



# Advertising to Children

By

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## NHS

- “Personal choices” – results in high costs for all
- Social contract between state and citizens
  - State will look after health
  - Citizens must look after own health – NCD’s
- Foodstuffs play major role in NCD’s and thus medical costs
- State has an interest to regulate if citizens and suppliers unable/unwilling to



## Regulated NCD Causes

- Tobacco Products – smoking related diseases – effective in reducing consumption
- Salt Regulations – hypertension
- Health Warnings on Alcohol
- Maximum alcohol limits for drivers
- Breast feeding v infant foods
- Food Labelling – virtually no enforcement



## Consumer Responsibility

- CPA and R146 (R429) requires consumers to be given full information on foods they consume
- Consumer has constitutional right to choose what they eat – needs to be educated - PPP
- Consumer must exercise rights responsibly, not top down approach
- Education of health consequences and cost of health care – refusal of health care(?)



## Does Self-Regulation Work?

- **Self Regulation** - limited government resources
- **Industry Bodies** – Voluntary or **statutory** e.g. CPA industry codes by industry – already exist!
- **Enforcement by bodies** against members – ASA, CGSO
- Includes consumer education – public & private
- Consumer complaints and regulatory



## The Pledge

- **CGCSA Members - Voluntary in nature**
- **Part of ASA Code**
  - Children twelve years old and under means advertising to media audiences with a minimum of 50% of children twelve years old and under
  - Excluded Advertising or Marketing Communications - labels or packaging for products
  - theme, visuals, and language used, are primarily aimed at children and are for product
- **Deemed insufficient by DoH**



## The Regulations

- **R429 under FCD Act – Open for comment to 29/8/2014**
- **Reg 65 and Guideline 14**
- **Very harsh prohibition on advertising to Children**
  - No food or non-alcoholic beverage shall be marketed to children unless it complies with all the criteria in Guideline 14.
  - Nutritional Profiling Model based criteria PLUS additional limitations
  - Children – anyone at school
  - To children, in media, or anywhere where children gather
  - 6 am to 9 pm prohibition on advertising in media/social media
  - BAT v Min of Health – 2012 – Health trumps freedom of speech



# The Regulations

## Guideline 14: Rationale

“For the Department of Health to achieve the policy aim of reducing the impact of non-communicable diseases of lifestyle on children, the following should:

- set nutrition standards for the kinds of food that can and cannot be promoted to children of different ages; and
- implement restrictions on the marketing and promotion of any foods that fall below nutrition standards (energy dense, nutrient poor foods).”





## The Regulations

- Commercial marketing means a multifaceted, integrated mix of marketing communications, campaigns and techniques that focuses on branding and building relationships with consumers and includes but is not limited to
  - advertising through any media in any manner, directly or indirectly (e.g., using the happy, caring family scenario), combining traditional media, digital marketing, packaging, online sweepstakes, outdoor advertising, food companies' websites, search engines, social networking sites and blogs, around or in films and media clips viewed online, around or in online and downloaded games and music, print media, in-school marketing



# The Regulations

## Guideline 14: Criteria

- Any unhealthy food offered for sale
- No energy dense, nutrient poor food and non-alcoholic beverage, which are too high in any one of the following; fat, saturated fats, *trans*-fatty acids, total sugar, or total Sodium
- does not pass the screening criteria of the Nutrient Profiling Model
- contains added fructose, added non-nutritive sweeteners, added fluoride or added aluminium
- exceeds the nutrient levels in the food or beverage per 100 g/ml as per UK Food Standards Agency Criteria 1.5 g fat, 2.5 g sugar



# The Regulations

## Guideline 14: Criteria (continued)

- Any food and beverage advertisements, at all times-
- (a) shall not encourage or condone excess ..... promotional activities (e.g. redemptions, under-the-cap offerings, text message/SMS contests, et cetera) ..... shall be avoided.
- (b) shall, where presented in the context of a meal, show a reasonable variety of foods to reflect generally-accepted good dietary practice.
- (c) shall not undermine the promotion of healthy, balanced diets.
- (d) shall not encourage or promote an inactive lifestyle, unhealthy eating or drinking habits and shall not omit undesirable aspects of a food's nutritional profile



# The Regulations

## Guideline 14: Legal Challenge?

- Tobacco industry challenged the ban on advertising of tobacco products
  - Constitutional right of freedom of speech claimed
  - Dept of Health - Risk to public health > freedom of speech
  - Supreme Court upholds this position
  - Constitutional Court upheld ruling
- BUT..... Guideline 14 is not well written
  - Guidelines are not the same as regulations
  - Principle seems unassailable but the implementation by DoH may be vulnerable to a legal challenge!
- **WATCH THIS SPACE – WILL GET EXCITING!**



## Questions?

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