

Non-Broadcast Media
Advertising and Marketing
of Food and Non-Alcoholic
Beverages, including
Sponsorship and Retail
Product Placement:

Voluntary Codes of Practice

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1. Introduction

Obesity is the most common nutritional disorder in the world. In Ireland three out of five adults and one in four children are overweight or obese. Ireland has the fourth highest prevalence of overweight and obesity in men in the EU and the seventh highest prevalence among women.

Overweight and obesity are largely preventable but, in Ireland, the levels have been rising dramatically over the past few decades. In 2016 the Government approved and published 'A Healthy Weight for Ireland - Obesity Policy and Action Plan, 2016 - 2025' with a clear target of halting the increase and reversing trends. This policy acknowledges that overweight and obesity are complex issues and require a comprehensive, evidence based and integrated approach where the whole of government and the whole of society work together to achieve the policy aim. It also states that no single action, organisation or service on its own, no matter how important, is going to reverse obesity trends - everyone has a contribution to make.

The food sector plays a crucial role in relation to healthy weight. Food markets have changed dramatically over the last 50 years and there is greater availability of processed, ready-to-eat food that is high in fat, sugar and salt. Food surveillance data from the Department of Health indicate high levels of consumption, in adults and children of these foods, many of which are not essential for health. Marketing, advertising and pricing all play a major role in food choices. Therefore, it is essential that prevention approaches aim to change Ireland's obesogenic environment to one that facilitates consumption of healthier food and drink. 'A Healthy Weight for Ireland - Obesity Policy and Action Plan, 2016 - 2025' is committed to 60 different but integrated actions that include: "Develop, implement and evaluate a Code of Practice for food and beverages promotion, marketing and sponsorship".

To address these issues, the Minister of Health established a multi-sectoral group with the following terms of reference:

- To develop a Code of Practice for Food advertising and marketing that apply in the non-broadcast media, outdoor media, print media and cinemas;
- To develop a Code of Practice for sponsorships by the food industry;

- To develop a Code of Practice relating to food and beverage product placement in the retail sector;
- To consider options relating to the governance of a code and to make recommendations.

The nature of voluntary codes of practice is such that they have no statutory basis and are therefore developed and implemented by mutual agreement between stakeholders. Consequently, these codes must address the desire to protect consumers and balance this against the need of the food industry to continue its economic development.

These codes sit alongside and complement other voluntary and statutory measures intended to ensure the responsible marketing of food to the public. These include the Food Industry EU Pledge and company internal codes of conduct, the Advertising Standards Authority For Ireland (ASAI) Code of Standards for Advertising and Marketing Communications in Ireland, the Broadcasting Authority of Ireland (BAI) General and Children's Commercial Communications Code and the World Health Organisation (WHO) Set of Recommendations on the Marketing of Foods and Non-Alcoholic Beverages to Children.

2. Purpose of these Voluntary Codes of Practice

Effective marketing communication of foods increases their market share and influences food consumption patterns in the population.

The effectiveness of marketing communications, including advertising, sponsorship and retail product placement, depends upon the subject matter, the presentation of the message and the extent to which the population is exposed to that message.

The purpose of these codes is to ensure that foods high in fat, especially saturated fat, sugar and salt are marketed and advertised in a responsible way, thereby reducing the exposure of the Irish population to marketing communication concerning these foods to exert a positive influence on healthy eating patterns.

It should be noted that the overall objective of this code is to reduce exposure of the Irish population to marketing initiatives relating to foods that are high in fat, sugar and/or salt (HFSS foods). This is consistent with the Obesity Policy and the "whole of school approach" to food and healthy eating in the education sector.

3. Scope

These Codes of Practice apply to non-broadcast media (digital, out of home, print, cinema), commercial sponsorship and retail product placement in the Republic of Ireland. These Codes of Practice do not apply to radio or television broadcasters regulated in the State or to non- linear audio-visual media services (ODAS) providers e.g. RTE Player, TV3 Player etc.¹

These Codes of Practice do not apply to corporate social responsibility initiatives, donations or patronage.

These codes of practice do not apply to packages, wrappers, labels, tickets, timetables and menus unless they advertise another product or a sales promotion or are recognisable in a marketing communication.

¹ Marketing Communications on these services must comply with rules produced by the Broadcasting Authority of Ireland (BAI), the Advertising Standards Authority of Ireland (ASAI) and the On-Demand Audio- visual Media Services Group (ODAS).

4. Definitions

Children are those under the age of 18. Adults are therefore defined as those 18 years and over. As the Codes will make specific recommendations for different age groups of children, they will, where appropriate, make reference to these age groups.

