

Title

bvA FNLI GIDS Content Creators & Foodadverteerders. Update November 2019

Original document linked below. This is an unofficial, non-binding translation from GRS

<http://www.g-regs.com/downloads/NLFoodbvAFNLIcontentcreatorsNov2019NL.pdf>

Table of contents

Introduction	1
How does the guide work?	1
Check your Campaign & Creator - overview	2
Regulations	3-4
• Self-Regulation	
• Legislation	
• Codes of conduct	
No food advertising to under 7's	4
Nutritional criteria	4
Content & audience restriction	4
Subjective criteria for digital channels	5
Extra care when using Content Creators	5
Subjective check Creator & Creation	6
Qualitative checks: Creator	6
Qualitative checks: Creation	6
Additional tips	6
Responsibility	7

Introduction

Why this extra attention for Content Creators?

Content creators (vloggers, YouTubers, social talents) are also interesting **influencers** for food advertisers to work with commercially. With their own playful video creations about recipes, new products (unboxing, i.e. being taken out of the box and being used for the first time by a 'real' person), challenges and games, they appeal to a young target group, who watch linear television less and less. But beware: the extensive range of rules that applies to food advertising applies without prejudice to working with content creators on social media channels.

The transfer of the principles of responsible advertising to social media presents challenges. How do you identify advertising and how do you determine an audience restriction online? bvA and FNLI have drawn up this guide to provide food advertisers with a guide on how to advertise responsibly in this environment as well.

The guide is based on round-table and internal discussions with experts from PepsiCo, Coca-Cola, Nestlé, Unilever and McDonald's, and some of their agencies and Multi-Channel Networks (MCNs).

There has also been consultation with Stichting Reclame Code (SRC - Advertising Code Foundation). The guide was first published in 2017. This update includes new developments in legislation and self-regulation.

How does the guide work?

Under the headline "Check your Campaign & Creator," you will first of all see a complete overview of the applicable rules from the law and from self-regulation.

Then the regulatory territory is mapped step by step. You can also navigate from the overview directly to and from pages with explanatory notes via links. The guide includes checks on creator, creative (the campaign and the communication) and extra tips.

The extra qualitative checks can help to stay within the regulatory framework while working with content creators as a food advertiser.

Any questions? Please contact us via info@bva.nl or info@fnli.nl

Overview:
Check your Campaign and Creator

Click on the underlined topics for more information. The topics are as follows in the order shown in the pdf, linked to the respective pages

[Under 7](#)

[Meet nutritional criteria from the Food Code?](#)

[Check that the audience is not 25%+ children](#)

[Digital channel? Extra subjective checks](#)

[Do a qualitative check on your creator/ influencer](#)

[Do a qualitative check on creative](#)

Know the rules:

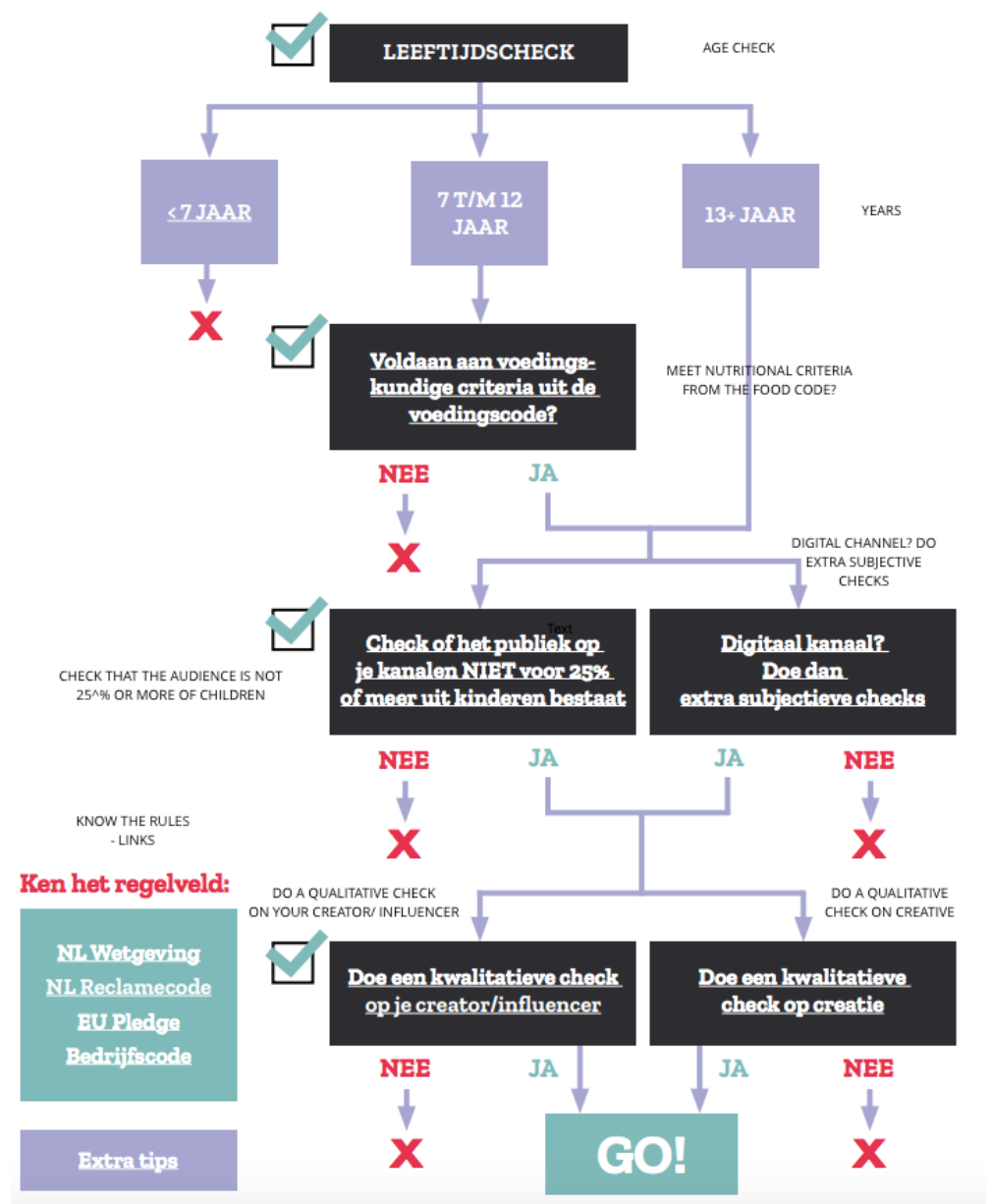
[Legislation](#)

