

Food Foundation Response to CAP Consultation: Food and Soft Drink Advertising to Children

Overview

The diets of typical British families now pose the greatest threat to their health and survival.¹ The dietary habits of children and young people are particularly concerning. Dietary analysis of median-income British families show that all children are exceeding their Recommended Daily Allowances (RDAs) of free sugars, almost all are eating too much saturated fat (85% of primary school children and 71% of secondary school children), and the majority are eating too much salt (67% of 4-6 year olds, 41% of 7-10 year olds, and 66% of secondary school children).²

Our analysis shows that in typical families, 47% of primary-school aged children's dietary energy, and 45% of secondary-school aged children's dietary energy comes from foods classified as High in Fat, Sugar and/ or Salt (HFSS) by the nutrient profiling model currently employed within the BCAP Code. A multi-pronged approach is needed to tackle this problem, and the regulation of non-broadcast media must be a key pillar of this.

Advertising can also be harnessed as a force for good: analyses of the National Diet and Nutrition Survey indicates that 9% of 4-10 year olds and 24% of 11-18 year olds eat less than a single portion of vegetables a day. While government-sponsored healthy eating messages should be encouraged, industry advertising in broadcast and non-broadcast media could play a role in increasing consumption of healthy foods among children and young people. However, the Food Foundation has analysed data on advertising spend across all media types covered by the CAP and BCAP Code (excluding digital) and found that between January 2010 to June 2016 only 1.2% of all advertising spend was used to promote vegetable products, with a further 2.5% spent on potato products.³ Industry, working in compliance with the current CAP and BCAP Codes, have missed a key health opportunity to rebalance promotions from less healthy products to healthier products.

There is strong consensus among the academic and third sector communities that the UK currently lacks adequate measures to protect children from marketing of less healthy foods through non-broadcast media. This is demonstrated in the results of the Food Foundation's recent application of the Food Environment Policy Index (Food EPI).⁴ The Food EPI is an internationally-validated benchmarking tool, designed to track the progress that governments have made towards good practice in improving food environments and tackling non-communicable diseases such as heart disease and type 2 diabetes. It identifies critical gaps in policies and infrastructure, provides a means of benchmarking against international best practice, and tracks progress over time.

In May 2016 the Food Foundation convened an expert panel of over 40 academics and third sector representatives from across the UK, in addition to a number of government observers. The panel was asked to rate England's food policies against 48 *good practice statements* which reflect policies that have the greatest positive impacts on public health. The good practice statement for non-broadcast media is as follows:

¹ <http://www.healthdata.org/united-kingdom>

² <http://foodfoundation.org.uk/wp-content/uploads/2016/01/The-Food-Foundation-64pp-A4-Landscape-Brochure-AW-V32.pdf>

³ Source: Nielsen Ad Dynamix. The Food Foundation plans to publish this analysis and its methodology in Autumn 2016, and is prepared to brief CAP on the work.

⁴ <http://foodfoundation.org.uk/wp-content/uploads/2016/06/16-06-14-ENGLAND-Food-EPI-Evidence-Paper-1.pdf>

“Effective policies are implemented by the government to restrict exposure and power of promotion of less healthy foods to children through non-broadcast media (e.g. internet, social media, food packaging, sponsorship, outdoor advertising including around schools)”

The Expert Panel ranked government⁵ progress towards meeting this statement as the 8th worst among all 48 areas of policy, demonstrating the importance of action resulting from this consultation.

The Expert Panel identified a number of areas where Government has made relatively good progress towards implementing good practice such as nutrient declarations on packaging. The regulation of non-broadcast media needs to be strengthened so that progress in other areas is not undermined.

The good practice statement relating to broadcast media - *Effective policies are implemented by the government to restrict exposure and power of promotion of less healthy foods to children through broadcast media (TV, radio)* – was ranked as being the 17th best implemented policy area. While the content of CAP Code should, at a minimum, be made comparable with the BCAP Code, this latter code should not be regarded as a gold-standard policy model for protecting children’s health.⁶

Q1a) Should the CAP Code be updated to introduce tougher restrictions on the advertising of products high in fat, salt or sugar (HFSS)?

Yes.

Q1b) 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?

Yes in the first instance, in order to achieve parity with the BCAP code.

However, CAP should subsequently and immediately commission, in partnership with BCAP, independent research to identify areas in BCAP’s guidance that require strengthening. Furthermore, initial revisions to BCAP’s guidance should be made after review of submissions to this consultation.

