

Ofcom Consultation Document

The Future Regulation of Broadcast Advertising

Response to consultation from

Sustain: The alliance for better food and farming

January 2004



94 White Lion Street
London
N1 9PF

Tel: 020 7837 1228
Fax: 020 7837 1141
Web: www.sustainweb.org

Contents

Summary of Ofcom consultation questions	3
About Sustain	4
Overview of response	4
Failure of current regulations to protect children's health	4
Self-regulation will not protect children	5
Codes should be statutory and subject to independent revision	6
The importance of pre-vetting	7
Proposed benefits of co-regulation	7
ASA and the reality of self-regulation	8
Ofcom's proposals compromise consumer protection	9
Consumer representation is essential	9
APPENDIX I: List of national organisations currently supporting Sustain's campaign calling for the introduction of legislation to protect children from unhealthy food advertising	10
APPENDIX II: Sustain's Response to the ITC 2002 Review of the Code of Advertising Standards and Practice	11

Summary of Ofcom consultation questions

Question 1: Please give your views on the benefits and disbenefits of a move to co-regulation with respect to:

- Viewers and listeners
- Broadcasters
- Advertisers

Question 2: Are you confident that these proposals can deliver a regulatory system which is at least as effective, timely and respected as the current statutory system? What aspects give you cause for confidence or concern? In what way might the proposals be an improvement on current arrangements?

Question 3: Can you suggest any changes to the proposals which would either improve on current standards of regulation or remedy any detriments you perceive compared to the current system?

Question 4: In order to safeguard the co-regulator's effectiveness and to avoid possible double jeopardy, it is proposed that Ofcom would not be entitled to intervene in individual cases, though it would remain responsible for the overall effectiveness of the system. Does this seem a sensible approach?

Question 5: Do you believe there would be additional costs, or cost savings, for the broadcast and advertising industries as a result of the proposed changes? Please specify. If you anticipate higher costs in any area, do the benefits of the proposed new system justify these?

Question 6: Does the proposed system appear capable of regulating fairly and effectively the advertising which appears on all those services which Ofcom will license, including small or specialist audience channels, foreign language stations, and very local or community broadcasters? If not, where might the problems arise?

Question 7: Are the safeguards proposed sufficient to ensure that the co-regulatory system remains independent of the commercial interests and pressures of advertisers and broadcasters?

Question 8: Are the appeals arrangements adequate and sufficiently independent, and do they provide adequate recourse for advertisers, broadcasters and complainants? Are they better or worse than current arrangements?

Question 9: If you wished to complain about broadcast advertising would you feel more confident or less confident complaining to the ASA (the proposed co-regulator) operating under the proposed system?

Question 10: Ofcom proposes that the broadcasters should continue, as now, to be responsible for the advertising that they carry, and that they, rather than just the advertisers, would apply the co-regulator's decisions. Do you regard this as the right approach? If not, how would you see the system working?

Question 11: We would welcome your views on the degree to which, from your reading of the proposal, the new co-regulatory body would be either more or less transparent and accountable than are current arrangements. Would such transparency and accountability be sufficient?

Question 12: Do you have any comments on any of these allocations of responsibility, or on the functions themselves, or on any of the issues discussed? In particular, do you think the proposal to transfer teleshopping and the non-editorial elements of sponsorship to the ASA (Broadcast) is appropriate?

Question 13: Do you consider that the enforcement and sanctioning process would provide effective protection for viewers and listeners from harmful, offensive or misleading advertising material?

Question 14: Do you consider that these audit and recovery measures are adequate to enable Ofcom to fulfill its statutory duties?

Question 15: In the event of serious failure of the co-regulatory system, Ofcom would retain the right to revert to full statutory regulation. The industry has proposed that to give the system time to establish itself Ofcom should refrain from taking this action for an agreed period, perhaps two years. Is this reasonable, and does two years seem appropriate?

About Sustain

Sustain: The alliance for better food and farming represents around 100 public interest organisations working at international, national, regional and local levels. Sustain advocates food and agriculture policies and practices that enhance the health and welfare of people and animals, improve the working and living environment, promote equity and enrich society and culture. Sustain is a registered charity and does not accept funding from any source which may compromise, or appear to compromise, the alliance's principles.

Sustain has worked over many years to improve food labelling and marketing so that it encourages healthy eating, particularly among children and other vulnerable groups. We seek to achieve this by improving regulations and their enforcement, raising awareness about food labelling and marketing practices, monitoring promotional trends and promoting healthier foods.

Overview of response

Relevant to Ofcom consultation questions 1, 2, 6, 7, 8, 9, 11

We are not confident that Ofcom's 'The Future Regulation of Broadcast Advertising' proposals will deliver a robust and protective regulatory system. For the reasons detailed in this submission, we do not consider that moving towards a self-regulatory system is an appropriate means to ensure high levels of public protection. The most effective approach would be to maintain and strengthen the current statutory system which, as the Government appointed regulatory body, should be administered directly by Ofcom. We maintain that delegation of this statutory responsibility to an industry-orientated and funded body would reduce regulatory independence and is therefore wholly unacceptable.

The Advertising Association (AA) reports that the proposed self-regulatory system is "the result of intensive planning and discussions over many months by an Advertising Association Task Force of representatives from across broadcasting and advertising".¹ We trust that Ofcom is now embarking on a *bona fide* consultative process which will not result in a 'rubber stamping' of industry-forged proposals which have failed to incorporate issues of concern to public interest organisations and wider society.

Failure of current regulations to protect children's health

Relevant to Ofcom consultation questions 1, 2, 3

In March 2002, Sustain submitted a response to the ITC's Review of its Code of Advertising Standards and Practice (Appendix I). In order to ensure sufficient public protection, our submission recommended that the ITC should amend its code in three key areas: protecting children from unhealthy food advertising; substantiating health claims in food advertising; and regulating the promotion of 'slimming' products and services.

Specifically with regards to the protection of children, we recommended that the Code should be amended to:

- Prohibit advertising and promotion of unhealthy foods during periods when large numbers of young children are likely to be viewing.
- Bring within its scope the effect of advertising as a whole, thereby ensuring that the Code is applied to advertising in total and not just to individual advertisements.

¹ 'An industry guide to the proposed self-regulation framework', www.adconsult.info

It is our view, and the view of the 98 national medical, health and professional organisations which currently support Sustain’s campaign calling for legislation to protect children from unhealthy food advertising (Appendix II), that these measures are basic requirements of any Code purporting to prioritise “the protection of young viewers”.²

There has never been a time when this protection of children has been so important. Levels of childhood obesity are increasing at such an alarming rate that Sir John Krebs, Chair of the Food Standards Agency (FSA), has recently warned that without effective interventions, children would live less long than their parents – the first reduction in life expectancy in more than a century.³ Further support for the need for urgent action comes from the Chief Medical Officer, who in his 2002 Annual report referred to obesity as a “health time bomb” and acknowledged the case to adopt the “precautionary principle” for the marketing of foods to children.⁴

Official confirmation of the effects upon children of food advertising is given in a systematic review of research, published by the FSA in September 2003.⁵ This independently conducted review concludes that television food advertising to children influences children’s food preferences, purchase behaviour and consumption at both brand and food category levels. The FSA review also confirms that nearly all food products advertised directly to children can be classified as unhealthy (being high in fat, sugar and/or salt according to government guidelines).