[Dutch Advertising Code](#)

[EU Pledge](#)

[Codes of Conduct](#)

[Additional tips](#)



Self-Regulation from the [Dutch Advertising Code](#)

General

Advertising:

- Must be in accordance with the law, the truth, good taste and decency
- Shall not be dishonest.

Advertising Code for Food Products

- Advertising to those of 7 to 12 years of age only if product meets criteria.
- No advertising to those under 7 years of age.
- The only exception to this is if advertising is created in collaboration with the government and / or another recognised authority in the field of nutrition, health and / or exercise aimed at children up to 12 years old.
- **New in 2019: restrictions on children's idols also apply to packaging and point-of-sale material.**

Code for Advertising directed at Children and Young People

Advertising:

- Must be recognisable to children.

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- Must not encourage 'moaning' (incite parents or others to buy the products advertised)
 - Must not offer a benefit in exchange for "likes" or other reactions.

NB: no encouragement for "likes" at all for foods that do not meet the nutritional criteria.

[Advertising Code for Social Media and Influencer Marketing](#)

Advertising:

- Must be recognisable in social media (disclosure).
- May not encourage those up to 12 years old to advertise.

NB: the code was updated in 2019 with examples for making advertising recognisable by social platform and type (video, static, live / streaming, audio only)

[Back to Overview](#)

Legislation

[Media law](#)

(transposed from European media law AVMSD)

- Media offerings must not cause moral or physical detriment to minors.
- No product placement in or around children's programmes.

This only applies if content is offered by an audiovisual media service / broadcaster and is therefore classified as a "programme" under the current Media Act. No encouragement for 'likes' at all for foods that do not meet the nutritional criteria.

NB: the scope of the AVMSD has been extended to social video platforms. This should be transferred to national legislation by September 2020. GRS note – this has now happened: <https://wetten.overheid.nl/BWBR0025028/2021-01-01>

[Unfair Commercial Practices Act](#)

- Do not mislead and be transparent.
- No surreptitious advertising in social content.

[AVG](#) (EU GDPR)

- Parental consent when processing personal data <16 years old.

NB: social platforms therefore set an age limit of 16 or 13 years old for creating a social media account or for subscribing to a channel.

[Back to Overview](#)

Codes of Conduct

[Pledge with industry group commitments](#)

EU Pledge - Multinational Food Advertisers

- If a participant, this code of conduct applies to all media channels as with the Dutch Food Code.
- If a participant, you can arrange independent monitoring of compliance.

Differences EU Pledge compared to Dutch self-regulation

- Contact to check the creation / content of the message (this is not stated in the Dutch food code).
- Public threshold is 35 percent (in the Netherlands this is 25 percent).
- Applies to children under the age of 12 (in the Netherlands this is up to and including 12 years).

