16 October 2015
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Submission on Content Regulation in a Converged World discussion document

1. Thank you for the opportunity for the Auckland Regional Public Health Service (ARPHS) to provide a submission on the Content Regulation in a Converged World discussion document.

2. The following submission represents the views of the Auckland Regional Public Health Service and does not necessarily reflect the views of the three District Health Boards it serves. Please refer to Appendix 1 for more information on ARPHS.

3. The primary contact point for this submission is:

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Yours sincerely,

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EXECUTIVE SUMMARY

4. Thank you for the opportunity to provide feedback on the Content Regulation in a Converged World discussion document from the Ministry for Culture and Heritage (MCH)

5. ARPHS applauds MCH’s openness in seeking broad feedback on regulating advertising in a converged world and draws attention to the need to protect public health in this “health check” of existing frameworks.

6. ARPHS’ supports further restriction on advertising alcohol and energy-dense, nutrient-poor foods across all platforms and media - particularly to children and young people - to reduce the significant harm.

7. Advertising, particularly on social media where it is harder to recognise, is effective in increasing harmful consumption of alcohol and energy-dense nutrient-poor foods.¹²

8. As a nation, we need to be mindful of this and manage it so that children and future NZ generations are well equipped to reverse the disturbing trend in obesity across all sectors of New Zealand culture.³

9. ARPHS recognises that because overseas providers of converged content may not be subject to the same requirements, the harm to public health from advertising energy-dense nutrient-poor foods and alcohol can only be reduced, not eliminated. However, inability to regulate all converged media should not prevent doing what is possible.

10. A systematic review of the literature shows that the current, predominantly industry-led approach to guide responsible food marketing has generally not been effective in protecting children.⁴

RECOMMENDATIONS

11. The following represents ARPHS’ key recommendations for the restriction of advertising and sponsorship of alcohol and energy-dense nutrient-poor foods

¹ Kelly B et al “New media but same old tricks: Food marketing to children in the digital age” Curr Obes Rep accessed October 12, 2015
https://www.researchgate.net/publication/270594362_New_Media_but_Same_Old_Tricks_Fo od_Marketing_to_Children_in_the_Digital_Age


in New Zealand, echoing our 2014 submission to the 2014 Ministerial Forum on Alcohol Advertising and Sponsorship (MFAAS)⁵:

- Change from voluntary self-regulation to more robust statutory regulations for alcohol and energy-dense nutrient-poor foods advertising;
- An independent statutory agency is established to monitor and enforce regulations; and
- All alcohol advertising, other than communicating objective product information, is restricted in all New Zealand media, including on social networking sites.
- All alcohol and energy-dense nutrient-poor food advertising is complemented with health advisory statements.
- The introduction of a television and radio watershed hour of 10pm, with commercial broadcasting length not exceeding six minutes per hour after that time;
- A complete ban on utilising alcohol as a prize or an incentive.
- ARPHS proposes a phased introduction of new media food marketing restrictions over and above the 2006 Children’s Code for Advertising Food to all online marketing communications.
- Eventually the new statutory agency should protect the health of all New Zealanders by banning all advertising of foods and drinks that contribute to obesity, not just to children and young people. Increased time-shifting viewing and online access makes time of day restrictions less effective. Protecting children will require protecting all ages.

12. With regards to restrictions of alcohol sponsorship ARPHS’ echoes the recommendations of the Independent Expert Committee on Alcohol Advertising and Sponsorship⁶:

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- Alcohol sponsorship of sporting and cultural events is to be phased out as soon as possible – not only those with an audience of more than 10% young people, as recommended by MFAAS.

- A portion of the government alcohol excise tax should be ring-fenced to provide alternative sponsorship for sport and cultural activities, as recommended by MFAAS.

13. ARHPS again recommends the immediate implementation of Stage 2 and 3 of the Law Commission recommendations on alcohol advertising and sponsorship as set out in the report Alcohol in Our Lives- Curbing the Harm 2010.

Support for alcohol advertising and promotion restrictions

14. It’s estimated between 600 and 800 people in New Zealand die each year from alcohol-related causes. The industry is an important source of tax revenue, with approximately $915 million in alcohol excise in 2012, however, harmful use of alcohol was estimated to cost New Zealand approximately $4.4 billion in diverted resources and lost welfare in 2006\(^7\), including social and family impacts, crime, injury, loss of productivity and health care costs.