Self-regulation will not protect children

Relevant to Ofcom consultation questions 1, 2, 6, 7, 9

We believe that the statutory approach affords the greatest degree of consumer protection and that self-regulation is less effective and less independent of industry interests. The direction of advertising industry interests has been highlighted recently by the refusal of the Advertising Association to accept the FSA research findings on food promotion to children.⁶ This is in spite of the fact that an independent board of academics (comprising five university professors) has concluded that the FSA review does indeed indicate a “causal link” between promotional activity and children’s food knowledge, preferences and behaviours.⁷

The industry’s continual objections to the introduction of measures to protect children from unhealthy food advertising lead to major concerns about the appropriateness of the current Ofcom proposals. Children would be best protected from unhealthy food advertising by strengthening the current system of statutory regulation. Instead, the proposed co-regulatory system in which the ASA would have delegated responsibility for maintaining and applying the broadcast advertising Code of Practice is a significant move away from statutory to much weaker self-regulatory control.

² The ITC Advertising Standards Code, September 2002, p.9

³ ‘Timebomb’ alert over child obesity, 9 November, 2003. <http://news.bbc.co.uk/1/hi/health/3254375.stm>

⁴ Annual Report of the Chief Medical Officer 2002: Health Check – On the State of the Public Health, Department of Health, July 2003. <http://www.doh.gov.uk/cmo/annualreport2002/index.htm>

⁵ ‘Review of Research on the Effects of Food Promotion to Children’, Food Standards Agency, September 2003. <http://www.food.gov.uk/healthiereating/promotion/readreview/>

⁶ ‘Analysis of the Strathclyde / Hastings Review’, Advertising Association press statement, 5 December 2003, <http://www.adassoc.org.uk/new.html>

⁷ ‘Academic panel examines food promotion and children reviews’ FSA, 26 November 2003 <http://www.food.gov.uk/news/newsarchive/foodpromotionpanel>

This is clear, as the Ofcom consultation summary notes state that the proposals will allow “industry to take more responsibility for its own actions through self-regulation”.⁸ In addition, the proposals also state that the proposed regulatory system will allow the advertising industry to “assume responsibility for its own behaviour” (para. 37). However, the industry has demonstrated over more than a decade,⁹ that it is incapable of acting responsibly, given its selective targeting of children for the promotion of fatty, sugary and salty foods.

At a time of undeniable crisis in children’s health and official recognition of the influence of food advertising upon children’s diets, it is unacceptable that the current proposals would result in a move away from tough, statutory regulations and towards a weaker self-regulatory approach to broadcast advertising.

Codes should be statutory and subject to independent revision

Relevant to Ofcom consultation questions 1, 2, 3, 6, 7, 9, 15

Current advertising standards codes which fail to recognise the cumulative effect of advertising and which only allow complaints pertaining to individual advertisements, fail to protect vulnerable groups. The preface to the current ITC Code acknowledges the potential dangers arising from the repetitive nature of advertising, when it states, “Unlike programmes they [advertisements] are repeated many times over a short period, so any harm or offence is quickly multiplied”.¹⁰ However, the code fails to recognise the cumulative negative effect that unhealthy food advertising has on children’s health.

The Ofcom proposals state, “Code ownership would be transferred to BCAP [Broadcasting Committee of Advertising Practice]. Thus the broadcast advertising codes would become industry codes” (para. 54). This raises further serious concerns about the independence of the proposed co-regulatory system. The transfer of code ownership from the statutory regulator to an industry vociferous in its opposition to meaningful restrictions on unhealthy food advertising is wholly unacceptable. Given this vigorous self-protectionist stance, it is somewhat ironic that Paragraph 57 of the proposals suggest that the co-regulatory system will provide an opportunity to “discuss areas of social responsibility”.

The proposals also state, “The industry would be responsible for making changes [to the codes] as appropriate and on the basis of evidence, as well as research and ongoing monitoring of the public’s views. This has worked successfully in the non-broadcast sector, where CAP (Committee of Advertising Practice) has revised its Codes on a number of occasions,” (para. 55). That industry should be responsible for altering the codes by which it would then regulate itself is illogical – the outcomes of such revisions would be partial and evidently advantageous to industry. In addition, as the proposed system will be funded entirely from levies on advertising spend, the separation of the regulatory funding arm (Broadcasting Advertising Standards Board of Finance - BASBOF) from the ASA does little to increase confidence that decisions would be independent of industry influence.

The proposal that “existing Codes should be retained for an initial period (perhaps two years) in order to provide stability and certainty while the new system is being established” (para. 58), is totally unacceptable. The current public health crisis means that the codes should be revised immediately so that they protect children from the influence of unhealthy food advertising. The inadequacy of the existing code and the urgent need to revise the rules that govern

⁸ ‘Public consultation on the regulation of TV and radio advertisements – a summary, www.ofcom.org.uk/consultations/current/bac/summary.htm

⁹ Dibb S., (1993), Children: Advertisers’ Dream, Nutrition Nightmare? - The case for more responsibility in food advertising, National Food Alliance, London.

¹⁰ The ITC Advertising Standards Code, September 2002, p.7

advertising to children have recently been acknowledged by Tessa Jowell, the Secretary of State for Culture, Media & Sport.¹¹

The importance of pre-vetting

Relevant to Ofcom consultation questions 3, 10

One of the advantages of the current ITC regulation of broadcast advertising over the ASA non-broadcast arrangements is the requirement for broadcasters to pre-vet advertisements. If managed appropriately, this should ensure that advertisements are in line with the relevant code before they are broadcast. This is essential for consumer protection and it is a major pitfall of the current non-broadcast advertising regulation system that there is no pre-vetting requirement. The consequence of this is that untruthful or misleading claims in advertisements are identified (invariably only after a complaint has been received) post publication, by which time the public has already been misled. Sometimes non-broadcast advertisers may deliberately choose to shock the public, planning that the furore and inevitable ASA injunction will create more public awareness of their message than would result from a milder advertising campaign. This highlights the dangers of a system which precludes pre-vetting.

We therefore support Ofcom’s focus on “preventing inappropriate advertisements from being broadcast in the first place” (para. 87). However, in the absence of effective protective provisions within advertising codes, inappropriate advertisements which may undermine the health and well-being of vulnerable groups will continue to be broadcast and published.

