

Date received: August 1994

# Australian "Code of Practice for the Weight Loss Industry"

M Wahlqvist and Consumer Advocacy and Financial Counselling Association (CAFCA) working party, Melbourne, Victoria, Australia

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During the period 1993-1994 an Australian committee, concerned about the risks to consumers, and the standing of the industry, convened to develop a "Code of Practice for the Weight Loss Industry". This was catalysed by a report from the Australian state of Victoria's (Consumer Advocacy). The committee had representatives of consumer organizations, Government (State and Federal), Health Care Professions (medical, dietetic and clinical psychology) and Industry and was chaired by Professor Mark Wahlqvist of Monash University, Melbourne. It launched the Code on 24th May 1994 when key members of the industry signed an agreement. The principles of the Code are that there are agreed standards and rights for consumers: to be informed, to choose, to be heard, to redress where difficulties have arisen and to consumer education

and the objectives are:

1. To ensure that advertising gives accurate information about costs and the likelihood of success of programs.
2. To ensure that those providing weight loss programs deal openly, honestly and fairly with consumers.
3. To enable consumers to make informed choices about the products and services they purchase.
4. To achieve standardised and recognised training and qualifications for those providing weight loss programs.
5. To ensure that consumers are informed about their rights under the law and the Code of Practice before they enter into a contract.
6. To ensure timely and appropriate resolution of disputes within an established framework of dispute resolution mechanisms.
7. To ensure that weight management programs do not compromise health status.

This would appear to be the first time such a code has been agreed to by industry. It may serve as a model for other countries where there is an increasing prevalence of obesity and expansion of the weight loss industry. If it fails as a voluntary code, the Consultative Committee has recommended that it be enshrined in law.

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## Background to the Code

The weight loss industry is a national, multi-million dollar industry. It comprises many companies and individuals offering a variety of products and services to assist people to lose weight.

In 1992 a report by the Consumer Advocacy and Financial Counselling Association called "Tipping The Scales" was released. This report identified many areas of vulnerability facing consumers of weight loss industry goods and services.

As a means of improving outcomes for consumers, the Consumer Advocacy and Financial Counselling Association initiated the formation in May 1993 of the National Consultative Committee on the Weight Loss Industry. The committee membership included major players in the weight loss industry, experts in the field of health and nutrition, consumer advocates and state and federal government representatives.

The Committee broadened its terms of reference beyond the issues raised by "Tipping The Scales" to consider the health implications of dieting and weight management. It drew on a wide range of national and international documents in its endeavour to understand the social, ethical and legislative framework within which the industry operates.

The Committee proceeded through a series of meetings at which issues were discussed in detail and all members

contributed to the development of the standards. Standards were developed in the following areas: advertising, disclosure, contractual agreements, cooling off periods, refunds, dispute resolution, staff training and qualifications, sales practices, health, data collection, guarantees/ assurances, food and nutrition, monitoring and enforcement.

It was decided that the standards should form the basis of a Code of Practice for the weight loss industry. As a necessary adjunct to the development of the Code, the Committee examined various options for the implementation of the Code. It considered three main options. These were recommending legislation based on the standards contained in the Code, the use of the standards as an information guide for consumers and the formation of an industry association or code administration committee to monitor and enforce the Code.

After considering all options, the Committee made the following recommendations:

- ◆ That the weight loss industry, with input from the Government and consumer representatives form an association/ code administration committee with the role of overseeing the implementation, monitoring and

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enforcement of the above mentioned Code of Practice.

- ◆ That at the end of 12 months, this Committee should be reconvened under the aegis of the Consumer Advocacy and Financial Counselling Association, in order to review the Code and to determine whether it is an effective form of regulation.
- ◆ That in the event the weight loss industry cannot demonstrate wide spread adoption and compliance with the Code, the Committee will recommend legislation to regulate the industry.

#### **Code of Practice:**

##### **1. Principles**

1.1 The agreed standards upon which the Code of Practice is based recognise and affirm the following consumer rights:

- ◆ to be informed;
- ◆ to choose;
- ◆ to be heard;
- ◆ to redress;
- ◆ to consumer education.

