



nickelodeon™

Nickelodeon Australia &

New Zealand

Standards & Practices

Code

2018

As at 16 November 2018



Nickelodeon Australia & New Zealand Standards & Practices 2018

Contents

Introduction.....2

Nickelodeon's Guiding Principles.....3

Glossary.....4

Australia

Part A: ASTRA Code.....7

Part B: AANA Code of Ethics10

Part C: AANA Code of Marketing & Communications to Children15

Part D: AANA Code of Food Advertising (in relation to children).....18

Part E: Licensee Compliance Policy.....19

New Zealand

Part F: New Zealand Advertising Standards Code (2019)*20

Part G: New Zealand Children and Young People’s Advertising Code (2017)22

Part H: New Zealand Broadcast Standards24

General

Part I: Miscellaneous.....25

**On 1 February 2019, the New Zealand Advertising Code of Ethics (2014) will be retired and the new New Zealand Advertising Standards Code (effective for new advertisements placed for the first time from 1/11/2018) will officially be implemented for all advertisements.*

Introduction

As a respected children’s television broadcaster, Nickelodeon Australia & New Zealand has developed guidelines to deliver suitable content for the age and maturity of its audiences

Nickelodeon is committed to being a brand parents trust, upholding ethical standards across programming and advertising, and delivering premium content to multiplatform screens.

Nickelodeon’s practices are consistent with the Australian and New Zealand broadcasting legislation and regulatory requirements promulgated by:

- Australian Subscription Television and Radio Association (ASTRA);
- Australian Communications and Media Authority (ACMA);
- Australian Association of National Advertisers (AANA);
- New Zealand Broadcasting Standards Authority; and
- New Zealand Advertising Standards Authority.

Additionally, Nickelodeon abides by the compliance policies set by its subscription service licensees.

If you have any queries about this Nickelodeon Standards & Practices Code, please email:
nickelodeon.feedback@nickaus.com.au

Important Note: This document is current as at 16 November 2018. Please consult the official current version of the Codes on the respective industry websites.

Nickelodeon's Guiding Principles

Advertising shall...

- Be **fair, decent, legal, truthful, accurate** (not misleading or deceptive) and **protect children's interests and wellbeing**, always **consistent with current community standards for children** in Australia and New Zealand;
- **Not exploit children's vulnerabilities**, presenting products in a realistic way;
- Be **clear and easy** for children to understand, **never stating or implying possessing a product makes a child superior**;
- **Not cause serious offence or encourage illegal, unsafe, dangerous, discriminatory or degrading behavior**;
- Treat **sexuality, language and violence with discretion & sensitivity** to the **relevant audience** and always present where **justified by context**;
- **Not promote an unhealthy or inactive lifestyle** and **not encourage excessive consumption of HFSS foods**; and
- **Substantiate claims included with evidence** to not mislead & deceive.

Important Note: The above is not an exhaustive & definitive guide, but a summary of the Australia & New Zealand government regulation & local Nickelodeon brand policy. It is not intended to be a substitute for the Codes. Please consult with the respective Codes within (which feature further details) and current versions of the official Codes published on respective websites.

Glossary of Terms across Australia & New Zealand

“Advertisement” includes any form of advertising including that which promotes the interest of any person, product or service, imparts information, educates, or advocates an idea, belief, political viewpoint or opportunity. It includes advertising in all traditional media and digital media such as online advertising, including websites & social media platforms. Emails and SMS messaging that are selling or promoting a product, service, idea or opportunity are also covered by the Codes, as are neck labels or promotions attached to a product. Other examples include posters, pamphlets and billboards (whether stationary or mobile) and addressed or unaddressed mail. Advertisement in NZ means any message the content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of those it’s addressed to.

“Advertising” means any material broadcast by a Licensee or service for which the Licensee or service receives payment or other valuable consideration for broadcast in breaks within or between the programs or by visual and/or oral superimposition on a program undertaken by, or on behalf of, an advertiser and over which the advertiser has a reasonable degree of control, and that draws public attention in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct. For the avoidance of doubt Advertising does not include on-air station ID’s, promotional spots or image campaigns for the individual channel nor does it include community service announcements or advertisements on behalf of election authorities. Advertising in NZ means any message the content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of those it’s addressed to.

“Advertising or Marketing Communications” means:

any material published/broadcast using any Medium, or any activity by (or on behalf of) an advertiser/marketer, and **includes:**

- material where the advertiser/marketer has a reasonable degree of control (regardless of whether payment in any form involved), and promotes or opposes directly/indirectly a product, service, person, organisation or line of conduct;
- material targeting and clearly addressing customers physically present in Australia;
- sponsorship announcements e.g. “this program brought to you by...”;
- advertorials and infomercials;
- community service announcements;
- User Generated Content (UGC) on a site /digital platform where the marketer has a reasonable degree of control;
- material on any media – incl. online + social media (Code is technology neutral)

but doesn’t include

- labels/packaging for products;
- corporate reports such as corporate public affairs messages in press releases and other media statements, annual reports, statements on matters of public policy and similar;
- any form of editorial content such as independent review content, editorial blog content or claims made in the context of editorial content;
- corporate social responsibility (CSR) programmes;
- in the case of broadcast media, any material promoting a program(s) to be broadcast on that same television station.

“Advertising or Marketing Communications to Children” means Advertising or Marketing Communications (as defined above) which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product. The AANA Board (the “Board”) shall have regard to the Practice Note to the AANA Children’s Code in determining whether Advertising or Marketing Communications are to Children under this definition.

