

Television Advertising of Food & Drink Products to Children: Options for new restrictions

We are grateful for the opportunity to comment on the options for new restrictions for television advertising of food and drink products to children. Whilst SACN carries no expertise in the areas of broadcast regulation, we do want to take this opportunity to raise some fundamental nutrition related issues and raise some relevant risk assessment questions that Ofcom will need to consider in the short and medium term.

The consultation is a well-written, carefully considered set of documents that lays out many of the issues in a balanced, and comprehensive way. Arguments and counter-arguments are fairly presented, and the proposals reflect the difficulty, which Ofcom faces in trying to satisfy a varied range of stakeholders.

Q.1. Do you agree that the regulatory objectives set out in paragraph 5.2 are appropriate?

We do not believe the objectives to be appropriate as they concentrate on the under 10s. By the age of 11-12 years, children may have developed a critical understanding of advertising; however, understanding that advertisements are different from editorial material does not confer immunity to persuasion. Older children do not have the ability of adults to “make informed decisions about advertising messages”. If Ofcom have “a duty towards protection of children under 18”, then they fail in the objectives set out in this report.

It is difficult scientifically to balance “disproportionate impacts on revenue” against health benefits in children. We are concerned that the estimated health costs do not adequately capture the cost of morbidity and the report presents rather conservative estimates. There is, for example, a lack of consideration of the impact on dental health, which can have huge cost implications to individuals and public health. We have made some more detailed comments on the evidence at the end of this response.

Q2 Do you consider that it is desirable to distinguish between foods that are high in fat, salt or sugar and those that are healthier in order to achieve the regulatory objectives, or could an undifferentiated approach provide a reasonable alternative?

The emphasis on HFSS is desirable. Nutrient profiling is a novel and much needed approach to categorising foods. The model has been adequately validated, scrutinised and independently reviewed.

Ofcom has focussed on industry’s arguments against its adoption and ignored the positive opportunities it could create in encouraging the promotion of healthier foods. Although sectors of industry have been critical of the model, we have not seen any clearly articulated reasons. SACN consider adoption of the nutrient profiling model to be essential to help distinguish healthier and less healthy foods.

Nutrient profiling allows healthy products to be clearly identified and its endorsement would provide considerable opportunities for promotion of a wide range of low salt/low sugar/high fibre/fruit and vegetable foods. The use of nutrient profiling to allow advertising of healthier food products could act as an economic incentive to food manufacturers to reformulate their products to acceptable standards for advertising and extend ranges of healthier products. It is unfortunate that this has not been emphasized as the primary target, because it is certainly easier to change products than people's food choices and behaviour. Notably, only package 1 could stimulate such innovation.

It seems counter-productive not to allow promotion of healthy foods unless they are the subjects of government-supported campaigns. There is a real opportunity to identify and promote healthier options. The options proposed in the consultation have largely ignored the Hastings report, which illustrates the marketing opportunities for promoting healthier foods to children.

Q3 If so, do you consider the FSA's nutrient profiling scheme to be a practical and reasonable basis for doing so? If not, what alternative would you propose?

In accordance with current scientific consensus and the FSA's nutrient profiling model, it would be preferable to refer to foods high in **energy**, salt and sugar (rather than total fat, salt and sugar). With regard to obesity, it is clear that the issue is energy, not fat per se. Both fat and sugar provide energy and could contribute to obesity. However, as 'fat' is generally understood by the public, the intended emphasis on HFSS is desirable.

Q4 Do you agree that voluntary self-regulation would not be likely to meet Ofcom's regulatory objectives or the public policy objectives?

SACN does not wish to make a judgement about self-regulation. It is not a scientific issue and therefore outside its remit.

Q5 Do you agree that the exclusion of all HFSS advertising before 9.00 pm would be disproportionate?

It is only disproportionate if the interests of manufacturers and media owners come before the health of the nation. But perhaps more telling is the Institute of Practitioners in Advertising's own website claim that "On average, a child sees 5 food ads of any food type in a day, out of a total of 28 ads of any description – 2 in kids airtime and 3 in adult time". So most food advertising to which children are exposed is not in children's programmes.

TV is an important medium for advertising. Given that the nation has a serious obesity problem, excluding all HFSS advertising before 9pm seems to be a very sensible step and the best option.

Q6 Do you agree that all food and drink advertising and sponsorship should be excluded from programmes aimed at pre-school children?

We agree that all HFSS advertising should be excluded. However, it makes no sense to ban advertising of foods that fall outside of the HFSS category. Here is a very good opportunity for the promotion of the healthier options, creating demand for foods of good nutritional quality, using social marketing techniques and helping to influence healthy behaviour.

Q7 Do you agree that revised content standards should apply to the advertising or sponsorship of all food and drink advertisements?

Yes. The standards are a step forward and all food advertising should be captured by this.

Q8 Do you consider that the proposed age bands used in those rules aimed at preventing targeting of specific groups of children are appropriate?

No. The age bands are unrealistic and do not take account of children's viewing habits, nor their very limited understanding of nutrition and food chemistry.