Although pre-vetting procedures currently exist for broadcast advertising, these need to be much stronger. At least 120 complaints about television advertisements (reaching millions of viewers) are upheld each year (para. 22), in spite of the pre-broadcast vetting requirement.

Proposed benefits of co-regulation

Relevant to Ofcom consultation questions 1, 2, 4, 5, 12, 14

The Ofcom proposals would create separate decision-making structures within the ASA, which would incorporate two separate councils with two separate legal entities to deal with broadcast and non-broadcast advertising. This separation would militate against the aim that the “common self-regulatory approach” arising from this single body would lead to a greater “consistency of adjudications and policy across broadcast and non-broadcast media” (para 37). That this is the case is recognised in the AA’s own commentary, which explains that as different codes will apply, advertisements from the same campaign in differing media will not necessarily be subject to the same decision.¹² In addition, current advertising regulations stipulate that broadcast and non-broadcast advertising have completely different systems, one which requires pre-vetting (broadcast advertising) and one that does not (non-broadcast advertising). The AA’s claim that the proposals will allow more “convergent thinking” across platforms is unconvincing.

In any case, this theoretical advantage would be immediately undermined by the split responsibilities in regulating ‘watershed’ issues. Whilst Ofcom would determine scheduling policy, such as the applicability and relevance of the watershed to advertising, it is proposed that the ASA will regulate content and police the appropriateness of the scheduling of individual advertisements. Ofcom recognises this as a problematic area and states that under the proposed changes it will be “more difficult to maintain an integrated approach to programme and advertising policy” (para. 37).

¹¹ ‘Child food ad bans considered’, 2 December 2003, <http://news.bbc.co.uk/1/hi/health/3252288.stm>

¹² ‘An industry guide to the proposed self-regular framework’, FAQs No. 17, www.adconsult.info

Scheduling issues are crucial in assuring the protection of vulnerable groups such as children. However, the proposal to divide regulation is not a good basis for the development of a protective environment and will make vital reforms more difficult to introduce. The Culture Secretary, Tessa Jowell has also recently acknowledged this problem and is quoted as saying that the new arrangements “would need to allow for sufficient interaction between scheduling and content regulation to achieve the appropriate degree of protection.”¹³ We recommend this action be achieved by keeping both functions with Ofcom, as the statutory regulatory body.

A similar example is given by the division of television or radio programming sponsorship so that non-editorial elements would transfer to ASA (Broadcast), whilst Ofcom would remain responsible where editorial policy is influenced. This proposed separation is again far from ideal and will not facilitate the seamless handling of complaints.

It is also essential that the statutory regulator retains central control over the process and adjudication of all complaints received by the public. Removing Ofcom’s entitlement to intervene in individual cases, as proposed, is not a sensible approach and would remove an important consumer protection safeguard. Relying on annual audit and performance indicators, without regard to an evaluation of the appropriateness of individual adjudications would not provide a satisfactory level of assurance. We recommend that Ofcom, as the statutory regulator, should maintain its responsibilities to regulate the content of broadcast advertisements, rather than delegate this function through a co-regulatory agreement with the ASA.

The effectiveness of regulatory approaches is considerably more important than the apparent drive to create a regulatory ‘super-brand’ under the banner of the ASA. Although the ASA referred 1,898 complaints to the ITC in 2003, the ITC actually received 8,000 complaints in total (para. 22). The size of a potential benefit resulting from the purported increased public clarity from a single regulatory body is therefore far from evident.

ASA and the reality of self-regulation

Relevant to Ofcom consultation questions 1, 2, 6, 9, 11, 13, 14

The current self-regulatory model for non-broadcast advertising is often less than effective and should not be used as a model for ensuring consumer protection. Not only have CAP (Committee of Advertising Practice) code revisions repeatedly failed to restrict the advertising of unhealthy foods to children, but a number of processes and systems under the ASA’s administration also consistently fail to support the public interest.

For instance, it is not unknown for ASA adjudications to last several years, during which time offending advertisements continue to be published; there are examples of the ASA focussing solely on specific complaints, whilst overlooking other obviously misleading aspects of advertisements; there is a persistent refusal by the ASA to accept complaints about misleading claims on companies’ websites, even when consumers are directed to these sites in print advertisements; in spite of acknowledging that print advertisements have long lives, the ASA will not accept complaints about misleading advertisements if they are more than 12 weeks old; and the ASA consistently refuses to impose a pre-vetting system to protect the most vulnerable groups of consumers.

The current system administered by the ASA should have a greater degree of transparency. This should include public access to information about the process by which expert advisers are

¹³ ‘Culture Secretary acknowledges Ofcom plan is flawed’, News Release issued by Debra Shipley MP for Stourbridge, 12 December 2003

appointed. The ASA should not depend on a single expert in its adjudication and the interests of all advisors should be publicly declared, as should the interests of Council members. Currently the lack of transparency about the adjudication process provides a barrier to public scrutiny and criticism.

We are also dissatisfied that the sanctions which exist under the current regulatory systems for non-broadcast and broadcast advertising are effective. There are, for instance, a number of examples of powerful multi-national companies taking legal recourse after rejecting ASA adjudications. Legal proceedings can take many months, even years, during which time companies can continue to use the same misleading claims as part of their promotional activities. These companies are not deterred by the small financial penalties imposed by courts and are evidently even less deterred by the prospect of potential negative publicity generated by ASA adjudications. Meanwhile, smaller companies, for instance those involved in unscrupulous ‘miracle’ weight loss promotions, also seem oblivious to ASA rulings.

Advertising codes, regulations and enforcement processes should be strengthened in order to protect the public. However, the Ofcom co-regulatory proposals will reduce protection to the low levels currently found in the non-broadcast arena.

Ofcom’s proposals compromise consumer protection

Relevant to Ofcom consultation questions 1, 2, 6, 9, 15

The proposals note (Question 15) that in the event of serious failure of the co-regulatory system, Ofcom would retain the right to revert to full statutory regulation. As the identified ‘fall-back’ position, this acknowledges that the statutory model is the ‘gold-standard’ for regulating advertising. This being the case, it is incomprehensible that Ofcom is placing such strong emphasis on a less rigorous and less robust regulatory system. Surely the public deserve the best regulatory protection available?

It is unreasonable that the advertising industry has proposed that Ofcom should agree to refrain from reverting to full statutory regulation for a period of two years. Should the co-regulatory proposals be implemented, consumer protection necessarily requires that no such time-dependent agreement is made. Ofcom would fail in its statutory duties if it did not retain its prerogative to revert to full statutory regulation at any time from the outset of a co-regulatory agreement.

Consumer representation is essential

Relevant to Ofcom consultation questions 1, 2, 3, 6, 7, 8, 11

The Ofcom model proposes that the proportion of lay to non-lay members on the ASA Council would be 2:1. It is difficult to imagine how the non-lay members, selected for their “industry experience” would “act independently of the business” (para. 47). Furthermore, no mention is made in the proposals of the need for representation on the ASA Council of a range of public interest experts from, for example, health, environmental and consumer organisations.

