James Best  
Committee of Advertising Practice  
Mid City Place  
71 High Holborn  
London WC1V 6QT  

30 June 2016

Dear James,

CAP Consultation

The British Medical Association (BMA) is an apolitical professional association and independent trade union, representing doctors and medical students from all branches of medicine across the UK and supporting them to deliver the highest standards of patient care. We have a membership of over 170,000, which continues to grow every year.

The Association welcomes the opportunity to respond to the CAP consultation as we are concerned about the adverse impact the marketing of unhealthy food and drink products has on dietary patterns among children and young people. This is comprehensively considered in our 2014 report *Food for thought*, which called for a review on the regulations governing advertising and other marketing communications via non-broadcast media. While the BMA would ultimately like to see a complete ban on all marketing of unhealthy products to children and young people, consideration is needed for how this is achieved in practice through tightening of these regulations.

This reflects that companies use a range of marketing tactics via broadcast and non-broadcast media to promote their products. As highlighted in *Food for thought*, these can impact on children and young people’s dietary preferences, consumption and behaviour. Branding is known to be particularly critical for product choice among younger age groups, and food and drink products are known to be some of the most highly branded items that lend themselves to major marketing campaigns.

The need for stronger regulations also reflects that the majority of children and young people in the UK are not meeting dietary guidance. They are consuming too much saturated fat, added sugars and salt, and not enough fruit, vegetables fibre and oily fish. This unhealthy dietary pattern is strongly associated and causally linked with a number of chronic, complex conditions such as obesity, cardiovascular disease, cancer and type II diabetes. A diet high in sugar also results in very high levels of tooth decay which is the most common reason for children aged between five and nine to be admitted to hospital.

1 Our members routinely face the challenge of managing patients with these conditions, which significantly impacts on the demand for NHS resources.
1. (a) Should the CAP Code be updated to introduce tougher restrictions on the advertising of products high in fat, salt or sugar (HFSS)?

(b) Should CAP use the existing Broadcast Committee of Advertising Practice (BCAP) guidance on identifying brand advertising that promotes HFSS products to define advertising that is likely to promote an HFSS product for the purposes of new and amended rules?

(a) Yes. The current wording of the code claims that, for under 16s, advertising “...must not condone or encourage poor nutritional habits or an unhealthy lifestyle. It should not disparage good dietary practice, promote consumption of a food purely to obtain a promotional offer or encourage excess consumption.” We believe this is vague and open to interpretation. Therefore like the BCAP code, the CAP code should be updated to include rules dedicated to HFSS products, as the description for what is “unhealthy” is not defined clearly enough. It should also go further to say that “it should encourage good dietary practice” rather than “it should not disparage good dietary practice”.

(b) Yes, these new restrictions should mirror the existing guidelines on broadcast advertising, including for brand advertising. We would like these guidelines to apply to children and young people under the age of 16, rather than targeted directly at pre-school or primary school children (see question 4b).

2. Should the CAP Code adopt the Department of Health (DH) nutrient profiling model to identify HFSS products?

While the DH nutrient profiling model has some limitations, it is the most advanced model and is widely used in the UK. It would seem reasonable to use this for the CAP code, and ensure that it is regularly reviewed to consider its effectiveness.

3. There are existing rules in place relating to the creative content of food and soft drink advertising directed at children aged 11 and younger. Should these rules now be applied to advertising for HFSS products only?

The existing rules should be exempt only for products that are demonstrably healthier than HFSS products, such as fruit and vegetables. If these rules were to apply to HFSS products only, there is a risk that many products that are borderline-HFSS products would still be able to be promoted to children. For example, under the current model a breakfast cereal that contains 22.5% sugar would not be covered by the regulations. Many cereals like this are marketed as a “healthy” breakfast. Unsweetened fruit juice is also allowed to be promoted to children, which although does not contain added sugar, the sugar within the fruit acts in a similar way to refined sugar once released from the cells.
A limitation of the current nutrient profiling model is that it simplifies food products into two categories, in either food that can, or cannot be advertised. This means that it is easier for some borderline-HFSS products to be advertised in a way that targets children, which may still affect children and young people’s health in a negative way.

4. (a) Should CAP introduce a rule restricting the placement of HFSS product advertising?

(b) If a media placement restriction is introduced, should it cover media directed at or likely to appeal particularly to children: i) aged 11 or younger? ii) aged 15 or younger?

(a) Yes, CAP should introduce a new rule restricting the placement of HFSS product advertising. We believe that any placement advertising HFSS products that appeals to children should be prohibited.

(b) We believe that these new restrictions should cover media for aged 16 and under, as food advertising also heavily influences the decisions of adolescents who have more independence in choosing their own diet than children. They also have a higher consumption of online media; between the ages of 5-10, children use the internet for about 1hr 20 minutes each day. Between the ages of 11-16, this increases to 2hrs 15 minutes. As well as being more intensive users, older children also tend to be unsupervised more often.²

5. It is often straightforward to identify media targeted at children. Where media has a broader audience, CAP uses a “particular appeal” test – where more than 25% of the audience are understood to be of a particular age or younger – to identify media that should not carry advertising for certain products media. Should the CAP Code use the 25% measure for the purpose of restricting HFSS product advertising?

We believe that the threshold of 25% for the “particular appeal” test is too high, and should also be applied for children under the age of 16. The threshold should be significantly lowered for determining which programmes appeal particularly to this age group.

6. Should CAP apply the placement restriction on HFSS product advertising to all non-broadcast media within the remit of the Code, including online advertising?

Yes, CAP should apply the placement restriction to all non-broadcast media, including online advertising. There should be no exceptions, as any form of advertising has the potential to influence children and young people’s dietary choices. Online advertising might be particularly influential; qualitative studies have found that children have more difficulty appreciating the aims of online advertising before about seven or eight years of age, even more so than television advertising. In particular that of ‘advergames’ (advertising through online games), which are used to promote brand loyalty among children. These
immerse children in the brand, reward interaction through enjoyment and achievement, and through competition and social media, work to engage and recruit peers.

The popularity of social media websites is also an important consideration, including in relation to user-generated content. These new forms of communication can extend across national borders and reach out to large numbers of young people at any given time. Many companies also reach young consumers, often without their parent’s knowledge, via their mobile phones and tablets – through text messages, e-mails and mobile apps. For example, researchers from Yale University found 34 apps from soda and energy drink brands in 2010 available for US-based “iPhone®” users. These sorts of apps are popular among young people, with a separate Yale University study finding that 41% of individuals who downloaded “Red Bull Racing Challenge” app were 12-17 years old.

We hope that our submission is useful – please do not hesitate to contact us for more information if required.

Yours sincerely

Olivia Lines
Policy and Advice Support Officer

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1 Health and Social Care Information Centre (2013) Hospital Episode Statistics, Data provided after FOI request. Health and Social Care Information Centre