##### **2. Objectives of the code of practice**

2.1 To ensure that the advertising gives accurate information about costs and the likelihood of success of programs.

2.2 To ensure that those providing weight loss programs deal openly, honestly and fairly with consumers.

2.3 To enable consumers to make informed choices about the products and services they purchase

2.4 To achieve standardised and recognised training and qualifications for those providing weight loss programs.

2.5 To ensure that consumers are informed about their rights under the law and the Code of Practice before they enter into a contract.

2.6 To ensure timely and appropriate resolution of disputes within an established framework of dispute resolution mechanisms.

2.7 To ensure that weight management programs do not compromise health status.

##### **3. Application of the code of practice**

3.1 Ideally all centres, programs and professionals will follow the Code. Those individuals or companies involved in weight loss or weight management who choose to become members of the weight loss industry association/ code administration committee will be bound by the Code.

3.2 Consumers protected by the Code will be those who deal with members of the weight loss industry association/ code administration committee.

##### **4. Advertising**

4.1 Advertisements must be truthful and accurate in content and intent and must not be likely to mislead consumers.

4.2 If any cost is stated there should be full disclosure of what entitlements that cost covers. In addition, a statement of any other products/ services that are a necessary component of the program must be included.

4.3 The weight loss industry will comply with the Slimming Advertisements Code adopted by the Media

Council of Australia. (The Slimming Advertisements Code is attached as Appendix C.)

##### **5. Disclosure**

5.1 Each weight loss provider should disclose all information that consumers request and ensure that the information provided is accurate.

5.2 Each weight loss provider should produce and provide to each consumer an information brochure/ pamphlet outlining the nature of their program.

5.3 Each weight loss provider should produce information in the form of a pamphlet or booklet outlining the consumer's rights in relation to the purchase of the weight loss program, including the company's refund policy.

5.4 The consumer's rights in relation to the weight loss program should be displayed in a prominent position in each centre.

5.5 In the initial telephone contact, the following information must be given upon request:

- ◆ the way the program operates and what is required by the consumer;
- ◆ the number of visits given in any given time frame;
- ◆ whether the visits are a mix of education/ information/ exercise/ evaluation;
- ◆ whether the program involves the purchase of pre-packaged food/ meal replacement/ or certain foods;
- ◆ the commitment that is required by the consumer to ensure the program is successful;
- ◆ any contracts that may be required;
- ◆ how the cost of the program is to be calculated, for example if a person undertook a program for three months, then the estimated cost of that program should be provided.

5.6 Upon the initial visit to a weight loss centre the following information must be given:

- ◆ the nature of program in detail;
- ◆ the full cost including expected food cost requirements/ meal replacements;
- ◆ when a client needs to seek medical advice;
- ◆ the nature of any contract or guarantee forms;
- ◆ what is expected of the consumer in order to make the program successful;
- ◆ information booklets that outline the weight loss program and the consumers rights should be provided.

5.7 Before the consumer signs a contract for the program the following information must be given:

- ◆ written information on the program, which includes the company's policy on refunds, dispute resolution and the cooling off period;
- ◆ the contract should clearly outline the expected cost of the individual's program, including the number of visits;
- ◆ an itemised food list including individual prices should be made available and in the case of programs that have a weekly menu plan, the estimated cost of the weekly menu plan.

##### **6. Contractual agreements.**

6.1 Contracts should be in writing, stating in plain and legible English the rights and responsibilities of both the consumer and the company.

6.2 Consumers for whom English is not a first language should be referred to an interpreter service to ensure that the contractual agreement is fully understood.

6.3 Contracts should not contain any harsh or onerous terms nor should they attempt to override the jurisdiction of the courts.

6.4 The contract should clearly identify the following:

- ◆ the parties to the contract;
- ◆ the service and/ or goods to be provided;
- ◆ the cost of the goods and service preferably itemised so that it is clear what the consumer is paying for;
- ◆ the time period of the contract;
- ◆ what the consumer undertakes to do.

6.5 The contract should state whether any express warranties apply to the goods or services and if so what these are. Under no circumstances should the contract attempt to exclude any statutory protection.

6.6 The contract must indicate that there are procedures to be followed in the case of a dispute, which are annexed to the contract.

6.7 All contracts relating to the provision of weight loss programs should contain a clause stating that the company agrees to comply with the Code.

6.8 Contracts shall not bind clients to a weight loss program for more than a period of 12 months, after which the contract can be renewed if the client wishes to continue the program.