Should the co-regulatory proposals go forward, we recommend that independently appointed and experienced consumer interest representatives should form the backbone of the membership of the ASA Council. Without such representation, public protection is likely to be lost amongst the well-represented industry voices, appointed by the Council Chairman.

APPENDIX I: List of national organisations currently supporting Sustain’s campaign calling for the introduction of legislation to protect children from unhealthy food advertising

Support confirmed (as at 28 January 2004) in writing from:

Action Against Allergy
Allergy Alliance
Alliance for Childhood
Arid Lands Initiative
Autism Unravelling
Baby Milk Action
Biodynamic Agricultural Association
Blood Pressure Association
British Allergy Foundation
British Association for Community Child Health
British Association for the Study of Community Dentistry
British Cardiac Society
British Dental Association
British Dental Hygienist Association
British Dietetic Association
British Heart Foundation
British Heart Foundation Health Promotion Research Group
British Hypertension Society
British Institute for Allergy & Environmental Therapy
British Society for Cardiovascular Research
Centre for Food Policy
Chartered Institute of Environmental Health
Child Growth Foundation
Child Poverty Action Group
Children’s Society
Coeliac UK
Co-operative Group (CWS) Ltd
Community Health UK
Community Nutrition Group
Community Practitioners’ and Health Visitors’ Association
Consumers’ Association
Consensus Action on Salt and Health (CASH)
Coronary Artery Disease Research Association
Coronary Prevention Group
Day Care Trust
Diabetes UK
Digestive Disorders Foundation
Elm Farm Research Centre
Faculty of Public Health Medicine
Family Heart Association
Family Welfare Association
Federation of City Farms and Community Gardens
Food and Chemical Allergy Association
Food Commission
Food and Health Research
Food Matters
Foundation for Local Food Initiatives
General Consumer Council for Northern Ireland
Gingerbread
Guild of Food Writers
Haemolytic Uraemic Syndrome Help (HUSH)
Health Education Trust
Human Scale Education
Hyperactive Children’s Support Group
International Society for Food Ecology and Culture
Land Heritage
Latex Allergy Support Group
Maternity Alliance
McCarrison Society for Nutrition and Health
Migraine Action Association
National Children’s Bureau
National Council of Women
National Consumer Council
National Consumer Federation
National Family and Parenting Institute
National Federation of Women’s Institutes
National Heart Forum
National Obesity Forum
National Oral Health Promotion Group
National Union of Teachers
Netmums
Northern Ireland Chest, Heart and Stroke Association
Organix Brands
Parent Organisation Ltd.
Positive Parenting
PJ Smoothies
Realfood
Royal College of General Practitioners
Royal College of Physicians
Royal College of Surgeons
Royal Institute of Public Health
Royal Society for the Promotion of Health
Scottish Consumer Council
Scottish Heart and Arterial Disease Risk Prevention
Soil Association
Soroptimist International of Great Britain
Stroke Association
TOAST (The Obesity Awareness & Solutions Trust)
UK Public Health Association
UNISON
Vega Research
Vegetarian and Vegan Foundation
Viva! (Vegetarians International Voice for Animals)
Weight Concern
Welsh Consumer Council
Welsh Food Alliance
World Cancer Research Fund
Young Minds

(98)

ITC 2002 Review of the
Code of Advertising Standards and Practice

Response to consultation from

Sustain's Food Labelling and Marketing Working Party

March 2002



94 White Lion Street
London
N1 9PF

Tel: 020 7837 1228
Fax: 020 7837 1141
Web: www.sustainweb.org

APPENDIX 2

Contents

Summary of Recommendations	2
About Sustain	3
Introduction	3
Protecting children from unhealthy food advertising	4
Overview	4
The vulnerability of children	4
Food advertising on children’s television	5
The influence of food advertising on children’s diets	5
The impact upon children’s health	6
Wide support for stronger controls	7
Children, food and the revised Code	8
Specific recommendations	8
Substantiating health claims in food advertising	9
Health claims and the revised Code	9
Specific recommendations	9
Regulating slimming promotions	10
Protection for slimmers and the revised Code	10
Specific recommendations	10
References	11
<i>APPENDIX I: Sustain’s Food Labelling & Marketing Working Party</i>	13
<i>APPENDIX II: Sustain’s campaign document</i>	14
<i>APPENDIX III: Current list of supporting organisations</i>	16
<i>APPENDIX IV: Overview of the Joint Health Claims Initiative</i>	17

APPENDIX 2

Summary of Recommendations

Protecting children from unhealthy food advertising

In respect of **children**, we recommend that the ITC should amend its revised Code of Advertising Standards and Practice to:

- Prohibit advertising and promotion of unhealthy foods during periods when large numbers of young children are likely to be viewing.
- Bring within its scope the effect of advertising as a whole, thereby ensuring that the Code is applied to advertising in total and not just to individual advertisements.

Substantiating health claims in food advertising

In respect of **health claims**, we recommend that the ITC should amend its revised Code of Advertising Standards and Practice to:

- Permit only those claims for relationships between food/nutrients and health which have been formally approved by the Joint Health Claims Initiative.

Regulating slimming promotions

In respect of **slimming products and services**, we recommend that the ITC should amend its Code of Advertising Standards and Practice to:

- Permit only those claims for relationships between food/nutrients and weight loss which have been formally approved by the Joint Health Claims Initiative.

APPENDIX 2

About Sustain

Sustain: The alliance for better food and farming represents around 100 public interest organisations working at international, national, regional and local levels. Sustain's aim is to advocate food and agriculture policies and practices that enhance the health and welfare of people and animals, improve the working and living environment, promote equity and enrich society and culture. Sustain is a registered charity and does not accept funding from any source which may compromise, or appear to compromise, the alliance's principles.

Sustain's Food Labelling and Marketing Project works to ensure that food labelling and marketing encourage healthy eating, particularly among children and other vulnerable groups. We seek to achieve this by improving regulations and their enforcement, raising awareness about food labelling and marketing practices, monitoring promotional trends and promoting healthier foods. The Food Labelling and Marketing Project work is co-ordinated by a Working Party of more than 20 professionals working to promote health and welfare and who represent a wide range of national organisations (see Appendix I). The members of the Working Party have contributed to the development of this consultation response document.