“Alcohol Products” means products which have some association with alcohol including alcoholic beverages, food products that contain alcohol or other products that are associated in some way with alcohol including in the sense of being branded in that way.

“Children” across the various codes, means people younger than 14 years old.

“consumer” refers to any person to whom an advertisement is addressed or is likely to be reached by it whether as a final consumer or as a trade customer or user

“Food and Nutrition Guidelines” (NZ) are the current version of the Food and Nutrition Guidelines for Healthy Children (aged 2-12 years): A background paper, published by the Ministry of Health.

“Licensee(s)” (Australia) means companies allocated subscription television broadcasting licences by the Australian Communications and Media Authority (**‘ACMA’**) under Part 7 of the *Broadcasting Services Act 1992*. For Nickelodeon purposes, this means Foxtel or Fetch (but note Fetch is not an ASTRA member).

“Medium” means any medium including cinema, internet, outdoor media, print, radio, telecommunications, television or other direct-to-consumer media including new and emerging technologies.

“Moral Harm” (NZ) means harm caused by exposure to indecent, immoral or adult themed visuals and language.

“Occasional Food and Beverage Products (NZ)” are those food and beverage products which are high in fat, salt or sugar and classified under the NZ Food and Beverage Classification System (FBCS) as being intended for occasional consumption. If a particular product is not classified under the NZ FBCS but is comparable or equivalent to a product which is classified, then it shall be deemed to have the same classification. If a particular product is not classified under the FBCS and is not comparable or equivalent to a product which is classified, then it shall be deemed to be an occasional food and beverage product if it has less than 3.5 stars under the Health Star Rating System.

“Premium” means anything offered either free, at a reduced price, or with an additional cost and which is conditional upon the purchase of an advertised product.

“Prevailing Community Standards” means community standards determined by the Board as those prevailing at the relevant time in relation to Advertising or Marketing Communications to Children. Prevailing Community Standards apply to Section 2 below. The determination by the Board shall have regard to Practice Notes published by AANA and any research conducted by the Advertising Standards Bureau.

“Product” includes goods, services and facilities whether paid or given free. In relation to children and advertising, means goods, services and/or facilities which are targeted towards and have principal appeal to Children.

“Social responsibility” (NZ) is embodied in the principles and guidelines of the Code and is integral to the consideration of the Advertising Standards Complaints Board. Previous decisions of the Complaints Board also guide its determinations, as do generally prevailing community standards.

“Special Duty of Care” (NZ) is a responsibility to ensure advertising is not likely to result in physical, mental or moral harm.

“Subscriber(s)” means person(s) entering into an agreement with a subscription television broadcaster to receive a subscription television broadcast service.

“Targeting” (NZ) is determined by the context of the advertisement and the relationship between the following three criteria;

1. Nature and intended purpose of the product or service being promoted is principally or generally appealing to children or young people.
2. Presentation of the advertisement content (e.g. theme, images, colours, wording, music and language used) is appealing to children or young people.
3. Expected average audience at the time or place the advertisement appears includes a significant proportion of children or young people.

“**treat food**” or ‘**HFSS food**’ is food high in fat, salt, or sugar intended for occasional consumption. Food high in fat, salt, or sugar is also known as energy dense and nutrient poor food;

“**User Generated Content**” (UGC) means material created by a person interacting on the brand owner’s digital marketing platform. A brand owner has “reasonable control” of user generated content when it becomes **aware** of the material i.e. when

- it has posted/published material;
- it becomes aware of UGC through reasonable review;
- a user notifies the advertiser/marketer of the UGC; or
- a complaint is lodged with the ASB about the UGC.

The Code doesn’t apply to:

- UGC on pages and sites not within an advertiser/marketer’s reasonable control even if brands or products are featured. Examples include:
 - A user posting a brand’s TVC on YouTube with additional footage/comments;
 - A user posting footage on YouTube using a brand or product but with no involvement from the advertiser/marketer;
 - UGC featuring hashtags that may relate to a brand or brand campaign from social media platforms;
 - A tweet from a brand re-tweeted with added content by a user, over which the advertiser/marketer has no control;
 - UGCs reposted by a person other than the brand

“**Young People**” (NZ) means, for the purposes of the *NZ Children and Young People’s Advertising Code*, all persons who are between 14 - 18 years old.

Part A: ASTRA Code

The ASTRA Codes of Practice 2013 (**ASTRA Code**) consists of several television codes (including the Advertising, Program and Program Classification codes), designed to guide subscription service and channel providers (such as Nickelodeon and Nick Jr.)

ADVERTISING CODE:

Licensees must comply with the following:

1. **Compliance with other Codes:** Under Clause 6 of the Code, advertisements communicated by Licensees (and thus Viacom channels) must broadly comply with:
 - All AANA Codes – Ethics; Marketing to Children and Food & Beverage Marketing;
 - Weight Management Code of Practice;
 - Therapeutic Goods Advertising Code; and
 - Alcohol Beverages Advertising Code
2. **Complaints:** Subscriber complaints regarding advertisements should be made first to Licensees, and if not satisfied with the outcome, Subscribers should be directed by Licensees to the Advertising Standards Bureau, where appropriate.
3. **Offensive Advertising:** Advertising shall not deliberately cause serious offense to the intended audience of the channel on which the advertisement is broadcast.
4. **Dangerous Behaviour:** Advertising shall not promote illegal or unsafe road usage practices or encourage other similar, dangerous behaviour.
5. **Classification:** All advertisements must be given an appropriate television classification based on the usual classification criteria (by CAD or equivalent).
6. **Advertising directed at children:** special care must be shown in the broadcast of ads on channels intended for children:
 - No products/services can be advertised or advertising styles used which could place children in physical/mental or moral jeopardy.
 - All children's advertising must be clearly distinguishable from the programming in which it appears
 - Children's advertising should not seek to exploit children's innocence, loyalty or sense of fair play
 - Any channel broadcasting children's advertising should develop and make available online and on request its own code addressing advertising directed at children
7. **Content production compliance:** Where the Licensee is responsible for the production of any advertisement content to be carried, it shall be responsible for ensuring it complies with the requirements of (1), (3) and (4) above.
8. **Scheduling:** Licensee must consider the intellectual & emotional maturity of the intended channel audience when scheduling advertisements within blocks of programming directed at children, especially in regards to the following types of advertisements:
 - Films available at the cinema/on DVD/computer games, particularly those aimed at adults;
 - Religion;
 - Merchandising, particularly when scheduled within children's programming;
 - Competitions.

PROGRAM CODE:

Nickelodeon programming content must comply with the ASTRA Code requirements.

Specifically, under Clause 2 of the ASTRA Code, Licensees must consider protecting children from unsuitable material in program promotions, news updates & news promotions.

The content of program promotions, news updates and news promotions must be consistent with the classification of the programs (if classified) during which updates or promotions appear (see relevant Nickelodeon & Nick Jr. classification categories below) and will, where practicable, include classification information about the programs being promoted.

Program promotions, station promotions & advertisements must be readily distinguishable from program material.

PROGRAM CLASSIFICATION CODE:

Licensees must classify films & drama programs applying the program classification system contained in the Guidelines for the Classification of Films ('Guidelines') together with appropriate consumer advice to ensure adequate warning for program content (see below).

For "PG" programs, the classification symbol should be clearly displayed at the start of the program & the classification information should be included in the EPG.

Classification decisions are designed to give effect, where possible, to the following criteria:

- (a) *adults should be able to read, hear and see what they want;*
- (b) *minors should be protected from material likely to harm or disturb them;*
- (c) *everyone should be protected from exposure to unsolicited material that they find offensive;*
- (d) *the need to take into account community concerns about:*
 - (i) *depictions that condone or incite violence, particularly sexual violence; and*
 - (ii) *the portrayal of persons in a demeaning manner.*

CLASSIFICATION CATEGORIES

G General



For a general audience – classifiable elements must be very mild in impact.

Classifiable elements:

THEMES

The treatment of themes should have a very low sense of threat or menace, and be justified by context.

VIOLENCE

Violence should have only a low sense of threat or menace, and be justified by context. Sexual violence is not permitted.

SEX

Sexual activity should be very mild and very discreetly implied, and be justified by context.

LANGUAGE

Coarse language should be very mild and infrequent, and be justified by context.

DRUG USE

Drug use should be implied only very discreetly, and be justified by context.

NUDITY

Nudity should be justified by context.

PG Parental Guidance

May require guidance of parents/guardian as children may find material confusing/upsetting. Not recommended for under 15 years without guardian/parental guidance.

Classifiable elements should be no higher than mild

Classifiable elements:**THEMES**

The treatment of themes should generally have a low sense of threat or menace and be justified by context.

VIOLENCE

Violence should be mild and infrequent, and be justified by context.

Sexual violence is not permitted.

SEX

Sexual activity should be mild and discreetly implied, and be justified by context.

LANGUAGE

Coarse language should be mild and infrequent, and be justified by context.

DRUG USE

Drug use should be justified by context.

NUDITY

Nudity should be justified by context.

Complaints: Subscriber complaints should be made in the first instance to the Licensee, and if the Subscriber is not satisfied, complainant can escalate to ACMA.

Part B: AANA Code of Ethics

Objective of the AANA Code of Ethics and accompanying Practice Note (**AANA Code**) is to ensure Advertisements & Marketing Communications

- are **legal, decent, honest and truthful**; and
- are **prepared with a sense of obligation to consumers and society and fairness and responsibility to competitors**.

THERE ARE 3 SECTIONS TO THE AANA CODE:

1. **Competitor Complaints:**
2. **Consumer Complaints: and**
3. **Other Codes and Complaint handling**

ADVERTISING OR MARKETING COMMUNICATIONS SHOULD...

1. IN FAIRNESS TO COMPETITORS...

- a) **comply with Commonwealth law** (including *Competition and Consumer Act 2010 (Cth)*) and the **law of the relevant State or Territory**.
- b) **not be misleading or deceptive or be likely to mislead or deceive**
Test: would an average consumer in the target market reasonably see the information within marketing & communications as truthful and honest?
Note an advertiser may be required to provide substantiation of any claims made in the form of tests, studies or expert reports depending on the type of claim made.
- c) **not contain a misrepresentation**, likely to cause damage to the business or goodwill of a competitor.
- d) **not exploit community concerns in relation to protecting the environment** by portraying distinctions in products/services advertised in a misleading way or in a way implying a benefit to the environment which the product/services do not have.
- e) **not make claims about the Australian origin or content of products** advertised in a misleading manner.

2. IN FAIRNESS TO CONSUMERS...

- a) **not portray people or depict material in a way which discriminates against or vilifies a person/section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.**

“Portrayal of people” (Section 2.1 of AANA Code)

Advertising & Marketing Communications should not discriminate/vilify certain groups.