Children's Media are, for the purpose of this Code of Practice, non-broadcast media created specifically to be used and enjoyed by those under the age of 15 and/or those whose audience or user profile consists of 50% or more of this age group. This applies to all forms of digital media, out of home media, print media and cinema.

Corporate Social Responsibility (CSR) is a concept whereby enterprises integrate social and environmental concerns into their mainstream business operations on a voluntary basis.

Donations and Patronage are forms of altruism where money or goods may be given, for which there may be limited or no benefits, recognition or commercial return.

Food includes all food and non-alcoholic beverages.

HFSS Food is a sub category of food that is deemed high in fat, sugar and/or salt by the application of the Nutrient Profile model used by the Broadcasting Authority of Ireland (General and Children's Commercial Communications Codes).

Marketing Communication includes but is not limited to advertising, and covers other techniques such as promotional activities, sponsorships and direct marketing, and should be interpreted broadly to mean any form of non-broadcast communication produced directly by or on behalf of advertisers intended primarily to promote products, to influence the behaviour of and/or to inform those to whom it is addressed.

Non-Broadcast Media includes all forms of digital media, out of home media, print media and cinema but does not include on-demand audio-visual media services.

Product can encompass goods, services, facilities, opportunities, fundraising, prizes and gifts.

Retail involves the storage, display and handling of food at the point of sale to the final consumer and for the purposes of this code is limited to shops, supermarkets and cinemas.

Retail Product Placement is the location of particular products in a given retail environment.

Sponsor is any corporation or legal person providing financial or other sponsorship support.

Sponsorship is a commercial agreement by which a sponsor, for the mutual benefit of the sponsor and sponsored party, contractually provides financing or other support in order to establish an association between the sponsor's image, brands or products and a sponsorship property in return for rights to promote this association and/or for the granting of certain agreed direct or indirect benefits.

Takeovers are defined as where 100% of the available advertising space in any given location is given to advertising for a single product.

Wraparounds are defined as where 100% of the available advertising space of a public transport vehicle is given over to advertising for a single product.

5. National Regulations and ASAI Code Requirements

5.1. National Regulations

There are two main national regulations that cover the advertising and marketing of foods and compliance with these rules is mandatory:

- Regulation (EU) No. 1169/2011 of the European Parliament and of the Council of 25 October, 2011, on the provision of food information to consumers as amended, including Commission Implementing Regulation (EU) No. 1337/2013 and its implementing legislation in Ireland, European Union (Provision of Food Information to Consumers) Regulations, 2014 (S.I. No. 556/2014) as amended.
- Regulation (EC) No. 1924/2006 on nutrition and health claims made on foods (the EU Regulation) together with the amending legislation. They apply to all marketing communications for food products.

5.2. ASAI Code

Voluntary rules applying to Marketing Communications for food are set out in the *ASAI Code of Standards for Advertising and Marketing Communications in Ireland*. The rules are set out in Section 8: Food and Non-Alcoholic Beverages in the ASAI Code apply to all marketing communications for food and should be read in conjunction with the relevant legislation.

In this context, the ASAI Code requires Marketing Communications on non-broadcast media to abide with the following voluntary rules:-

5.2.1. General Requirements

- References to food apply also to non-alcoholic beverages and food supplements. (8.2)
- Marketing communications for food should not encourage or condone excess consumption. They should not encourage an unhealthy lifestyle or unhealthy/unbalanced eating or drinking habits. (8.4)
- Marketing communications for food should not disparage good dietary practice or the selection of options that accepted dietary opinion recommends should form part of the average diet. (8.6)
- Marketing communications should not condone or encourage poor nutritional habits or an unhealthy lifestyle in children. (8.18)

5.2.2. Requirements for Children

- Marketing communications for food and beverages addressed to children should not mislead children as to the potential benefits from consumption of the product, either physically, socially or psychologically. (8.16 b)

Children under 16

- Except those for fresh fruit or fresh vegetables, marketing communications should not seem to encourage children to eat or drink a product only to take advantage of a promotional offer: the product should be offered on its merits, with the offer as an added incentive. (8.21 a)
- Marketing communications featuring a promotional offer should ensure a significant presence for the product. (8.21 b)
- Marketing communications featuring a promotional offer linked to a food product of interest to children should avoid creating a sense of urgency or encouraging the purchase of an excessive quantity for irresponsible consumption. (8.21 c)
- Marketing communications should not encourage children to eat more than they otherwise would. (8.21 d)
- Marketing communications for collection-based promotions should not seem to urge children or their parents to buy excessive quantities of food. (8.21 e)

Pressure to Purchase

- 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 for them. (8.24)

Recognisability

- A marketing communication should be designed and presented in such a way that it is clear that it is a marketing communication. (3.31)
- Advertorials should be clearly identified, should be distinguished from editorial matter and should comply with the Code. (3.33)

Members of the public can make complaints in respect of the ASAI Code and information in this regard is provided on the website of the ASAI (www.asai.ie).