Introduction

The introduction to the ITC draft revised Code of Advertising Standards and Practice (referred below as 'the revised Code') acknowledges that audiences choose programmes, not advertisements which come "*unbidden into the home*". Furthermore, it is widely recognised by the food industry that television is a particularly powerful advertising medium, which reaches tens of millions of children and adults on a daily basis. At least one report has found that UK television viewers see more food advertisements per hour (an average of 11/hour) than viewers in other European countries.¹

Whilst parents, and medical, health and education professionals endorse Government advice that fatty, sugary and salty foods should be eaten infrequently and in limited quantities, children's television continues to be dominated by advertising that portrays these unhealthy foods as attractive and desirable food choices. This report will discuss how the diet promoted and reinforced by television advertising is very distant from the recommended nutritionally balanced diet. It will also explain why children, in particular, need to be protected from the constant promotion, during their own television programming, of foods which contribute towards an unhealthy diet. Some European countries, most notably Sweden, recognise the need to protect children from commercial pressures created by television advertising and have well-established controls to ensure that advertisements are not targeted to children under the age of 12 years.¹ The case for requiring much stronger protection for children than that proposed in the revised ITC Code is presented below.

To protect consumers, health claims made on foods should be truthful, independently substantiated and presented in ways which are not misleading. To ensure that consumers are not misled, this assessment should be undertaken prior to broadcast. Similar arguments are also made in this submission for the advertising of slimming products and services, which are often designed to exploit slimmers' vulnerabilities. The revised ITC Code affords consumers insufficient protection and recommendations for increasing controls in these areas are made.

APPENDIX 2

Protecting children from unhealthy food advertising

Overview

We are very disappointed that in its revised Code, the ITC has not taken the opportunity to acknowledge any potential for harm to children's health of the total effect of advertising fatty, sugary or salty foods during children's viewing periods. In this respect we believe the ITC has failed in its objective to "*set standards for television advertising fit for the 21st century*".

We note that the ITC retains in its revised Code provisions which appear to support good dietary practice. For example, paragraph 8.3.2 states, "*Advertisements must not encourage or condone excessive consumption of any food*" and paragraph 8.3.3 states, "*Advertisements must not disparage good dietary practice and any comparisons between foods such as fresh fruit and vegetables which current generally accepted dietary opinion recommends should form a greater part of the diet*". However, as per the existing Code, there is no provision under the draft revision for the ITC to consider the overall effect of advertising. Only complaints which are submitted in relation to individual advertisements will be considered.

This application of the Code does not recognise any potential for a cumulative negative effect of advertising on children and thus fails to protect children from the current state of grossly imbalanced food advertising on television (see below). The lack of appreciation by the ITC for the potential harm of the totality of advertising of unhealthy foods is particularly surprising given its recognition in the introduction of the revised Code that, "*unlike programmes, advertisements are repeated many times over a short period, so any harm or offence is quickly multiplied.*"

The revised Code contains clear provisions to protect children from the harmful effects of alcohol and tobacco advertisements. However, there is no provision to protect children from the advertising of foods which contain high levels of fat, saturated fat, sugar or salt, even though expert medical opinion recommends that children consume these foods infrequently.

The vulnerability of children

Food manufacturers commission expertly qualified and experienced professionals to design advertisements which promote their commercial interest in increasing sales of often nutritionally dubious foods.

It is well recognised that children, particularly young children, are not fully capable of understanding the purpose and subtleties of television advertising.^{2, 3} Research commissioned by the Independent Television Commission itself has shown that at 4 years of age children see advertising as entertainment and by 6 or 7 years of age children think that advertising is there purely to provide information about goods and services.⁴ A study quoted in the ITC report suggests that only a quarter of 11-to 12-year olds are able to provide an explanation of why advertisements are shown on television that demonstrates an understanding of selling and profit motives.⁵ A more recent review of research, published in 2001, also concludes that most children only develop an ability to explain the underlying motives and aims of advertising at around the age of 10 to 12 years.³

APPENDIX 2

Thus, younger children, even if they can distinguish between adverts and programmes are far less likely to realise that the purpose of television advertising is to persuade them to buy something. Young children have no real concept that those responsible for advertising view them as a source of sales and profit. It is only when children have an understanding of the intention, motives and aims of advertising, that they are able to begin to develop a critical attitude towards advertising. Even then, it is not at all clear that this makes children a legitimate target for advertising. Most children, for example, are aware that smoking is harmful. But we also know that the prospect of ‘harm’, particularly when it will occur at a distant time called ‘adulthood’, is not sufficient to deter some children from smoking. Controls therefore exist to protect children from advertisements which promote tobacco.

Further ITC commissioned research into the influence of television advertising on children suggests that many parents are in practice “*less than successful*” in monitoring children’s television consumption.⁶ The same research shows that parents have a widespread belief that children are affected by advertising on television and that parents recognise that any negative impact of advertisements is magnified by their frequent repetition.

The revised code acknowledges that it is important that, “*advertising must not take advantage of children’s inexperience or their natural credulity and sense of loyalty*” (Paragraph 10.1.1). However, given children’s inability to comprehend fully the purpose of advertising and their inability to comprehend fully the health consequences of their food choices, unhealthy food advertising which targets young children will inevitably ‘mislead’.

Food advertising on children’s television

In July 2001, Sustain published, ‘*TV Dinners – what’s being served up by the advertisers?*’, research which compares the nature and extent of television food advertising during children’s and adult television viewing periods.⁷ The report confirms the findings of other research which demonstrates that advertising on children’s television presents a grossly imbalanced nutritional message^{1, 8, 9, 10}, creating a conflict between the types of food promoted to children and national dietary recommendations.

Analysis of the nutritional content of food and drink advertised during children’s viewing times demonstrates that up to 95% of the products contained high levels of fat and/or sugar and/or salt. The largest categories of advertised food on children’s television were confectionery and cakes and biscuits. Whilst fruit and vegetables were not advertised at all, fatty and sugary foods were advertised in proportions up to 11 times higher than the proportion recommended in dietary guidelines. The *TV Dinners* report illustrates how children viewing Saturday morning television will see more than twice as many adverts per hour for unhealthy foods as adults viewing after 9.00pm in the evening.

The influence of food advertising on children’s diets

Even the food and advertising industries recognise that food advertising on children’s television has some influence children’s food choices.¹¹ This clearly must be the case, for if it were not, food manufacturers would not spend millions of pounds a year creating television advertisements for food products and targeting them at children.

APPENDIX 2

The most comprehensive survey to date of the role of advertising in children's food choices was the literature review commissioned by MAFF, published in 1996, and conducted by Dr Brian Young of Exeter University.¹² All of the studies reviewed were published in journals and peer-reviewed. Eight out of ten studies identified a clear effect of food advertising on purchase requests made to parents, and six out of eight studies demonstrated a direct effect of advertising on food choice.

More recent research, conducted by NOP Consumer and published in the Co-op's *'Blackmail'* report, has effectively demonstrated the power of television food advertisements which are directed at children.¹³ To assess children's responses to television commercials, NOP interviewed 293 children under 11 years old. The research found that all children believe that advertising is a promise of superior quality and the older children appeared to value it highly as a source of information which guides their purchases. Meanwhile, the reality of 'pester power' was highlighted by the result that 73% of children asked parents to buy sweets and crisps they had seen advertised on television, with only two in ten giving up or doing nothing when confronted by a parental "no".

