CONSULTATION RESPONSE

Obesity Action Scotland
Healthy weight for all

HM Government's consultation on introducing further advertising restrictions on TV and online for products high in fat, sugar and salt (HFSS)

Consultation Response from Obesity Action Scotland
Closing date: 11:59pm on 10 June 2019

This response includes answers to the consultation questions (Annex D of the consultation document) and the impact assessment consultation questions (Annex E)

Consultation questions (Annex D)

Media in scope

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)

Further restrictions should apply not only to linear TV and online (websites, video-sharing platforms, social media, apps, in-game) but also other broadcast channels: linear radio, radio on demand and TV on demand and non-broadcast channels: cinema and outdoor advertising including traditional advertising (print and direct marketing) and digital advertising. Applying the restrictions to all types of advertising served digitally, regardless of media channel or device, would reduce the risk of advertising spend being displaced to other media not covered by the regulations.

A comprehensive approach covering as many advertising channels as possible is not a new idea. In 2015 the Health Select Committee, after holding a series of hearings, endorsed Public Health England's recommendation of extending the restrictions on advertising to apply across all other forms of broadcast media, social media and advertising, including in cinemas, on posters, in print, online and advergames. The view of the committee then was that this should have been implemented without delay (1).

(1) House of Commons Health Committee (2015) Childhood obesity—brave and bold action. First Report of Session 2015–16. https://publications.parliament.uk/pa/cm201516/cmselect/cmhealth/465/465.pdf

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

HFSS definition

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/ I do not know

We believe that using an out of date NPM and introducing a second layer of product categories to the definition create a confusing, less effective approach.

The proposed definition means that firstly only product categories already included in the current reformulation programmes and in scope of the Soft Drinks Industry Levy would be included. Secondly, not all the products from those already narrow categories will be covered because the 2004/5 Nutrient Profiling Model (NPM) will be applied within the categories. The 2004/5 NPM is based on evidence that is older than 15 years and therefore out-dated. Since the time 2004/5 NPM was published, knowledge and evidence has grown, UK dietary recommendations have been changed accordingly, and Public Health England had called for reviewing and strengthening of the 2004/5 NPM in 2015 (1) and subsequently updated the model (2). Therefore we cannot understand why the newer version of the NPM has not been proposed.

Applying the NPM to each category gives the opportunity for certain products within those categories to be exempt. This is clearly not going to help public understanding of this policy and not going to drive the shift we need to see in the amount of discretionary/unhealthy foods we eat, to allow us to move much closer to the Eatwell Guide recommendations and the Scottish Dietary Goals.

It is also not clear what "in the scope of the SDIL" will mean in practice. Whilst we understand and have had confirmation from DHSC that it means any drink with added sugar, until it is clearly defined it could potentially be understood to mean drinks that pay the SDIL and therefore have 5g of sugar per 100ml or greater. This would not be an effective step as it would allow drinks with 4.9g of sugar per 100ml to be advertised.

The reformulation work currently being undertaken is important, but restricting advertising of less healthy products is a distinct issue. Trying to match the programmes through definitions in this way creates mixed messages.

We are concerned that taking into account all of the above the proposed approach would create conflicting messages for consumers where certain types of confectionery and sugary drinks are okay because they are advertised but other types are not because they have a few grams more sugar. We need to give consistent messaging to the public through all the implemented policies about what constitutes a healthy diet.

(1) Public Health England (2015) Sugar Reduction. The evidence for action. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/470179/Sugar_reduction_The_evidence_for_action.pdf

(2) Public Health England (2018) Annex A. The 2018 review of the UK Nutrient Profiling Model. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/694145/Annex__A_the_2018_review_of_the_UK_nutrient_profiling_model.pdf

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

We strongly suggest using World Health Organisation Regional Office's for Europe Nutrient Profiling model (WHO Euro NPM) (1). This approach appears to be the most practical way forward to tackle the health harming products that make up such a considerable part of our diet in the UK.

