



Coimisiún  
na Meán

Media Service Code

Children's Commercial  
Communications Code

(Radio and Television  
Broadcasters)

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# 1. Introduction

- 1.1 Pursuant to Section 46N(1) of the Broadcasting Act 2009, as amended by the Online Safety and Media Regulation Act 2022, (the “**Act**”) Coimisiún na Meán (the “**Commission**”) may make codes (“**media service codes**”) governing the standards and practices of broadcasters.
- 1.2 Pursuant to Sections 46N(2) and 46N(7) of the Act, the Commission may make media service codes providing for standards and practices to ensure, among other things, that commercial communications protect the interests of the audience, including children.
- 1.3 In accordance with its statutory duties and obligations set out above, the Commission has prepared this media service code (the “**Code**”).
- 1.4 Pursuant to Section 46N(11)(d) of the Act, the BAI Children’s Commercial Communications Code dated 2 September 2013 was continued in force with the establishment of the Commission.
- 1.5 The Code replaces the 2013 BAI Children’s Commercial Communications Code, which will be revoked as of 6 December 2024, being the date this Code takes effect.

# 2. Scope and Jurisdiction

- 2.1 The Code applies only to broadcasters under the jurisdiction of the State within the meaning of Section 2A of the Act.

# 3. Purpose and Preparation of the Code

## Purpose

- 3.1 The purpose of the Code is to ensure that broadcasters that are under the jurisdiction of the State comply with the duties set out in the Act relating to the broadcast on their services of commercial communications affecting children.

## Preparation of the Code

- 3.2 Pursuant to Section 46N(6) of the Act, the Commission has had regard to the following matters when preparing the Code: -
  - the degree of harm or offence likely to be caused by the inclusion of a particular matter in programme material.
  - the likely size and composition of the potential audience for programme material.
  - the likely expectation of the audience as to the nature of programme material, and the extent to which the nature of the programme material can be brought to the attention of potential



members of the audience.

- the likelihood of persons who are unaware of the nature of programme material being unintentionally exposed to it by their own actions.
- the desirability of securing that a broadcaster informs the Commission of any change affecting the nature of the service and, in particular, of any change relevant to the application of media service codes.
- the desirability of maintaining the independence of editorial control over programmes.

3.3 The Code has been prepared in accordance with the procedures provided for by Section 46Q of the Act.

## **4. Regulatory Principles Relevant to the Code**

4.1 In its interpretation, application and enforcement of the Code, the Commission must, in accordance with its public law duties, act lawfully, rationally and fairly.

4.2 More particularly, the Commission must act in accordance with:

- its general statutory objectives and functions under the Act.
- the rights conferred by the Constitution, the Charter of Fundamental Rights of the European Union, the European Convention on Human Rights insofar as applicable under the European Convention on Human Rights Act 2003 and the EU Treaties.

4.3 Section 7(2) of the Act provides that, in performing its functions, the Commission shall endeavour to ensure that the democratic values enshrined in the Constitution, especially those relating to rightful liberty of expression, are upheld, and that the interests of the public, including the interests of children, are protected, with particular commitment to the safety of children. The Commission shall also endeavour to ensure the Commission's policies in relation to broadcasters best serve the needs of the people of the island of Ireland.

4.4 In addition, the Commission must endeavour to ensure that its regulatory arrangements (i) address programme material and other content which are harmful or illegal; (ii) take account of technological and societal change; and (iii) operate proportionately, consistently and fairly.

4.5 Section 7(3) of the Act provides that, in addition, the Commission shall, inter alia:

- stimulate the provision of high quality, diverse, and innovative programmes by providers of broadcasting services.
- provide a regulatory environment that will sustain independent and impartial journalism.
- engage in evidence-based decision-making in the exercise of its functions, and promote



evidence-based decision-making by those with which it consults.

- encourage compliance with the provisions of the Act, and the provisions of any code, rule or other statutory instrument made under it, in any manner the Commission considers appropriate, including by the publication of guidance as to how those provisions may be complied with.

4.6 Pursuant to Section 7(4) of the Act, in performing its functions, the Commission shall have regard to: the safety of children, and published policies of the Minister for Children, Equality, Disability, Integration and Youth in respect of that matter; the regulation of gambling, and published policies of the Minister for Justice in respect of that matter; climate change and environmental sustainability, and published policies of the Minister for the Environment, Climate and Communications in respect of that matter; and published policies of the Government in respect of any of those matters.