This supports the findings of nationwide research published by Sustain and supported by Oxfam's UK Poverty Programme, demonstrating how many parents on low incomes repeatedly identify advertising as a barrier to encouraging healthy family eating patterns.¹⁴ Paragraph 10.2.1 of the revised Code states that, "*Advertisements must not directly advise or ask children to buy or to ask their parents to make enquiries or purchases*". However, research indicates that the power of television advertising is such that advertisements generate 'pester power' even where there is no 'direct exhortation'.

Meanwhile, the power of food promotion via television has been demonstrated from a more positive angle, by a research project conducted by psychologists at Bangor University.¹⁵ The project, in which children follow video adventures of hero cartoon figures who like fruit and vegetables, has produced major and long-term increases in children's consumption of fruit and vegetables.

We firmly believe that there is sufficient evidence to demonstrate that advertising food to children on television is effective in influencing their food choices and dietary patterns. Moreover, it is clear to us that any objective assessment of the available research would conclude that it would be prudent to adopt a 'precautionary approach' in order to ensure that children's health and well-being is protected. This 'precautionary approach' would require restrictions on the types of foods which can be advertised on television when large numbers of young and impressionable children are viewing.

The impact upon children's health

Sustain maintains that cumulative effect of advertising which portrays unhealthy food and soft drinks as attractive, desirable and positive choices, is to reinforce children's bad dietary habits and undermine the efforts of parents and health professionals to encourage healthier patterns of eating. High consumption of unhealthy foods and soft drinks is likely to displace more nutritious food (for instance, fruit and vegetables) from children's diets, result in excess energy intake leading to overweight and obesity, cause dental diseases (the National Diet and Nutrition survey found that 53% of all 4 to 18 year olds have some decay in either their primary or permanent teeth¹⁶) and contribute towards the early development of adult-onset diseases such as coronary heart disease, cancer, hypertension and diabetes.^{17, 18, 19, 20}

APPENDIX 2

The rate of increase in the prevalence of childhood obesity is particularly alarming. Between 1984 and 1994, there was a 140% increase in obesity in primary school children.²¹ A February 2000 British Medical Journal editorial, entitled, ‘Childhood obesity: time for action, not complacency’, states unambiguously, “*Children should be encouraged to eat fewer high fat snacks such as crisps and biscuits and to avoid consuming a large proportion of total energy from sweetened drinks*”.²² However, it is precisely these types of foods which are advertised during children’s television viewing times.

Given the scientific evidence that diets high in fats (especially saturated fats), sugar and salt have a detrimental effect on children’s current and future health, the selective targeting of children as the recipients for advertisements of foods high in these components is unjustifiable. ITC control over the broadcast of unhealthy food advertisements during periods when large numbers of young children are viewing is therefore extremely important.

Wide support for stronger controls

The Food Standards Agency (FSA) Food Labelling Policy Review document presented to the Agency’s Board in September 2000 states, “There is considerable concern that the way foods that are high in fat/sugar/salt are promoted to children is undermining healthy eating advice and contributing to childhood obesity and long-term health problems.”²³ At other meetings, the FSA have stated that they have received numerous representations from members of the public, consumer groups and MPs expressing concern about the effect of promotional practices on children’s eating habits and consequently their health.^{24, 25}

Other initiatives have also confirmed the very wide for support for mandatory controls on the advertising of fatty, sugary or salty foods to children. Already, around 70 national public interest organisations have confirmed their support for Sustain’s campaign calling for legislation to protect children from the advertising and of unhealthy foods (see Appendices II and III). In addition to concerned parents’ and children’s organisations, the campaign has received support from many national medical and health bodies including the Royal College of Physicians, the Royal College of General Practitioners, the Faculty of Public Health Medicine, the Community Practitioners and Health Visitors Association and numerous other organisations representing British health interests.

A number of recently published reports point to the need for action to address the major imbalance in children’s food advertising. These include the House of Common’s Public Accounts Committee ‘*Tackling Obesity in England*’ report,²⁶ the Government’s Policy Commission’s report on the Future of Farming and Food,²⁷ the National Heart Forum’s ‘*Young at Heart*’ policy recommendations for children’s and young people’s health and well being,²⁸ and the EU Consumer Committee working paper, ‘*Commercial Practices aimed at Children*’.²⁹

Independent research conducted by NOP and MORI, commissioned separately by the National Food Alliance and the Co-op, has also clearly established strong parental support for controls on food advertising aimed at children. The MORI study found that nearly two thirds (of 633 parents) thought that there should be tougher restrictions on the advertising of foods and soft drinks to children.³⁰ The more recent NOP research, found that more than three in four (77% of 1,216 adults) wanted to see a ban on the advertising of sugary / fatty foods during children’s television programmes.¹³

APPENDIX 2

Children, food and the revised Code

The revised Code states that “*the protection of young viewers is always a priority*”. We note that measures to protect children from the advertising of tobacco and alcohol products are incorporated in the Code. These rules are specific and comprehensive, for example including a prohibition on “*smoking in any advertising which might be of particular interest to children or teenagers*”. This degree of protection of children is clearly very important and the ITC notes accompanying the draft revised code explain that young viewers “*may not have the knowledge or experience to make reasoned decisions for themselves*”. It is a major omission that the revised Code does not similarly protect children from advertisements which promote unhealthy foods as desirable and attractive choices for children.

Paragraphs 10.3.1 and 10.3.2 of the revised code explain that it is inappropriate for advertisements to contain material which lead to social, moral, psychological or physical harm to children or young teenagers. Paragraph 10.4 also acknowledges that, “*advertisements which might harm or distress children of particular ages or which are otherwise unsuitable for them must be subject to appropriate restrictions on times of transmission*”. Further, Note 2 to paragraph 8.3 states that it is important that advertising “*should not undermine progress towards national dietary improvement by misleading or confusing consumers **or by setting bad examples, particularly to children***” [our emphasis]. Medical opinion unanimously accepts that food-related diseases, such as obesity, are detrimental to children’s psychological and physical well-being. In seeking to protect children from harmful influences arising from advertising, we firmly believe it is the responsibility of the ITC to restrict the promotion, directly to children, of those foods which contribute to an unhealthy diet [“*the bad examples*”]. These include confectionery, crisps, savoury snacks, soft drinks and other processed products containing high levels of fat, sugar or salt, excessive consumption of which is known to be detrimental to children’s health.