A negative depiction of a group may be found to breach Section 2.1 of the Code, despite use of humour.

The depiction will be regarded as negative if a negative impression is created by imagery and language used in the Advertisement.

The **types of behaviour** are:

- **Discrimination** – unfair or less favourable treatment
- **Vilification** – humiliates, intimidates, incites hatred, contempt or ridicule

The **groups** are:

- **Race** – viewed broadly this term includes colour, descent or ancestry, ethnicity, nationality, and includes for example ideas of ethnicity covering people of Jewish or Muslim origin
- **Nationality** – people belonging to a particular nation either by birth, origin or naturalisation.
- **Ethnicity** – those with a common social identity as a result of customs, traditions and belief about historical origins
- **Gender** – male or female characteristics

NB Advertisements can suggest stereotypical aspects of an ethnic group or gender with humour provided the overall impression of the ads is not a negative impression of people of that ethnicity or gender.

Portraying a woman as attractive does not of itself constitute discrimination/vilification of women.

Images of men or women in traditional roles are not prohibited provided the major focus of the Advertisement is on the product, not the role portrayed. However, care should be taken if depictions suggest that activities are “women’s work” or “work of little value”.

- **Age** – based on a person’s chronological age (i.e. the date they were born) and not a person’s biological age (i.e. physical age a person may exhibit)
 - **Sexual preference** – includes homosexuality, heterosexuality, bisexuality and trans sexuality
 - **Religion** – a person’s belief or non-belief about god or the existence or non-existence of god or gods
 - **Disability** – a current, past or potential physical, intellectual, psychiatric, or sensory illness, disease, disorder, malfunction, malformation, disfigurement or impairment, including mental illness
- NB A realistic depiction of people with a disability can be acceptable, even if the advertisement is upsetting to some members of the community, where there is an important message being delivered.
- **Political belief** – support for or opposition of a particular political party or ideology.

b) **not employ sexual appeal in a manner which is exploitative OR degrading** of any individual or group of people.

“Objectification” (Section 2.2 of AANA Code)

Section 2.2 restricts the use of images employing sexual appeal which is exploitative and degrading of any individual or group. It is not limited to images of women but applies more broadly.

This section prohibits objectification of men, women and children.

In ads where images of children are used, sexual appeal is not acceptable and always regarded as exploitative and degrading. Advertisements must not state or imply children are sexual beings and ownership or enjoyment of the advertised Product will enhance their sexuality. Children must not be portrayed in a manner treating them as objects of sex appeal.

Not all images of people who are scantily clad is unacceptable under this section. This section restricts the use of such images only if they are exploitative and degrading.

- **Exploitative** means clearly appearing to purposefully debase or abuse a person, or group of person, for the enjoyment of others, and lacking moral, artistic or other values.
- **Degrading** means lowering in character or quality a person or group of persons.

“Images of Children and Young People” particular care must be exercised when using images of children and young people in Advertising & Marketing Communications. Advertisers should have regard to the AANA Practice Guide: Managing Images of Children and Young People: <http://bit.ly/15fb2Tp>. It provides advertisers and marketers must take reasonable steps to ensure images of children and young people are not sexually exploitative in nature.

- c) **not present or portray violence unless it is justifiable in the context** of the product or service advertised.

“Violence” (Section 2.3 of AANA Code)

Consequences of violence may also be prohibited however graphic depictions of traffic accidents or the consequences of domestic violence may be justified by community safety message involved.

Sexual violence and violence against animals is unacceptable.

The Board has also found strong suggestion of menace presents violence in an unacceptable manner and breaches the Code.

Depiction of violence to promote a violent game may be acceptable provided it is relevant to the Product advertised.

Realistic depictions of the consequences of violence are unacceptable.

More leeway is permitted where the depiction is stylized rather than realistic. However, advertisers should exercise caution when using cartoon violence as a cartoon style may be attractive to Children

- d) **treat sex, sexuality and nudity with sensitivity to the relevant audience.**

“Sex, sexuality or nudity” (Section 2.4 of AANA Code)

Applies equally to images of men, women & children.

Not permitted:

- Images which are highly sexually suggestive and inappropriate for the relevant audience.
- Explicit sexual depictions in Advertising & Marketing Communications, particularly where depiction is irrelevant to the product/service being advertised (generally objectionable to the community and will offend Prevailing Community Standards).
- Full frontal nudity
- Explicit pornographic language
- Images of genitalia
- Images where a woman (or man) is in a suggestively sexual pose, where underwear is being pulled up or down (by the model or another person), or where there is clear sexual innuendo from the ad (e.g. depicting women as sexual objects).

Permitted, only if relevant to the product/service

- Discreet portrayal of nudity and sexuality in appropriate contexts (e.g. ads for toiletries and fashion) for relevant audience. More care should be taken in outdoor media than magazines, for example.
- Images of nipples (e.g. ads for plastic surgery or art exhibits)
- Depictions of women or men scantily clad
- Images of women in bikinis

Advertisements with appeal to Children which contain sexualised images or poses to be used with caution. Models appearing young should not be used in sexualised poses. Example: an Advertisement where the female looks very young and is lying in bed with a man had no direct reference to the Product being advertised and was found in breach by the Board as it used a highly sexualised image regardless of the audience to which the Advertisement was directed.