## **5. Severability**

5.1 If any provision of the Code is found to be unlawful, invalid, prohibited, unenforceable or inapplicable (either generally or with respect to a particular broadcaster) in any respect, on the basis of any law (including the Constitution and European law), such finding shall not affect the lawfulness, validity, enforceability or applicability of any other provision of the Code or part thereof, unless the finding is declared to be applicable to such other provision or part thereof, or the same is the subject of the relief granted by a court.

5.2 Without prejudice to the foregoing, all of the other provisions and/or parts of the Code shall remain fully effective, applicable and enforceable. To the extent necessary, any provision or part of the Code found to be unlawful, invalid, prohibited, unenforceable or inapplicable shall be severed from the Code.

## **6. Waiver**

6.1 The fact that the Commission does not respond to or comment upon any submission, assessment, proposal, report, compatibility statement or any analogous document submitted to it by a broadcaster shall not be deemed to be an acceptance or approval of the contents of any part of the same and shall not imply that the broadcaster has complied with its obligations under the Act and/or the Code.

6.2 Without prejudice to the foregoing, the fact that the Commission does not respond or comment on any such document shall not create an estoppel against, or constitute a waiver by, the Commission of any of its powers or rights pursuant to the Act and/or the Code.

## **7. Compliance and Enforcement**

7.1 Pursuant to Section 46N(10) of the Act, a failure to comply with the Code shall be a contravention for the purposes of Part 8B of the Act.



- 7.2 A broadcaster shall ensure that it has systems and controls in place to demonstrate compliance with the obligations contained in this Code.
- 7.3 Pursuant to Section 47(3) of the Act, broadcasters are required to prepare and implement a code of practice for the handling of complaints relating to the failure of the broadcaster to comply with a media service code.

## 8. Complaints

- 8.1 A person may make a complaint if they believe a broadcaster has not complied with this Code. The Commission advises complainants to make their complaint to the broadcaster in the first instance as this is the quickest way to have a complaint considered and responded to.
- 8.2 Information on the complaints handling process, including the Commission's process, is available on our website ([www.cnam.ie](http://www.cnam.ie)) or you can contact Coimisiún na Meán on + 353 1 963 7755 or at [usersupport@cnam.ie](mailto:usersupport@cnam.ie).<sup>1</sup>

## 9. Guidance

- 9.1 The Commission may provide general non-binding guidance regarding the provisions of the Code on request or as and when it is deemed necessary. The Commission reserves the right to publish and amend guidance from time to time as it sees fit.
- 9.2 Requests for guidance must include the relevant material linked to the request for guidance. The request should clearly state the section(s) of the Code, which the requestor believes are relevant, and set out the specific question about which the requestor would like a view. The Commission accepts no liability for any decision (or consequences arising therefrom) made following receipt of non-binding general guidance from the Commission.

## 10. Definitions and Interpretative Note

### Definitions

Terms not defined below have the meanings given by the Act.

**“broadcaster”** means a provider of sound broadcasts or television broadcasts.

**“broadcasting service”** means a service which comprises a compilation of programme material of any description and which is transmitted, relayed or distributed by means of an electronic communications network, directly or indirectly for simultaneous or near-simultaneous reception by the general public, whether

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<sup>1</sup> In the case of commercial communications, a non-statutory complaints process is operated by the Advertising Standards Authority (ASA). The ASA assess complaints against its Code of Standards for Advertising and Marketing Communications in Ireland - see <https://adstandards.ie> for more information.



that material is actually received or not, and where the programmes are provided in a pre-scheduled and linear order, but does not include:

- (a) a service provided in a non-linear manner where each user of the service chooses a programme from a catalogue of programmes, or
- (b) any other services provided by way of the internet, if the service does not provide audiovisual programmes.

"**celebrities**" means persons who are widely acclaimed, or honoured and/or known to children. It does not include those persons or characters that become known to children solely as a result of their participation in commercial communications.

"**child or children**" means a person or persons under the age of 18 years.

"**children's commercial communications**" means a commercial communication that promotes products, services, or activities that are deemed to be of interest to children and/or is broadcast in or around children's programmes.

