Title of consultation
Consultation on restricting promotions of products high in fat, sugar and salt by location and by price

Name of the consulting body
UK Government, Department of Health & Social Care

Link to consultation

Why did the MRC/CSO Social and Public Health Sciences Unit contribute to this consultation?

The MRC/CSO Social and Public Health Sciences Unit, University of Glasgow is an interdisciplinary group of sociologists, anthropologists, psychologists, epidemiologists, geographers, political scientists, public health physicians, statisticians, information scientists, trial managers and others. The Unit receives core-funding from the Medical Research Council and the Scottish Government Chief Scientist Office, as well as grant funding for specific projects from a range of sources. We conduct research to understand the determinants of population health and health inequalities, and to develop and test interventions to improve health and reduce inequalities, using a wide variety of methods.

Excessive consumption of high in fat, sugar and salt (HFSS) foods has been linked to increases in rates of obesity as well as a range of other non-communicable diseases. Reducing these health harms is considered to be a priority by the MRC/CSO Social and Public Health Sciences Unit, particularly as these health harms are associated with socioeconomic inequalities.

Our consultation response

Businesses and products affected
1. Do you think that the restrictions suggested in this consultation should apply to all retail businesses in England that sell food and drink products, including franchises? **Yes/No.** Please explain your answer.

There is a growing body of evidence that strongly suggests that price promotions – both temporary price reductions and multi-buy type promotions – increase the volume of food or drink purchased during a single shopping trip and do not lead to a reduction in the frequency of purchasing at subsequent trips (Hawkes, 2009). Restrictions on the promotion of HFSS foods could be an effective policy to reduce the volume of unhealthy food purchased and in turn have broader implications for addressing the obesogenic environment (Martin et al., 2017). Any
regulation that seeks to address this issue must be applied consistently across all retail business, including franchises in order to be effective and avoid the exploitation of potential loopholes.

2. Do you think there are any other retailers that the restrictions suggested in this consultation should apply to? Yes/No. If yes, please explain which retailers and why.

3. Do you think there are any retailers that the restrictions suggested in this consultation should not apply to? Yes/No. If yes, please explain which retailers and why.

4. Do you think that the restrictions should also apply to retailers that do not primarily sell food and drink, for example, clothes retailers and newsagents? Yes/No. Please explain your answer.

Our research described the precise mobility of Scottish Children and showed that both food and retail environments attracted children to them and that these are places children will spend a considerable amount of time away from the home/school, regardless of the distance from these locations (Olsen et al., 2019). Families are spending a greater amount of time at food and retail facilities as they increasingly tend to consume more food-away-from-home (Lee et al., 2016). As the design of urban spaces in Western European countries for ‘family leisure’ has been transformed (Karsten et al., 2015); the boundaries between eating, drinking, playing, informing and socialising have been purposefully eroded (Karsten et al., 2015), highlighting that restrictions should not consider food and drink retailers in isolation. Non-food retailers that responded to increased public demand by attempting to develop healthy eating environments for children has been largely positively received by the public (Lee et al., 2016). We agree with many others that greater effort is required by local and national governments to ensure that family retail/leisure places are healthy environments (Wright et al., 2015).

5. Do you think that the restrictions should also apply to imported products within the specified product categories in scope? Yes/No. Please explain your answer.

As illustrated in response to question 1, it is imperative that these restrictions are applied consistently across retail businesses and product categories.

6. Do you think that the restrictions should also apply to online shopping? Yes/No. Please explain your answer.

The online environment is not free from promotion, and as such should be included in any restrictions which seek to reduce the amount of promotion individuals are exposed to (World Health Organization, 2010). Research suggests that promotion techniques used online may be more subtle than those used in physical settings and as such are not as readily mediated against by consumers (Tuten, 2008). In order to create a cohesive strategy that tackles the health harms associated with the pervasive promotion and marketing of HFSS food in the UK, the online environment must receive the same restrictions as the offline environment.