Use of the word “sex” is OK, however, such Advertisements must not contain highly sexualised images.

“Relevant Audience” means the audience the advertiser intends to see the Advertising & Marketing

Communications. It is a relevant concept for the restrictions on treatment of sex, sexuality and nudity & language. These sections of the Code require the Board to be informed by:

- a) media placement plan (formal or informal);
- b) content of the advertising; and
- c) audience measurement data (i.e. the audience/readership composition data for the relevant media. E.g. OzTAM data can be used to inform the Board the relevant television audience is grocery buyers (GBs) between 20 – 35 years old. In the case of social media, the Board should have regard to the opt-in nature of the medium and the age gating which may apply to some social media sites in determining relevant audience)

For Advertisements in public places, the Board will not only take account of the relevant audience, but it can also take a broad view of the “audience” i.e. look beyond target audience and at who can see it, and the Board will take that into consideration in determining their view of whether it treats sex, sexuality and nudity **with sensitivity** to that audience or in regards to whether the language used is appropriate for that audience.

e) **only use language which is appropriate in the circumstances** (including appropriate for the Relevant Audience and Medium). Strong or obscene language shall be avoided.

“Language” (Section 2.5 of AANA Code)

Permitted

Widespread harmless words & phrases commonly used in Australian , provided used in a manner consistent with their colloquial usage, e.g. with gentle humour, and not used in a demeaning or aggressive manner

Examples: “bugger”, “shit”, “pissed-off”, “crap”, “bloody”, “cheap bastard”, “bum” and “balls”.

Not permitted

The “f” and “c” words (generally).

Non-verbal representations of the “f” word

When considering the application of this section to UGC within the control of the advertiser, the Board has regard to the contextual and conversational nature of social media. In some cases the use of the vernacular in UGC may not offend prevailing community standards of the relevant audience.

f) **not depict material contrary to Prevailing Community Standards on health and safety.**

“Prevailing Community Standards” means community standards determined by the Advertising Standards Board as prevailing at the relevant time of publication of the advertising. There is no one test of Prevailing Community Standards, and will differ in relation to the different restrictions relating to health & safety, nudity, language, violence and portrayal of people. Applies to Section 2 “Consumer Complaints” below. The determination by the Advertising Standards Board shall have regard to the AANA Code, Practice Notes and relevant research conducted by the AANA or Advertising Standards Bureau.

“Health and Safety” (Section 2.6 of AANA Code – doesn’t apply to AANA Children’s Code)

Advertisers should take care not to depict behaviour children may imitate.

Images of bike riding without helmets or not wearing a seatbelt is contrary to prevailing community standards for health and safety.

Advertisements depicting unsafe practices or images are unacceptable e.g. riding down a hill in a wheelie bin, or using a mobile phone while driving

Motor vehicle Advertisements cannot depict images contrary to public health & safety despite images being unrelated to the motor vehicle advertised.

Bullying: age of the people depicted in an Advertisement, their relationship to each other and nature of the communication are relevant in determining whether an Advertisement constitutes bullying and is contrary to Prevailing Community Standards.

More care must be taken when the people depicted are Children or if there is an unequal relationship between the people in the Advertisement e.g. student and teacher, manager and worker.

3. COMPLY WITH OTHER CODES, INCLUDING....

- (a) AANA's Code of Advertising & Marketing Communications to Children; and
- (b) AANA Food & Beverages Advertising & Marketing Communications Code

HOW ARE ADVERTISING COMPLAINTS HANDLED IN AUSTRALIA?

- Complaints about the content of an Advertising & Marketing Communication under the AANA Codes can be made to the Advertising Standards Bureau, and if appropriate, will be referred to the Advertising Standards Board, for consideration. If it escalates to the Board, the advertiser/marketer is notified and a response requested.
- The complaint is then considered by the Advertising Standards Board and the advertiser and complainant are advised of the determination.
- A case report is then published.

Part C: AANA Code of Marketing & Communications to Children

Objective of the AANA Code of Marketing & Communications to Children (**AANA Children's Code**) is to ensure advertisers and marketers maintain a high sense of social responsibility in advertising to Children in Australia.

All **Advertising or Marketing Communications to Children** must firstly comply with the AANA Code of Ethics.

DOES THIS CODE APPLY?

Only if the Advertising or Marketing Communication is "directed primarily to Children".

An **objective test** is used to determine if it is.

This Code doesn't cover Advertising & Marketing Communications directed at:

- adults;
- older children; or
- grocery buyers

It doesn't cover advertising which may be seen by children, only those **directed mainly to them.**

****Consequently, this AANA Children's Code MAY NOT apply to Nick Jr (where Advertisements are primarily targeted to grocery buyers or parents of 0-4 years old) HOWEVER, Nick Jr. will always consider ASTRA Code requirements & acknowledge the fact Advertisements are sitting within a block of programming directed at small children****

How do you know if an advertisement/marketing communication is "directed primarily to children"?

The following is considered:

1. Products targeted towards and having principal appeal to children

Does not include:

- products enjoyed more generally by adults or families; and
- any Advertising & Marketing Communications for products appealing to children but have messaging/creative directed to adults or GBs does not fall under the Code. e.g. advertisements for toys or child entertainment which can be enjoyed by children but which are directed to adults/parents to purchase the toy or entertainment.