6.9 The clause in the contract providing for the cooling off period shall be in bold type and drawn to the attention of the customer at the point of sale.

### 7. Cooling off period

7.1 A Cooling-off period of five (5) days will apply to all pre-paid programs costing in excess of \$50. If any service of a professional nature is provided within the five (5) day period, for example, by a doctor, dietician, nutritionist or psychologist, the consumer must pay for the service in accordance with the scheduled fees.

7.2 If any products (with the exception of fresh or frozen foods) are provided within the cooling off period, these must be returned unused with the packaging, if any, intact. If products are not returned within the five days they must be paid for at the scheduled price.

7.3 Termination of a contract during the five day cooling off period shall be in writing and the termination notice shall be served by:

(a) delivering it in person or having it delivered to the weight loss centre where the product was purchased or to the company's head office;

(b) posting the notice to the weight loss centre or its head office by certified mail within five days of entering into the contract. Service by post shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the termination notice through Australia Post.

7.4 Notice of the cooling off period shall be given in bold, 14 point type and shall be prominently displayed in the body of the contractual agreement and shall be in the following form:

**You the consumer may cancel this agreement at any time prior to 5 pm. on the fifth day following the date**

**of this contract. To cancel this agreement, mail/ fax/ deliver a signed and dated notice to this effect to (name and address of company).**

### 8. Refunds

8.1 All refunds allowable under this policy shall be provided, in the ordinary course of events, within 14 days and not more than 30 days following the date of the written request by client.

8.2 A request for a refund shall be a request in written form. The company shall provide a standard form to be filled in by the client setting out: the date the refund was requested and the reasons given. The company shall also provide a client with a copy of the company's refund policy and the name of the person with authority to process the refund.

8.3 A company shall provide a pro rata refund in respect of service or product in the following circumstance:

(a) Where a client has been diagnosed by a medical practitioner to have a physical or mental illness and where it would be detrimental to continue the program and this is substantiated by a medical certificate.

(b) Relocation of residential address to a distance that would entail the consumer travelling an additional 20km or more to a weight loss centre and a correspondence or long distance program is not considered to be suitable by the client.

(c) On the death of the client, his/ her beneficiaries shall be entitled to the amount of moneys remaining under the contract.

8.4 Pro-rata refunds are to be calculated according to the total purchase price and the number of remaining days or visits of the program.

8.5 If a weight loss program consists only of the provision of food products or vitamin pills and these are provided in the form of regular consignments, then the client shall be entitled to a refund of the unused goods for the period of agreed consignment.

### 9. Dispute resolution

9.1 All weight loss centres should develop clear procedures for the internal resolution of complaints and disputes. The procedures should include the following:

- ◆ a clear point of entry for a complainant to have a dispute considered;
- ◆ clear steps that are readily accessible;
- ◆ defined lines of responsibility;
- ◆ defined timelines for resolution;
- ◆ access to all relevant documents;
- ◆ traceable decisions.

9.2 Each weight loss company shall produce information on dispute resolution procedures in their company that includes:

- ◆ a clear statement of rights;
- ◆ a clear statement of steps in the resolution process and how they can be accessed;
- ◆ timelines;
- ◆ appropriate contact person within the company.

9.3 Information on dispute resolution processes should be made available and be appropriately displayed in all branches.

**9.4** All staff employed by a company should be fully familiar with the company's policies and procedures relating to all aspects of dispute resolution.

**9.5** Specific requirements relating to the resolution of disputes by the industry shall be:

- ◆ that where possible the dispute be resolved at the centre level;
- ◆ that the dispute be referred to a specified person who has the authority to resolve disputes and the name and telephone number of that person shall be provided to the client;
- ◆ that at each step in the process the consumer be informed of where they are in the process and the identity of the person dealing with the dispute.
- ◆ decisions must be provided in writing, including reasons for the decision;
- ◆ consumers must be provided with a brochure on the Weight Management Complaints Committee.

A company has 14 days in which to notify a client of the outcome of their complaint. If after 14 days the client has not received the company's response or the decision/proposed resolution is disputed, application can be made to external dispute resolution procedures.

If the company fails to respond to the client within 14 days, the resolution of the dispute will be deemed to be made in favour of the client.

