

31 August 2022

Advertising Standards Authority Inc
Wellington

By email to: asa@asa.co.nz

SUBMISSION on Children and Young Person's Code Review

1. Introduction

Thank you for the opportunity to make a submission on the Children and Young Person's Code Review. This submission is from Consumer NZ, an independent, non-profit organisation dedicated to championing and empowering consumers in Aotearoa. Consumer NZ has a reputation for being fair, impartial and providing comprehensive consumer information and advice.

Contact: Aneleise Gawn
Consumer NZ
Private Bag 6996
Wellington 6141
Phone: 04 384 7963
Email: aneleise@consumer.org.nz

2. General comments

As stated in previous submissions, we do not consider the current system of self-regulation adequately protects children and young people from advertising.

We consider a regulatory system with greater restrictions on advertising to children would be far more likely to protect their rights.

Consumers also support regulation. In 2021, Consumer NZ asked consumers about unhealthy food marketing targeting children. The

majority (67%) supported regulation. Seventy-eight percent agreed children are exposed to too many ads for unhealthy food and drinks.

In the absence of regulation, we support strengthening the Children and Young People's Advertising Code (the Code), as a temporary measure, to better protect the rights of children and young people.

3. Our responses to the select questions

Our answers to select questions in the consultation are set out below.

Section 2 – Age definitions

What should the age of a child be for the purposes of applying the ASA's Children and Young People's Advertising Code?

In previous submissions, we have supported the definition of a child/young person including those up to 18 years of age. We continue to support this.

Including young people up to the age of 18 years would also be consistent with the definition of a child in the United Nations Convention on the Rights of the Child, the WHO Report of the Commission on Ending Childhood Obesity and the New Zealand Food and Nutrition Guidelines for Healthy Children and Young People.

Please provide evidence or a rationale to support your recommendation.

Although children in the 14 to 18-year age group can understand the persuasive intent of advertising, they are still likely to be influenced by it.

As the Heart Foundation states in its "Advertising Food to Children Background Paper": "children are not 'rational consumers'" and cannot be expected to assess the future consequences of their decisions and be able to critically assess information.

While middle adolescents (aged 15-16 years) have a greater ability to understand persuasive intent, the rise of modern forms of advertising such as in-vlog advertisements with sponsored products, and the rise of influencers and advertisements on social media platforms, has made this more difficult.

For example, one study found that a disclosure in a vlog that contained advertising can increase children's advertising literacy, but if this information is absent, they are less likely to understand the persuasive and

selling intent of advertising.¹ This included children between the ages of 7 to 16 because, according to the study, this age group are most interested in watching vlogs.

Please provide any additional comments you have in relation to the age of a child that are relevant to this Code review.

It is important there are measures in place to ensure that young people's rights are protected until they can navigate the world as adults.

Additionally, we have concerns about influencers' ability to subliminally promote products to children and young people.

While many social media posts may not be intended to advertise or sell a particular product or brand, the mere fact that an influencer is displaying certain products or brands could potentially influence young people's purchasing decisions. This concern extends to young people up to 18 years of age.

Section 3 - Definition of targeting children and young people

Please provide your comments on this definition and how it is applied when determining whether an advertisement is targeting children and young people.

We consider the definition of "targeting" is too narrow and think a different approach should be considered.

We are also concerned the current definition of "Advertising" suggests the advertiser must intend to influence the child or young person, but if there is no intention to do so, it will not be deemed an advertisement. We disagree with this approach and consider the definition should be amended.

In our view, advertisements should be considered to target children and young people if they are intended to, or are likely to, promote a product or service to children or young people. This will ensure that advertisements that are likely to appeal to children, rather than just those created with the intention of targeting young children, are captured.

¹ Hoek, Rhianne W., et al. "Testing the Effectiveness of a Disclosure in Activating Children's Advertising Literacy in the Context of Embedded Advertising in Vlogs". *Front. Psychol.*, 17 March 2020, <https://www.frontiersin.org/articles/10.3389/fpsyg.2020.00451/full>.

