

## Letter to the Editor

### *Marketing of unhealthy food to young children* **Brazilian Goliath skulking**

Madam

You recently published a commentary that invites us to think about our values and responsibilities regarding nutrition and public health, and about the need for appropriate relationships between health professionals, other actors, and the food, drink and associated industries<sup>(1)</sup>. Many of us in the front line have to think about this most days. For us in Brazil a striking example is the advertising of processed foods and drinks, especially to children, and this letter updates a previous letter you have published<sup>(2)</sup>. Sad to report, it seems that there is no possibility of compromise or any real common understanding between the public sector and the private sectors.

The public consultation process on proposals to regulate the advertising and marketing of food and non-alcoholic drinks in Brazil has, after 3 years<sup>(3)</sup>, now come to an end. The final hearings, the subject of consultation since 2006, were held in Brasília on 20 August. The host organisation was the national health surveillance agency ANVISA, whose statutory responsibilities to the federal government include food safety and food standards. The meeting was open to representatives from the food, drink, games, toys, advertising and allied industries and their representative organisations, as well as to civil society including consumer organisations, representatives from government, and specialists from universities, the health professions and in communications.

The ANVISA representatives began the meeting by outlining the responsibility of the State to regulate the advertising and marketing of products that are or may be harmful to public health. In response, the private sector view was, in the words of the President of the Brazilian Federation of Food Industries, that if the proposal was in accordance with ‘what we want, we will agree, if not, we will disagree’. What industry wants is no statutory regulation or restriction. Food and drink manufacturers, caterers and allied trades, now the second largest in Brazil only after oil, collectively want to preserve and enlarge their commercial freedoms.

In the past, private sector representatives have said that statutory regulation is dictatorial. They apparently no longer say this, probably because Brazilian legislation states that restriction of advertising and marketing infringes the principle of freedom of expression only when it has social value, not when its purposes are simply commercial.

The food, drink and allied industries now advocate voluntary codes of their own devising. They say this is

how things work in the European Union and the USA. However, during the consultative period, it became clear that while industry self-regulation might work in theory, in practice it does not.

Specifically in Brazil, while not – or at least not to the same extent – in North America or Europe, young children are incessantly exposed to intensive advertising. Two examples are promotions of sugary breakfast cereals by transnational manufacturers, and of burgers by transnational chain caterers, using offers of ‘super-hero’, monster, dinosaur, animal and other internationally branded toys. These are marketed in partnerships with the makers of multi-media worldwide fantasy shows devised for young children<sup>(4,5)</sup>. All this is done in the conflicted context of undertakings made by a consortium of transnational manufacturers to emphasise healthy products, and to restrict or avoid advertising and promotion to children under the age of 12 years<sup>(6–9)</sup>. The question being asked by Brazilian public interest organisations is, why are children here treated with less respect than US and European children?<sup>(9)</sup>

In the Brasília meeting, ANVISA made clear that industry self-regulation was not an option. The purpose of the consultative process was to discuss the nature and extent of statutory regulation. Proposals cover the advertisement and marketing of products high in added sugars, saturated fat, *trans* fat or sodium, and of soft drinks. Regulations are also proposed on sporting and also educational television programmes and other media aimed at children, designed to restrict the promotion of foods, drinks, toys or gifts<sup>(3)</sup>.

In part of the meeting, revisions of the draft of the proposed regulations were suggested and discussed. During this session the industry representatives were silent. Later they made some statements and lamentations. One said that as a mother she wanted her children to be unrestricted in their choices of what to eat and drink. The President of the Brazilian Association of Soft Drink and Non-Alcoholic Beverages Industries said that his members sell ‘refreshment for the mind and soul’. He said that as a father, he was comfortable that his own children consumed soft drinks since they were 6 months old. A survey was mentioned concluding that, among consumers in forty-seven countries, Brazilians most trust advertisements<sup>(10)</sup>. The representative of the National Association of Promotional Products Manufacturers stated, on the other hand, that ‘publicity does not form opinions’ and that ‘its range is insignificant’.

Industry representatives then asked ANVISA why no consideration had been given to the private sector proposal

that had been submitted. The answer was that this proposal is to have no statutory regulation, which is out of the question. Statutory regulation will be proposed. The issue that has been the topic for consultation is how extensive this should be.

The last statements from the private sector were in effect: 'See you in court'. Industry here in Brazil evidently plans to appeal to the Supreme Court as soon as ANVISA agrees and publishes any sort of statutory regulation, in the hope that our most senior judges will decide that freedom of commercial expression should overrule any consideration of the health of this nation, including of its children.

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