"**children's programmes**" means programmes that are commonly referred to as such and/or have an audience profile of which over 50% are under 18 years of age. Where audience composition data is not available the name, content, characteristics, target audience, and scheduling of the programme and any promotion of the programme, including any platform used for promotion, will be used to determine whether the programmes are intended for children.

"**commercial communication**" includes audio and audiovisual commercial communications, and means images (with or without sound) or sound only—

- (a) designed to promote, directly or indirectly, the goods, services or image of a person pursuing an economic activity, and
- (b) included in or accompanying a programme or user-generated content in return for payment or for similar consideration or for self-promotional purposes.

Forms of commercial communication include, inter alia, advertising, sponsorship, teleshopping and product placement.

"**confectionery**" means sugar, honey, preserves, chocolate covered bars (excluding biscuits), non-chocolate confectionery (e.g. cereal bars), and artificial sweeteners. Carbonated drinks, with the exception of water, are also included.



**"fast food"** means food coming under the recognised character of fast food and/or inexpensive cooked food which is prepared and served quickly and is readily accessible for purchase by children. Fast food in this instance does not refer to the actual amount of time required to cook the food but rather the speed and ease with which the food can be procured and consumed. It is not the intention of the definition to include prepared and convenience foods or food which is purchased for preparation and cooking in the home.

**"HFSS foods"** refers to those foods that are assessed as high in fat, salt or sugar in accordance with the Nutrient Profiling Model developed by the UK Food Standards Agency as adopted by the Commission and set out at Appendix 1.

**"licensed characters"** means characters and personalities that are licensed to feature in a commercial communication but which have no direct association with the product or service promoted, and include characters and personalities from, for example a cinema release or video game.

**"programme"** means (a) a set of moving images with or without sound, or (b) audio material, in each case constituting an individual item, irrespective of its length, within a schedule or a catalogue established by a broadcaster, including feature-length films, video clips, sports events, situation comedies, documentaries, children's programmes and original drama.

**"programme characters"** means characters and personalities from children's programmes currently broadcast and used to promote products or services in children's commercial communications. In this instance 'currently' means regular programming that is also due for return in the next broadcast season.

**"sound broadcasting service" or "sound broadcasting"** means a service, within the meaning of Articles 56 and 57 of the Treaty on the Functioning of the European Union, where—

- (a) the principal purpose of the service is devoted to providing sound programmes, by electronic communications networks, to the general public, under the editorial responsibility of the provider of the service, in order to inform, entertain or educate, and
- (b) the service is provided for simultaneous or near-simultaneous listening to sound programmes on the basis of a programme schedule.

**"television broadcasting" or "television broadcast"** (i.e. a linear audiovisual media service) means an audiovisual media service provided by a media service provider for simultaneous viewing of programmes on the basis of a programme schedule.

## **Interpretative Note**

### **Principle of Age Differentiation**

10.1 The Code recognises the principle that children of different ages require different levels of protection. In order to give this principle practical effect, the Code stipulates protections that apply to children's commercial communications for all children and stipulates a number of additional protections that apply to children under 15, 13 and 6 years of age.





Where provisions of the Code are categorised as pertaining to those under 15 years, those under 13 years, or those under 6 years of age, these provisions will apply to (i) commercial communications targeting these age groups, (ii) commercial communications broadcast or made available during programmes where over 50% of the audience are of these age groups.

The provisions that apply to each of these respective age groups are clearly marked below by the inclusion of either **U/6**, **U/13** or **U/15** at the end of the provision. Where an age is not specified, this means that the rule applies to all children as defined in the Code.

### **Parental Responsibility**

- 10.2 Parents and guardians have primary responsibility for children but those responsible for commercial communications (including broadcasters) should support the parent/guardian relationship with children by scheduling responsibly and by not undermining the authority, responsibility or judgment of parents or guardians in the content of children's commercial communications.

## **11. General**

- 11.1 All children's commercial communications shall comply with the requirements of the General Commercial Communications Code and a broadcaster shall take appropriate measures to ensure all children's commercial communications comply with relevant Irish and European legislation and with the rules, regulations and codes of practice issued from time to time by any relevant competent authority.
- 11.2 In addition to the restrictions and prohibition listed in the General Commercial Communications Code, children's commercial communications containing the following are prohibited:
- a) Gambling.
  - b) Products and services relating to weight reduction, limitation or control.
  - c) Introduction and dating services.
  - d) Services of a sexual nature.
  - e) Split-screen, interactive and virtual advertising techniques.
  - f) Surgical and non-surgical cosmetic procedures.
- 11.3 Broadcasters shall ensure that children's commercial communications are clearly separate from programme content and do not include excerpts from children's programmes that might blur the distinction between children's commercial communications and programme content.