6. General Rules for all Codes of Practice

The following general rules will apply to all of the Codes of Practice in relation to non-broadcast media (section 7), sponsorship (section 8) and retail product placement (section 9):

1. Marketing Communications coming within the scope of these Codes of Practice will comply, where relevant, with National Regulations and the rules set out in the *ASAI Code of Standards for Advertising and Marketing Communications in Ireland* including those related to food (see section 5).
2. Marketing Communications for HFSS food must be transparent and recognisable as such to the target audience. For example, editorial marketing communications must clearly indicate whether the content is paid for.
3. Locations primarily used by children shall be free from all forms of marketing communication for HFSS foods. Examples of such settings include registered crèches, pre-schools, nurseries, family and child clinics, paediatric services, schools, dedicated school transport, playgrounds and youth centres.

7. Code of Practice for Marketing Communications for HFSS Food on Non-Broadcast Media, Out of Home Media, Print Media and Cinemas

Non-broadcast media is a vehicle with increasing significance for the advertising and promotion of food. As such it plays an important part in influencing the food choices of consumers.

The food and beverage industry in Ireland, together with the advertising industry that covers non-broadcast digital media, out of home media, print media and cinemas undertake to abide by the rules detailed below in addition to any relevant general rules for all codes (see section 6).

7.1. General Rules for all forms of Non-Broadcast Media

1. Marketing Communications for HFSS food and drink should not be booked on Children's Media as defined in this Code of Practice.
In circumstances where the marketing/media platform is not self-evidently targeted at children or where adequate audience data is not available, every reasonable effort should be made to act with a sense of responsibility to both the consumer and society. In addition, account should be taken of such factors as the channels of placement, the content and the overall impression of the marketing communication.
2. Marketing Communications carried outside of Children's Media which are targeted at children shall not include:
 - a. Licensed characters and celebrities popular with children in any communication for a HFSS food.
 - b. Communications for HFSS food that utilise either promotions or competitions.

7.2. Additional Rules for Non-Broadcast Digital Media

1. Where appropriate age-filters exist on websites and social media apps, marketing communications for HFSS foods are not permitted to target children under the age of 15.
2. Marketing Communications for HFSS food by means of e-mail and Short Message Service (SMS) shall not target children under the age of 15.

3. Marketing Communications for HFSS food by means of social media shall not target children under the age of 15.
4. Where Marketing Communications for HFSS food is permissible, it shall not exceed a maximum of 25% of total advertising space.
5. The websites of food businesses should not carry content that is designed to engage children under the age of 15 with HFSS food brands e.g. children's area, videos, 'webisodes', branded education and interactive features.

7.3. Additional Rules for Out of Home Media

Out of Home Media includes all out of home advertising and marketing communications delivered via such formats as billboards or hoardings, public transport stops or shelters, interiors and exteriors of buses or trains, or building banners.

1. Space limitation across the various HFSS product categories will be a total of 33% of the available space by cycle² and by format;
2. Displays of HFSS foods will be restricted from 100 metres of school gate for large roadside billboard formats which include but is not limited to 48 sheet sizes³ and larger for example and 60 metres for 6 sheet sizes and particular attention will be given to HFSS foods that particularly appeal to children;
3. Marketing Communications for HFSS food is not allowed on building banners;
4. Marketing Communications utilising wraparounds or takeovers for HFSS foods will account for less than 5% of the total available advertising space.

7.4. Additional Rules for Print Media

1. Marketing Communications for HFSS foods will only be carried in consumer publications where the adult readership is 75% or greater. A consumer publication or issue is taken to mean the complete edition published that day to include any supplements or advertising inserts.
2. Where Marketing Communications for HFSS food is permissible, it shall not, in ordinary circumstances, exceed a maximum of 25% of total advertising space.
3. HFSS food sponsorship of sports pages or sports supplements is not allowed.

² Cycles are usually defined in the Out of Home Media sector as two weeks.

³ Sheet sizes are defined as 6 Sheet (1.2 M X 1.8 M); 48 Sheet (3 M X 6 M); 96 Sheet (3 M X 12 M)

7.5. Additional Rule for Cinema

1. Where Marketing Communications for HFSS food is permissible, it shall not exceed a maximum of 25% of total advertising space by screening.

8. Code of Practice for Sponsorship linked to HFSS Food

Sponsorship confers rights to the sponsor of promoting the brand and products of the sponsor. This type of promotion increases people's awareness and creates greater brand recognition.