In our view it is simpler, more practical and better evidence-based option. Specifically, the WHO Euro NPM:

- Is over 10 years newer than the proposed 2004/5 NPM and therefore is able to address the current food environment more accurately
- is stricter than the 2004/5 NPM (2), the effect of which would be that children would be exposed to advertising of healthier foods than if 2004/5 NMP was used
- is simple: its rules are summarised in one A4 table. It does not have complicated formulas but category descriptors and simple cut off limits for sugar, salt, fat and saturated fat (1)
- it would be easier to implement for businesses and understand for the public than the proposed Scottish and English approaches that require complex calculations and information about nutrients not normally disclosed on the labels
- is recommended as a method of identifying unhealthy food and beverages by the World Health Organization's Commission on Ending Childhood Obesity (ECHO) as one of the means to tackle childhood obesity (3)
- has been developed to tackle food marketing of unhealthy food and drink in general and is currently being used by other countries (4)
- is an evidence-based approach developed for the European context by an independent, international and highly established authority that the World Health Organization is
- would also encourage reformulation

(1) World Health Organization (2015) WHO Regional Office for Europe Nutrient Profile Model. Copenhagen, Denmark: World Health Organization Reginal Office for Europe;

http://www.euro.who.int/__data/assets/pdf_file/0005/270716/Nutrient-children_web-new.pdf
(2) Wicks, M., Wright, H., Wentzel-Viljoen E. (2017) Restricting the marketing of foods and non-alcoholic beverages to children in South Africa: are all nutrient profiling models the same? British Journal of Nutrition, 116 (12), 2150-2159
(3) World Health Organization (2016) Report of the Commission on Ending Childhood Obesity. Geneva, Switzerland: World Health Organization http://apps.who.int/iris/bitstream/10665/204176/1/9789241510066_eng.pdf
(4) Garbrijelcic Blenkus Mojca (2017) Restrict Marketing and Advertising to Children. Action Area 4 of the EU AP on Childhood Obesity. Update from Slovenia on process of adapting WHO Europe nutrient profile Model. Presentation from High Level Group on Nutrition and Physical Activity meeting Brussels, 8th March 2017. https://ec.europa.eu/health/sites/health/files/nutrition_physical_activity/docs/ev_20170308_co_05_en.pdf

Broadcast consultation options

6. Please select your preferred option for potential further broadcast restrictions.

Option 1/Option 2/Option 3

We strongly support Option 1 but we do not think there should be any exemptions to it. We do not agree that a 'proportionate response', is allowing 90,000 children aged 4-15 years to be exposed to marketing of unhealthy products. The impact of such exposure could be long-lasting and could widen inequalities, as children from more deprived households watch more TV, spend more time online and play games longer compared to children from less deprived households (1). While risks of such 1% exemption are clear, we cannot identify any benefit that could outweigh the risk to children's health.

We would interpret that others also have the view that there should be no exemptions: in their 2015 report, the House of Commons Health Select Committee supported the 9pm watershed, specifying that it should restrict all advertising of high fat, salt and sugar foods and drinks, no exemptions were mentioned (2). This was preceded by Public Health England's recommendation of extending restrictions on advertising high sugar foods to apply across all other forms of broadcast media, social media and advertising, including in cinemas, on posters, in print, online and advergames (3).

(1) Ofcom (2017) Children and Parents: Media Use and Attitudes Report https://www.ofcom.org.uk/__data/assets/pdf_file/0020/108182/children-parents-media-use-attitudes-2017.pdf
(2) House of Commons Health Committee (2015) Childhood obesity—brave and bold action. First Report of Session 2015–16. https://publications.parliament.uk/pa/cm201516/cmselect/cmhealth/465/465.pdf
(3) Public Health England (2015) Sugar Reduction. The evidence for action. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/470179/Sugar_reduction_The_evidence_for_action.pdf

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

There is an abundance of evidence indicating that restricting children's exposure to HFSS advertising would reduce their calorie intake. World Health Organisation observed it in their 2016 report and stressed that there was unequivocal evidence that childhood obesity is influenced by marketing of foods and non-alcoholic beverages high in saturated fat, salt and/or free sugars (HFSS) (1). In agreement with this, a core recommendation of the WHO Commission on Ending Childhood Obesity (2) was to reduce children's exposure to all such marketing. As a result, WHO called on Member States to introduce restrictions on marketing of HFSS foods to children, covering all media, including digital, closing any regulatory loopholes.