CAP and BCAP should commission independent analyses of the available literature on brand-recognition and brand-loyalty among children to consider whether additional differentiation principles are needed to restrict advertisements currently regarded as *product-specific adverts for non-HFSS products* which serve, in practice, as *brand advertisements for brands which include HFSS products in their portfolios* (e.g. a product advertisement for a non-HFSS cereal identifiably sold by a brand which manufactures HFSS cereals). Under such an approach, product advertisers would need to meet two thresholds before advertising products to children: i) individual products should meet minimum nutrient standards; and ii) product ranges, when readily-identified through a single brand-name, should meet minimum nutrient standards.

⁵ A definition including non-statutory organisations assigned formal responsibilities by the State, such as CAP.

⁶ The Food Foundation is in the process of producing written outputs for the Food EPI exercise, and is prepared to brief CAP on its methodology and results. The Food EPI exercise concentrated on English policies and practices. However, representatives from the other home nations indicated that English policies concerning both broadcast and non-broadcast media closely map onto policies found elsewhere in the UK. In preparing our response to this consultation, the Food Foundation reflected on the data and information produced through the collaborative Food EPI exercise. However, the content of this submission reflects the views of the Food Foundation alone.

Likewise, BCAP's current guidance allows *advertisement[s] for a specific non-HFSS product [which] refer to or feature... a strapline, celebrity, licensed character, brand-generated character or branding synonymous with a specific HFSS product*. This should be prohibited, as it fosters confusion among young people and other vulnerable groups, who are led to believe HFSS and non-HFSS products are comparable/synonymous with one another.

Q2) Should the CAP Code adopt the Department of Health (DH) nutrient profiling model to identify HFSS products?

Yes: in order to achieve parity with the BCAP Code and ensure consistency across all media types.

As CAP noted in its pre-consultation exercise, international profiling models (e.g. the voluntary EU Pledge model) generally have tighter criteria than DH's current model. Recognising that DH's nutrient profiling model is evidence-based, CAP (and BCAP) should automatically (and without consultation) revise the CAP Code (& BCAP Code) so that it incorporates any future adaptations of this model which closer align it to international norms, and/or incorporate new governmental dietary advice. CAP and BCAP should therefore adopt the new DH nutrient profiling model once the review currently being conducted by DH and Public Health England is completed.

Q3) 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?

No, due to the concerns expressed in the pre-consultation exercise that this would increase promotions of 'borderline' non-HFSS products.

As demonstrated at our Food EPI expert panel event, there is a consensus that non-broadcast regulations are NOT not currently adequately protecting children's health. This significant relaxation of the CAP Code would send the wrong signal to businesses and consumers, and harm consumers' confidence in businesses' ability to work in the public interest.

The Food Foundation welcomes work investigating the use of licensed characters and other related promotional strategies for promoting vegetable consumption among children and young people: e.g. the Food Dudes healthy eating scheme.⁷ Such innovation should be encouraged. However, the CAP Code already allows the use of licensed characters and celebrities popular with children to promote fresh fruit and fresh vegetables. This caveat already provides advertisers with the encouragement needed "to adapt... behaviour and advertise healthier foods to children".⁸

The Food Foundation likewise acknowledges academic and grey literature which suggests that some minimal processing of fresh fruit and vegetables could increase their acceptability among children and young people: e.g. by shaping carrots into 'chip' shapes. To allow such innovative practices - while accepting an academic consensus that increased consumption of industrially processed foods is related to increases in non-communicable diseases - CAP should consider utilising the NOVA classification for processed and ultra-processed foods⁹ (or equivalent) in parallel to DH's nutrient profiling model: so that creative content can be used to promote a non-HFSS product so long as said product undergoes only minimal processing.

⁷ <http://www.fooddudes.ie/main.html>

⁸ CAP Consultation: food and soft drink advertising to children

⁹ http://www.wphna.org/htdocs/downloadsdec2012/2010_Cadernos_Monteiro_et_al.pdf

As per our concerns expressed in Q1b of this consultation, advertisers should not be allowed to use a licensed character or celebrity to promote any product (including fresh or minimally processed non-HFSS products) if they are sold under a readily-identifiable brand-name which also features HFSS products.

In order to minimise burdens on advertisers promoting products across broadcast and non-broadcast mediums, CAP should work with BCAP to align guidance on this matter within the two respective Codes.

Q4a) Should CAP introduce a rule restricting the placement of HFSS product advertising?

Yes

Q4b) 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?

