

# CODE FOR THE Responsible Advertising of Food and Beverage Products to Children

("Food and Beverage Advertising Code")



## I. Preamble

The Code for the Responsible Advertising of Food and Beverage Products to Children (the “Food and Beverage Advertising Code”) sets out the conditions governing responsible advertising of food and beverages to children. The *Food and Beverage Advertising Code* recognizes that children are a special audience, and that particular care must be taken in developing advertising for children and messages about the consumption and choice of food and beverage products should be limited.

The *Food and Beverage Advertising Code* is intended to expand upon the legislative, regulatory, and self-regulatory regimes that already exist in Canada. It does not replace any laws, regulations, guidelines, or self-regulatory codes. Advertisers are reminded that any advertising primarily directed at children, including advertising that is subject to the Restriction, must still comply with all applicable laws and self-regulatory codes including the Food and Drugs Act, the Food and Drug Regulations, the Canadian Code of Advertising Standards (in particular, Clause 12), provincial consumer protection legislation (in particular, in the Province of Quebec) and, in the case of broadcast advertising, The Broadcast Code for Advertising to Children.

Advertising Standards Canada (“Ad Standards”) administers the *Food and Beverage Advertising Code* and the companion *Guide to the Code for the Responsible Advertising of Food and Beverage Products to Children* (the “Guide”).

## II. Restriction

Advertising for a food or beverage product may not be primarily directed to persons under thirteen years of age (the “child” or “children”) unless the product satisfies the child advertising nutrition criteria set forth in Appendix A (the “Restriction”).

### **III. Criteria to be considered to determine if an advertisement is primarily directed to children**

When a food or beverage product does not satisfy the nutrition criteria set forth in Appendix A, the following will be used to determine whether or not an advertisement featuring such food or beverage product is primarily directed to persons under thirteen years of age.

Account must be taken of the context of its presentation, and in particular of:

- (a) The nature and intended purpose of the food or beverage product advertised;
- (b) The manner of presenting such advertisement; and
- (c) The time and place it is shown.

Ad Standards must conduct an overall analysis of the advertisement that takes into account the relationship among all three of these criteria as each criteria, when considered separately, is not necessarily determinative by itself.

### **IV. Advertising subject to the Food and Beverage Advertising Code**

Except as otherwise provided, the *Food and Beverage Advertising Code* applies to all advertising featuring a food or beverage product, directed to residents of Canada, in any media. For greater certainty, packaging, labels, wrappers, containers and product shape are not considered advertising for purposes of this *Food and Beverage Advertising Code*. Subject to Clause V, displays, in-store flyers, posters, menus, menu boards and other on-premises communications and material about a food or beverage product are expressly exempt from the Restriction. Brand advertising and sponsorship advertising that do not feature a food and/or beverage product are not subject to the Restriction. Advertising that features a food

and/or beverage product that does not meet the nutrition criteria and promotes an educational or charitable initiative or cause, including those associated with children or families, is not subject to the Restriction unless such advertising puts greater emphasis on the food or beverage product featured than on such initiative or cause. For greater certainty, bona fide educational programs made available to elementary or middle schools and their teachers as well as materials used in such programs will not be considered as advertising under the *Food and Beverage Advertising Code*.

## **V. Conditions applicable to permitted advertising**

Food and beverage advertisements permitted pursuant to Clause II or exempt from the Restriction pursuant to Clause IV shall not use words that directly urge a child to purchase a food or beverage product, or words that directly urge a child to ask another person to make inquiries about it or purchase it.

## **VI. Other Restrictions**

### **1. No Advertising in Schools**

Regardless of the nutrition profile of the product involved, no advertising of food or beverage products is permitted in elementary or middle schools (through grade 8). If provided with permission from or at the request of the school or teacher and provided such content otherwise complies with applicable provincial or educational institution guidelines as the case may be, this restriction will not apply to advertising of bona fide educational and charitable/not-for-profit initiatives or causes, including fundraising, as long as such advertising does not place greater emphasis on the food or beverage product featured than on the initiative or cause.

## 2. No Product Placement/Restricted Product Integration

No advertiser will pay for or actively seek to place their food or beverage products in any entertainment/editorial content on any medium primarily directed to children for the purpose of promoting the sale of such products. Furthermore, advertisers will not pay for or actively seek integration of their food or beverage products in any medium primarily directed to children, including in interactive games or other digital content, unless such products satisfy the child advertising nutrition criteria set forth in Appendix A.

## 3. No Urging Children to Buy

Although packaging, labels, wrappers and containers are not considered advertising, and brand and sponsorship advertising that do not feature a food or beverage product are not subject to the Restriction, no advertiser will use words thereon that directly urge a child to purchase a food or beverage product or words that directly urge a child to ask another person to make inquiries about it or purchase it.

# VII. Preclearance Regime

All advertising for food and beverages may be submitted to Ad Standards for preclearance under the *Food and Beverage Advertising Code*. Ad Standards will use the *Food and Beverage Advertising Code* and *Guide* to determine whether the advertising is primarily directed to children and, if so, whether it is in compliance with the *Food and Beverage Advertising Code*. In cases where the advertising is primarily directed to children, Ad Standards may rely upon an attestation from the advertiser that the food or beverage complies with the nutrition criteria set out in Appendix A.

It is Ad Standards' expectation that all advertising for food and beverages that could reasonably be considered to be primarily directed at children will be submitted for preclearance. It is the advertiser's responsibility to comply with the *Food and Beverage Advertising Code* in the event that modifications are made to the content of any advertising (e.g. new tag line, reducing 30 seconds to 15 seconds), or context (e.g. adapting broadcast for digital or any other media).