As Dr Emma Boyland pointed out in her evidence for the Health and Social Care Committee's Childhood Obesity Inquiry (3), there is evidence that in children, unhealthy food marketing is associated with:

- Greater awareness of advertised brands and products
- The 'normalisation' of junk food consumption
- More positive attitudes towards junk food
- Increased preference for junk food
- Greater taste preferences towards advertised products
- Greater choice of the advertised brand and product
- Greater pestering of parents to buy junk food
- Immediate snack food consumption
- Greater intake of junk food overall
- Lower intake of healthy food overall
- Increased food intake that is not compensated for at later eating occasions
- Greater body weight

In the UK, Cancer Research UK's report found that seeing one extra broadcast HFSS advert/ week predicted 350 extra HFSS calories/week in people aged 11-19 years old (4). The same report also found that young people were under huge pressure to have unhealthy diets and that HFSS consumption was at harmful levels among the youth population. Another research report revealed that TV marketing was a risk factor for high HFSS consumption and higher junk food eating in 11-19 year olds (5). There is also research in primary school aged children showing negative effects of junk food advertising in the short term: making children hungry and wanting to eat immediately, medium term: pestering parents to buy advertised junk food, and long term: remembering the adverts and wanting to buy advertised products when in supermarket (6). All of the above, together with the shockingly high exposure of children to sources of such advertising (7, 8) strongly suggest that reducing children's exposure to HFSS advertising would reduce their calorie intake.

Additionally, online polling from Obesity Health Alliance (OHA) and Obesity Action Scotland revealed that 69% of the UK public and 66% of the public in Scotland agree that children seeing junk food marketing contributes to childhood obesity (9, 12).

b) Will drive further reformulation of products

Reformulation has been one of the actions to tackle childhood obesity in the UK, with the focus on sugar reduction first and calorie reduction after that (10). Public Health England's initial monitoring showed limited success of sugar reduction: main reductions of sugar were seen in soft drinks most likely due to introduction of the Soft Drinks Industry Levy (SDIL) (11). The restrictions to advertising of HFSS products may have similar effect. However, we are concerned about the use of old 2004/2005 NPM that precedes UK new sugar recommendations, allowing products with excess sugar to be advertised. We strongly advise using the updated NPM or, preferably, the WHO Euro NPM (see our answer to question 5 of this consultation).

c) Will reduce economic impact on broadcasters

d) Will reduce economic impact on advertisers

e) Reduces risk of displacing of advertising spend
Option 1 could possibly have this effect if implemented without exemptions and if includes as many advertising channels as possible.

f) Easy to implement

g) Easy for advertisers and regulators to understand
Option 1 would be easier to Option 2 simply because it has less rules. However, its understanding among advertisers and regulators, will also be related to the way HFSS foods are defined, 2004/5 NPM is not only difficult to understand but also outdated.

h) Easy for parents and guardians to understand
Option 1 would be easier than Option 2 simply because it has less rules. However, its understanding among parents, will also depend on the way HFSS foods are defined, 2004/5 NPM is not only difficult to understand but also outdated (see answer to question 4).

Obesity Health Alliance (OHA) online polling revealed that 72% of the UK public supports a 9pm watershed on junk food adverts during popular family TV shows; 70% supports a 9pm watershed on junk food adverts online; and 68% supports a 9pm watershed on junk food adverts digital advertising outside of the home (e.g. cinemas, digital posters at bus stops/ on roadsides) (9). The question in this poll did not include any exemptions from or caveats to the 9pm watershed.

