

Joint written evidence submitted by Action on Salt & Action on Sugar (HCB108)

Joint Response to the Health and Care Bill (Advertising of Less Healthy Food and Drink)

Executive Summary

- Advertising of products high in fat, salt and/or sugar (HFSS) is a major component of today's obesogenic environment that is damaging to our health, and particularly that of our children.
- Current restrictions are insufficient and poorly enforced; it is of paramount importance that the proposed Bill is adopted in full and not weakened.
- By restricting HFSS adverts this Bill will reduce the incessant cues we get to eat the least healthy foods. It will also encourage the food industry to reformulate its products with less salt, sugar and calories, thus enabling consumption of healthier products.
- We urge the DHSC to strengthen the Bill by making it applicable to all HFSS products, brand advertising, and all forms of media to maximise the health benefits.

Our Organisation

Action on Salt

1. Action on Salt is an organisation supported by 22 expert members and working to reduce the salt intake of the UK population to prevent deaths, and suffering, from heart disease, stroke, kidney disease, osteoporosis and stomach cancer.

Action on Sugar

2. Action on Sugar is a group of experts concerned with sugar and obesity and its effects on health. It is working to reach a consensus with the food industry and Government over the harmful effects of a high calorie diet, and bring about a reduction in the amount of sugar and fat in processed foods to prevent obesity, type 2 diabetes and tooth decay.
3. For more information on this submission, please contact: Hattie Burt, Policy and Communications Officer h.burt@qmul.ac.uk

Context

4. Poor diets are a leading risk factor for death and disability in the UK:
5. Excess salt intake raises blood pressure, which in turn is a major cause of stroke and heart disease, and is also linked to kidney disease, osteoporosis and stomach cancer. Salt intake in the UK is 40% more than the recommended daily limit (6g per day) at 8.4g/day;
6. Excess sugar intake is associated with type 2 diabetes and is the leading cause of dental caries;
7. Excess calorie intake is associated with obesity, which affects 12 million people in the UK. Obesity increases the risk of developing type 2 diabetes, cardiovascular disease (CVD), non-alcohol related fatty liver disease and thirteen types of cancer; those living with obesity are more likely to live with mental health issues and face stigma, worsening their prospects in all areas of life. COVID-19 has further emphasised the need to address poor diet in the UK, as obesity is a risk factor for both contracting the virus, and suffering worse outcomes as a result.
8. Low fibre intake is associated with poor gut health, increased risk of CVD, type 2 diabetes and colorectal cancer.

9. In the UK, two thirds of calories consumed by families come from highly processed foods,¹ which are likely to be calorie dense, high in fat, salt and/or sugar (HFSS) and low in fibre, fruit and vegetables. This is unsurprising given the flood of advertising we see on TV and online, which places these unhealthy options in the starring role. Over the last year and a half, we've spent a lot of time in necessary lockdown, but as a result our screen time and exposure to these adverts has only increased. Eliminating exposure to HFSS adverts is urgently needed to improve the food environment to protect our health. Children, in particular, should not be subjected to these adverts.

Why we support advertising restrictions

10. We strongly support the proposed restrictions of less healthy food and drink advertising on television, on-demand programme services and online. Evidence shows that advertising works to influence short term food choices and long-term preferences^{2,3,4,5,6,7,8} and it is well established that as part of a systems approach to addressing obesity, reducing children's exposure to HFSS advertising can lead to lower calorie intake. Restrictions on HFSS advertising can also drive reformulation of products: by reducing the salt, sugar and calorie content of their products, companies can continue to advertise, whilst creating health benefits by increasing the availability of healthier products.

Reformulation

11. These legislative measures are necessary to strengthen the Government's voluntary reformulation programmes, which are currently seeing poor progress; only 3% of products in the sugar reformulation programme have met the targets,⁹ and just 54% of average salt targets have been met.¹⁰ Government committed to take further action if the voluntary programmes saw poor

¹ The Food Foundation. (2016). *Force-Fed. Does the food system constrict healthy choices for typical British families?* 016. https://foodfoundation.org.uk/wpcontent/uploads/2016/07/execSum_v2.pdf

² World Health Organization. Regional Office for Europe. (2013). *Marketing of foods high in fat, salt and sugar to children: Update 2012–2013*. World Health Organization. Regional Office for Europe. <https://apps.who.int/iris/handle/10665/344812>

³ Halford JC et al. (2007). *Beyond-brand effect of television (TV) food advertisements/commercials*. Public Health Nutrition 11(9):897-904

⁴ Halford JC, Gillespie J, Brown V, Pontin EE, Dovey TM. (2004). *Effect of television advertisements for foods on food consumption in children*. Appetite. Apr 1;42(2):221-5

⁵ Hastings G, Stead M, McDermott L, Forsyth A, MacKintosh AM, Rayner M, Godfrey C, Caraher M, Angus K. (2003). *Review of research on the effects of food promotion to children*. London: Food Standards Agency. Sep 22.