2. Children's themes and characters

3. Stories told through child's perspective, including reactions and child expressions

4. Uncomplicated storylines with simple plot structures and scenarios

5. Visuals appealing to a child's imagination and sense of play/wonderment (e.g. animation)

6. Language appropriate to children

7. Child actors and characters used

8. Call to action to children using language and visual techniques

It is a combination of visual techniques, product and age of characters and actors which will bring Advertising & Marketing Communications within the ambit of the AANA Children's Code. Assessment requires weighing up of the factors described above and may be informed by evidence of a child psychologist, provided by the complainant or the advertiser.

If it does apply, what are the requirements for compliance?

Under Section 2 of the AANA Children's Code, Advertising or Marketing Communications to Children **must**:

1. not contravene Prevailing Community Standards;

2. **not mislead or deceive Children;**
3. **not be ambiguous;**
4. **accurately represent**, in a manner that is clearly understood by Children:
 - (i) **the advertised Product;**
 - (ii) any **features** (including size and performance of product) which are described or depicted or demonstrated in the Advertising or Marketing Communication;
 - (iii) **the need for and the price of any accessory parts;** and
 - (iv) that the advertisement is in fact a **commercial communication** rather than program content, editorial comment or other non-commercial communication.
5. **present prices**, if mentioned in advertising, in a way which can be both **clearly understood by children** and **not** minimized by using words such as “just” or “only”;
6. **not imply that the Product** being promoted is **immediately within the reach** of every **family budget;**
7. **not be placed in a Medium** where **editorial comment or program content, in close proximity to** that communication, **or directly accessible by Children** as a result of the communication, is **unsuitable** for Children according to Prevailing Community Standards;
8. **not employ sexual appeal**, include sexual imagery in contravention of Prevailing Community Standards or state or imply Children are sexual beings and that ownership/enjoyment of a Product will enhance their sexuality;
9. **not portray images or events which depict unsafe uses of a Product or unsafe situations** which may encourage Children to engage in dangerous activities or create an unrealistic impression in the minds of Children or their parents or carers about safety;
10. **not advertise Products which have been officially declared unsafe or dangerous** by an authorised Australian government authority;
11. **not portray images or events in a way that is unduly frightening or distressing** to Children;
12. **not demean any person or group** on the basis of ethnicity, nationality, race, gender, age, sexual preference, religion or mental or physical disability;
13. **not undermine the authority**, responsibility or judgment of **parents or carers;**
14. **not contain an appeal to Children to urge their parents, carers or another person to buy a Product** for them;
15. **not state or imply that a Product makes Children who own or enjoy it superior** to their peers, **or more generous** than those who do not;
16. **not use popular personalities or celebrities** (live or animated) to endorse, recommend, promote or advertise or market Products or Premiums in a **manner that obscures the distinction** between commercial promotions & program or editorial content;
17. **not be for, or relate in an way to, Alcohol Products or draw any association with companies** that supply Alcohol Products;

18. **if for food and beverages, neither encourage nor promote an inactive lifestyle or unhealthy eating or drinking habits; and comply with the AANA Food & Beverages Advertising & Marketing Communications Code.**
19. **Display in an obvious location and explain in simple terms any disclaimers, qualifiers or asterisked or footnoted information**
20. **For competitions**, include a summary of the basic competition rules, clearly stipulate closing date for entries, and make any statements about the chance of winning clear, fair and accurate.
21. **If they involve an offer of a Premium**, not create a false or misleading impression in the minds of Children about the content of the Product, present it in an obvious and not misleading way as separate to the Product, not refer to the premium in more than an incidental manner to the advertised product, must make the terms of the offer clear as well as any conditions or limitations & must not use Premiums in a way that promotes irresponsible use or excessive consumption of the Product
22. **If it indicates a Child's personal information will be collected (Privacy)**, or, if it's likely it will be, then the Advertising or Marketing Communication must include a statement the Child must obtain a parent/guardian's express prior consent before engaging in any activity that will result in the collection/disclosure of such personal information. "Personal information" means information that identifies the child or could identify the child.

Part D: AANA Code of Advertising Food (relating to children)

Objective is to ensure that advertisers and marketers develop & maintain a high sense of social responsibility in advertising and marketing food and beverage products in Australia, including children's food and beverage products.

In general, *Advertising or Marketing Communications for Food or Beverage Products* shall:

- Be truthful and honest
- Not be misleading or deceptive or contravene Prevailing Community Standards (as defined above)
- Be communicated clearly (without any ambiguity or sense of urgency) appropriate to the level of understanding of target audience
- accurately and specifically present information, including nutritional values + health benefits, along with taste, size, content etc
- not exploit children's vulnerability, especially by encouraging them to consume excessive amounts of food or beverages targeted specifically towards them
- not undermine the importance of healthy/active lifestyles or promote unhealthy imbalanced diets or encourage excess consumption of HFSS food and beverage
- support claims to nutrition or health with appropriate scientific evidence meeting the requirements of the ANZ Food Standards Code
- not make reference to consumer taste/preference tests in any way that might imply statistical validity if there is none, nor otherwise use scientific terms to falsely ascribe validity to ad claims
- not use sporting, news or current affairs personalities within media segments of such content without clearly distinguishing between commercial promotion and editorial or other program content
- not portray products not intended or suitable as substitutes for meals as such
- not state/imply possession or use of a particular food or beverage product will give children a physical/social or psychological advantage over their peers (or that on possession would have the opposite effect)
- not invoke pester power
- not feature ingredients or discounted products/offers unless they are an integral element of the food or beverage product offered to children.