15. Marketing tools and environments have changed significantly since NZ’s current content regulations were first contemplated. The use of social media and the unparalleled collection of consumer information enables ‘microtargeting’ of potential consumers, and immerses messaging in online marketing environments across a range of channels including games and contests\(^8\). Customers are encouraged through posting, sharing, interacting and building brand relationships and providing promotional content that can be virally transmitted through peer networks, while simultaneously engaging in real-world tie in and promotions.

16. Such engagement marketing actively involves users in content development and sharing; users become “co-creators” of marketing stimuli instead of passive recipients. This change has led researchers to warn that “alcohol marketing content in social media has the potential to pose even greater risks

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\(^7\) BERL (2009) Costs of Harmful Alcohol and Other Drug Use, Report for the Ministry of Health and ACC

for promoting alcohol abuse than traditional marketing.” ARPHS also notes that Finland’s restrictions on alcohol marketing include social media content shared by users and games and contests." 

17. Experimental evidence demonstrates that alcohol marketing on social media predicts young adult users’ intentions to consume alcohol, particularly when users engage with marketing promotions by ‘liking’ and sharing postings. Social media alcohol marketing has been found to significantly predict increased drinking problems, more frequent alcohol consumption and more consumption in a single session among US college students.

Support for energy-dense nutrient-poor foods advertising restrictions

18. Obesity is arguably the most serious health issue today in New Zealand. Based on 2006 data, collectively, dietary risk factors (high salt intake, high saturated fat intake, low vegetable and fruit intake) and excess energy intake (high body mass index, BMI) accounted for 11.4% of health loss - which is greater than the 9.1% health loss for tobacco use, with alcohol use (adjusted for protective factors) contributing 3.9%. By 2016 the Ministry of Health projects that high BMI will overtake tobacco use as the single leading risk to health in New Zealand.

19. Currently a third of the population is obese – over a million people, while only half a million are smokers. The problem has grown over time and there are now three times more obese people in New Zealand than there were in 1977. A 2014 Organisation for Economic Co-operation and Development (OECD) report placed New Zealand as the third most obese country in the developed world, behind the United States and Mexico.

20. A New Zealand study estimated that in 2006, the lost productivity costs associated with being overweight or obese were between $98m and $225m.

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and the health costs were $623.9m. Costs related to absenteeism, disability and other productivity losses resulting from obesity are at least as high as costs related to health care according to another study that reported on American and Canadian estimates of both health and non-health impacts of obesity.\(^3\)

21. “There is unequivocal evidence that the marketing of unhealthy foods and non-alcoholic beverages is related to childhood obesity” states the WHO Draft Final Report by the Commission on Ending Childhood Obesity 2015 released in September. WHO has also recommended a comprehensive approach to restrict food advertising directed at children through all media, and specify that governments should be the key stakeholders in the development of policy and provide leadership for policy implementation, monitoring and evaluation.\(^4\)

22. Exposure to multiple modes of marketing of energy-dense nutrient-poor food sustained over time can lead to poor diets, energy imbalances and weight gain. Children are a prime target of commercial marketers because of their independent spending power, influence on household purchases and potential as lifelong brand consumers.\(^1\) A 2006 study by the Kaiser Family Foundation found that 85% of the brands that most heavily market to children on television also have child-directed websites.\(^15\) According to a Federal Trade Commission (FTC) survey in the US of Apple and Android apps for children, 11.5% of Apple and 4% of Android apps were designed for infants or toddlers; 7.5% of Apple and 10.5% of Android apps were designed for preschoolers. A separate study by the FTC found that 58% of apps contain advertising.\(^16\)

23. A review of the evidence conducted by WHO found that the most common type of product that is marketed to children and young people is food. It was found that sugary breakfast cereals, fizzy drinks, confectionary, savoury snacks, and fast food are the foods and beverages most frequently advertised to children and young people. The review also highlights the evidence that food promotion impacts children’s nutrition knowledge, food preferences,


purchasing behaviour and consumption, as well as increasing the risk of adverse health outcomes. 17

24. Regulatory measures to restrict energy-dense nutrient-poor food marketing to children through new media, while presently limited, are rapidly increasing.