Aged 15 or younger, in the first instance. Obesity and overweight rates are considerably higher among secondary school aged pupils (27% boys, 38% girls) when compared with primary school aged pupils (21% boys, 24% girls),¹⁰ and having begun to appear at the start of this century, there are now an estimated 600 cases of type 2 diabetes among teenagers in the UK.¹¹

At the Food EPI expert panel event, there was a near unanimous consensus - from academics, public health practitioners, and the third sector - that *at a minimum* children under the age 16 should be protected by non-broadcast restrictions: no one voiced the view that only children under the age of twelve should be protected; while many suggested that all children and young people under the age of 19 should be protected from non-broadcast advertisements for HFSS products.

The Food Foundation is disappointed that the Terms of Reference of this consultation does not provide an opportunity for these considerations to be made. The diets of older teenagers are particularly susceptible to influence from advertisers as they grow more independent, and impact on health in later life.¹² As regulators bound by the Department for Business, Innovation and Skill's (BIS) Regulator's Code¹³, both CAP and BCAP are required to "base their regulatory activities on risk". The interests of the particularly vulnerable 16-18 year old group should then be considered within the scope of the CAP Code.

Q5) It is often straight-forward 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?

No.

As CAP itself acknowledges in Annex 7 of this Consultation, estimating audience numbers is very difficult in non-broadcast media: particularly in digital spaces where the data required for making

¹⁰ <http://foodfoundation.org.uk/wp-content/uploads/2016/01/The-Food-Foundation-64pp-A4-Landscape-Brochure-AW-V32.pdf>

¹¹ <https://diabetes-appg.co.uk/2016/04/12/a-uk-gold-in-food-and-nutrition-security/>

¹² Cf.

https://www.researchgate.net/publication/7713793_Barriers_that_Influence_Eating_Behaviors_in_Adolescents

¹³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf

such estimates are private domain and commercially sensitive. This would prevent CAP and its industry stakeholders from conducting “particular appeal” tests in a transparent manner.

Furthermore, CAP argues in this consultation that “aiming restrictions at media targeted specifically at children protects the right of adult viewers in general media to see ads for products of interest to them”. However, CAP should acknowledge the authority of Public Health England, which recently supported the right of adult viewers to non-exposure to HFSS advertisements: [recommending](#) that there should be “significantly reduce[d] opportunities to market and advertise high sugar food and drink products to children *and adults* across all media including digital platforms and through sponsorship”.

The Food Foundation supports the submissions of others made to this consultation - notably World Obesity and the Children’s Food Trust – which propose that a more sophisticated measure is needed which considers several key issues using a matrix approach:

- 1) The message of a particular advert: how child-focussed is the product being advertised
- 2) The communication method of a particular advert: how child-focussed is the language/style of the advert
- 3) The placement of the particular advert: what is the *probability* that the advert’s location (in physical/digital space) will expose children to HFSS content

A measure which limits/prohibits child-directed messages and communications methods, and reduces the probability of children being exposed to HFSS content, should be designed with input from independent experts.

Furthermore, as per recommendations made at the Food EPI Expert consultation: quantified targets should be introduced and monitored by independent observers to reduce children’s exposure to any HFSS-advertising across all mediums over a fixed period of time. For example, assuming current studies show that 100% of UK children see HFSS promotion once per week, targets might be set to reduce this by 20% a year over the next 5 years. Legislative controls on the advertising practices of the industry should be tightened if these targets are not met. In addition, HFSS brands and products which transgress these rules and/or retain a high profile in children’s minds should be the subject of specific sanction, including such advertisers being required to pay a higher levy to CAP and the ASA in order to fund proactive compliance checks.

Q6) 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, there should not be any non-broadcast media placement exceptions to restrictions contained within the CAP Code. In addition, the CAP Code should be widened to include other forms of advertising not currently covered by the BCAP and CAP Codes: notably the use of licensed characters through on-product packaging and wrapping; and point of sale displays. Restrictions on the sponsorship of sporting events should be introduced, to protect children and adults from the purposeful association of HFSS-brands and HFSS-products with otherwise healthy lifestyles.

Cross-cutting remarks

The above consultation pays no regard to proprietorial creative content – e.g. unlicensed characters. When such content appeals to children, it should be treated as equivalent to licensed creative content throughout the CAP and BCAP Codes.

Government is committed to publishing a cross-cutting Childhood Obesity Strategy in order to secure policy coherence across government. A mechanism between government and CAP should be implemented to ensure the latter's regulatory activities automatically align with this strategy once published.

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robin.hinks@foodfoundation.org.uk

Research and Policy Officer