In Scotland, similarly, there is very strong public support for these measures. Recently commissioned by Obesity Action Scotland, YouGov polling (unpublished) showed that 74% of the Scottish public supports a 9pm watershed on junk food adverts; 69% supports a 9pm watershed on junk food adverts online; and 66% supports a 9pm watershed on junk food adverts digital advertising outside of the home (e.g. cinemas, digital posters at bus stops/ on roadsides) (12).

i) Other - please specify

(1) WHO Regional Office for Europe (2016) Tackling food marketing to children in a digital world: trans-disciplinary perspectives. http://www.euro.who.int/en/health-topics/disease-prevention/nutrition/publications/2016/tackling-food-marketing-tochildren-in-a-digital-world-trans-disciplinary-perspectives-2016
(2) World Health Organization (2016) Report of the Commission on Ending Childhood Obesity (106) Geneva: World Health Organization
(3) Boyland, Emma (2018) Written submission from Dr Emma Boyland, University of Liverpool COY0006. http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/health-and-social-care-committee/childhood-obesity/written/81090.pdf
(4) Cancer Research UK (2018) Under Pressure. New Evidence on Young People's Broadcast marketing exposure in the UK. https://www.cancerresearchuk.org/sites/default/files/under_pressure_-_a_study_of_junk_food_marketing_and_young_peoples_diets_0.pdf

(5) Cancer Research UK (2018) 10 YEARS ON. New Evidence on TV Marketing and Junk Food Consumption amongst 11-19 Year Olds after Broadcast Regulations. https://www.cancerresearchuk.org/sites/default/files/10_years_on_full_report.pdf
(6) Cancer Research UK (2016) Ad Brake. Primary School Children's Perceptions of Unhealthy Food Advertising on TV. https://www.cancerresearchuk.org/sites/default/files/ad_brake_exec_summary.pdf
(7) Ofcom (2017) Children and Parents: Media Use and Attitudes Report https://www.ofcom.org.uk/__data/assets/pdf_file/0020/108182/children-parents-media-use-attitudes-2017.pdf
(8) Obesity Health Alliance (2017) A 'Watershed' Moment. Why it's Prime Time to Protect Children from Junk Food Adverts. http://obesityhealthalliance.org.uk/wp-content/uploads/2017/11/A-Watershed-Moment-report.pdf
(9) Obesity Health Alliance (2019) Protect children from all junk food advertising, say health experts – and parents agree. http://obesityhealthalliance.org.uk/2019/02/28/protect-children-junk-food-advertising-say-health-experts-parents-agree/
(10) Public Health England (2019) Sugar reduction and wider reformulation. Website. https://www.gov.uk/government/collections/sugar-reduction
(11) Public Health England (2018) Sugar reduction and wider reformulation: report on progress towards the first 5% reduction and next steps. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/709008/Sugar_reduction_progress_report.pdf
(12) Obesity Action Scotland (2019) – YouGov survey of 1007 adults representative of the Scottish population, conducted 23rd - 27th May 2019 https://www.obesityactionscotland.org/media/1298/report-public-support-for-restricting-the-advertising-of-junk-food.pdf

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

N/A

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; c) I do not know

We strongly oppose any exemptions. We do not agree that a 'proportionate response', is allowing 90,000 children aged 4-15 years to be exposed to marketing of unhealthy products. The impact of such exposure could be long-lasting and could widen inequalities, as children from more deprived households watch more TV, spend more time online and play games longer compared to children from less deprived households (1). While risks of such 1% exemption are clear, we cannot identify any benefit that could outweigh the risk to children's health. There should be no exemptions.

