy.
3. Eight complained that the girl's last line in ad (a) was an offensive and potentially harmful sexual reference.
4. Six objected that ad (a) was scheduled inappropriately because it could be seen by children and young people.
5. Ten objected that the suggestion in ad (a) that Oasis was a substitute for water disparaged good dietary practice.
6. Seven objected that the suggestion in ad (b) that Oasis was a substitute for water disparaged good dietary advice.

BCAP TV Advertising Code: 6.1;6.7;7.2.1;7.4.1;7.4.2;7.4.7;8.3.3
BCAP Rules on the Scheduling of TV ads: 4.2.3

Response

1. & 2. Coca-Cola Great Britain (Coca-Cola) said the campaign was shot in the style of classic American road movies, which were widely understood as being part of popular culture and enjoyed by Coca-Colas target audience. They said Cactus Kids unusual looks and dislike for water earned him the love of Cactus Girl but meant he was made an outcast by society. They said the ad was not intended to be offensive or harmful; the character of Cactus Girl was a young woman of 20 and the actress who played her was 22.

Clearcast said they had been aware the character would be young, but as she was 20 and therefore not underage they did not envisage a problem and considered viewers were unlikely to be offended. They said they felt the content of the ad was bizarre enough to remove it from reality; the ad was more likely to be viewed as a film trailer than a reflection of a real life situation.

3. Coca-Cola said the campaign used edgy humour, popular with fans of Oasis in their 20s, which was not intended to be offensive. They said the line in ad (a) was a joke about the soles of the feet being difficult to burn but Cactus Girl had done so because of the amount of time she had spent with Cactus Kid in the desert.

Clearcast said they felt the line was lame innuendo, which was less noticeable because it was mumbled in the ad.

4. Coca-Cola said both ads were restricted so they were not shown immediately before, during or after programmes aimed at children because they believed parents should choose the drinks that were right for their families. They said they had an established policy not to target their ads at

children under 12 years of age and did not advertise their drinks on TV channels aimed at children.

Clearcast said, because the ads had an ex-kids timing restriction, they believed any potentially awkward questions that may arise as a result of children seeing ad (a) would be avoided.

5. & 6. Coca-Cola said the ads did not encourage people to substitute Oasis for water but promoted choice for times when they preferred a fruit drink; they had always promoted choice through their wide portfolio of drinks. They said they did not denigrate water, did not discourage people from drinking it and did not base their scripts on scenarios where water was drunk and then rejected; Cactus Kids preference for Oasis was not because he disliked water but because he preferred a fruity taste. The idea of the character preferring something was humorous because he was not real.

Clearcast said Oasis was not a high fat, sugar or salt (HFSS) product and advice from their consultant was that it was no worse a drink than water for hydration. They said they had discussed the taste preference claim and had advised Coca-Cola that Cactus Girl should not look disgusted when she mentioned water; they felt the ads did not denigrate water because they did not say anything bad about it.

Assessment

1. & 2. Upheld

The ASA noted the character of Cactus Girl was 20 year old and the actress who played her was 22 years old. We considered, however, that her youthful appearance, and the youthful sounding voice-over, meant many viewers were likely to see her as a girl in her early teens. We therefore considered the reference to her pregnancy was offensive and inappropriate. We also considered that the combination of her youthful appearance and the reference to her pregnancy meant ad (a) could be interpreted to condone underage sex and teenage pregnancy.

On these points, the ad breached CAP (Broadcast) TV Advertising Standards Code rules 6.1 (Offence), 6.7 (Health and safety), 7.4.1 (Mental harm) and 7.4.2 (Physical harm).

3. Upheld

We noted the last line in ad (a) was intended to be a humorous reference to the girl's feet being burnt because of the amount of time she had spent in the desert with Cactus kid. We considered that most viewers were unlikely to interpret the claim in that way and would see it as a sexual innuendo. We considered that because the ad could be interpreted to condone underage sex and teenage pregnancy, the innuendo was inappropriate and likely to cause serious or widespread offence.

On this point, the ad breached CAP (Broadcast) TV Advertising Standards Code rule 6.1 (Offence).

4. Upheld

We noted the ad had an ex-kids restriction which could help prevent young children from seeing it. We considered, however, that young children were unlikely to understand the sexual references. We were concerned, however, that the ad was inappropriate for older children and, because it was likely to be interpreted to condone underage sex and teenage pregnancy, contained inappropriate innuendo. We therefore concluded that an ex-kids restriction was not sufficient.

On this point, the ad breached (Broadcast) TV Advertising Standards Code rule 7.4.7 (Use of scheduling restrictions) and TV Scheduling Code rule 4.2.3 (Treatments unsuitable for children).

5. Upheld

We noted the ad was intended to promote choice and to use humour to depict Cactus Kids preference for Oasis. We also noted ad (a) did not show images of the rejection of ordinary drinking water. We considered, however, that the line "don't mess around with no water" suggested water was being rejected, albeit in a fictional scenario. We acknowledged the ad did not suggest Oasis was healthier than water but considered it implied the product could be a replacement for water. We noted the Food Standards Agency (FSA) recommended drinking 1.2 litres of fluid per day and said water was the healthiest choice of drink. They advised against drinks that contained artificial sugar. We noted 250 ml serving of Oasis contained artificial sugar and provided around 17% of the guideline daily amount of sugar for an average adult; a standard sized 500 ml bottle provided around 34%. Because Cactus Girl was likely to be seen as a young girl we considered it was particularly irresponsible to suggest she replaced water with a drink containing sugar. Because Oasis contained added sugar and the ad suggested water was being rejected by a young girl who drank Oasis as a replacement, we concluded it was irresponsible and could discourage good dietary practice.

On this point, the ad breached CAP (Broadcast) TV Advertising Standards Code rules 7.2.1 (Diet and lifestyle) and 8.3.3 (Comparisons and good dietary practice) and TV Scheduling Code rule 4.2.3 (Treatments unsuitable for children).

6. Upheld

We acknowledged the ad was not based on reality and was intended to be humorous. We considered, however, that the rejection of ordinary drinking water was the overriding message of ad (b). We considered the line "Cactus Kid would no sooner try and milk a she-wolf than touch him a glass of water" combined with the image of Cactus Girl, a human character, putting her hand up to refuse glasses of water, showed the rejection of drinking water. We considered that the ad suggested Oasis, a drink that contained sugar, could

be a replacement for water. Because Oasis contained sugar and the overriding theme of the ad was the characters rejection of water, one of whom was likely to be seen as a young girl, we concluded that the ad was irresponsible and could discourage good dietary practice.

On this point, the ad breached CAP (Broadcast) TV Advertising Standards Code rules 7.2.1 (Diet and lifestyle) and 8.3.3 (Comparisons and good dietary practice) and TV Scheduling Code rule 4.2.3 (Treatments unsuitable for children).

Action

The ads must not be broadcast again in their current form.