MRC/CSO Social and Public Health Sciences Unit Consultation Response

**Title of consultation**
Further advertising restrictions for products high in fat, salt and sugar

**Name of the consulting body**
Department of Health and Social Care and Department for Digital, Culture, Media & Sport

**Link to consultation**

**Why did the MRC/CSO Social and Public Health Sciences Unit contribute to this consultation?**
It provided an opportunity to feed our research evidence and other relevant evidence into the consultation on further advertising restriction for products high in fat, salt and sugar.

**Our consultation response**

1. The Government proposes that any further advertising restrictions apply to broadcast TV and online. Do you think that any further advertising restrictions should be applied to other types of media in addition to broadcast TV and online?  
   **Yes/No/I do not know**

2. If answered yes, which other media should be subjected to further HFSS advertising restrictions?  
   Cinema/Radio/Print/Outdoor/Direct marketing/other (please specify)

3. Please explain why you think that we should extend additional advertising restrictions to these types of media. (Drop down list, please select all that apply)  
   a) Will reduce children’s exposure to HFSS advertising and in turn reduce their calorie intake  
   b) Will drive further reformulation of products  
   c) Will reduce economic impact on broadcasters  
   d) Will reduce economic impact on advertisers  
   e) Reduces risk of displacing advertising spend  
   f) Easy for advertisers and regulators to understand  
   g) Easy for parents and guardians to understand  
   h) Other – please explain

*Recent research demonstrates a correlation between HFSS marketing and HFSS consumption amongst 11-19-year olds in the UK. It also shows that HFSS consumption remains at harmful levels and that broadcast marketing predicts increased HFSS consumption (Thomas et al., 2018). This supports an earlier meta-analysis that linked HFSS marketing with HFSS consumption (Boylond et al., 2016). Thomas’ study also highlights that a common way of adding value to a brand or marketing campaign is through celebrity endorsements.*
or competitions (delivered through other mediums such as billboards, hoardings or ‘messages from a sponsor’) and that these are also predictors of HFSS intake (Thomas et al., 2018). Despite Ofcom’s regulations in 2008, there is still a clear and consistent association between the marketing young people see and the foods young people eat in the UK and this influence extends beyond broadcast TV and online media. Any regulation that seeks to address this issue must be applied consistently across all types of media in order to effectively protect young people and avoid the exploitation of potential loopholes.

4. The Government proposes that any additional advertising restrictions apply to food and drink products in Public Health England’s sugar and calorie reduction programmes, and the Soft Drink Industry Levy, using the NPM 2004/5 to define what products are HFSS. Do you agree or disagree with this proposal?
Agree/Disagree/Neither/I do not know

5. If you do not agree with the proposal what alternative approach would you propose and why?
Please provide evidence to support your answer. Please explain your answer

We agree Government-led nutrient profile models are essential when applying advertising restrictions. Evidence shows that industry models are not robust in distinguishing suitably between healthy and unhealthy products when compared with independent models (Brinsden and Lobstein, 2013, Chambers et al., 2015). The current UK NPM allows foods to be classified in a way that is largely consistent with dietary recommendations. However, it is over 10 years old and no longer reflects current UK dietary recommendations, in particular those for free sugars and fibre, and therefore has been criticised for allowing too many less healthy foods to be advertised (Rayner et al., 2013). We support an updated UK NPM and believe that a system which also takes product categories into account would be welcomed.