Specific recommendations

We recommend that the ITC should amend its revised Code of Advertising Standards and Practice to:

- **Prohibit advertising and promotion of unhealthy foods during periods when large numbers of young children are likely to be viewing.**
- **Bring within its scope the effect of advertising as a whole, thereby ensuring that the Code is applied to advertising in total and not just to individual advertisements.**

APPENDIX 2

Substantiating health claims in food advertising

Health claims and the revised Code

Paragraph 8.3.1 of the revised Code states, “*To avoid broadcasting a misleading advertisement, licencees must ensure that specific nutrition claims or health claims are supported by sound scientific evidence. Advertising must not give a misleading impression of the nutritional or health benefits of the food as a whole*”. To fulfil its aim that health claims are valid and scientifically substantiated prior to broadcast, this provision needs to list specific minimum procedural criteria by which the scientific rigour of claims can be assured. It may, for instance, be relatively easy for a company to produce a dossier of scientific research which supports a particular claim. But without an independent assessment of the research methodologies adopted and consideration of other potentially less positive evidence which may be omitted from the dossier, it is not possible to draw an objective conclusion about the validity of the claim.

The notes to paragraph 8.3.1 state that licencees “*should be aware*” of Food Standards Agency best practice advice for making nutritional claims and that licencees “*may in addition find reference*” to the Joint Health Claims Initiative (JHCI) Code of Practice “*useful*” (an overview of the JHCI is given in Appendix IV). The JHCI Code of Practice provides comprehensive rules which are designed to protect consumers by preventing the use of misleading, unsubstantiated and false health claims and its provisions have been endorsed by consumer organisations (many of Sustain’s members), the food industry (The Food and Drink Federation) and enforcement authorities (the Local Authority Co-ordinating Body on Food and Trading Standards). The current wording of the revised ITC Code gives the JHCI Code of Practice a low status, and places no requirement upon companies to refer to the code – as it is written this only takes the form of a ‘friendly suggestion’.

We believe the ITC revised Code should require companies to follow the conditions of the JHCI Code of Practice when making health claims for food. We therefore recommend that only those claims which have been approved by the JHCI are permitted. In its current form the revised ITC Code gives insufficient consumer protection from the potential misuse of health claims.

Specific recommendation

We recommend that the ITC should amend its revised Code of Advertising Standards and Practice to:

- **Permit only those claims for relationships between food/nutrients and health which have been formally approved by the Joint Health Claims Initiative.**

APPENDIX 2

Regulating slimming promotions

Protection for slimmers and the revised code

Research conducted by Sustain and the Advertising Standards Authority has demonstrated a high level of the use of misleading and exploitative claims in the promotion of slimming products and services.^{31, 32} Sustain's *Adwatch* Food Labelling and Marketing Newsletter regularly reports on misleading slimming promotions about which complaints have been made to the ITC (invariably these complaints are upheld).³³ There have also been examples of companies which have repeatedly breached the ITC's Code's rules for slimming advertising.

Once advertisements containing untruthful and unsubstantiated claims about the efficacy of slimming products and services have been broadcast, it is too late to protect consumers - large numbers will have already been misled. Some slimmers are so keen to lose weight that they are particularly vulnerable to exaggerated or false claims which advertisements for products and services very often contain.

Claims for slimming regimes and other weight control products require a level of scientific substantiation which is every bit as rigorous as that specified for health claims made for food and medicinal products. We therefore believe that the ITC Code should define the criteria and conditions for scientific substantiation. The draft revised Code makes insufficient provision in this respect. It is unacceptable that companies should be allowed to source their own "independent" medical advice and there is also a lack of guidance on the nature and totality of the scientific evidence required. It is currently not clear what the ITC means by the phrase, "*reputable scientific evidence*" (paragraph 8.4.1(a)). Where slimming claims are made for food or nutrients, only those which have been approved by the JHCI should be permitted. For non-food slimming products and services, an approach to substantiation which reflects the rigour of that required by the Joint Health Claims Initiative Code of Practice.

Specific recommendation

We recommend that the ITC should amend its revised Code of Advertising Standards and Practice to:

- **Permit only those claims for relationships between food/nutrients and weight loss which have been formally approved by the Joint Health Claims Initiative.**

APPENDIX 2 *Sustain's Food Labelling & Marketing Working Party Members*

Members

David Alexander

Michelle Berriedale-Johnson

Sally Craig

Gaynor Bussell

Kath Dalmeny

Thelma Edwards

John Green

Celia Hyland

Jane Landon

Professor Tim Lang

Dr Tim Lobstein

Tim Marsh

Norma McGough

Dr Mike Rayner

Patti Rundall, OBE

Ben Savill

Helen Seaford

Joan Thompson

Alison Worwood

Sue Wilkinson

Organisation

National Consumer Council

Allergy Alliance

British Dental Association

Consensus Action on Salt and Health

Food Commission

National Oral Health Promotion Group

British Association for the Study of Community Dentistry

Women's Food and Farming Union

National Heart Forum

Centre for Food Policy, Thames University

Food Commission

UK Public Health Authority

Diabetes UK

Chair & British Heart Foundation Health Promotion Research Group)

Baby Milk Action

National Federation of Women's Institutes

The Children's Society

The National Council of Women of Great Britain

British Dietetic Association

World Cancer Research Fund

Observers

Les Bailey

Local Authority Coordinating Body on Food & Trading Standards (LACOTS)

Keith Gregory

Food Standards Agency

Lucy Harris

Consumers Food Group

Dr Michael Heasman

New Nutrition Business

David Walker

Shropshire Trading Standards

Sustain Staff

Jeanette Longfield

Co-ordinator

Charlie Powell

Project Officer

Protecting children from unhealthy food advertising

"Children should be encouraged to eat fewer high fat snacks such as crisps and biscuits and to avoid consuming a large proportion of total energy from sweetened drinks."

Childhood obesity: time for action, not complacency, British Medical Journal Editorial, February 2000, vol. 320, p.328.

❖ Children's diet and health

The Government's 2000 National Diet and Nutrition Survey confirms the poor state of children's diets. British children eat less than half the recommended portions of fruit and vegetables a day, and the vast majority have intakes of saturated fat, sugar and salt which exceed the maximum adult recommendations.

Population estimates indicate that 9% of boys and 13.5% of girls in England are overweight and the corresponding figures for Scotland are even higher (10% for boys and 15.8% for girls). The rate of increase in the proportion of overweight children is alarming and childhood levels of obesity in the UK have been described as 'epidemic'. Between 1984 and 1994, the prevalence of obesity in English primary school children increased by 140%. Eating diets high in energy-dense fat is a major contributory factor in the rising trend in overweight and obese children.

More than half of 4 to 18 year olds have some dental decay, largely caused by frequent consumption of sugar-laden products. Recent research has also identified links between the consumption of sugar sweetened drinks and obesity, and between low fruit and vegetable consumption and asthma. In the longer term, a diet high in fatty, sugary and/or salty foods increases the risk of developing coronary heart disease, some cancers, hypertension, diabetes and numerous other health disorders.

❖ Advertising targeted at children

It is estimated that the food industry spent in excess of £0.3 billion in 1999 promoting unhealthy food products. These are processed foods which contain high levels of fat and/or sugar and/or salt and include confectionery, crisps and savoury snacks, soft drinks and other so-called 'fast' or pre-prepared 'convenience' foods. Children are persistently exposed to commercial messages promoting these foods: on television and radio, on the internet, at the cinema, in comics and magazines, on packaging, and even at school.