Section 4 – Expected average audience at the time or place the advertisement appears includes a significant proportion of children or young people.

Please provide your comments on this guidance and how it is applied to assessing the appropriate timing and placement of advertisements.

In our view, advertisements should still be considered to be “targeting” children and/or young people, even if there is robust data to show the audience is less than 25% children and/or young people.

We consider the words ‘significant proportion’ should be interpreted to mean 10 or 15% of the audience are children and/or young people.

We also recommend libraries, sports grounds, concert/show venues and public pools are added to the list of examples where children gather.

Section 5 – Brand advertising

Should the updated Code include rules and guidelines to support the responsible advertising of any brand ad when the ad is targeted to children and young people?

Yes, if an advertisement is targeted at children and/or young people or the brand advertisement is likely to negatively affect children and young people, then the Code should apply.

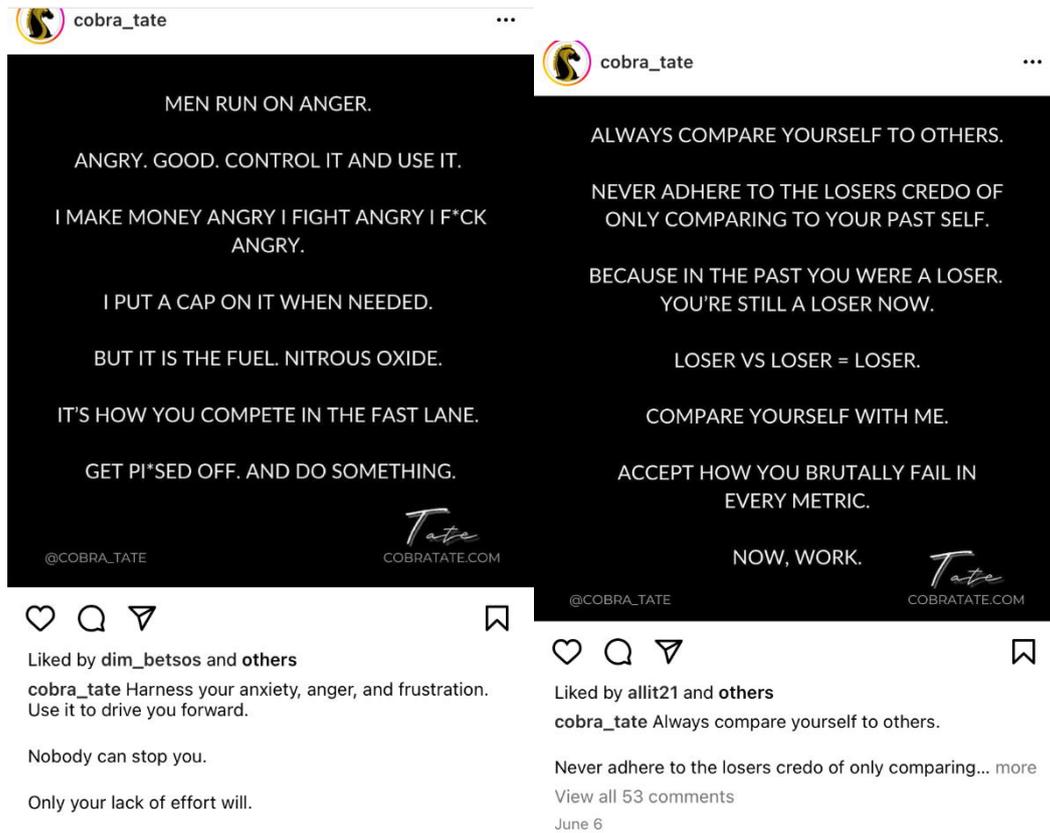
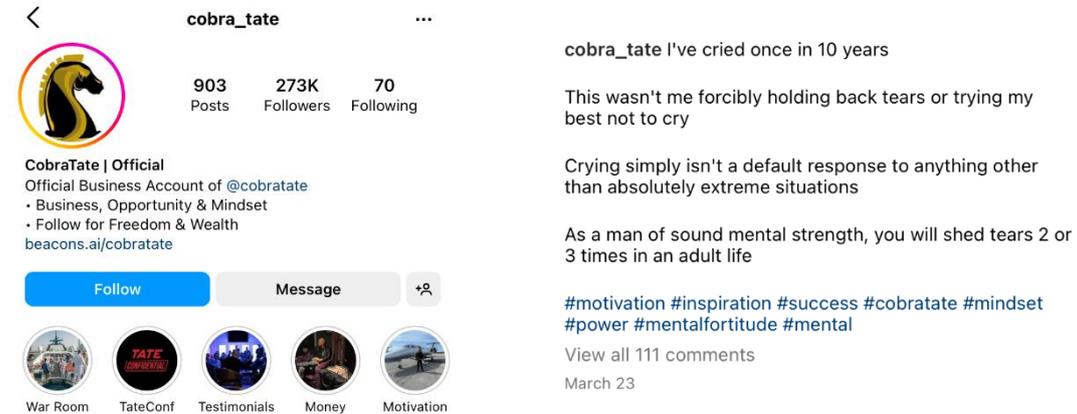
Please provide your suggestions for new rules or guidelines to support your recommendation.