Part E: Licensee Compliance Policy

Subscription Television Broadcast Licence Conditions pursuant to the *Broadcasting Services Act 1992* (Cth) and other Relevant Laws in relation to advertising:

- The Service **must not broadcast a tobacco advertisement** within the meaning of the *Tobacco Advertising Prohibition Act 1992* (Cth) (s 10(1)(a) Schedule 2 BSA);
- The Service **must comply with the requirements for broadcast of advertisements relating to medicine** (s 6 Schedule 2 BSA) i.e. a broadcaster must not broadcast an ad relating to therapeutic goods that is required to be approved under the *Therapeutic Goods Act 1989* unless the text of the advertisement has been so approved;
- The Service **must not broadcast an interactive gambling advertisement** within the meaning of the *Interactive Gambling Act 2001* (Cth) – relevant sections of this Act are set out in Attachment 2 to this Schedule 1;

Part F: New Zealand Advertising Standards Code (2019)

- Developed by the Advertising Standards Authority in New Zealand, applying to all advertisements placed in any media. Effective 1 November 2018 for new ads and 1 February 2019 for all ads
- The purpose of the Advertising Standards Code (ASC) is to ensure every advertisement is a responsible advertisement.
- All advertising must be legal, decent, honest and truthful and respect the principles of fair competition, so that the public can have confidence in advertising.

The ASC is comprised of three (3) parts:

1. Principles: The standards expected in advertising.

PRINCIPLE 1: SOCIAL RESPONSIBILITY

Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

(a) Privacy - Advertisements may only portray or refer to personal information that is publicly available. Other personal information may only be collected and used with the consent of the individual concerned

(b) Consent - Advertisers must have permission from the consumer before engaging in personalised direct advertising communications.

(c) Decency and offensiveness - Advertisements must not contain anything that is indecent, or exploitative, or degrading, or likely to cause harm, or serious or widespread offence, or give rise to hostility, contempt, abuse or ridicule.

(d) Exploitation of children and young people - Advertisements must not portray or represent anyone who is, or appears to be, under 18 years old in any way that is exploitative or degrading or inappropriate for their age.

(e) Safety - Advertisements must not, unless justifiable on educational or social grounds, encourage or condone dangerous, illegal or unsafe practices, or portray situations which encourage or condone a disregard for safety.

(f) Violence and anti-social behaviour - Advertisements must not, unless justifiable on educational or social grounds, contain anything that condones, or is likely to show, violent or anti-social behaviour or damage to property.

(g) Fear and distress - Advertisements must not cause fear or distress without justification

(h) Health and wellbeing - Advertisements must not undermine the health and well-being of individuals.

(i) Protecting the environment - Advertisements must not depict or encourage environmental damage or degradation.

PRINCIPLE 2: TRUTHFUL PRESENTATION

Advertisements must be truthful, balanced and not misleading.

(a) Identification – advertisements must be identified as such

- (b) **Truthful presentation** - Advertisements must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge. This includes by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission, false representation or otherwise. Obvious hyperbole identifiable as such is not considered to be misleading
 - (c) **Use of data** - Advertisements must not use tests, surveys, research results or quotations from technical and scientific literature in a manner which is misleading or deceptive.
 - (d) **Comparative advertising** – comparative advertisements, or advertising that identifies a competing product or service, must be factual, accurate, make clear the nature of the comparison, must not denigrate competitors and must be of 'like' products or services available in the same market.
 - (e) **Advocacy advertising** - Advocacy advertising must clearly state the identity and position of the advertiser. Opinion in support of the advertiser's position must be clearly distinguishable from factual information. Factual information must be able to be substantiated.
 - (f) **Use of testimonials and endorsements** - Advertisements must not contain or refer to any personal testimonial unless permission to use the testimonial has been obtained and it is verifiable, genuine, current, and representative of the typical not the exceptional. Advertisements must not claim or imply endorsement by any individual, government agency, professional body or independent agency unless there is prior consent and the endorsement is current and verifiable.
 - (g) **Food and Beverage Claims** - Food and Beverage claims must be factual and able to be substantiated and must not be misleading.
 - (h) **Environmental claims** - Environmental claims must be accurate and able to be substantiated by evidence that reflects scientific and technological developments
2. **Rules:** Examples, by no means exhaustive, of how the principles are to be interpreted and applied.
 3. **Guidelines:** Information and examples to explain a rule.

The ASC is available here:

<http://www.asa.co.nz/wp-content/uploads/2018/06/Advertising-Standards-Code-2018.pdf>

Part G: New Zealand Children & Young People's Advertising Code (2017)

A new Code which applies to all **new advertisements (as of 3 July 2017)** and will come into effect for **existing advertisements (as of 2 October 2017)**.

All advertising to children and young people shall first adhere to NZ laws and the principles and rules set out under this Code, where applicable. All advertising must also comply with the ASA Code of Ethics.

This Code doesn't apply to product packaging, bona fide news, reviews, editorial and broadcast programs.

The likely audience (including the media that advertisements are broadcast, printed, or displayed in) is a key factor in determining code compliance.

The Rules are examples, by no means exhaustive, of how the Principles are to be interpreted and applied. It is possible for advertising to be in breach of one or more of the Principles in the Code without being in breach of a specific Rule. The Complaints Board will have regard to all relevant matters, including the overall impression conveyed, the context and target market.