6. Please select your preferred option for potential further broadcast restrictions.
Option 1/ Option 2/ Option 3

7. Please select the reason/s for your choice, providing supporting evidence for your answer.
Please tick all that apply
a) Will reduce children’s exposure to HFSS advertising and in turn reduce their calorie intake
b) Will drive further reformulation of products
c) Will reduce economic impact on broadcasters
d) Will reduce economic impact on advertisers
e) Reduces risk of displacing of advertising spend
f) Easy to implement
g) Easy for advertisers and regulators to understand
h) Easy for parents and guardians to understand
i) Other - please specify

Evidence suggested that six months after the introduction of the 2008 Ofcom restrictions that children’s exposure to broadcast TV advertising for foods HFSS was unchanged (Adams et al., 2012). A hypothesised explanation for this was that HFSS advertising had shifted to programming that was not specifically targeted at children, and broadcast outside of the hours stipulated within the restrictions. Numerous studies have shown that exposure to advertising for foods HFSS increases calorie intake, therefore, reducing exposure is likely to limit calorie intake. A proposed 9pm watershed would be in harmony with existing restrictions in place which limit children’s exposure to potentially harmful content, and therefore more likely to be easy for parents and guardians to understand.
8. If you selected option 1, the government proposes an exemption for when there are low child audiences. Should this exemption apply to channels or programmes? Please explain your answer.
   a) Programme
   b) Channel
   c) I do not know

   The SPHSU considers applying the exemption to programmes the most appropriate measure to implement. This is due to channels receiving varying audience numbers depending on programming, and as such applying the exemption to a channel may allow for some programmes popular with children to contain advertising that circumvents advertising legislation.

9. If you selected option 1, do you agree that 1% of the total child audience (around 90,000 children) is the appropriate level at which programmes or channels should be exempted? (Choose only one) Please explain your answer.
   a) Yes
   b) No
   d) I do not know

   The SPHSU consider the proposal that 1% of children (90,000 children) is an appropriate level of children to be exposed to advertising for foods HFSS problematic. If the UK Government wish to effectively tackle and protect all children from the pervasive advertising of HFSS products to children in broadcast and non-broadcast media (Cairns et al., 2013), then a 1% threshold is insufficient. The UN Convention on the Rights of the Child (1990) state that all children should be protected from a commercialised childhood. As such, a 1% audience threshold does not meet the standard set by this Convention.

10. If you selected option 1 and you do not agree that 1% of the total child audience is the correct threshold to grant an exemption please propose an alternative threshold, providing evidence to support your answer.
   a) x% of total audience
   b) x% of total child audience
   c) x 000 children etc
   d) Other (please specify)

   As stated in response to Q9, the SPHSU does not consider a 1% threshold to be an appropriate level of children to be exposed to HFSS advertising surrounding programmes or through channels. Instead, the SPHSU consider a threshold measure of 0% to be more appropriate. As evidenced through rigorous research (Hastings et al., 2003, Cairns et al., 2009, Boyland et al., 2011, Cairns et al., 2013, Norman et al., 2018, Coates et al., 2019), HFSS advertising impacts children’s dietary preferences, increasing their desire for such HFSS products. As such, a 1% threshold would allow for (at minimum) 90,000 children to still be exposed to these advertisements. Also, children would not necessarily be exposed to these advertisements once, but rather multiple times throughout a programme or series of programmes.

20. If you would like to comment on the options that you have not chosen to support please comment here, providing evidence to support your answer. Please make it clear what option you are commenting on.
   a) Option 1
   b) Option 2
   c) Option 3
We believe that the likely outcome of a laddered system would be that companies with product ranges that predominantly feature foods HFSS would focus advertising on products meeting the threshold of 4-9 on the 2004/5 NPM score between the times of 5.30pm and 9pm. A UK based study with 59 7-10 year olds found that children shown McDonald’s advertisements for healthier Happy Meals increased their liking for fast foods more generally and they were not more likely to make healthier food choices (Boyland et al., 2015). Similarly, in a study of 99 3-7 year olds shown McDonald’s and Burger King advertisements for milk and apples respectively, 81% recalled viewing French fries even though they did not feature in either advertisement (Bernhardt et al., 2014).