- In Peru the “Promoting Healthy Food for Children Act” passed into law in 2013 and states that advertising directed to children under 16, disseminated through any media, should not stimulate the consumption of foods and beverages containing trans fat or high contents of sugar, sodium and saturated fats.
- The UK’s 2006 ban on ads for energy-dense nutrient-poor foods in children’s television programming was recently extended to other media, including websites.1
- South Korea has implemented regulation to restrict energy-dense nutrient-poor food marketing to children aged 4-18 years of age, including online advertising using free gifts.18
- Brazil, Bulgaria, Denmark have all moved forward with regulation in this area to various extents. An Australian policy framework developed by Obesity Policy Coalition proposes a general prohibition against publishing, broadcasting, displaying or otherwise communicating an energy-dense nutrient-poor food advertisement that is directed to children, or causing, permitting or authorising this to occur – similar to approaches to prohibit tobacco advertising.1

25. However, while much of the current evidence on advertising energy-dense nutrient-poor foods is focused on children and youth, policy responses should address all age groups affected by obesity. In Mexico, huge counter-advertising campaigns were successful in getting the soda and “junk” food tax implemented.1 A similar measure in New Zealand would benefit the entire population.

26. While alcohol and energy-dense nutrient-poor foods harm the health of all New Zealanders of all ages, the October 2015 Ministry of Health Tatau Kahukura: Māori Health Chart Book 2015 (3rd Edition) shows that harm disproportionately affects Māori: Māori adult drinkers were twice as likely as

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non-Māori to have consumed a large amount of alcohol at least weekly. Māori adults were less likely than non-Māori adults to eat the recommended 3 or more servings of vegetables and 2 or more servings of fruit per day.

**Support for an independent government agency to monitor and enforce alcohol and energy-dense nutrient-poor food advertising**

27. The WHO’s Western Pacific Regional Strategy to Reduce Alcohol-Related Harm recommends that an independent government agency be made responsible for monitoring and enforcing marketing regulations.\(^{19}\) This action can include monitoring compliance with legislation to reduce exposure and industry voluntary codes on standards. Such an independent body could replace the industry’s complaints committee.

28. For energy-dense nutrient-poor foods, the same decision tree as in Think TV’s Children’s Food Classification System by the Commercial Approvals Bureau could be used – but applied to all media, including all online forums. The CAB - an industry organisation – could be used as an interim organisation while an independent government agency is set up to monitor and report to government on any new forms of alcohol and energy-dense nutrient-poor food marketing that may arise, and commission research as required.

29. ARHPS proposes this independent body could be funded from excise tax or an additional levy on alcohol.

**CONCLUSION**

30. Public health concerns should take precedence over commercial interests, particularly when the harm is so egregious. Because industry self-regulation has not worked, a more robust approach is warranted.

31. Thank you for the opportunity to provide input into the *Content Regulation in a Converged World* discussion document. In addition to this written submission, we would be more than happy to meet and discuss any other initiatives that the Ministry for Culture and Heritage is investigating where it considers ARPHS may have a particular interest, or be able to provide some assistance.

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\(^{19}\) WHO (2009) Western Pacific Regional Strategy to Reduce Alcohol-Related Harm: how to develop an action plan to implement the strategy [http://www.wpro.who.int/mnh/how_to_develop_action_plan_to_implement_strategy.pdf](http://www.wpro.who.int/mnh/how_to_develop_action_plan_to_implement_strategy.pdf)
Appendix 1 - Auckland Regional Public Health Service

Auckland Regional Public Health Service (ARPHS) provides public health services for the three district health boards (DHBs) in the Auckland region (Auckland, Counties Manukau and Waitemata District Health Boards).

ARPHS has a statutory obligation under the New Zealand Public Health and Disability Act 2000 to improve, promote and protect the health of people and communities in the Auckland region. The Medical Officer of Health has an enforcement and regulatory role under the Health Act 1956 and other legislative designations to protect the health of the community.

ARPHS’ primary role is to improve population health. It actively seeks to influence any initiatives or proposals that may affect population health in the Auckland region to maximise their positive impact and minimise possible negative effects on population health.

The Auckland region faces a number of public health challenges through changing demographics, increasingly diverse communities, increasing incidence of lifestyle-related health conditions such as obesity and type 2 diabetes, infrastructure requirements, the balancing of transport needs, and the reconciliation of urban design and urban intensification issues.