A company has 30 days to act upon the outcome of a decision/proposed resolution where the decision is not disputed by the consumer.

### **10. Staff training and qualifications**

**10.1** All staff employed in the weight loss industry should have qualifications that are approved by the industry "Qualification and Training Accreditation Committee".

### **11. Sales practices**

**11.1** Each weight loss centre shall ensure that its management and staff act in an ethical and professional manner and that they do not use unfair sales methods to sell products or services.

### **12. Health**

**12.1** All weight loss programs will administer the health assessment screening questionnaire before consumers are signed up for a program.

**12.2** The following principles apply:

- ◆ That where any concomitant health problem exists, or where a change in weight may affect health adversely, the advice of a registered medical practitioner should be sought by the client before embarking on the program.
- ◆ Information about short and long term effectiveness, risks and benefits should be provided. These will include, for example, effects on self esteem, and body image.
- ◆ Any product supplied or sold should not comprise health status.
- ◆ The industry should be responsive to research findings in the field of weight management.

The usual ethics of health care providers should apply.

### **13. Data**

**13.1** Companies should within five years of the introduction of this Code, move toward developing data collection systems that are uniform to the weight loss industry. The data will comprehensively identify in statistical form:

- ◆ weight loss success rates;
- ◆ weight loss program participation duration;
- ◆ before and after program weight loss comparisons;

**13.2** The industry is to formulate guidelines for the collection, storage and publication of data.

### **14. Guarantees/assurances**

Guarantees of weight loss outcomes may not be given.

### **15. Food and nutrition**

**15.1** The weight loss industry will comply with prevailing standards of food and nutrition labelling laws.

**15.2** Programs will be nutritionally adequate.

**15.3** Details concerning shelf life of products are to be provided.

### **Facility for the Code to be reviewed and amended:**

#### **16. Administration**

**16.1** This Code will be administered by the Weight Management Code Administration Committee (WMCAC).

The committee is made up of:

- ◆ An independent Chairperson
- ◆ Industry representatives:
  - three representatives from national weight management companies (trading in at least three States/ Territories)
  - two representatives from Victorian based firms
  - one representative of sole traders
- ◆ Consumer representatives
  - one representative from the Consumer Advocacy and Financial Counselling Association of Vic (CAFCA)
  - one representative from the Australian Federation of Consumer Organisations (AFCO).
- ◆ Government representative
  - a representative from the Victorian Office of Fair Trading and Business Affairs (OFTBA)

Secretarial services for the WMCAC will be provided by the Victorian Employers' Chamber of Commerce and Industry (VECCI)

#### **The inaugural WMCAC comprises:**

- ◆ Professor Mark Wahlqvist, Chairman
- ◆ Representatives from Gloria Marshall Figure Salons of Australia, Jenny Craig Weight Loss Centres and Weight Watchers.
- ◆ A representative from CAFCA
- ◆ A representative from OFTBA

It is expected that further appointments will be made as companies and individuals become Code Signatories.

The WMCAC can appoint sub committees comprising such persons as are deemed to have the necessary expertise to carry out specific functions.

**16.2** The tenure for representatives shall be a period of two years. Tenure is renewable to facilitate continuity on the Committee.

16.3 A quorum for meetings of the WMCAC shall be four.

16.4 The WMCAC will meet at least once each quarter to administer the Code.

**17. The WMCAC will be responsible for:**

- ◆ determining eligible Code Signatories
- ◆ monitoring and reporting on compliance with the Code
- ◆ handling consumer complaints against Code Signatories
- ◆ imposing sanctions for non compliance with the Code
- ◆ ensuring industry and consumer awareness of the Code
- ◆ collecting data on the operation of the Code and preparing an Annual Report
- ◆ conducting periodic reviews of the Code's effectiveness and, where necessary, recommending amendments.

**18. Weight management complaints committee**

Code Signatories agree that if they cannot resolve a complaint at firm level, they will refer the consumer to the Weight Management Complaints Committee and to abide by the decisions of that Committee. A brochure outlining the Committee's powers and procedures is attached.

**19. Sanctions**

Where a breach of the Code has been determined, the WMCAC will seek corrective action to be taken. Such action is not limited to but might include requiring:

- ◆ advertising to be amended or withdrawn
- ◆ information products to be amended or clarified
- ◆ warnings or censures

If corrective action is not taken within the time allocated, the WMCAC may suspend the Signatory's membership for a set time period, or, the Signatory may be expelled.

