

Department of Health and Social Care
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Dear Sir/Madam

Introducing further advertising restrictions on TV and online for products high in fat, sugar and salt

The BMA is a voluntary 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.

Doctors have significant concerns about the impact of poor diet on the nation's health, which is associated with a range of adverse health outcomes including increased risk of chronic diseases such as cardiovascular disease, cancer, type II diabetes and poor dental health. This carries a significant cost for the NHS. The BMA has long campaigned for a range of measures to reduce the levels of obesity and overweight in the UK. We recently published a range of [policy recommendations](#) which cover the breadth of action that doctors believe is required to address this key public health issue, including restricting the marketing and promotion of unhealthy food, introducing regulatory backing for reformulation, and providing adequate funding for public health services.

As part of this comprehensive approach to addressing diet-related ill-health, it is important that people are able to make healthy choices, without undue influence towards buying less healthy products. We know that children and young people are exposed to marketing of unhealthy food both on broadcast TV and online, and the evidence shows that this can lead to increased consumption of these foods. The evidence (see below) also demonstrates that current advertising restrictions are not fit for purpose, and are not protecting children and young people from excessive marketing influence.



The BMA therefore welcomes the opportunity to respond to DHSC's (Department of Health and Social Care) consultation on introducing further advertising restrictions on TV and online for products high in fat, sugar and salt (HFSS). This submission outlines our reasons for supporting this proposed legislation and states our preferred policy options. The following is a high-level response from the BMA, and our responses to some of the specific questions contained within DHSC's consultation document are set out below. A more detailed response will be submitted by the Obesity Health Alliance, of which we are a member.

The evidence for action

Despite current advertising restrictions, children and young people continue to be exposed to high levels of marketing of unhealthy food. This is because the present restrictions are not fit for purpose. Changes to the viewing and media consumption patterns of children mean they are no longer adequately protected.

Currently, HFSS food advertising is only restricted around programming designed for, or likely to appeal to, children. This is determined by having a viewership that is at least 25% children (under 16 years old). However, in practice these rules only apply to 26% of children's total TV viewing time.¹ This is largely because the rules still allow HFSS adverts to be shown during 'family viewing time' between 6-9pm, when the proportion of total viewers under 16 years old is below the 25% threshold, but the popularity of the programmes means that the number of children watching TV is at its highest. For example, some of the shows most frequently watched by children are 'Britain's Got Talent', which is watched by over 1.4 million children and 'Ant and Dec's Saturday Night Takeaway',² watched by over 1.1 million children.³ Research commissioned by the Obesity Health Alliance revealed that the majority (59%) of all food and drink adverts shown during family viewing time were for HFSS products that would be banned on and around children's programmes.⁴ The same research also showed that in some instances exposure to HFSS advertising could be highly concentrated: before and during a single episode of Hollyoaks, viewed by over 140,000 children, nine HFSS food adverts were shown in the space of thirty minutes.⁵

Although the literature on the direct effect of online advertising on consumption habits is less developed than that of television advertising, there is emerging evidence to show that online advertising does influence consumer behaviour. Research has shown that combined broadcast and online advertising amplifies the overall effect of a marketing campaign, and increases consumer purchasing.⁶ A comprehensive report by the World Health Organisation stated that governments had a duty to protect children from HFSS marketing online, and recommended that offline protections were extended into the online environment.⁷

Marketing exposure across media leads to increased purchases and consumption of unhealthy food and drink through three mechanisms.

- Firstly, it influences the choices and purchases that children make. A systematic review of the evidence has demonstrated that food marketing has a direct effect on the preferences and purchase behaviour of children.⁸
- Secondly, marketing influences the amount of food that children consume. Two systematic reviews and meta-analyses have shown that exposure to advertising increases food intake in adults, and one study found that under experimental conditions just 4.4 minutes of advertising can increase a child's food intake by 60 kilocalories, with children with overweight or obesity even more susceptible to the effects of advertising than their peers with a healthy weight.^{9,10}

- Thirdly, advertising can exert influence over the food and drinks that children persuade their parents to buy. Studies into this ‘pester power’ have revealed that children request food and drinks that they have seen advertised, and that parents often acquiesce to these requests, thereby resulting in consumption of less healthy products than would otherwise have been the case.^{11,12}

The result of these three mechanisms is that there is a causal relationship between food marketing and overconsumption of unhealthy food, as established by a systematic review of studies on food marketing and children’s eating behaviours.¹³ Furthermore, there is evidence to show that that food habits that begin in childhood can continue into adulthood, and therefore that lifetime habits can be positively influenced by intervening in the early years.¹⁴

Media in scope

Question 1 – There should be further advertising restrictions which apply to broadcast TV and online

The evidence above demonstrates that the current advertising protections are not fit for purpose. Further restrictions are required both on broadcast TV, to protect children from HFSS advertising outside of designated children’s programming, and online to bring protections into line with broadcast TV and respond to the evolving media viewing habits of children.