We would interpret that others also have the view that there should be no exemptions: in their 2015 report, the House of Commons Health Select Committee supported the 9pm watershed, specifying that it should restrict all advertising of high fat, salt and sugar foods and drinks, no exemptions mentioned (2). This followed an even earlier Public Health England's recommendation of extending

restrictions on advertising high sugar foods to apply across all other forms of broadcast media, social media and advertising, including in cinemas, on posters, in print, online and advergames (3).

(1) Ofcom (2017) Children and Parents: Media Use and Attitudes Report https://www.ofcom.org.uk/__data/assets/pdf_file/0020/108182/children-parents-media-use-attitudes-2017.pdf
(2) House of Commons Health Committee (2015) Childhood obesity—brave and bold action. First Report of Session 2015–16. https://publications.parliament.uk/pa/cm201516/cmselect/cmhealth/465/465.pdf
(3) Public Health England (2015) Sugar Reduction. The evidence for action. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/470179/Sugar_reduction_The_evidence_for_action.pdf

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 number children; d) Other (please specify)

0%. Please see our answer to question 9 above.

11. If you selected option 2, do you agree with the thresholds suggested for the NPM? If not please explain your reasons with supporting evidence.

Yes/No

N/A

12. If you selected option 2, should the NPM thresholds remain static or decrease overtime to offer rewards in line with reformulation efforts? Please explain your answer.

Static/Decrease/Other

N/A

13. If you selected option 2, the Government proposes to allow products that fall within the middle threshold some advertising before the 9pm watershed. What advertising freedoms do you think these products could be offered?

Please explain your answer

N/A

14. If you selected option 2, in your view, how easy would it be to implement a ladder option compared to the approach outlined in option 1?

Very easy/ Easy/ I do not have a view/Difficult/Very difficult.

N/A

15. If you selected option 2, 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

N/A

16. If you selected option 2, 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; c) I do not know

N/A

17. If you selected option 2, and you do not agree that 1% of the total child audience is the appropriate level at which to grant an exemption please propose an alternative level, providing evidence to support your answer.

a) x% of total audience; b) x% of total child audience; c) x number of children; d) Other (please specify)

N/A

18. If you selected option 3, are there any alternative measures from broadcasters, regulators or the advertising sector that might help to meet our policy objectives in broadcast?

Yes/No/I do not know

If you answered yes, what measures do you propose?

N/A

19. 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

N/A

<u>Online consultation options</u>

20. Please select your preferred option for potential further online HFSS advertising restrictions.

Option 1/Option 2/Option 3/Option 4

21. 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

A recent CRUK report revealed that on-demand streaming services (such as YouTube) were a risk factor for high junk food and unhealthy drinks consumption (1). The report gave example of fizzy drinks: "high TV marketing exposure was associated with being 2.5 times more likely to consume one energy drink or more per week, 2.1 times more likely to consume 2-4 or more diet drinks per week, and 1.5 times more likely to consume sugar sweetened fizzy drinks 2-4 times per week or more" (1). On the basis of the above findings it is logical to assume that reduction in this risk factor will result in less unhealthy food and drink consumed.

b) Will drive further reformulation of products

Online advertising is a growing area. In 2017, the UK more money was spent on online advertising than TV advertising: £11.6bn vs £5.1bn. Mobile advertising accounted for almost half of the online spend, at £5.22bn, an increase of 37% from 2016-2017 (2). These figures are set to increase by 3.8% in 2019. This advertising spend reflects the change in children's media habits. The 2018 Ofcom report showed that children spend online between 9 (3-4 year olds) and 20.5 (12-15 year olds) hours a week (3). Watching programmes via services such as Netflix and Amazon Prime have also become popular, with between 32% and 58% of children aged 3-15 using these services.

Targeting online HFSS advertising as well as broadcast advertising should reduce potential displacement of advertising spend, hopefully leading to either reformulation of HFSS products or advertising of healthier options. However, we are concerned about the use of old 2004/2005 NPM that precedes UK's new sugar recommendations (4), allowing products with excess sugar to be advertised. We strongly advise using the updated NPM or, preferably, the WHO Euro NPM (see our answer to question 5 of this consultation).