Where the WMCAC recommends expulsion, it must make a report of the Signatory's conduct to the Office of Fair Trading and Business Affairs and allow the Signatory to make an appeal for continued participation. A decision of the Director of Fair Trading and Business Affairs will be final. Following suspension or expulsion, the Signatory must not claim Signatory status in advertising or at trading premises.

**20. Promotions**

The WMCAC will ensure that adequate publicity is given to the Code. The WMCAC will produce suitable promotional material for use by the Signatories. All promotional material by individual Signatories referring to the Code will need to be approved by the WMCAC.

**21. Data collection**

The WMCAC will keep data on a confidential basis on:

- ◆ the number of complaints lodged by and about whom
- ◆ the nature of the complaint and the outcome of the complaint
- ◆ details of monitoring activities undertaken
- ◆ the number of breaches of the Code, by whom and any sanctions imposed
- ◆ performance data relating to weight loss success rates, weight loss participation duration and before and after program weight loss comparisons. Companies are

required, by the Code of Practice, to develop a data collection system within five years.

**22. Annual report**

The WMCAC will produce an Annual Report for Code Signatories and interested parties summarising the complaint and monitoring functions and including such other information as is deemed useful or necessary.

**23. Review**

The WMCAC will review the effectiveness of the Code after the first twelve months of operation (July 1995), and thereafter, bi-annually.

**Code signatories**

Persons or organisations who believe there is a reasonable expectation that there will be a genuine fat loss as the result of using their service or product and who support the objectives of this Code may apply to the Weight Management Code Administration Committee (WMCAC) to become Code Signatories. Applicants are required to supply the documents listed below, to pay such fees as determined by the WMCAC and to sign an undertaking to adopt the Code and procedures for its administration. Code signatories will be issued with a signatory's certificate.

A Signatory must return the certificate if required to do so by the WMCAC. A person or organisation which has not paid the required fees is not entitled to make a claim that they are a Code Signatory.

**Documents to accompany application**

The following documents must accompany the application (numbers refer to Code sections):

1. Information brochure(s)/pamphlet(s) outlining:
  - ◆ the nature of the weight loss program including products and service (5.2)
  - ◆ the consumer's rights to (5.3)
    - pre-contractual information disclosure (5.7, 5.8)
    - written contracts (6)
    - cooling off (7)
    - refunds (8)
    - dispute resolution procedures (9)
2. Written contract used
3. Existing staff qualifications and training methods

**Membership fee**

A membership fee of \$2750 for a company and \$1000 for an individual must accompany the application to claim Code Signatory status for a period of twelve (12) months and to use for that period, the Weight Management Code of Practice logo in advertising. It also provides the Signatory with access to staff training guidelines and an independent complaints system.

**Appendix A-- Health Assessment Guidelines**

**Aim**

To encourage providers of weight reduction programs and products to take greater responsibility for the health and well being of the consumers of the goods and services. In addition, to encourage greater discretionary awareness by the consumers of the health implications of the goods and services.

**Objectives**

To protect the health of the consumer of a weight loss program or product by:

1. minimising the chances of the weight reduction program or product exacerbating a pre-existing ailment or medical circumstance;
2. gaining professional medical input where applicable to enhance the chances of the weight reduction program or product benefiting a pre-existing ailment or medical circumstance.

To protect the Company offering the weight reduction service or product from legal action.

**Strategy**

To design a health screening questionnaire to be used by companies offering weight reduction programs or products and to be completed and signed by clients prior to undertaking a commitment to purchase weight reduction services or goods.

The health screening questionnaire is to include:

1. A range of conditions that would automatically exclude a prospective client from participation.
2. A range of conditions for which independent medical assessment and input is desirable. Such input may include recommendations and suggested modifications with respect to the program content and product usage.