7. If the restrictions applied to online retailers, how could this work in practice?
8. Who should be responsible for making sure the price restrictions are followed: the retailer that sells the products or the manufacturer that makes them? Retailer/Manufacturer. Please explain your answer.

9. Who should be responsible for making sure the location restrictions are followed: the retailer that sells the products or the manufacturer that makes them? Retailer/Manufacturer. Please explain your answer.

**Price promotion restrictions**

10. Which of the following options do you think is the most appropriate for achieving the aims of this policy:

   - **Option 1** - Require retailers to ensure that all their volume based price promotions on food and drink are on healthier products.
   - **Option 2** - We are open to alternative suggestions from stakeholders as to how this policy could be implemented in order to reduce overconsumption of HFSS products but also to encourage businesses to promote healthier products and to further incentivise reformulation. For example, we have explored the possible impact of requiring retailers to ensure that at least 80% of their sales from volume based price promotions on all food and drink per year are on healthier products.
   - Neither

   Please explain your answer.

   *Option 1 is the most appropriate policy response as it will provide a clear, robust framework to which retailers have to adhere. As research suggests, stringent robust policies that apply across product and settings categories lead to greater reductions in individuals’ exposure to unhealthy products (Hawkes, 2007, Harris et al., 2009). Evidence suggests that price promotions on unhealthy products do lead to increased consumption of those products, and this effect is maintained when used to promote healthier products (French, 2003, Hawkes, 2009). Therefore, by requiring retailers to only use volume based price promotions on those products deemed healthier, it may lead to increased consumption of those healthier products.*

11. If you are proposing an alternative option, please explain how your preferred option would better deliver the aims of this policy, how it would be delivered and whether there would be any practical and/or implementation issues that we should be aware of.

12. Do you think that the price restrictions should apply to ‘multibuy’ promotions and ‘extra free’ promotions of pre-packaged HFSS products (see Annex 5)? **Yes/No. Please explain your answer.**

   *Evidence suggests that the impact of price promotions on food consumption practices are complex (Hawkes, 2009). As such, applying the policy to only certain price promotions may lead to a weakened impact on the effectiveness of such policies due to the indirect effects on other price promotion strategies. By considering each type of promotion separately, it may lead to loopholes remaining in policy in which industry may utilise to continue to promote their HFSS food and beverages to consumers. This is well-established technique utilised not only by food*
and beverage industry, but also other unhealthy commodity industries such as the tobacco and alcohol industries (Brownell and Warner, 2009, Stuckler et al., 2012, Capewell and Lloyd-Williams, 2018, Hawkins and McCambridge, 2018).

13. Do you currently use or do you know about any official definitions of these types of price promotions? Yes/No. If yes, please provide them below.

14. Do you think there are any other types of price promotion that should be restricted that we have not mentioned? Yes/No. If yes, please explain which types of promotion and why.

15. Do you think that the price restrictions should apply to pre-packaged products which fall into the categories included in Public Health England’s (PHE) sugar and calorie reduction programmes and in the Soft Drinks Industry Levy (SDIL), and are classed as high in fat, sugar or salt (HFSS) (see Annex 3)? Yes/No. Please explain why.

The restrictions should apply to all pre-packaged and non-packaged products that are considered HFSS under PHE’s programmes and the SDIL. Whether they are subject to an existing programme or levy and whether pre-packaged or not does not negate the negative health consequences of over-consumption (Parkes et al., 2012, Tedstone et al., 2015).

16. Do you think any other product categories should be included in these restrictions? Yes/No. If yes, please explain which product categories and why.

Snack bars which pertain to be healthy options, such as protein bars, yet still contain a high level of sugar should also be considered. One study demonstrated that products which used front-of-package marketing to highlight a single ‘healthy’ ingredient, such as protein, gave these products a ‘health halo’ even if they contained a high amount of sugar and as such may lead to preferential purchasing (Fernan et al., 2018). These products should be included in the restrictions.

17. Do you think any of these categories should not be included? Yes/No. If yes, please explain which product categories and why.