## **12. Inexperience and Credulity**

- 12.1 Broadcasters shall ensure that children's commercial communications do not take advantage of the natural credulity and sense of loyalty of children.



## **Factual Presentation**

12.2 Broadcasters shall ensure that children's commercial communications:

- a) Clearly indicate which parts, elements or accessories are included as part of the normal purchase of the product or service and differentiate between those which are only available at extra cost.
- b) Ensure that on-screen messages and 'small print' are clear, simple and legible and remain on screen for a sufficient length of time to enable a child to read it. **U/15**
- c) Give children an indication of the actual size of the product. **U/15**
- d) Clearly indicate when batteries are required for the operation of the product and whether these are supplied with the product. **U/15**
- e) Clearly indicate when a product has to be assembled and what age level is generally required to assemble the product. **U/15**
- f) Avoid the use of language, special effects or imaginative scenes which could confuse the child or have them believe that the product or service has capabilities or characteristics that it does not have in reality. **U/15**
- g) Do not, in the case of toys or products that persons under the age of 15 could ordinarily be expected to possess, make direct comparisons between existing and 'improved' versions/models of the product, even when the statements or claims are valid. **U/15**
- h) State orally any on-screen messages or small print in order to ensure that children of this age understand the message. **U/6**

## **Price of product/service**

12.3 With regard to how the price of a product or service is presented in children's commercial communications, broadcasters shall ensure that:

- a) The price, when given, shall be in euro and be inclusive of VAT or any other extra or related charges.
- b) If the price is dependent on the purchase of another item, this must be made clear in the commercial communication.
- c) If there are a number of products or services in the children's commercial communication and the price of an item/items is highlighted, then it must be made clear that the price refers to this item/items only.



- d) Children's commercial communications that refer to 'free gifts' or offers must specify any and all qualifying terms and conditions, e.g. any time limit, how many products need to be bought, how many wrappers need to be collected, etc.
- e) Children's commercial communications must not offer prizes or rewards to children for attracting new purchasers for the product or service.
- f) The price shall be presented in clear, simple and legible font and where appropriate be voiced as part of the audio. **U/15**
- g) The language used in presenting the price shall not minimise its cost, e.g. through the use of words such as 'only' or 'just'. **U/15**
- h) Expensive toys shall state the price in the children's commercial communication. A toy will not be regarded as expensive if it, plus any essential accessories, is generally available at a retail price below a figure specified by the Commission from time to time. This figure is currently €30 but is subject to review. **U/15**

## 13. Undue Pressure

- 13.1 Broadcasters shall ensure that children's commercial communications do not directly encourage or exhort children to ask adults to buy them the products or services being promoted.
- 13.2 Broadcasters shall ensure that children's commercial communications do not imply that possession or use of a product or service will make the child or his/her family superior, either physically, socially or psychologically.
- 13.3 Broadcasters shall ensure that children's commercial communications avoid the implication that possession or use of a product or service will contribute to or detract from the child's popularity or acquisition of friends.
- 13.4 Broadcasters shall ensure that children's commercial communications could not reasonably be expected to make the child feel inferior, disloyal or doubtful about their self-image, or provoke anxiety in children over their bodily appearance.
- 13.5 Broadcasters shall ensure that children's commercial communications do not expressly suggest or imply that a parent, guardian or adult who purchases or provides a product or service for a child, is better, more intelligent or more generous than one who does not.



## **14. Special Protection for Children**

### **Children Endorsing Products/Services**

- 14.1 Broadcasters shall ensure that the use of children to comment on or endorse products or services in children's commercial communications is only permitted for products and services that children could reasonably be expected to use and would usually be interested in themselves.

Children may appear in children's commercial communications for adult products if their appearance is as a natural element in the depicted environment or necessary to explain or demonstrate the use of the product or service.

### **Sexualisation of Children**

- 14.2 Broadcasters shall ensure that children's commercial communications do not portray a child in a sexually provocative manner.