**Questions for the Health Screening Questionnaire**

**Automatic exclusion conditions** (except where service is provided by professionally qualified doctor, dietician)

- ◆ Pregnancy
- ◆ Coeliac disease and malabsorption diseases
- ◆ Adolescent diabetes
- ◆ Medications that contain: Mono-amine oxide, Lithium, Anticoagulants
- ◆ Eating disorder
- ◆ Obese or overweight children (until they have finished puberty)

**Requires independent medical assessment and input**

- ◆ History of an eating disorder
- ◆ Body mass index below 20
- ◆ Cancer
- ◆ Diabetes
- ◆ Epilepsy
- ◆ Gall Bladder or Stones
- ◆ High blood pressure or high blood cholesterol
- ◆ Liver or kidney disease
- ◆ Major surgery-- 3 months post operatively
- ◆ Breast feeding
- ◆ Gout
- ◆ Gastro intestinal disease
- ◆ Medications-- e.g. steroids, anti-depressants
- ◆ Thyroid disease
- ◆ Chest pain (undiagnosed) or severe shortness of breath
- ◆ Angina
- ◆ Cardiac arrhythmia
- ◆ Heart disease/ heart attack/ coronary bypass surgery
- ◆ Depressive illness
- ◆ Food allergies or sensitivities

- ◆ Have you had any special medically prescribed diet for health problems?
- ◆ Do you have any physical limitations with respect to exercising?
- ◆ Do you have any other illnesses/ medical conditions?  
*Any conditions or circumstances as listed in section 2 should cause the Company to liaise with a physician who is aware of the clients history.*

**Company responsibilities**

- ◆ Company contact name and number for further discussion
- ◆ Consent form for the physician to complete

**Doctor's responsibilities**

- ◆ Written approval
- ◆ Recommendations or modifications to suit the person's condition
- ◆ Recommend frequency of consultations with the physician in supervision of the client

**Appendix B-- Weight Loss Program Staff****Aim**

To provide a high standard of client centred service to those wishing to lose weight.

**Objectives**

To ensure that all weight loss centre staff involved with client counselling activities have reached a minimum standard of training. This minimum level should serve the purpose of ensuring that staff have:

- ◆ Competency to address the day to day needs of clients;
- ◆ sufficient knowledge of their roles, responsibilities and limitations;
- ◆ the capability to assess satisfactorily, so that those clients requiring advice of a specialised nature can be referred on to a person with the appropriate expertise.

**Staff training and in-service programs should cover the following topics:**

**Nutrients**

- ◆ essential, non essential
- ◆ energy, nutrients, water and dietary fibre
- ◆ vitamins, minerals & trace elements

**Process**

- ◆ The process of weight loss
- ◆ The process of weight gain
- ◆ How different calorie intakes affect us

**Health Issues**

- ◆ Assessment
- ◆ Diseases related to overweight and obesity
- ◆ Eating disorders
- ◆ Body image and self esteem
- ◆ Lifestyle issues

**Diet and Exercise**

- ◆ The role of exercise
- ◆ Calorie restriction
- ◆ Combination of the above to suit different individual needs

**People Skills**

- ◆ Basic listening & counselling skills
- ◆ Group work skills

- Other Skills**
- ◆ Presentation skills
  - ◆ Basics on how people change their behaviour
  - ◆ Public relations
  - ◆ Consumer rights
  - ◆ Professional issues

Regular staff performance evaluation should be an integral part of management practice.

**Job Description for Weight Loss Industry Staff**

**Key selection criteria to include:**

- ◆ ability to assist in recording health status according to standard assessment criteria;
- ◆ ability to provide basic counselling on human nutrition, behaviour change principles;
- ◆ ability to explain basic process of weight loss and gain, role of exercise;
- ◆ demonstrates a good understanding of health issues as they affect: disease relating to overweight and obesity; eating disorders; lifestyle issues;
- ◆ demonstrates an understanding of consumer rights and their application;
- ◆ successfully completed a recognised course of training appropriate to the intended level of responsibilities.

**Duties and responsibilities**

(according to organisation requirements) include:

- Roles**
- ◆ promotion and selling of the product;
  - ◆ counselling;
  - ◆ education.
- Training**
- ◆ To have successfully completed a recognised formal training program.

**Appendix C-- Slimming Advertising Code**

The Advertising Codes of the Media Council of Australia apply only to the content of advertisements submitted for publication or broadcast by constituent members of the Media Council of Australia and members of constituent and associate organisations of the Media Council of Australia.

In this Code the term "advertisement" shall mean matter which is published for payment or other valuable consideration and which draws the attention of the public, or a segment thereof, to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly that product, service, person, organisation or line of conduct.