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

Option 1 of introducing a 9pm-5:30am watershed online would be simpler for parents to understand than the alternative options 2 and 3. Allowing any exemptions, conditions and applying different rules to different channels would make options 2 and 3 more difficult.

However, we do not think that Option 1 it is an easy option due to complexity of the proposed definition of HFSS products (see answer to question 5).

i) Other - please specify

(1) Cancer Research UK (2018) 10 Years On. New Evidence on TV Marketing and Junk Food Consumption amongst 11-19 Year Olds after Broadcast Regulations. https://www.cancerresearchuk.org/sites/default/files/10_years_on_full_report.pdf
(2) AA/WARC (2018) Expenditure Report April 2018.
(3) Ofcom (2018) Children and Parents: Media Use and Attitudes Report 2018
(4) SACN (2015) Carbohydrates and Health Report

22. If you selected option 1, should exemptions be applied to advertisers that can demonstrate exceptionally high standards of evidence that children will not be exposed to HFSS advertising?

Yes/No/I do not know

No exemptions should be applied in order to keep level playing field and simplicity. Even if such high standards are evidenced, the mechanisms for ensuring their continuity are unknown. Adding any exemptions to online 9pm watershed seems an unnecessary complication and a potential for creating loopholes.

Advertising of healthier products to both children and adults has no drawbacks.

23. If you selected option 1, what evidence should be required to meet the definition of "exceptionally high standards" for the purposes of securing an exemption?

Please explain your answer.

No exemptions should be allowed. See answer to question 22.

24. If you selected option 1, 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

No exemptions should be allowed. See answer to question 22.

25. If you selected option 1, should exemptions apply to certain kinds of advertising, recognising the practical challenges of applying a time-based restriction for some kinds of advertising?

Yes/No/I do not know

If you answered yes, please explain what types of advertising should be exempted.

No exemptions should be allowed. See answer to question 22.

26. If you selected option 2, 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)

N/A

27. If you selected option 2, for behaviourally targeted advertising, 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.

N/A

28. 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?

N/A

29. 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

N/A

30. 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

N/A

31. 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

N/A

32. 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)

N/A

33. 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.

N/A

34. If you selected option 4, are there any alternative measures from online platforms, regulators or the advertising sector that might help to meet our policy objectives about online advertising?

Yes/No/I do not know

If you answered yes, what measures do you propose?

N/A

35. If you would like comment on any options that you have not chosen to support please comment here, providing evidence to support your answer. Please make it clear which option you are referring to.

a) Option 1; b) Option 2; c) Option 3; d) Option 4

Implementation and next steps

N/A

36. 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

Public Sector Equality Duty

37. 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.

38. 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

The proposals aim to contribute to reducing obesity in children. If implemented as a part of the wider package of measures, as outlined in the Chapter 2 as well as in the Scottish Diet and Healthy Weight Delivery Plan, they are likely to reduce obesity. Childhood obesity is linked to psychological problems such as anxiety and depression, low self-esteem and lower self-reported quality of life, and social problems such as bullying and stigma (1). All those consequences of childhood obesity may lead to discrimination, harassment or victimisation. Therefore, reduction in childhood obesity is likely to support this aim.

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 (answers above)

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.

(1) US Centers for Disease Control and Prevention (2019) Childhood Obesity Causes & Consequences. www.cdc.gov/obesity/childhood/causes.html

39. 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.

There is evidence that children from low socioeconomic backgrounds watch more TV (1), therefore potentially there could be a bigger positive effect seen in these groups reducing inequalities.

(1) (Ofcom (2017) Children and Parents: Media Use and Attitudes Report https://www.ofcom.org.uk/__data/assets/pdf_file/0020/108182/children-parents-media-use-attitudes-2017.pdf

Impact assessment consultation questions (Annex E)

1. Do you have any additional evidence that would improve our understanding of how and where household spend on HFSS products may be displaced?