In July 2001 Sustain published *TV Dinners*, a report which examines the nature and extent of food advertising during children's television programmes. The study shows that between 95% and 99% of the food advertising during children's programming is for fatty and/or sugary and/or salty foods. Fatty and sugary foods are advertised in proportions up to 11 times higher than that recommended in official dietary guidelines, whilst fruit and vegetables are usually not advertised at all. In addition, adverts for unhealthy foods are shown with much greater frequency during children's television compared with adult viewing periods.

Sustain believes that the effect of this imbalance in advertising is to reinforce children's consumption of less healthy foods and undermine the efforts of parents and health professionals to encourage healthier patterns of eating. In the context of scientific evidence that diets high in fats (especially saturated fats), sugar and salt have a detrimental effect on children's current and future health, this selective targeting of children by food advertisers is unjustifiable.

APPENDIX 2

❖ The need for more protection

Television content analyses undertaken by Leeds University have shown that child-orientated adverts are more frequently repeated and are more likely to use animation, pace and central characters, magic and fantasy, together with a wide range of emotional appeals (fun, action, adventure and achievement). The researchers conclude that children's television adverts are designed in a manner to engage attention and emotional response.

Reviews of related research confirm that young children, especially, do not grasp the motives behind advertising or realise that the products advertised may not be good for their immediate or long-term health. Advertising is often viewed as either entertainment or as a source of reliable information, or both. Even when children develop a better understanding of its purpose, they remain very vulnerable to peer pressure, upon which advertising feeds.

These findings are not new. Indeed, in response to concerns expressed over a number of years, advertising codes of practice acknowledge that children deserve special protection, including from inducements to eat unhealthy diets. Why, then, does there continue to be a very high volume of advertising for fatty and/or sugary and/or salty foods, targeted specifically at children?

First, the codes apply only to individual adverts, and not to the cumulative effect of advertising and marketing as a whole. Second, the codes are voluntary, and call only for restraint, not full protection. So far, only the Co-op has committed itself to a voluntary ban on advertising of fatty, sugary and salty foods to children.

❖ Policy statement

We call upon the UK Government to introduce legislation to protect children from advertising and promotions, targeted directly at children, which promote foods that contribute to an unhealthy diet. These include confectionery, crisps, savoury snacks, soft drinks and other processed products containing high levels of fat, sugar or salt, excessive consumption of which is known to be detrimental to children's health. Voluntary approaches are not working, so statutory controls are needed to end commercial activities which promote these foods specifically to children.

We fully acknowledge that advertising is not the only influence on children's diets and, thereby, their health. Family and friends, teachers and other professionals, government and private sector policies all have their role to play. However, advertising also affects all of these influences, as well as appealing directly to children, and it is designed to be powerfully persuasive. Sustain believes that children have a right to grow up free from commercial pressures to buy – or pester their families to buy – fatty and/or sugary and/or salty foods that put their current and future health at risk.

*References supporting the statements made in this document are listed at
www.sustainweb.org/adcampaign*

APPENDIX 2 *Current list of supporting organisations*

Protecting children from unhealthy food advertising

*Support confirmed (as at 1 March 2002)
in writing from:*

Sustain: The alliance for better food and farming

94 White Lion Street

London N1 9PF

Tel: 020 7837 1228

E-mail: sustain@sustainweb.org

Web: www.sustainweb.org

Action Against Allergy	Gingerbread
Allergy Alliance	Guild of Food Writers
Arid Lands Initiative	Health Education Trust
Autism Unravelling	Human Scale Education
Baby Milk Action	Hyperactive Children's Support Group
Biodynamic Agricultural Association	The Food Commission
Blood Pressure Association	Haemolytic Uraemic Syndrome Help (HUSH)
British Allergy Foundation	International Society for Food Ecology and Culture
British Association for Community Child Health	Land Heritage
British Association for the Study of Community Dentistry	Latex Allergy Support Group
British Institute for Allergy & Environmental Therapy	Maternity Alliance
British Dental Association	McCarrison Society for Nutrition and Health
British Dietetic Association	Migraine Action Association
British Heart Foundation	National Children's Bureau
British Heart Foundation Health Promotion Research Group	National Council of Women
British Hypertension Society	National Federation of Consumer Groups
Centre for Food Policy	National Heart Forum
Chartered Institute of Environmental Health	National Oral Health Promotion Group
Child Growth Foundation	Northern Ireland Chest, Heart and Stroke Association
Child Poverty Action Group	Positive Parenting
The Children's Society	Royal College of General Practitioners
Coeliac UK	Royal College of Physicians
Co-operative Group (CWS) Ltd	Royal Institute of Public Health
Community Health UK	Royal Society for the Promotion of Health
Community Practitioners and Health Visitors Association	Scottish Heart and Arterial Disease Risk Prevention
Consensus Action on Salt and Health (CASH)	The Soil Association
Coronary Artery Disease Research Association	Soroptimist International of Great Britain
Elm Farm Research Centre	The Stroke Association
Family Heart Association	UK Public Health Association
Faculty of Public Health Medicine	UNISON
Family Welfare Association	Vega Research
Federation of City Farms and Community Gardens	Welsh Food Alliance
Food and Chemical Allergy Association	World Cancer Research Fund
Foundation for Local Food Initiatives	Young Minds
General Consumer Council for Northern Ireland	

APPENDIX 2 *Overview of the Joint Health Claims Initiative*

What is the JHCI?

The Joint Health Claims Initiative (JHCI) is a unique joint venture between consumer organisations, enforcement authorities and industry trade associations in the UK to establish a Code of Practice for health claims on food.

The initiative arose from recognition of the role diet has in maintaining good health and anticipation of growth in the 'functional foods' market, and that existing laws are both incomplete and inflexible, limiting the communication of the role of a healthy diet in reducing the risk of disease.

The Code which has been developed applies to companies supplying, advertising, promoting and/or labelling foods when making claims that state or imply that consumption of a food product, whether a food, drink or food supplement, carries a specific health benefit. Manufacturers and retailers who seek advice from the JHCI, follow the Code and have their claims approved will be taking an important step in developing 'all due diligence' should they face a dispute over the legal or scientific justification of their claim. Consumers can have confidence in the truthfulness of the information they find in claims, as an Expert Committee will have assessed the scientific substantiation behind the claim before the product enters the market.

From a global perspective and in the absence of an EU directive to regulate health claims, the JHCI is a vital step down the road towards effective consumer protection and consistency in the use of health claims in the UK, Europe and internationally. The JHCI Code could be very effective in pressing the UK approach on any future EU legislation.

***The above is an extract from information provided on the JHCI website: www.jhci.org.uk
A copy of the JHCI Code of Practice on Health Claims on Foods can be downloaded from this site.***

APPENDIX 2

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