In view of the practical issues above, the following specific rules relating to sponsorship apply in addition to any relevant general rules for all codes (see section 6). These restrictions will apply to sponsorship involving all HFSS food as determined by the code. The restrictions will not extend to corporate identities, trading names, or masterbrands.

1. The Voluntary Code of Practice for Food Marketing, Promotion and Sponsorship applies to all forms of commercial sponsorship of activities or events of any kind.
2. No sponsorship involving HFSS food will be permitted for any other setting dedicated to use by children of primary school age.
3. No sponsorship involving HFSS food will be permitted of events of particular appeal to children of primary school age.
4. Existing sponsorship contracts and agreements which otherwise would be in breach of the code will be permitted to continue until they expire.
5. Companies are encouraged to make their public internal sponsorship codes available to the body responsible for the governance of the Code upon request.
6. It is noted that these are considered to be basic requirements and companies are encouraged to move to non-HFSS sponsorship arrangements wherever possible.

9. Code of Practice Relating to Retail Product Placement of HFSS Foods

The arrangement of food products in the retail environment influences the purchase decisions of consumers. It is noted that the retail food industry acknowledges this fact and has agreed to a set of product placement measures that are designed to increase healthy food choices. Nevertheless, the retail industry is encouraged to go above and beyond these measures in the interests of promoting healthy eating. Accordingly, the retail food industry in Ireland undertakes to operate the specific rules for retail product placement as detailed below in addition to any relevant general rules applicable to all codes (see section 6).

1. Active promotion of the consumption of 5 to 7 portions of fruit and vegetables a day by customers in store through point of sale materials and other online and offline communication platforms.
2. Provision of meal deal offers that deliver choice for customers in order to promote a healthy balanced diet.
3. Where practical, the provision of a HFSS food free checkout option to customers to allow the use of a checkout lane that does not stock HFSS foods. In retail environments with 4 or more checkout bays, a minimum of 1 in 4 bays should be free of HFSS foods. Other outlets with less than 4 checkouts are encouraged to provide 1 non-HFSS checkout, where practical.
4. Provision of calorie labelling information in food service areas such as delis and hot food counters. Provision of calorie labelling will be in line with legal requirements and in their absence with 'Putting Calories on Menus in Ireland - Draft Technical Guidance for Food Businesses' available free from the Food Safety Authority of Ireland website (www.fsai.ie).

10. Governance

The Codes detailed in this document are voluntary in nature. Companies and partner organisations will sign up to the Codes and a register of signatories will be maintained and published by the Department of Health or its designated monitoring body.

10.1. Principles of Governance

1. These Codes of Practice are a voluntary arrangement entered into freely by all companies and partner organisations wishing to achieve the stated purpose of these Codes.
2. Companies and partner organisations are encouraged to conform to these Codes and these include those with an interest in or involved in the production, marketing, sponsorship and retail of foods and non-alcoholic beverages.
3. Companies and partner organisations are committed to comply with the rules agreed upon in these Codes of Practice, in order to achieve the purpose of the Codes.
4. These Codes will be monitored for compliance and effectiveness by a monitoring body designated by the Minister for Health.
5. These Codes will be underpinned by guidance developed by the monitoring body with respect to its application.
6. The monitoring body will be free to decide on its operational methods. However, the body will have access to and review relevant data from all companies and partner organisations.
7. These Codes of Practice will be published and promoted as appropriate.

10.2. Monitoring and Complaints

1. Monitoring will include:
 - a. Independent research/monitoring across all of the areas governed by these Codes to assess adherence, and
 - b. Investigating and dealing with complaints, if any.

2. The monitoring body shall produce an annual report for the Minister which shall cover effectiveness and complaints.
3. The monitoring body shall commission such research that will inform it of the effectiveness of these Codes in achieving their stated aims and objectives.
4. The monitoring body will have the responsibility to investigate any complaint submitted and seek remedial action if necessary.
5. Complaint procedures will be an integral part of the agreed Codes of Practice:
 - a. The monitoring body will develop and maintain procedures relating to complaints.
 - b. Complaints alleging breaches of these Codes will be investigated by the monitoring body.
 - c. Complaints must be submitted in writing in accordance with operational methods established by the monitoring body. All evidence provided to the monitoring body will be handled safely and sensitively.
 - d. All complaints upheld will be published and will be notified to the appropriate regulatory body where appropriate. On foot of an upheld complaint immediate steps will be taken by the affected body to ensure no further breach occurs. They will advise the monitoring body of all remedial measures/actions.



An Roinn Sláinte
DEPARTMENT OF HEALTH