### **Privacy and Provision of Information**

- 14.3 Broadcasters shall ensure that children's commercial communications do not ask children to submit private information or details regarding themselves, their family or friends, unless the commercial communication is as part of a campaign that relates to their safety, health or wellbeing. When this practice is used, children's commercial communications should state, where reasonable, that children must seek adult approval before sending the information.

### **Adults Pretending to be Children**

- 14.4 Broadcasters shall ensure that the use of adults pretending to be children in children's commercial communications does not offend the dignity of children.

## **15. General Safety**

- 15.1 Broadcasters shall ensure that children's commercial communications do not encourage children to enter into unsafe situations or strange places or to talk to strangers.
- 15.2 Broadcasters shall ensure that children's commercial communications do not show children in morally or physically dangerous situations or behaving dangerously in the home or outside, including street and road scenes, except when the sole purpose of the commercial communication is to promote safety.



- 15.3 Broadcasters shall ensure that children’s commercial communications show children using appropriate safety equipment and respecting all applicable safety rules, when engaged in activities that require such and with adult supervision where appropriate, for example, as passengers in vehicles, pedestrians, cyclists, when rollerblading, skateboarding, swimming, playing water sports or horse riding.
- 15.4 Broadcasters shall ensure that children’s commercial communications do not show children using digital services, including the internet and apps, without appropriate adult supervision.
- 15.5 Broadcasters shall ensure that children’s commercial communications do not unreasonably show children using or close to dangerous substances or dangerous equipment, for example, matches, gas appliances, petrol, hazardous household substances or in possession of, or administering medicines unless under appropriate adult supervision. **U/15**

### **Behaviour**

- 15.6 Broadcasters shall ensure that children’s commercial communications do not encourage children to engage in, or portray children engaging in, anti-social behaviour, in particular bullying, taunting or teasing other children, unless the sole purpose of the commercial communication is to discourage such behaviour.
- 15.7 Broadcasters shall ensure that children’s commercial communications do not disparage education or condone aggression or greed as admirable qualities.

## **16. Violence**

- 16.1 Broadcasters shall ensure that children’s commercial communications do not include violence or include scenes that could reasonably be expected to cause distress to children.
- 16.2 Broadcasters shall ensure that, in instances where the inclusion of violent scenes may be necessary as part of a public service message or in order to demonstrate the product or service, such communications are scheduled responsibly so as to ensure that they do not cause distress to children. **U/6**

## **17. Diet and Nutrition**

- 17.1 Broadcasters shall ensure that children’s commercial communications are responsible in the manner in which food is portrayed. Children’s commercial communications should not encourage an unhealthy lifestyle or unhealthy eating or drinking habits such as immoderate consumption, or excessive, compulsive or restrictive eating.



- 17.2 Broadcasters shall ensure that children’s commercial communications representing mealtimes clearly and adequately depict the role of the product or service within the framework of a balanced diet.
- 17.3 Broadcasters shall ensure that children’s commercial communications do not contain any misleading or incorrect information about the nutritional value of a product. Children’s commercial communications must not make misleading or incorrect comparisons between foods. They must not imply that particular foods are a substitute or replacement for fruit and/or vegetables.

### **Fast Food and Confectionery**

- 17.4 Broadcasters shall ensure that children’s commercial communications for fast food products, outlets and/or brands display an acoustic or visual message stating ‘should be eaten in moderation and as part of a balanced diet’.
- 17.5 Broadcasters shall ensure that children’s commercial communications for confectionery products display an acoustic or visual message stating that ‘snacking on sugary foods and drinks can damage teeth.’

### **Celebrities**

- 17.6 Broadcasters shall ensure that children’s commercial communications do not portray or refer to celebrities or sports stars to promote food or drink products (including HFSS food products and/or services), unless the commercial communication is part of a public health or education campaign. **U/15**

### **Children’s commercial communications for High Fat Salt Sugar (HFSS) food products and/or Services**

- 17.7 Broadcaster shall ensure that children’s commercial communications for HFSS food products and/or services meet the following requirements:
- a) Commercial communications for HFSS food products and/or services shall not be permitted in children’s programmes.
  - b) Children’s commercial communications for HFSS food products and/or services shall not include licensed characters.
  - c) Children’s commercial communications for HFSS food products and/or services shall not include health and nutrition claims. **U/13**
  - d) Children’s commercial communications for HFSS food products and/or services shall not include promotional offers. **U/13**



## **18. Programme Characters**

- 18.1 Broadcasters shall ensure that programme characters shall not be used to promote products or services (including HFSS food products and/or services) in children's commercial communications.
- 18.2 Section 18.1 does not apply to children's commercial communications for products, events or services, directly associated with programmes in which the characters or personalities normally appear. In the case of children's commercial communications for products, events or services directly associated with the children's programme, these must not be broadcast for two hours prior to the beginning and following the end of the programme in question.