Questions 2, 3 – Other media subject to further HFSS advertising restrictions

Further appropriately designed advertising restrictions should also be applied to the following: cinema, radio, print, outdoor, direct marketing, experiential marketing, packaging, sponsorship of sports events and sponsorship of school-based activities. Without covering these types of marketing, there is a risk that advertising spend on broadcast TV and online would be displaced, meaning that children’s exposure to HFSS advertising and their subsequent calorie intake would not be reduced to the extent desired. Including these additional types of marketing in further advertising restrictions would help drive reformulation of products, and a consistent approach would be easy for parents and guardians as well as advertisers and regulators to understand.

Broadcast and online options

Questions 6, 7, 21, 22 – There should be a 9pm – 5:30am watershed on broadcast TV and online

Implementing an HFSS advertising watershed on broadcast TV and online, ensuring HFSS foods can only be advertised between 9pm and 5:30am, would reduce children’s exposure to the marketing of unhealthy food and drink and, as we have highlighted above, would in turn reduce their calorie intake and subsequently levels of childhood obesity. A 9pm to 5:30am watershed which is consistent across both broadcast and online would be easy to implement, and easy for advertisers, regulators and parents and guardians to understand. If a 9pm watershed was introduced alongside appropriately designed restrictions on other media (see answer to questions 2 and 3 above), this would reduce the risk of displacing advertising spend and therefore more comprehensively protect children and their health. It would follow already understood rules relating to broadcast programming suitable for younger audiences and programming where parents and guardians should exercise caution. Consistency across media types would mean that parents know when their children are protected and when they are not, regardless of the mechanism or device through which the media is being consumed.

It is likely that implementing the watershed on broadcast TV and online would also drive further reformulation of products. As has been seen with the Soft Drinks Industry Levy (SDIL), manufacturers reformulate their products so as to avoid being subject to regulation. In advance of the SDIL coming into force, over 50% of manufacturers took the decision to reduce the sugar content in their drinks.¹⁵ It is reasonable to expect that food and drink manufacturers may take action so that their products are no longer classed as HFSS to avoid being subject to advertising restrictions.

Questions 8, 9, 10, 23 – There should be no exemptions to applied to any programmes, channels or advertisers

All children should be protected from HFSS food advertising. For TV, there should be no exemptions to channels or programmes – the proposal to implement a 1% threshold exemption could leave up to 90,000 children exposed to the advertising of unhealthy food on one channel, at one time, alone. This is an unacceptably high number.

For online, there should be no exemptions applied to any advertisers. All children should be protected, regardless of whether a small number of children may be accessing a particular website and therefore viewing a particular advert. Having no exemptions will also maintain regulatory simplicity and make it easy for parents and guardians to know when their children are being protected from the marketing of unhealthy products.

Question 36 – The TV and online restrictions should be brought in at the same time, and as soon as possible

We are in the midst of an obesity epidemic in the UK. Stronger regulation should be brought in as soon as practicably possible.

HFSS definition

Question 4 – Additional advertising restrictions should apply to food and drink products defined as HFSS by the Nutrient Profile Model, though the current proposed approach to combine this with Public Health England’s sugar and calorie reduction strategies, and the Soft Drink Industry Levy, would be a pragmatic first step

The Nutrient Profile Model is already accepted for advertising purposes by the food and drink industry, and is a simple and well understood tool. It was created to identify foods that should not be advertised to children. As such, we would like to see this approach maintained. Combining this with Public Health England’s sugar and calorie reduction strategies would create a large number of exemptions which the food industry has input to via consultation, although it is understood that the intention of this is to attempt to exclude items which are HFSS but are not contributing towards the poor diet of children, and are not designed to appeal to children. If this combined approach is to be adopted, it should be reviewed within three years to assess the effects on reformulation and ensure that the right products continue to be covered by this regulation. Any updated versions of the Nutrient Profile Model should be adopted without delay.