Online consultation options

21. Please select your preferred option for potential further online HFSS advertising restrictions. Option 1/Option 2/Option 3/Option 4

The SPHSU believe a mixed option to restrict online advertising of HFSS products would be the most appropriate option to implement. Due to the complex nature of the online environment, as highlighted through the consultation document, it is pertinent that advertising regulations effectively regulate this complex environment through a variety of measures and keep pace with industry advertising techniques. However, there are some considerations that need to be highlighted. The online advertising environment is distinct from the broadcast advertising environment, due to the multitude of means through which advertisers can promote their products (Tuten, 2008, Freeman and Chapman, 2008). For example through websites, online gaming, social media and word-of-mouth marketing. These forms of advertising are also not bound by time or country borders in the same way that broadcast advertising is, particularly that which occurs through social media (Tuten, 2008). As such, regulatory measures need to consider how these differences will be accounted for in the online environment.

22. Please select the reason/s for your choice, providing supporting evidence for your answer. Please tick all that apply.

a) Will reduce children’s exposure to HFSS advertising and in turn reduce their calorie intake
b) Will drive further reformulation of products
c) Will reduce economic impact on broadcasters
d) Will reduce economic impact on advertisers
e) Reduces risk of displacing of advertising spend
f) Easy to implement
g) Easy for advertisers and regulators to understand
h) Easy for parents and guardians to understand
i) Other - please specify

The UK regulatory system for online promotion and marketing of food high in fat, sugar or salt relies heavily on industry self-regulation. It is known through a variety of rigorous studies that these self-regulatory measures are not as effective at reducing health harms as mandatory or statutory measures (Boyland and Harris, 2017, Chambers et al., 2015, Hawkes, 2005). The SPHSU argue that statutory regulation of the online environment would be an important step towards protecting children further. Restrictions must be strengthened via a watershed, as well as a substantial reduction in the audience threshold of 25%. The World Health Organisation highlighted in 2016 the importance of increased regulation of the digital environment around the advertising of foods HFSS (World Health Organisation, 2016). They raised concern around the increase in children’s time spent online, particularly through mobile devices, and the extensive data advertisers and the food industry are able to collect around children’s online viewing habits and then use to target children in their marketing. As well as some of the measures suggested in this consultation, the WHO report called for monetary sanctions for those who do not comply...
with restrictions, as well as international cross border strategies. In a 2019 report they have reiterated these concerns and created a tool for member states to monitor children’s exposure to digital marketing for foods HFSS (World Health Organisation, 2019). We believe that monitoring of the online environment using this tool, or similar, would provide important information on the appropriateness of the policy responses proposed in this consultation.

29. If you selected option 3, should a watershed be applied to video advertising online, and a targeting restriction for all other online advertising?
   Yes/No/I do not know

If you answered no, how would you divide up online advertising in order to apply a watershed or targeting restrictions to different advertising formats/categories platforms/sites?

See response to question 22. We believe that restrictions must be as robust as possible and that monitoring of the online environment is necessary to determine which restrictions will reduce children’s and young people’s exposure to advertising for foods HFSS most effectively. For example, there remains concern as to how a watershed would be applied effectively, particularly to within-video-advertising as conducted by influencers (Freberg et al., 2011, Baldwin et al., 2018, Coates et al., 2019). These advertisements are often difficult to detect, and as such may not be readily identified if a watershed were to be put in place.

30. If you selected option 3, for advertising subject to a watershed, should exemptions be applied to advertisers who can demonstrate exceptionally high standards of evidence that children will not be exposed to HFSS advertising?
   Yes/No/I do not know

31. If you selected option 3, what evidence should be required to meet the definition of "exceptionally high standards" for the purposes of securing an exemption? Please explain your answer
   The SPHSU do not believe that there should be exemptions.

32. If you selected option 3, what exemptions might the government apply to advertisers who can demonstrate exceptionally high standards of evidence? Please describe how they would work and provide supporting evidence. Please explain your answer
   The SPHSU do not believe that there should be exemptions.

