

Advertising Food & Beverage to Children Online

IAB Canada Policy Update



IAB Canada Action Update on Bill S-228

July, 2017

Over the past few weeks, there has been movement on [Bill S-228](#) prohibiting food and beverage marketing directed at children.

Background

The Minister of Health has been specifically [mandated](#) by the Prime Minister to implement "new restrictions on the commercial marketing of unhealthy food and beverages to children, similar to those now in place in Quebec". At the same time, Canadian Senator Nancy Green introduced [Bill S-228](#) prohibiting food and beverage marketing directed at children. You'll recall from previous calls on the Bill that we were deeply concerned about its breadth, prohibiting food and beverage advertising "directed primarily at children" (eg anyone under 13), as well as labelling, publishing, promoting or selling any such food. Further, penalties included fines of up to \$5000 per instance and/or imprisonment of up to 3 years.

Until the past few weeks, the bill was largely dormant. However, the Minister of Health has decided to support the bill, and in June the [Senate Committee on Social Affairs](#) held hearings on the bill to solicit input. More surprisingly, the Senate Committee decided to rush the Bill, giving clear preference to the health experts advocating in favour of the bill, being openly hostile to the food and beverage industry representatives who appeared, and refusing to hear from advertising industry representatives (we submitted a request to appear, but did not hear back before the hearings had concluded).

At the same time, Health Canada has launched a [consultation](#) on marketing of unhealthy food and beverages to children. In the consultation, Health Canada proposes more extreme measures, including prohibiting all marketing of an extremely wide range of "unhealthy" foods to anyone under the **age of 17** (not 13) on any "websites, platforms and apps that are popular with children, even when these digital channels are intended for adults as well."

The Senate Committee then amended Bill S-228 to reflect the Health Canada proposals and passed the Bill. Parliament has now risen for the summer recess, so the Bill will not move further, but we expect the Bill will pass third reading in the Senate and be referred to the House of Commons for consideration some time in the fall.

While the ACA and others have been tracking this issue, given the sudden and unexpected acceleration of S-228, the ads, agency, food and beverage, restaurant and retail trades are now working together in a Marketing to Kids (M2K) Coalition. IAB Canada is also participating in the coalition to ensure the concerns of digital advertising are appropriately represented.

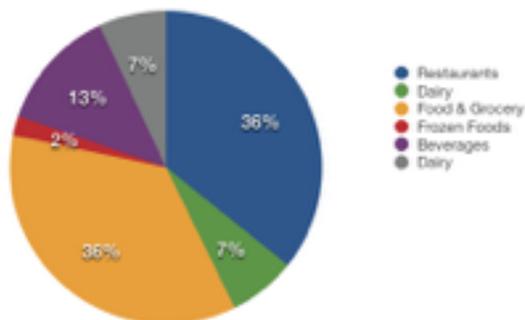
To that end, IAB Canada is currently collecting data on size of the size of the digital food and beverage advertising market in Canada. We've sent a request to our publishers council to indicate overall percentage of revenue food and beverage advertising represents in order to determine revenue at risk. If you have not already done so, we urge your company to submit this information via our [anonymous survey](#).

Preliminary results from the survey indicate the impact to publishers is around the 10% mark (we will keep the survey open and will revise our estimates according to any new data collected). Impression-level data for the category based on comScore reporting indicates the following:

Ad Impressions by Category

CATEGORY	IMPRESSIONS 000
Beverages	627150
Dairy	344290
Food & Grocery	1750812
Frozen Foods	98294
Restaurants	1760926

Ad Impressions Served by Category



- Over 70% of Food & Beverage Ad Impression volume is generated through Food & Grocery and Restaurants at 36% each
- Beverages represent 13% of impression volumes
- Dairy has its own category and generates 7% of all Food & Beverage Impressions

We are currently working with the M2K Coalition to develop our government and public relations strategies. We are also developing IAB Canada's draft responses to [Health Canada's M2K survey](#), and will circulate draft responses for your review.

Further Reading

March 2016 - Report on Obesity in Canada

https://sencanada.ca/content/sen/committee/421/SOCI/Reports/2016-02-25_Revised_report_Obesity_in_Canada_e.pdf

Following is an excerpt from the report on Advertising to Children:

"It is ethically irresponsible to market unhealthy foods and beverages to children who are hardwired to trust us". - Tom Warshawski, Childhood Obesity Foundation

With the exception of the food industry, witnesses unanimously supported strict controls on the advertising of unhealthy food and beverages to children, although the specifics of such an approach varied to some degree. Those witnesses who supported an advertising ban cited Quebec, which has had a prohibition on the advertising of all food and beverages to children under the age of 13 under its Consumer Protection Act for many years. Some witnesses noted that this prohibition has been more successful in French-speaking Quebec where exposure is largely limited to media content that originates within the province.

English-speaking Quebec is to a greater extent, exposed to programming from the rest of Canada as well as outside of the country. Variations on the support for advertising restrictions included applying a prohibition to only unhealthy foods and beverages or only to sugary drinks. Witnesses noted the administrative burden of having to define the term "unhealthy" if the advertising ban applied only to that group of products.