18. Do you think that the price restrictions should also apply to free refills of sugar-sweetened beverages in the out-of-home sector, if they are in scope of the SDIL, including where they could be a part of a meal deal? Yes/No. Please explain your answer.

These products, no matter their setting, are seen to contribute to increased rates of sugar consumption among the general population (Tedstone et al., 2015). Free refills of sugar-sweetened beverages encourage the over-consumption of these beverages (John et al., 2017). As such, a policy which does not restrict these may be somewhat undermined if consumers were able to obtain free refills in the out-of-home sector.

19. For food and drink consumed outside of the home, are there other types of price promotion that should be restricted? Yes/No. If yes, please explain which promotions we should consider and why.

Location restrictions
20. Which of the following options do you think is the most appropriate to achieve the aims of this policy:

Option 1 - We propose that the location restrictions should apply to the following locations: store entrances, ends of aisles and checkout areas (see Annex 2).

Option 2 - We are open to alternative suggestions from stakeholders as to how this policy could be implemented. If you are proposing an alternative option, please explain how your preferred option would better deliver the aims of this policy, how it would be delivered and whether there would be any practical and/or implementation issues that we should be aware of.

Neither

Option 1 should be implemented. Research has shown that the products displayed at these locations tend to be HFSS and encourage purchasing and consumption (Wright et al., 2015) and are a source of frustration for consumers (Winkler et al., 2016). Evidence suggests that preventing the placement of HFSS products at these locations, and allowing for non-HFSS products to be displayed instead may encourage consumption of these healthier products.

21. Do you think that the location restrictions should apply to all of the following locations: store entrances, ends of aisles and checkout areas? Yes/No. Please explain your answer.

See answer to question 20.

22. Do you currently use or do you know about any official definitions for these locations? Yes/No. If yes, please provide them below.

23. Do you think there are other locations inside stores where the restrictions should apply to? Yes/No. If yes, please explain which locations and why.

24. Do you think that the location restrictions should apply to all products (whether pre-packaged or non-pre-packaged) which fall into the categories included in PHE’s sugar and calorie reduction programmes and in the SDIL, and are classed as HFSS (see Annex 3)? Yes/No.

See question 15 for further explanation.

25. Do you think any other product categories should be included in these restrictions? Yes/No. If yes, please explain which product categories and why.

26. Do you think any of these product categories should not be included? Yes/No. If yes, please explain which product categories and why.

Definitions

27. Do you think that the 2004/5 Nutrient profiling model (NPM) provides an appropriate way of defining HFSS products within the food and drink categories proposed for inclusion in this policy (see Annex 4)? Yes/No. If you answered no, what other ways could we use? Please explain your suggestions.
Public Health England and the Department of Health recently completed a consultation on the nutrient profiling model (NPM) utilised to categorise food products (Public Health England, 2018). The current UK NPM 2004/5 is over 10 years old and no longer reflects current UK dietary recommendations, in particular those for free sugars and fibre. This consultation may provide an opportunity to learn from experts in nutrient profiling, particularly in relation to the wider application of the NPM in the development of further restrictions for the regulation of food and drink advertising. We observe that these comments were noted but are considered beyond the scope of that review (Public Health England, 2018).

28. Do you think that micro, small, medium and large businesses should be defined by how many employees they have, as defined in the EU recommendation 2003/361 (see Annex 5)? Yes/No.

29. Do you think we should consider other ways to define businesses apart from the number of employees, such as floor space/size or turnover? Yes/No. If yes, please explain which methods you think we should consider and why.

**Businesses and products out of scope**

30. Should the price restrictions apply to the businesses and products below (see Annex 5):
   - Microbusinesses - we recognise it may be too difficult for micro businesses to apply the restrictions
   - Specialist retailers - we recognise it may be impractical for retailers that only sell one type of product to apply the restrictions
   - Products that are non-pre-packaged - we recognise it may be impractical for retailers to apply the restrictions when nutritional information is not displayed on the pack for certain products that are sold loose
   - Meal deals in the retail or out of home sector - we recognise they are generally aimed at adults and they aim to reduce the cost of a single meal
   - Any other price promotion activity in the out of home sector - we recognise promotions in these settings serve a different purpose to supermarket multibuy promotions and are generally aimed at groups of people eating out together

Yes/no. Please explain your answer.