Public Sector Equality Duty

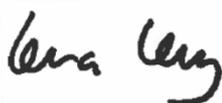
Question 39 – Additional advertising restrictions on TV and online could help to narrow the gap in diet-related health outcomes between the least and most deprived

Children from lower socio-economic backgrounds have higher rates of obesity and overweight than children from higher socio-economic backgrounds.^{16,17} Children from lower socio-economic backgrounds also spend longer watching broadcast TV and spend longer online,^{18,19} and evidence shows that children from lower socio-economic groups are exposed to higher levels of HFSS advertising on TV than children from higher socio-economic groups.²⁰ Further restricting advertising on TV and online could therefore serve to have the highest impact on those with the most exposure to marketing, and as a result provide the largest health benefits for this group.

Concluding remarks

The outcome of this consultation has the potential to help rebalance the relationship between the food and advertising industries and consumers, and to improve the health of the nation's children. Furthermore, polling data indicates that the course of action suggested in this response – a 9pm – 5:30 watershed on TV and online – would enjoy strong public support. 72% of people support a watershed to stop junk food adverts being shown during popular family TV shows, and 70% of people support a watershed on junk food adverts online.²¹ Quite clearly, the government should implement this proposed policy as soon as possible.

Yours sincerely,



Lena Levy
Head of Public Health and Healthcare Delivery

¹ Ofcom (2017). *Children and parents: media use and attitudes report 2017*

² Ofcom (2018). *Children and parents: media use and attitudes report*

³ Obesity Health Alliance (2017). *A Watershed Moment: Why it's Prime-Time to Reduce Children's Exposure to Junk Food Advertising.*

⁴ Obesity Health Alliance (2017). *A Watershed Moment: Why it's Prime-Time to Reduce Children's Exposure to Junk Food Advertising.*

⁵ Obesity Health Alliance (2017). *A Watershed Moment: Why it's Prime-Time to Reduce Children's Exposure to Junk Food Advertising.*

⁶ *Exploring digital ROI for FMCG brands.* New York, NY: Microsoft ; 2013

⁷ World Health Organization (2016). *Tackling food marketing to children in a digital world: trans-disciplinary perspectives.* WHO Regional Office for Europe.

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- ⁸ Cairns, G., Angus, K., Hastings, G. & Caraher, M. (2013). *Systematic reviews of the evidence on the nature, extent and effects of food marketing to children. A retrospective summary*. *Appetite*, 62, pp. 209-215.
- ⁹ Boyland E, Nolan S, Kelly B (2016). *Advertising as a cue to consume: a systematic review and meta-analysis of the effects of acute exposure to unhealthy food and non alcoholic beverage advertising on intake in children and adults*. *Am J Clin Nutr*, 103(2): 519-33.
- ¹⁰ Russell, Simon J., Helen Croker, and Russell M. Viner (2018). *The effect of screen advertising on children's dietary intake: A systematic review and meta-analysis*. *Obesity Reviews* 2018; 1–15.
- ¹¹ Hastings, G. (2006) *The extent, nature and effects of food promotion to children: a review of the evidence*. WHO 16.
- ¹² McDermott L et al. (2006). *International food advertising, pester power and its effects*. *International Journal of Advertising*, 25:4, 513-539
- ¹³ Norman J, Kelly B, Boyland E, McMahon AT. *The impact of marketing and advertising on food behaviours: Evaluating the evidence for a causal relationship*. *Current Nutrition Reports*. 2016 Sep 1;5(3):139-49
- ¹⁴ Hursti UK. *Factors influencing children's food choice*. *Annals of medicine*. 1999 Jan 1;31(sup1):26-32
- ¹⁵ <https://www.gov.uk/government/news/soft-drinks-industry-levy-comes-into-effect>
- ¹⁶ <https://digital.nhs.uk/data-and-information/publications/statistical/national-child-measurement-programme/2017-18-school-year/deprivation>
- ¹⁷ <https://digital.nhs.uk/data-and-information/publications/statistical/national-child-measurement-programme/2017-18-school-year/deprivation---year-6>
- ¹⁸ Ofcom (2017): *Children and Parents: Media Use and Attitudes Report*
- ¹⁹ Thomas, F. Hooper, L. Petty, R. Thomas, C. Rosenberg, G. Vohra, J. (2018). *A Prime Time for Action: New evidence on the link between television and on-demand marketing and obesity*. Policy Centre for Cancer Prevention, Cancer Research UK
- ²⁰ Adams J, Tyrrell R, Adamson AJ, White M (2012). *Socio-economic differences in exposure to television food advertisements in the UK: a cross-sectional study of advertisements broadcast in one television region*. *Public health nutrition*. Mar;15(3):487-94.
- ²¹ Obesity Health Alliance (2019). *The need for a comprehensive 9pm watershed on all junk food adverts shown on all types of media*.