[Company Code of Conduct](#)

- Individual company's policy: extra rules based on CSR / 'purpose' objectives.
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[Back to Overview](#)

No food advertising to those under 7 years old

The Advertising Code for Food Products states that no food advertising may be directed to children under 7 years of age. The only exception to this is if advertising is created in collaboration with the government and / or another recognised authority in the field of nutrition, health and / or exercise aimed at children up to the age of 12.

So do not focus specifically on this young target group and do not advertise in media / platforms with an audience that consists of 25 percent or more of children under 7 years old. So, also no:

- Colouring pages.
- Games clearly for those under 7 years old.
- Display or other advertising on sites intended for younger than 7 years old, even if the users appear to belong to an older group.

NB: with regard to the audience limit of 25 percent: there is no [widely accepted online reach research yet](#).

[Back to Overview](#)

Nutritional criteria for 7 to 12 years

You may only target advertising to children from the age of 7 if your product meets the nutritional criteria set in the Advertising Code for Food. These include:

- Maximum calories
- Maximum salt
- Maximum saturated fat
- Maximum sugar

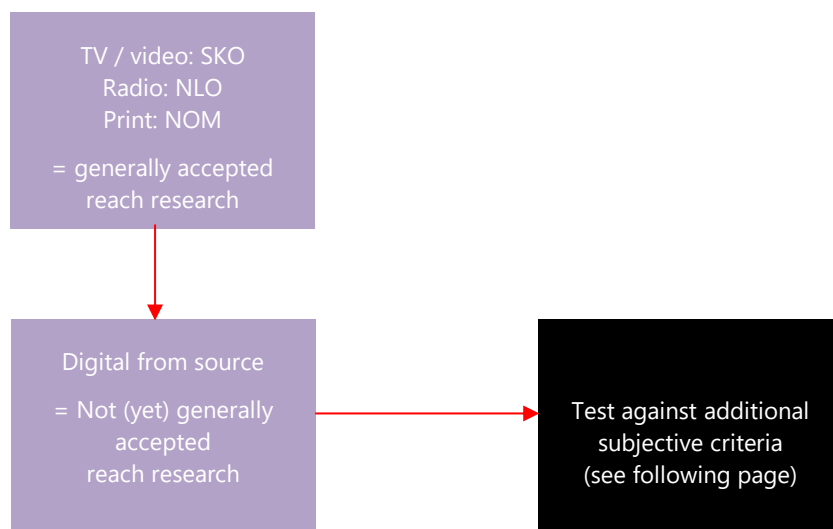
[See overview in the Advertising Code for Foods.](#)

Does your product not comply with this? In which case, stay away from or around content (RTV, digital, mobile) with an audience that consists of 25 percent or more of children. NB: there is no [widely accepted online reach research yet](#).

[Back to Overview](#)

Content & audience restriction

There are various channels and media carriers for content, but the rules are the same. SO, the audience threshold from the Advertising Code for Food Products (25 percent or more are children) applies without prejudice to:



[Back to Overview](#)

Subjective criteria digital channels

Because there is no widely accepted reach research for digital channels, some subjective criteria have been used for various digital forms in the monitoring system of the EU Pledge. You can also see these in the review systems of the Dutch FNLI / SRC and the latest VWS / Panteia report (2018). (GRS note: VWS is the Ministry of Health and Welfare). Also test your digital campaign against the subjective criteria that are used in digital advertising monitoring:

Tone of voice

- The website or subpage uses informal language, which is aimed directly at young people of primary school age, by promoting products / goodies (for example: "would you like a...?") And by referring to children's parties, handing out in the classroom, or primary school situations (for example by mentioning "the teacher").

Appearance

- The website or subpage is designed in an attractive way for children, for example in the use of colour, the use of "characters" / children's idols and playful / interactive elements.

Child-oriented components

- Parts of the website are clearly aimed at children, such as games, competitions and offering material for presentations.

[Back to Overview](#)

Subjective criteria digital channels

Younger than 7 years old versus 7 to 12 years old

- Based on these criteria, is the digital channel or parts of it aimed at a child younger than 7? Do not use it, because there is a general ban on food advertising in such channels. The only exception to this is when advertising is created in collaboration with the government and / or another recognised authority in the field of nutrition, health and / or exercise aimed at children up to 12 years old.
- On the basis of these criteria, is the digital channel or parts of it aimed at a child aged 7 to 12? Check whether your product meets the [nutritional criteria](#).

Age check and parental consent

- Is an age check used for those up to and including 12 years old? If so, is the content associated with this age check also clearly aimed at 13 years and older?
- Are you doing a tell-a-friend or email campaign aimed at 7 to 12 years of age for a product that meets the nutritional criteria? Then make sure you have parental consent.

[Back to Overview](#)

Extra care when using Content Creators

- If your product does not meet the nutritional criteria, then you want to rule out that the use of content creators / influencers means a target group under the age of 13 is reached. However, the available technology for this is not always sufficient, because:
 - Young people under the age of 13 can pretend to be older than they are or use someone else's account.
 - There is not (yet) generally accepted reach research for digital channels such as YouTube, Facebook, Instagram, Snapchat, TikTok or Twitch.
 - The social media channels provide usage data according to the minimum age, which you must have to create an account.