The current situation in Canada is that the Canadian Radio-television and Telecommunications Commission requires broadcasters to adhere to the Broadcast Code for Advertising to Children which indicates that advertisers must not exploit the imaginative nature of children. In fact, Bill Jeffery of the Centre for Science in the Public Interest pointed out that the Supreme Court of Canada has said that advertising directly to children is inherently manipulative and advertising is essentially the legalized tricking of children.

Under the Broadcast Code for Advertising to Children, Advertising Standards Canada applies the industry-designed Canadian Children's Food and Beverage Advertising Initiative (or the Children's Advertising Initiative, CAI) which was launched by the food and beverage industry. The purpose of the CAI was to promote healthier dietary choices to children however, participation in the CAI is voluntary. There are currently 18 companies that participate in the CAI, but the committee was not told what proportion of the industry is represented by those companies.

All advertisements aimed at children must be pre-cleared through the Advertising Standards Canada's (ASC) Children's Clearance Committee. The ASC is an industry self-regulatory body that monitors advertising. It is important to note that the media covered under the program go beyond traditional media. Janet Feasby of the Advertising Standards Canada informed the committee that

the CAI applies to television, print, online, video and computer games, DVDs and G-rated rated movies, mobile media and word of mouth. Food industry representatives argued that compliance with the current voluntary code designed and enforced by the industry was a sufficient control on advertising to children.

As indicated above, several witnesses were supportive of additional controls on advertising aimed at children. They cited distrust of industry self-regulation, some research that has called the CAI ineffective, as well as the opinion that there would be no negative consequences to such a prohibition.

Recommendation

The committee recommends that the federal government:

- **Immediately conduct a thorough assessment of the prohibition on advertising food to children in Quebec; and,**
- **Design and implement a prohibition on the advertising of foods and beverages to children based on that assessment.**

UK Self-Regulatory Program that was recently implemented (July 2017) on the very same issue:

“The tougher new advertising food rules are a significant and positive change designed to help protect the health and wellbeing of children. These measures demonstrate the advertising industry’s continuing commitment to putting the protection of children at the heart of its work. The new rules will alter the nature and balance of food advertising seen by children and play a meaningful part in helping change their relationship with less healthy foods.” - Chairman of CAP, James Best



HFSS Food & Drink Advertising Restrictions (under 16s) June 2017

Q. What are the rules for advertising products high in fat, salt and sugar (HFSS)?

A. From 1 July 2017, new rules in the Committee of Advertising Practice (CAP) Code¹ – the UK self-regulatory advertising rules – come into effect to provide greater protection to children. From that date, it’s prohibited to target ads for ‘unhealthy’ food and drink at children under 16 in non-broadcast media. Advertisers, creative and media agencies and publishers need to understand the new rules and take steps to ensure HFSS ads products are not targeted at under 16s in online media – including apps and social media.

Q. What do the rules say?

A. In short, you must not place ads for products high in fat, salt or sugar (HFSS) in:

- media aimed at children under 16 (e.g. by its nature or content)
 - media of general appeal where under-16s make up more than 25% of the audience – and where they don’t, you still need to minimize the likelihood of children seeing the ad
- CAP has published a summary of the rules and its advice and guidance which we strongly recommend you read.

Q. How do I know if a product is classed as HFSS?

A. The Department of Health Nutrient Profiling model is used to determine if a product is classed as high in fat, salt or sugar (this is the same approach that's used for broadcast advertising). In the event of a complaint, advertisers will need to be able to show that they've correctly classified their products before advertising them. See the CAP Q&A for more information.

Q. What advice and guidance is available on the new rules?

A. We explained the thinking behind the new rules when they were announced last December. Since then CAP has produced a range of resources to support the introduction of the new rules, including guidance on:

- what the new rules mean for ad placement decisions
- using interest-based data – in addition to age data – to manage the targeting of age-restricted ads online
- brand advertising (which could be caught by the new rules if it has the effect of promoting an HFSS product)

Q. What do I need to do?

A. It's important that you have robust and rigorous processes in place for placing HFSS ads – in the event of a complaint, the ASA will expect to see evidence of the measures you have in place to target HFSS ads according to the rules, and to limit children's exposure to these ads if they're placed in media that has more general appeal. This is likely to require proactively including or excluding media from a campaign, and using data to include or exclude audiences from it. CAP advises that, if you're not confident in advance of the content of the media or the audience composition, you take a cautious approach.

Q. Are there any other rules I should be aware of?

A. The usual content rules still apply to HFSS ads and specifically, there are restrictions on using promotions, or licensed characters or celebrities popular with under-16s. This rule has been changed so that these features **can** be used in ads for **non-HFSS** products (but not in ads for HFSS products that are directed through their content at under-12s).

The new rules prohibiting HFSS ads being targeted at under-16s also apply to brand advertising if it has the effect of promoting an HFSS product. For more information see CAP's Q&A and detailed guidance.