33. If you selected option 3, for advertising subject to a targeting restriction, where advertisers must consider the totality of audience information to demonstrate that no more than 25% of the audience are under 16, should this threshold be lowered:
   a) Lowered to 10%
   b) Lowered to 1%
   c) Disapplied entirely
   d) Not reduced
   e) Other level (please specify)

Please see responses to questions 22 and 29 on monitoring the digital marketing environment via an appropriate tool to determine the appropriate level for a targeting restriction. We believe that the current level of 25% is too high.

34. If you selected option 3, for advertising subject to a targeting restriction, which has been behaviourally targeted, advertisers are required to use whatever sources of evidence are available to them to prove they have excluded under-16s. Do you think they should have to provide specific sources of evidence over and above the existing rules?
   Yes/No/I do not know
If you answered yes, which sources or standards of evidence do you propose? Please provide
evidence to support your answer.

We believe that a standard source of evidence is required as otherwise industry will decide
what evidence is appropriate. Industry employ a variety of tactics in which to prevent regulatory
measures, and these tactics have been used by the food and drink industry (Moodie et al.,
2013, Chambers et al., 2015; Petticrew et al., 2017). We believe that something similar to the
data collected by the Broadcasters Audience Research Board would be appropriate and more
rigorous. Industry and advertisers should go through a pre-approval process before
advertisements are introduced online, and as such this may begin to reduce the amount of
HFSS advertising that is promoted, such as what is already performed by Clearcast for
television advertisements.

Implementation and next steps

37. The government proposes to introduce any advertising restrictions arising from this
consultation at the same time on TV and online. Do you think restrictions should be applied at
the same time for TV and online?
   Yes/No/I do not know

It would be preferable for restrictions to be applied as soon as possible for TV and online. It
may be more straightforward to implement restrictions for TV however, and if a monitoring
exercise is undertaken for online first, then this may require additional time for online
restrictions to be put in place. We do not believe that TV restrictions would need to be delayed
until this exercise was complete.

Public Sector Equality Duty

38. Do you think that introducing further HFSS advertising restrictions on TV and online 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/I do not know If you answered yes, please explain your answer and provide relevant
evidence.

We believe that the main benefits of further HFSS advertising restrictions will apply to children
and young people. Children do not have the developmental maturity to recognise the purpose
of advertising or to assess advertising claims (Kraak et al., 2006, Kunkel et al., 2004). Indeed
evidence suggests that the persuasive intent of advertising is not understood fully until late
adolescence or early adulthood (Carter et al., 2011). There is little evidence to suggest that
improving media literacy can protect children and young people from advertising for foods
HFSS (Chambers et al., 2015), therefore, SPHSU believe that further advertising restrictions on
TV and online would protect them most effectively.

39. Do you think that any of the proposals in this consultation would help achieve any of the
following aims?
   a) Eliminating discrimination, harassment, victimisation and any other conduct that is prohibited
      by or under the Equality Act 2010
   b) Advancing equality of opportunity between persons who share a relevant protected
      characteristic and persons who do not share it?
   c) Fostering good relations between persons who share a relevant protected characteristic and
      persons who do not share it?
   Yes/No/I do not know
If you answered yes, please explain which aims it would help achieve and how. If you answered no, could the proposals be changed so that they are more effective? If you think that proposals could be changed to be more effective please explain what changes would be needed.

b) Equality of opportunity.
Please see response to question 38.

40. Do you think that the proposed policy to introduce further HFSS advertising restrictions on TV and online would be likely to have a differential impact on people from lower socio-economic backgrounds?
Yes/No/I do not know

If you answered yes, please explain your answer and provide relevant evidence.

At this time there is no evidence that in the UK that any particular socio-economic group are more or less affected by advertising exposure on TV or online (Thomas et al., 2018).

When was the response submitted?
6th June 2019

Find out more about our research in this area
https://www.gla.ac.uk/researchinstitutes/healthwellbeing/research/mrccsosocialandpublichealthsciencesunit/

Who to contact about this response
Contact Details
Stephanie Chambers
MRC/CSO Social and Public Health Sciences Unit
Tel: 0141 353 7500
stephanie.chambers@glasgow.ac.uk