The Codes have been adopted by the Media Council of Australia to be applied within the advertising self regulation system.

This Code shall be applied in conjunction with the Advertising Code of Ethics, relevant sections of the Therapeutic Goods Advertising Code and State and Territory food legislation, as it applies to advertising content.

The object of this Code is to regulate advertising in which claims are made in respect of weight loss, slimming,

weight control, or measurement loss, where weight loss is stated or implied.

To lose weight a person must consume fewer kilojoules/ calories than the body expends. Eating plans provide information on a regimen of food items with quantities to be consumed within a fixed period of time, usually a 24 hour period. Menus and recipes may also be included in the eating plan. There is no single correct eating plan but rather a large number of acceptable options, all of which could achieve the desired goal of controlling or reducing weight and maintaining weight loss. Exercise programs can be included in an eating plan to further increase the deficit between energy input and energy output and so facilitate weight loss.

This preface forms part of the Code.

**The code**

1. The conformity of an advertisement with this Code will be assessed in terms of its probable impact, taking its contents as a whole. upon a reasonable person within the class of those to whom the advertisement is directed and also taking into account its probable impact on persons within other classes to whom it is likely to be communicated.
2. All advertising which includes a weight loss claim shall conform to the requirements of this Code.
3. An advertisement for exercise, lifestyle programs or similar offers, other than as prohibited by Clause 11 of this Code, that contains a reduction, or loss claim for weight, fat, measurement or cellulite must acknowledge that, for such a reduction, or loss to occur, a deficit is required between energy input and energy output.
4. Aids to weight loss, being some foods, food substitutes, appetite suppressants and exercise can be advertised in terms which make clear that they can only be effective when taken in conjunction with or as part of a "kilojoule/ calorie controlled eating plan" or words to that effect.
5. Advertisers of weight loss programs shall submit evidence in the form of a certificate from a qualified dietician or a registered medical practitioner, confirming:
  - (a) the suggested eating plan will provide adequate amounts of protein, carbohydrates, fats, vitamins and minerals.
  - (b) the eating plan is safe and capable of achieving the results claimed.
6. Advertisements for foods offered as meal substitutes shall conform with the provisions of State and Territory food regulation.
7. No advertisement shall provide for an eating plan with an energy content of less than 3,500 kilojoules (800 calories) per day nor promote rapid weight reduction.
8. Advertisements shall not make a promise of loss of a specified weight nor a promise of weight loss within a specified time.
9. Loss of measurements on different parts of the body shall not be aggregated within one claim.
10. Testimonials supporting weight loss claims by individuals:

- ◆ shall be current, representative of average weight loss, and not be from an exceptional case.
- ◆ shall state the period over which claimed weight loss was achieved.
- ◆ shall be supported by a signed release by the individual making the testimonial, granting permission for publication, plus photocopies of progressive weight loss records.

**Addendum 1--** This Addendum forms part of the Code.

**Complaint procedures**

Any person or organisation may complain about advertisements believed to be in breach of this or any other Code of the Media Council of Australia. Written complaints may be submitted direct to the publisher of the advertisement or to:

Advertising Standards Council  
10th Floor, 98 Arthur Street  
North Sydney, NSW 2060

Complaints should include a copy of the advertisement, where possible, or pertinent details of its appearance and nature such as the identity of the publisher and the date and time of publication.

**Addendum 2--** This addendum forms part of the Code.

**Administration of code**

Advertising copy covered by this Code shall be submitted for clearance within a reasonable time prior to initial schedule.

**Copy should be addressed as follows:**

*In the case of print advertisements to:*

Manager  
Australian Publishers' Bureau  
10th Floor, 98 Arthur Street  
North Sydney, NSW 2060  
Fax No: (02) 954 9105

Typed copy with rough layout (and size) is the minimum requirement.

*In the case of radio commercials to:*

Commercials Clearance Officer  
The Federation of Australian Radio Broadcasters Limited  
Suite 10 Garden Mews  
82-86 Pacific Highway  
St. Leonards, NSW 2065  
Fax No: (02) 906 5254

A completed reel-to-reel tape (recorded at 19.05cm/ sec or 38.1cm/ sec.) together with two copies of the script of each commercial shall be submitted.