31. Should the location restrictions apply to the businesses and products below (see Annex 5):
   - Very small stores that do not have distinct checkout, front of store and aisle end areas, even if they are part of a chain – we recognise it may be impractical for small outlets to apply the restrictions because they may not have distinct areas
   - Specialist retailers – we recognise it may be impractical for retailers that only sell one type of product to apply the restrictions
   - Non-pre-packaged products – we recognise it may be impractical for retailers to apply the restrictions when nutritional information is not displayed on the pack for certain products that are sold loose

Yes/no. Please explain your answer.

32. Are there any other businesses and/or products that should be out of scope of the price and location restrictions? Yes/No. If yes, please explain which businesses and/or products and why.
Policy implementation
33. How much time would businesses need to prepare for implementation? Please explain your answer.

34. DHSC will provide guidance and methodology that will help businesses to know which products can or cannot be promoted. What other support is needed to put this policy into practice?

35. Would these restrictions cause any implementation or other practical issues for particular businesses that we have not considered in this consultation? Yes/No. If yes, please explain what the likely issues are and provide evidence and suggestions of how the issues could be mitigated for these businesses.

36. We welcome views through the consultation on possible approaches to enforcement. Do you have any suggestions for how we can enforce the restrictions in a way that is fair to businesses?

Impact Assessment questions
To assess the potential impact of the proposed policies, we have produced two Impact Assessments (IA). These documents can be found on the main consultation page on Gov.uk. The IAs include modelling of a range of options to restrict promotions of HFSS products by location and by price. Through this modelling we established the best options to pursue and seek stakeholders' views on. As a result, we are not consulting on all the options that were modelled in the IAs.

The following questions will help us gather further evidence and gain insight into the issues raised in the impact assessments.

Please note that any information you provide may be used in our final IA that will be published.

General IA questions
37. We have calculated illustrative transition costs in both impact assessments. Do these calculations reflect a fair assessment of the costs that would be faced by your organisation/business? Yes/No. If no, please provide any further evidence which could be used to improve our estimates.

If you are referring to a specific calculation in one of the IAs, please state which one(s).

38. Are you aware of any other data sources on sales in the out-of-home food market and the nutritional content of the products sold? Yes/No. If yes, please provide details of the information contained in the data set and the provider.

39. Are you aware of any other data sources available which would improve our estimates of the number of food retailers and out-of-home food outlets? Yes/No. If yes, please provide details of the information contained in the data set and the provider.
40. How will these proposals affect the relationships between manufacturers and retailers (e.g. sales agreements, sales targets, the future relationships and profitability)? Please provide further evidence which could be used to improve our understanding.

41. Is it reasonable to assume that retailers and out of home businesses are inspected by Trading Standards every 3.5 and 2 years, respectively? Yes/No. If no, please provide further evidence which could be used to improve our estimates.

42. Is there any additional evidence that would improve our understanding of the level of compensating behaviour which might occur? Yes/No. If yes, please provide further evidence which could be used to improve our estimates.

43. Do you have any further evidence or data you wish to submit for us to consider for our final impact assessment or any specific comments on the methodology or assumptions made? Yes/No. If yes, please provide further evidence which could be used to improve our estimates.

If you are referring to a specific IA question or calculation, please state which one(s).

**Location restrictions IA**

44. Is our assessment of the major supermarkets’ approach to placing HFSS food and drinks at checkouts accurate? Yes/No. If no, please provide further evidence which could be used to improve our understanding.

45. Is there evidence to suggest that smaller retailers are voluntarily restricting the placement of HFSS food and drinks in stores? Yes/No. If yes, please provide further evidence which could be used to improve our understanding.