The Code should be amended to capture any brand advertising targeted at children and young people particularly where there is a likelihood of encouraging negative behaviours or where the advertising is likely to have a negative effect on children and young children.

The Committee would appreciate any advertisement examples that support your recommendation or suggestions.

A recent example is the rise of popularity of Andrew Tate. Tate is a former kickboxer and reality television star. Tate is an entrepreneur and content creator who ran an entity called “Hustler’s University” which offered various programmes which claimed, for example, to teach you how to make money and offered fitness programmes. He operated these programmes under the brand name “CobraTate” (@cobratate and @cobra_tate). We consider this to be a form of brand advertising because the business

offers services and promotes certain ideas (see images below) associated with those services being offered.



Tate was recently removed from various social media platforms for his misogynistic, sexist, and homophobic views, as well as other forms of hate speech.

The business account for Cobra Tate frequently used a logo intended to establish brand recognition in the form of a golden knight chess piece.

This type of content, although it has not explicitly been targeted at children and young people, is reported to be having a dangerous and detrimental effect on pre-teens and young men in Aotearoa.

This example demonstrates how brand advertising can have detrimental impacts on young people and children, even though it is not necessarily targeted at them.

We are concerned that the lack of robust requirements around advertising allows harmful content such as this to reach children and young people. This example also illustrates the need for a mandatory and regulated framework.

Section 6 – Sponsorship advertising

Please provide your comments on the sponsorship principle, rules and guidelines.

Our view is that the principle, rules and guidelines relating to sponsorship advertising should cover product-related sponsorships beyond occasional food or beverage products.

We are particularly concerned about sponsorship advertisements that may negatively influence or affect children and young people. For example, we think that it could be detrimental to children to allow sponsorship by companies such as Nintendo, Apple, Xbox, etc as the products made by these companies promote inactivity in children and young people.

We do not see any compelling reasons as to why the principle, rules and guidelines relating to sponsorship advertising should be limited to advertisements that refer to or feature an occasional food or beverage product. This unnecessarily limits the scope of sponsorship advertising and reduces the protections for children and young people.

Please provide any recommended changes or additions to the principle, rules and guidelines.

As noted above, the principle, rules and guidelines regarding sponsorship advertising should also capture sponsorship advertising that is likely to influence children and young people to behave in a way that may have negative consequences.

We are also concerned about the narrow wording of the current Code and the fact it continues to allow sponsorship of events and activities by food companies, such as McDonalds and Hell Pizza.

In our view, this type of sponsorship should be prohibited under the Code, whether or not the advertisements show occasional food or beverage products, or their consumption.

Thank you for the opportunity to provide comment.

ENDS