In relation to the distinction made between younger and older children on grounds of their cognitive ability ("*media literacy*") to interpret advertising critically (paragraph 1.13) it is relevant to note on page 15 of the Research Annexes volume: "*Kunkel et al 2004* [in a report to the American Psychological Association Task Force on advertising and children] *could find no study that examined the statistical relation between children's understanding of advertising's persuasive intent and the impact of advertisingthere is little evidence that media literacy interventions can effectively counteract the impact of advertising on children of any age, much less the younger ones who are most vulnerable to its influence*". This underlines concern about absence of evidence and would argue for the application of the precautionary principle.

Q9 Do you consider the proposed content standards including their proposed wording to be appropriate, and if not, what changes would you propose, and why?

Ofcom has recognised that the BCAP rules are an inadequate regulatory tool by themselves, but even as part of a package they are generous beyond credibility. For example, the cut-off point for promotional offers and celebrity endorsement has been determined by the categories that advertisers use to buy airtime. If the industry categories of childhood are to be used, the cut-off point for all the BCAP rules should be **16** years, which is generally regarded as the end of childhood.

Q10 Do you consider a transitional period would be appropriate for children’s channels in the context of the scheduling restrictions, and if so, what measure of the “amount” of advertising should be used?

The arguments for “phasing in” restrictions are purely commercial but given the problem we face, we suggest that a transitional period needs to be very short.

Q11 Do you consider there is a case for exempting low child audience satellite and cable channels from the provisions of Package 3?

This is a commercial issue; the wider the ban the more likely it is to be effective.

Q12 Do you agree that there should not be a phase-in period for children’s channels under Package 3?

This is a commercial issue; however, we do not support the adoption of package 3.

Q13/14 Which of the 3 policy packages would you prefer to be incorporated into the advertising code and for what reasons? Alternatively, do you consider that a combination of different elements of the 3 packages would be suitable? If so, which elements would you favour within an alternative package?

None of the proposed packages is ideal. The best solution is simply to ban all advertising of HFSS foods. This would ensure that all children are not exposed to such adverts, and potentially benefit adult health as well.

Package 1 is the only one that distinguishes between food and drink products that are high in fat, sugar and salt and we are supportive of such a distinction being made. However, package 1 effectively applies only to children under 10 and we would like to see the exposure figures of children 4-9 and 10 –15 broken out separately, which can easily be done, given that the categories are the broadcast industry’s own. As it stands this package seems unlikely to have much impact on children over the age of 9.

Package 1 is time-restricted; we consider that these adverts would better be simply excluded at all times.

We do not support package 2 as it does not allow for promotion of healthy foods. Nor do we support package 3 as it does not include all children and in reality allows advertising to continue.

Q15 Where you favour either package 1 or 2, do you agree that it would be appropriate to allow children’s channels a transitional period to phase in restrictions on HFSS / food advertising, on the lines proposed?

The arguments for “phasing in” restrictions are purely commercial.

Q16 Do you consider that the packages should include restrictions on brand advertising and sponsorship? If so, what criteria would be most appropriate to define a relevant brand? If not, do you see any issue with the prospect of food manufacturers substituting brand advertising and sponsorship for product promotion?

Yes. The promotion of brands and use of sponsorship, as opposed to products, should be included. We have seen how another sector of industry has used this tactic to circumvent restrictions (for example, infant formula promotion through television advertising of the brand on other products).

Additional Comments

- Although obesity may be a driver for change, it is very important to recognise that in addition to obesity, poor dietary patterns have wide implications for health. Although mentioned, this point deserves more prominence. Dental health seemed to be an obvious area poorly served throughout.
- We have some concerns about the evidence for health benefit costing set out in paragraph 1.34 and based on the Food Standards Agency paper at Annex C, pages 134-175. The “monetisation” is based principally on anticipated cardiovascular and cancer mortality in future generations. If that is so, the figures in 1.34 are a substantial underestimate. Although mentioned, neither the direct costs of treatment or indirect costs of poor dental health have been considered. For example, the cost of treating dental caries. Moreover, in the case of the first, only NHS costs are quoted (page 165) – whereas much dental treatment is of course now delivered outside the NHS. We are also unsure about the validity of modelling the effects of energy intake on BMI (page 160). Childhood is not a “steady state” and variations in growth have not been taken into account.
- Industry makes a statement that there is no evidence that restricting advertising will affect consumption but the Ofcom document clearly states the contrary. On page 137, Bolton’s research indicates that the more restrictive the policy is in reducing broadcast promotion to children so its effectiveness will disproportionately increase. On page 87, Livingstone concludes that although the measured effects of advertising / television were small, cumulatively this could make an appreciable difference to the number of children that fell into the obese category.
- It is also perhaps worth re-stating that “*absence of evidence is not evidence of absence*”. It is to be noted that there is clearly sufficient evidence that advertising does affect behaviour to justify huge expenditure on advertising.
- In terms of how far one goes with restriction there seems an important statement on page 137 arising from Bolton’s work on snacking: “*It is likely that the more restrictive any potential policy is in reducing /eliminating broadcast promotion to children so its effectiveness will disproportionately*” increase. This means the expected relationship is exponential, not linear.