Advertisements (or any modifications thereto) that are not precleared by Ad Standards, will be subject to the enforcement provisions set out below.

## VIII. Enforcement

Where an advertisement for food or beverages is not pre-cleared by Ad Standards, or has been materially altered prior to its dissemination and use, members of the public or fellow advertisers may submit complaints about alleged noncompliance with the *Food and Beverage Advertising Code* in accordance with the *Food and Beverage Advertising Code Complaints Procedure* (the “Procedure”). Complaints submitted must identify the advertisement in question, and identify or otherwise describe the alleged contravention of the *Food and Beverage Advertising Code*.

If, upon review under the *Procedure*, Ad Standards determines that the advertisement does not comply with the *Food and Beverage Advertising Code*, the advertiser will be required to withdraw or appropriately amend the advertisement without delay. Non-compliant advertising may be identified by Ad Standards in a report(s) issued by Ad Standards relating to compliance with the *Food and Beverage Advertising Code*, as set out in the *Procedure*.

In the event that an advertiser does not comply with the direction of Ad Standards in respect of noncompliant advertising, Ad Standards may request the assistance of host media to withdraw the advertising in question and/or refer the matter to Health Canada.

Ad Standards, as a not-for-profit body, is able to administer an enforcement and reporting mechanism under the *Food and Beverage Advertising Code* with the financial support of the advertising industry. Membership or other support to Ad Standards in no way impacts Ad Standards’ application of applicable laws, codes and guidelines.

# Appendix A

Advertising for a food or beverage product may not be primarily directed to persons under thirteen years of age (the “child” or “children”) unless the product satisfies the child advertising nutrition criteria set forth below.

## 1. Criteria for prepackaged food and beverages

- A food where the total amount of saturated fat is no more than the prescribed threshold for saturated fat (see Figure 1); or
- A food where the total amount of sodium is no more than the prescribed threshold for sodium (see Figure 1); or
- A food where the total amount of sugars is no more than the prescribed threshold for sugars (see Figure 1).

Figure 1: Table of Thresholds

| Nutrient             | Thresholds for foods   | Thresholds for main dishes with a reference amount (RA) above 200 g              |
|----------------------|--|--|
| <b>Saturated Fat</b> | A total of over 2 g saturated fatty acids (SFA) per Reference Amount (RA) or serving of stated size, whichever is the greater<br><b>AND</b><br>over 15% of energy from the SFA | A total of 2 g SFA per 100 g<br><b>AND</b><br>over 15% of energy is from the SFA |
| <b>Sodium</b>        | Over 140 mg per RA or serving of stated size, whichever is the greater<br><b>OR</b><br>Over 140 mg per 50 g of the product, if the RA is ≤ 30g or ≤ 30 mL                      | Over 140 mg per 100 g  |
| <b>Sugars</b>        | Over 5 g per RA or serving of stated size, whichever is the greater<br><b>OR</b><br>Over 5 g per 50 g of the product if the RA is ≤ 30 g or 30 mL                              | Over 5 g per 100 g   |

## 2. Restaurant and Food Service Meals

The following are the nutrient criteria and other specifications for advertising restaurant and foodservices meals to children:

A “meal” in this setting is defined as all the food components (at least three) that are represented and sold together as a unit (e.g., main+side+beverage) and contains at least one food from one of the following two categories: a) dairy products and their alternatives, other than butter, cream, sour cream, ice cream, ice milk, sherbet and alternatives for those foods; or b) meat products, poultry products, marine and fresh water animal products referred to in Division 21 of the Food and Drug Regulations, and their alternatives such as eggs, tofu, legumes, nuts and seeds, and spreads made from legumes, nuts and seeds; and one food from one of the following two categories: c) fruits and vegetables except pickles, relishes, olives and garnishes; or d) breads, breakfast cereal, rice and other grains, and alimentary pastes.

Exclusionary Nutrient Criteria – the meal cannot exceed these thresholds

- $\leq 30\%$  DV ( $\leq 6$  g) saturated fat, including trans fat
- $\leq 30\%$  DV ( $\leq 690$  mg) sodium
- $\leq 30\%$  DV ( $\leq 30$  g) total sugars

Additional Specifications – the meal must meet these provisions

- $\geq 10\%$  WRNI for two of calcium, iron, magnesium, phosphorus, potassium ( $\geq 10\%$  DV), vitamin A, vitamin C or vitamin D; or  $\geq 10\%$  WRNI for one nutrient and fibre ( $\geq 10\%$  DV)
- Individual food and beverage components (e.g., vegetable side, milk beverage) are those allowed to be advertised to children under the F&B Code (same composition; meet criteria at retail) unless such products are not available in the restaurants and foodservices supply chain
- Food components cannot be French fries, confectionery
- Beverage components cannot be soda, fruit juice, fruit drink, sports/energy drink, coffees, teas

## 3. Any unique nutrition criteria for select food and/or beverages (e.g. dairy products) will be determined separately, with input from Health Canada and other relevant stakeholders as appropriate. Nutrition criteria should be science and evidence-based and may include rationale such as:

- a staple food in the diets of Canadian children
- recognized by Health Canada as an important food vehicle in delivering essential vitamins and minerals in children’s diets
- required by Canada’s Food and Drug Regulations to be enriched/fortified with prescribed levels of vitamins and minerals