*In the case of television commercials to:*

Manager  
Commercials Acceptance Division  
Federation of Australian Commercial Television Stations  
44 Avenue Road  
Mosman, NSW 2088  
Fax No: (02) 969 8147

A completed video cassette (VHS or Beta 1/2" formats) should be submitted together with one copy of final audio and video, scripts with all super-impositions and other

documentation as required by the Commercials Acceptance Division.

*In the case of outdoor advertising to:*

The Outdoor Advertising Association of Australia Inc.  
51A Hill Street (PO Box 481)  
Roseville, NSW 2069  
Fax No: (02) 416 5316

*In the case of cinema advertising to:*

Australian Cinema Advertising Council  
51A Hill Street (PO Box 481)  
Roseville, NSW 2069  
Fax No: (02) 416 5316

Approval by the Code authorising bodies does not absolve the advertiser from legal obligations called for by the Acts, Regulations and Standards of the Commonwealth, States and Territories.

**Appeal procedures**

Notwithstanding any other provision of this Code, an advertiser whose advertisement has been denied approval under this Code on the ground that it is not in compliance with this Code, shall be entitled to appeal against such denial by giving to the relevant clearance body a written notice of appeal setting out the grounds for such appeal. Any such appeal shall be determined as soon as practicable by a committee comprising four members namely, the Chairman of the Advertising Standards Council (who shall be Chairman of the Committee), a Deputy Chairman of the Advertising Standards Council, two other members of the Advertising Standards Council as the Chairman thereof shall nominate for that purpose being one of the members representing the Australian Association of National Advertisers and one member representing the media. In the event of an equality of votes the Chairman shall have the casting vote. Such committee shall give the advertiser and the relevant clearance body reasonable notice of the date of the meeting at which such appeal is to be determined which notice shall invite written submissions to be lodged with the Executive Director of the Advertising Standards Council before such date. In reaching a decision, the committee shall have regard to the written submissions if any, made by the relevant clearance body and the advertiser or its advertising agent as the case may be, and any other matter it considers relevant. Such committee shall deliberate in camera and shall maintain strict confidentiality in relation to its proceedings. The committee shall not receive oral submissions unless directed by the Chairman. Such direction shall only be given if the Chairman considers the circumstances to be exceptional. In that event, the committee shall give the advertiser and the relevant clearance body reasonable notice of the time and place of the meeting.

For Application Information to become a signatory to the Weight Management Code of Practice, please contact:  
Weight Management Code Administrative Committee  
C/ VECCI, PO Box 21, Hawthorn VIC 3122  
Phone (03) 810-6333



## Australian "Code of Practice for the Weight Loss Industry"

M Wahlqvist and Consumer Advocacy and Financial Counselling Association  
*Asia Pacific Journal of Clinical Nutrition (1995) Volume 4, Number 2: 211-219*

## 澳大利亞減肥行業的實行標準

## 摘要

1993-1994 年間一個澳大利亞委員會召集會議，並建立了減肥行業的實行標準，以保證消費者的利益和行業的標準做法。這是由澳洲維多利亞省消費者辯護和財政商討協會 (CAFCA) 的一個報告所促進的。該委員會代表了消費者團體、政府（州與聯邦）、健康護理專業（醫學的、營養的和臨床心理學的）和行業本身，並由墨爾本、蒙納殊大學 (Monash University) Mark Wahlqvist 教授擔任主席。當主要行業成員簽訂協議後，該標準在 1994 年 5 月 24 日開始實施。該標準的原則是同意標準做法和消費者的權益：如告發、審理，糾正已出現的困難、教育。該標準的目的是：

1. 保證廣告刊登出收費和計劃成功可能性的準確資料
2. 保證所提供的減肥計劃對消費者是公開的、誠實的和公正的
3. 使消費者能夠告訴他們獲得的服務和結果
4. 使那些提供的減肥方案達到統一標準和合格
5. 保證告訴消費者在訂立合同前有關在法律和實施標準的權利
6. 保證及時地和適當地在同一機構內解決爭執
7. 保證減肥方案不會損害健康

這將是首次被行業同意的準則。它或許會成為那些肥胖症發病率正在增長和減肥行業正在發展的國家的模式。如果違反上述自願的原則，協商委員會已建議採取法律行動。