PRINCIPLE 1 | SOCIAL RESPONSIBILITY

ADVERTISEMENTS TARGETED AT CHILDREN OR YOUNG PEOPLE MUST NOT CONTAIN ANYTHING THAT IS LIKELY TO RESULT IN THEIR PHYSICAL, MENTAL OR MORAL HARM AND MUST OBSERVE A HIGH STANDARD OF SOCIAL RESPONSIBILITY

1. Advertisements must not urge children or young people to ask their parents, guardians or caregivers to buy particular products for them.
2. Advertisements must not condone, encourage or unreasonably feature behaviour that could be dangerous to copy, unless the purpose of the advertisement is to discourage such behaviour.
3. Advertisements must not condone, encourage or unreasonably feature anti-social behaviour, for example vindictiveness or bullying, unless the purpose of the advertisement is to discourage such behaviour.
4. Advertisements must not suggest inferiority or lack of acceptance for not having the advertised product.
5. Advertising must not provide an unrealistic sense of body image or promote an unhealthy lifestyle.
6. Advertising must not employ sexual appeal nor include sexual imagery.
7. Use of sales promotion schemes must be undertaken in a responsible manner.
8. When licensed and proprietary characters and celebrities popular with children or young people are used in advertisements, they must be used in a responsible manner.
9. Advertisements (including sponsorship advertisements) for occasional food or beverage products must not target children or be placed in any media where children are likely to be a significant proportion of the expected average audience.
10. A special duty of care must be applied to occasional food and beverage product advertising to young people.
11. The quantity of the food in the advertisement should not exceed portion sizes that would be appropriate for consumption on one occasion by a person(s) of the age depicted.
12. Advertisements featuring a promotional offer of interest to children or young people which is linked to food and beverage products must avoid creating a sense of urgency or encouraging the purchase of an excessive quantity for irresponsible consumption.

PRINCIPLE 2 | TRUTHFUL PRESENTATION

ADVERTISEMENTS MUST NOT BY IMPLICATION, OMISSION, AMBIGUITY OR EXAGGERATED CLAIM MISLEAD OR DECEIVE OR BE LIKELY TO MISLEAD OR DECEIVE CHILDREN OR YOUNG PEOPLE, ABUSE THEIR TRUST OR EXPLOIT THEIR LACK OF KNOWLEDGE

1. It must be clear to children or young people that the advertising is a commercial communication rather than program content, editorial comment or other non-commercial communication.
2. If price is referred to, the complete price must be clear, including the cost of the main item and additional items that must be purchased separately.
3. Advertisements must clearly indicate if assembly or extra items are required to use the advertised product.
4. Extreme care must be taken when requesting or recording the names, addresses and other personal details of children or young people to ensure their privacy rights are fully protected and the information is not used in an inappropriate manner.
5. Where reference is made to a competition, the rules must be clear and the value of prizes and the chances of winning must not be exaggerated.
6. Advertisements must not mislead as to the potential physical, social or mental health benefits from consumption of the product.

PRINCIPLE 3 | SPONSORSHIP

A SPECIAL DUTY OF CARE MUST BE EXERCISED FOR OCCASIONAL FOOD AND BEVERAGE PRODUCT SPONSORSHIP ADVERTISING TARGETED TO YOUNG PEOPLE

1. Sponsorship advertisements must not show an occasional food or beverage product, or such product's packaging, or depict the consumption of an occasional food or beverage product.
2. Sponsorship advertisements must not imitate or use any parts of product advertisements for occasional food or beverage products from any media.

Part H: New Zealand Broadcast Standards

Pay Television Code in New Zealand

The Broadcasting Standards Authority accepts complaints about Pay TV programming (not advertising), but takes complaints about election TV advertising during election periods.

Under the Pay Television Code adopted and updated by the Broadcasting Standards Authority in April 2016, pay television broadcasters must follow certain principles, as follows:

1. **Pursue good taste and decency** in programming with regards to context.
2. **Include programme information** to inform viewers and filtering technology, where available. Includes appropriate classification.

Promos for programmes should comply with the classification of the programme during which they screen

If filtering technology is made available to customers free of charge, and regularly promoted by the broadcaster for customer use.

3. **Protect children's interests** from harmful material, always with regards to context

Content not intended for children's viewing should not be specifically promoted to children and should be screened in accordance with (2) above.

4. **Exercise discretion and care when portraying violence**

5. **Foster support for law and order in programming** (i.e. not actively promoting serious illegal behaviour)

6. **Not encourage discrimination and denigration against any community group**

7. **Observe appropriate advertising for alcohol**

Alcohol promotion must not occur in programmes specifically directed at children

Broadcasters should observe restrictions on promoting alcohol appropriate to the programme genre being broadcast. Alcohol promotion should be socially responsible and must not encourage underage consumption or purchase

General information and content broadcast standards

1. **Balanced**
2. **Accurate** (and not misleading)
3. **Respectful of privacy** of individuals
4. **Fair** with regards to portrayal of any person/organization included or referred to in any broadcast.

Part I: Miscellaneous

Privacy

Nickelodeon will act in accordance with the *Privacy Act 1988 (Cth)*, the Australian Privacy Principles and the Nickelodeon Privacy Policy available on the Nickelodeon website:

http://www.nick.com.au/_/nickgrownups/pdf/Privacy-Policy-Nickelodeon-Australia.pdf

Feedback

For **general enquiries or feedback** please email our Feedback address at:

- nickelodeon.feedback@nickaus.com.au

For **privacy enquiries**, please contact our Privacy Officer at:

- vimnau.privacy@vimn.com