Yes/No

If you answered yes, please provide additional evidence

2. Our estimates of the impact on retailer and manufacturer profits are based on several assumptions around profit margins and retailer mark-ups. Can you provide us with any evidence that would help to improve these calculations?

Yes/No

If you answered yes please provide any additional evidence.

3. Do these calculations reflect a fair assessment of the transition costs that would be faced by your organisation?

Yes/No

If you answered no, please explain your reasons and provide additional evidence.

N/A

4. If your industry faces revenue or sales loses from these interventions, how long do you expect these to last?

5 years/10 years/15 years/other (please specify)

N/A

5. We have estimated that a significant proportion of HFSS advertising on broadcast TV or online will be displaced to other forms of media. As an advertiser do you think the level of displacement for radio, print and out of home is correct?

Yes/No

If you answered no, please provide any additional evidence.

N/A

6. We have assumed that HFSS advertising campaigns displaced to non-video forms of advertising (e.g. radio, billboards and direct mail) will have less impact on children's calorie consumption. Do you agree with this assumption?

Yes/No

If you answered no, please provide additional evidence to improve our understanding of how HFSS advertising in non-video media may affect children's food consumption, behaviours and preferences?

7. For all our options we anticipate minimal additional regulatory burdens from further advertising restrictions in terms of regulatory ongoing compliance for broadcasters, advertisers and manufacturers / retailers. Does this assessment seem reasonable?

Yes/No

If you answered no, please provide any additional evidence.

8. We have assumed that advertising agencies would receive lower commissions if manufacturers and retailers spent less on their advertising campaigns, but not if they shift their campaigns to other advertising media. Do you agree with this assumption?

Yes/No

If you answered no, please provide additional evidence to improve our understanding of how advertising agencies revenue may be impacted by further advertising restrictions

9. Do you have any additional evidence that would improve our understanding of the impacts on businesses? Please provide evidence especially for small and micro businesses.

Yes/No

If you answered yes, please provide any additional evidence.

10. Do you have any further evidence or data on the health benefits you wish to submit for us to consider for our final impact assessment?

No/Yes – Please note that this data may be used to in our final impact assessment that will be published.

Please provide a short summary of the evidence, data, methodology or assumption your response relates to and upload evidence to support your response.

11. Do you have any additional evidence or data that would help us improve our estimates for the additional calorie consumption caused by HFSS product advertising?

Yes/No

If you answered yes, please provide any additional evidence.

12. Do you have any additional evidence or data that would help us improve our assumptions on the levels of HFSS product advertising and its impact on children's food behaviours and preferences?

Yes/No

If you answered yes, please provide any additional evidence.

13. Are you able to provide any additional evidence which would improve our understanding of the long-term impact of HFSS advertising exposure during childhood on food behaviours and preferences later in life?

Yes/No

If you answered yes, please provide any additional evidence.

14. To quantify the impact on food and drink retailers and manufacturers, we have assumed that the calorie reductions are derived from reduced purchasing of HFSS products brought back into the home for consumption. Do you have any evidence or data that can help understand whether a proportion of this reduction would be from consumed outside the home and what impact this would have on the out-of-home sector?

Yes/No

If you answered yes, please provide any additional evidence providing details of the information contained in the data set and the provider.

15. Do you have any additional evidence that could improve our assessment of how these restrictions may impact HFSS manufacturers and retailers? Particularly learning from the experience of current children's HFSS advertising restrictions.

Yes/No

If you answered yes, please provide any additional evidence.

N/A

16. Do you have any evidence or data to suggest how advertising restrictions may impact HFSS product sales of small and micro-businesses?

Yes/No

If you answered yes, please provide details of the information contained in the data set and the provider.

N/A

17. Do you have any evidence or data to suggest what proportion of the fewer HFSS calories purchased due to advertising restrictions may be removed from small and micro-businesses?

Yes/No

If you answered yes, please provide details of the information contained in the data set and the provider.