46. Is there any additional evidence that would improve our estimates of the use of location promotions within the domestic retail or out of home markets, the sales uplift they provide and proportion of sales they represent? Yes/No. If yes, please provide further evidence which could be used to improve our estimates.

**Price restrictions IA**

47. Is it reasonable to assume that businesses will switch to using price cuts instead of volume offers to promote HFSS products? Yes/No. If no, please provide further evidence which could be used to improve our understanding.

48. To what extent are price promotions offered in the out of home sector? Please provide evidence which could be used to improve our understanding.

49. Do consumers respond in a similar way to price promotions offered in the out of home sector and those offered in supermarkets? Please provide further evidence which could be used to improve our understanding.

50. Is the approach used in the impact assessment suitable for assessing the impact on consumers and specifically for assessing the impact on consumer surplus? Yes/No. If no, please provide further evidence which could be used to improve our estimates.
51. How would retailers adjust their promotion strategies to meet the 80/20 target?

**Equalities Assessment questions**

To assess the potential impact of the policies proposed in Chapter 2 of the Government’s Childhood Obesity Plan against the Government’s duties under the Equality Act 2010 a separate Equality Analysis has been produced.

52. Do you think that the proposed policy to restrict promotions of HFSS products by location and by price is likely to have an impact on people on the basis of their age, sex, race, religion, sexual orientation, pregnancy and maternity, disability, gender reassignment and marriage/civil partnership? Yes/No. If yes, please explain your answer and provide relevant evidence.

53. Do you think that any of the proposals in this consultation would help achieve any of the following aims:

- Eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010
- Advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it?
- Fostering good relations between persons who share a relevant protected characteristic and persons who do not share it?

Yes/No

54. If you answered yes to the previous question, please explain which aims it would help achieve and how.

55. If you answered no to the previous question, could the proposals be changed so that they are more effective? If yes, please explain what changes would be needed.

56. Do you think that the proposed policy to restrict promotions of HFSS products by location and by price would be likely to have an impact on people from lower socio-economic backgrounds? Yes/No. If yes, please explain your answer and provide relevant evidence.

*Evidence on the impact of promotions on consumer purchasing and consumption behaviour in relation to food and drink HFSS and the effectiveness of retail environment interventions suggests that restriction price and location promotions are likely to be of greater benefit to more disadvantaged groups (Martin et al., 2017).*

**Further points**

57. Is there anything else that you would like to tell us or any more information that you would like to provide for this consultation?

*Although it is promising to see the Government consult on an area of promotion and marketing, it must be noted that promotion settings cannot be examined in isolation. Research suggests that promotion techniques are employed across settings, and as such require policies that address these multiple settings (Vandenbroeck et al., 2007). There has also been an encouragement from the literature to develop research techniques which evaluate the outcomes of these policies, in order to strengthen their effectiveness (Chambers et al., 2015).*
As such, the UK Government should seek to consult on other areas known to contain prevalent forms of promotion, such as the online environment (Hastings et al., 2003, Cairns et al., 2013, Chambers et al., 2015, Tatlow-Golden et al., 2016, Boyland and Tatlow-Golden, 2017) or sports settings (Carter et al., 2011, Kelly et al., 2014, Bragg et al., 2018). Both the physical and online environment must be considered in future consultations and policies.

The UK Government must also consider that promotion does not solely occur through price promotions. Research has shown that promotion techniques can be associated with encouraging positive attitudes towards a brand, and this is particularly prevalent among children (Hernandez and Chapa, 2010, Kelly et al., 2011, Confos and Davis, 2016, Norman et al., 2018). As such, the UK Government should not only focus on single forms of promotion in silos, but rather examine different forms of promotion concurrently. This may ensure that policies generate the intended outcomes of reducing exposure to promotions of HFSS food and beverages that may encourage unhealthy dietary preferences among children and adults.

When was the response submitted?
20th March 2019

Find out more about our research in this area
Further information about the Unit is available at: www.gla.ac.uk/sphsu

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References