This is in rapid development. For example, platforms are taking steps to provide more resources to exclude too young an audience. What you as an advertiser can do in the meantime is go through these subjective [checks](#).

[Back to Overview](#)

Subjective check Creator & Creation

1. Check the creator: you can assess the content creator based on a number of qualitative factors. This is the responsibility of all stakeholders involved in the collaboration between brand and influencer. To this end, bvA in collaboration with some major food advertisers
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and their agencies [prepared a checklist](#). It must be possible to answer 'yes' to every question.

2. Check creative: look carefully at your campaign creative and its expressions.
3. Also read these [extra tips](#).

[Back to Overview](#)

**Qualitative checks:
Content Creator**

- Is the age of the chosen influencer at least 16 years old - taking into account that the supporters are on average at least 1 to 2 years younger than the influencer himself?
- Based on the language used in previously posted vlogs, can you state that the influencer appeals to young people over 13?
- Based on the topics in previously posted vlogs, can you state that the influencer appeals to young people over 13?
- Check for featured vloggers; who is the influencer friends with, who do many appear as a guest in his / her vlogs? Are these people also vloggers themselves and if so, do they meet the guidelines in this checklist?
- Have you requested the demographics of the viewers from YouTube analytics? And is a large enough proportion over 15 so that it can be assumed that this is the main vlog group? Keep in mind that Google does not report anything under the age of 13.
- The influencer's profile is NOT linked to toys, crafts, playful children's activities, games for up to 12 years old or 'characters' / idols that are loved by children.
- The influencer himself/ herself is NOT known as a child idol (see [extra tips](#)).

Missing one or more check marks and your product does not meet the nutritional criteria? Then adjust your creative or creator choice.

[Extra tips](#)

[Back to Overview](#)

Qualitative check: Creative

To ensure that your campaign or the specific video that the content creator has made does not have any particular appeal to children, we recommend that you do a substantive check beforehand:

- Language use: pay attention to tone-of-voice and choice of words (tutor vs teacher, study day vs school day).
- Setting: is the environment specifically attractive to children (e.g. amusement park, playground, schoolyard)?
- Style: is use made of animation, cartoons, catchy tunes, fantasy images?
- Topic: is there a link with toys, crafts, playful children's activities, games for up to 12 years old or 'characters' that are loved by children (e.g. Harry Potter, Shrek, Dora)?

Not sure? Adjust your creative treatment or your creator choice if your product doesn't meet the nutritional criteria.

[Back to Overview](#)

Additional tips

- Directly or via your agency (s) also point out the applicable content creators' rules for social media and the additional rules for food advertising.
 - Keep a whitelist or blacklist in consultation with your agency (s).
 - If reference is made to other social media, such as a Facebook page, make sure that it is actually aimed at children older than 13 years (use of language) or that the link with the page is also a foreclosure moment (so no open page).
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- Check regularly via search engines which content creators are popular with children, see sites such as Tumult.nl or Kekmama.nl.
 - Platforms like YouTube and Instagram also offer creators technical tools for identifying advertising (disclosure).
 - Periodically analyse the responses to the posts. Is it likely that there are children up to and including 12 years old and if so, do the children respond to the recommended products?
 - Set up a youth panel to test campaigns and creators.
 - If a product falls outside the nutritional criteria, build into the cooperation agreements with the creator or agency the undertaking that you get to see the paid videos in advance.
 - Build in evaluation time in your cooperation agreements with content creators, if necessary, when the content is on the edge of the "attractive to children" balances.
 - When evaluating, also ask your agency (s) whether the rules and criteria are clear and workable, and feed this back to FNLI or bvA.

[Back to Overview](#)

Accountability/
responsibility

This guide has been produced by [bvA](#) and [FNLI](#) in consultation with [SRC](#) and based on the expertise of some major food advertisers (PepsiCo, Coca-Cola, Nestlé, Unilever, McDonald's) and their agencies and MCNs. The guide is intended as a resource for food advertisers working or seeking to work with content creators. See also the [introduction](#). No rights can be derived from the contents of this guide.

Do you have any suggestions or additions for this guide? Then contact [bvA](#) or [FNLI](#).

Would you like to know more about responsible advertising? Then also check out:

<https://www.checksrc.nl/>

<http://www.checkdereclamecode.nl/>

<https://www.fnli.nl/wp-content/uploads/2015/01/FNLI-infographic-kidsmarketing.pdf>

<https://www.reclamecode.nl/wp-content/uploads/2019/08/Toolkit-Guidance-doc-RSM.pdf>

[Back to Overview](#)