18. Do you have any additional evidence or data that could improve our estimates of how much HFSS advertising is present, across various online platforms and formats (e.g. desktop, mobile, video pre-roll, native, search, sponsorship, other video and other display) and children's exposure to these adverts online?

Yes/No

If you answered yes, please provide any additional evidence.

The Obesity Health Alliance commissioned Dr Mimi Tatlow-Golden and Dan Parker to review and assess the assumptions and estimates Kantar made for the online portion of the advertising analysis estimates of UK digital food and drink advertising spend (Annex D, pp. 121 – 132), which underlie estimates of children's HFSS UK online exposure (1). Tatlow-Golden and Parker used industry data sources to examine the Kantar analysis and the base assumption that spend in digital is a valid indicator of reach (1).

As the Kantar advertising spend assessments underpinning this Impact Assessment draw on underestimates of digital marketing spend at every stage of their process, Tatlow-Golden and Parker concluded that children's exposure was significantly underestimated (1). Importantly, they assessed children's exposure to be underestimated in this IA by a factor of at least 16 times for the known factors (1). Moreover, this only related to the limited scope of the Kantar analysis, which covered only conventional forms of online advertising. As unconventional online advertising content is on the increase, this must have resulted in an underestimate of the entire digital advertising market.

(1) Tatlow-Golden M, Parker D (2019) Examining the Kantar Consulting HFSS Digital Advertising Analysis in DCMS/DHSC Impact Assessment. Obesity Health Alliance. http://obesityhealthalliance.org.uk/wp-content/uploads/2019/06/Critique-of-online-HFSS-exposure-analysis-1-2.pdf

19. Our evidence on the impact of HFSS advertising on adults is inconclusive. Do you have any additional evidence which would improve our understanding of the impact HFSS advertising has on adult's food consumption, behaviours and preferences and purchases (either for themselves or their children)?

Yes/No

If you answered yes, please provide any additional evidence.

A recent review showed that there is a moderate and growing evidence on the impact of advertising on food-related beliefs and behaviours in adults (1). This is consistent with, and supported by, a more substantial body of evidence of effects of alcohol advertising on equivalent drinking-related outcomes in adults (including data on UK populations).

We therefore suggest that adult health benefits of the proposed advertising restrictions should be considered in this impact assessment (IA). If there is insufficient evidence for these data to be modelled in a manner equivalent to the child data in the IA, a different way of acknowledging this evidence should be identified; as ignoring it may result in underestimation of the effect of the proposed restrictions.

(1) Boyland, E. (2019) Unhealthy Food Marketing: The Impact on Adults. Obesity Health Alliance. http://obesityhealthalliance.org.uk/wp-content/uploads/2019/05/JFM-Impact-on-Adults-Boyland-May-2019-final-002.pdf

20. Can you provide us with any additional evidence to improve our understanding of how the pricing of advertising may change under our proposed options?

Yes/No

If you answered yes, please provide any additional evidence.

21. We have assumed that businesses could partially mitigate the impact of advertising restrictions by shifting to brand advertising, reformulating products, or promoting healthier alternatives in the brand. Do you agree with our assessment of the impact on broadcasters and likely mitigations?

Yes/No

If you answered no, please outline your reasons and provide any supporting additional evidence.

22. What mitigating actions would your business most likely pursue?

Shift to brand advertising/reformulate/shift to advertising healthier products/ Will not take any mitigating action/ other - please specify

N/A

23. The Department of Culture Media and Sport and the Department of Health and Social Care would welcome any further comments regarding;

• The calculations conducted in the Impact assessment;

• The assumptions made in the Impact assessment.

Obesity Action Scotland provide clinical leadership and independent advocacy on preventing and reducing overweight and obesity in Scotland.

For any enquiries relating to this submission, please contact Lorraine Tulloch Lorraine.tulloch@obesityactionscotland.org or Anna Gryka-MacPhail anna.gryka-macphail@obesityactionscotland.org