## **19. Christmas-themed Children's Commercial Communications**

- 19.1 Broadcasters shall ensure that children's commercial communications that contain references, either visual or acoustic, to Christmas, are not broadcast prior to November 1<sup>st</sup> each year.



# Appendix

## Nutrient Profiling Model

For the purpose of this Code, the Nutrient Profiling Model developed by the UK Food Standards Agency should be used to assess whether a commercial communication is for a product or service that is high in fat, salt or sugar and therefore subject to restrictions and regulation. There are three steps to working out the overall score of a food or drink.

### i) Work out total 'A' points

A maximum of ten points can be awarded for each nutrient.

Total 'A' points = (points for energy) + (points for saturated fat) + (points for sugars) + (points for sodium). The following table indicates the points scored, depending on the amount of each nutrient in 100g of the food or drink:

#### Points Allocation 'A' Nutrients

Points	Energy (kJ)	Sat Fat (g)	Total Sugar (g)	Sodium (mg)
0	≤ 335	≤ 1	≤ 4.5	≤ 90
1	>335	>1	>4.5	>90
2	>670	>2	>9	>180
3	>1005	>3	>13.5	>270
4	>1340	>4	>18	>360
5	>1675	>5	>22.5	>450
6	>2010	>6	>27	>540
7	>2345	>7	>31	>630
8	>2680	>8	>36	>720
9	>3015	>9	>40	>810
10	>3350	>10	>45	>900

If a food or drink scores 11 or more 'A' points then it cannot score points for protein unless it also scores 5 points for fruit, vegetables and nuts.

### ii) Work out total 'C' points

A maximum of five points can be awarded for each nutrient/food component.

Total 'C' points = (points for % fruit, vegetable & nut content) + (points for fibre [either NSP or AOAC]) + (points for protein)





The following table indicates the points scored, depending on the amount of each nutrient/food component in 100g of the food or drink: -

**Points Allocation 'C' Nutrients:**

Points	Fruit, Veg and Nuts (%)	N&P Fibre (g)	Or AOAC Fibre <sup>2</sup> (g)	Protein (g)
0	≤40	≤0.7	≤0.9	≤1.6
1	>40	>0.7	>0.9	>1.6
2	>60	>1.4	>1.9	>3.2
3	-	>2.1	>2.8	>4.8
4	-	>2.8	>3.7	>6.4
5	>80	>3.5	>4.7	>8.0

iii) **Work out overall score**

- If a food scores **less than 11 'A'** points then the overall score is calculated as follows:  
Total 'A' points (energy + saturated fat + sugars + sodium) minus total 'C' points (fruit, veg and nuts + fibre + protein)
- If a food scores **11 or more 'A' points** but scores 5 points for fruit, vegetables and nuts then the overall score is calculated as follows:  
Total 'A' points (energy + saturated fat + sugars + sodium) minus total 'C' points (fruit, veg and nuts + fibre + protein)
- If a food scores **11 or more 'A' points, and less than 5 points for fruit, vegetables and nuts**, then the overall score is calculated as follows:  
Total 'A' points (energy + saturated fat + sugars + sodium) minus total points for fibre + points for fruit, vegetables and nuts (not allowed to score for protein)

A **food** is classified as 'less healthy' where it scores **4 points or more and is subject to the restrictions in the Code.**

A **drink** is classified as 'less healthy' where it scores **1 point or more and is subject to the restrictions in the Code.**

For further detail on the application of this model, please refer to separate guidance provided by the Commission and published on [www.cnam.ie](http://www.cnam.ie).

<sup>2</sup> One or other of the dietary fibre columns should be chosen to how the fibre content of the food or beverage was calculated by the manufacturer.