⁶ Zimmerman FJ, Shimoga SV. *The effects of food advertising and cognitive load on food choices*. BMC Public Health. 2014 Dec;14(1):342

⁷ Harris JL, Bargh JA, Brownell KD. *Priming effects of television food advertising on eating behavior*. Health Psychology. 2009 Jul;28(4):404

⁸ Koordeman R, Anschutz DJ, van Baaren RB, Engels RC. *Exposure to soda commercials affects sugar-sweetened soda consumption in young women. An observational experimental study*. Appetite. 2010 Jun 1;54(3):619-22

⁹ Public Health England. (2020). *Sugar reduction: Report on progress between 2015 and 2019*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/984282/Sugar_reduction_progress_report_2015_to_2019-1.pdf

¹⁰ Public Health England. (2020). *Salt Targets 2017: Second progress report*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/915371/Salt_targets_2017_Second_progress_report_031020.pdf

progress, so this legislation would be a good first step. It is important to emphasise that these advertising restrictions are not a ban, they are structured to encourage product reformulation i.e., by removing small amounts of salt, sugar, saturated fat and calories from their products companies can continue to promote and advertise the vast majority of their products. Moreover, our cross-sectional surveys show there are commercially viable products on the market that have less salt, sugar, and saturated fat compared with the unhealthiest products,^{11,12} showing that reformulation is possible, given the right motivation. The measures will ensure that healthier products are available, accessible, and affordable.

Current loopholes

12. The existing rules restrict HFSS advertising to children or where more than 25% of the audience is under 16 years old. This is extremely hard to enforce, especially in the online environment, and creates significant loopholes. For example, in April 2020 a complaint was made to the Advertising Standards Authority (ASA) regarding Kellogg's irresponsible advertising of their Pringles snack products in a 'pre-roll' ad to PE with Joe, which would have been viewed by thousands of children (and their parents). The complaint was 'informally resolved' and Kellogg's removed advertising from the channel, but by then the ad had already been viewed extensively. Oreos (Cadbury / Mondelez) also placed pre-roll ads on Joe Wicks' YouTube channel.
13. Even when broadcasters operate the ban effectively, research has found that children continue to be exposed to advertising of unhealthy foods on adult television channels and whilst watching programmes not specifically targeted at children.¹³ Furthermore, children can view content on online platforms using their parents' accounts, without being signed into an online account, or by clicking a box to certify that they are over 16 years of age. The ASA's research using child mimicking avatars provides strong evidence into the unreliability of existing targeting methods, proving that existing measures do not protect children.
14. The proposed total ban of online adverts would go a long way towards providing comprehensive protection to children. It is crucial that the Bill is not weakened to a 9pm online watershed. A 9pm online watershed would likely only apply to 'Paid' media as they are targeted and can be switched on and off at certain times of the day but 'Earned' and 'Owned' media are shared on social media, appear as content recommendations and appear in search engine results pages. Once advertising content is shared by a user, there is no ability to control what time that content is viewed. Studies show that junk food brands frequently ask users to share or invite others to participate to extend its reach. Brands also post organically on their own social media pages and channels as part of their marketing mix. Despite changes made by social platforms to limit the reach of organic posts, brands with large followings can get significant reach. For example, on Facebook brands can still expect their posts to be seen by 5.5% of their followers.¹⁴ A major fried chicken retailer's UK Facebook page has over 55 million followers, so each post could be reaching over 2 million people.

¹¹ Action on Sugar. (2021). *Children's' Yogurts*. <http://www.actiononsugar.org/surveys/2021/childrens-yogurts/display-name-913150-en.html>

¹² Action on Salt. (2021). *Breakfast Cereals*. <https://www.actiononsalt.org.uk/salt-surveys/2021/breakfast-cereals/>

¹³ Economic & Social Research Council. (2012). *Cutting children's exposure to unhealthy food advertisements*. <https://esrc.ukri.org/files/news-events-and-publications/evidence-briefings/cutting-children-s-exposure-to-unhealthy-food-advertisements/>

¹⁴ <https://www.outsmart.org.uk/>

Dietary disparity

15. Studies indicate that children from the most deprived households spend more time online than those from the most affluent households.¹⁵ As the Health Survey for England 2018 shows, people who live in deprived areas are more likely to be living with childhood and adult obesity,¹⁶ and studies suggest that HFSS adverts have a greater effect on children who are already overweight or obese.¹⁷ This evidence suggests that children in more deprived communities may benefit the most from reduced exposure to HFSS advertising. As part of the Government's 'levelling up' agenda, measures such as advertising restrictions must be prioritised.

Public support

16. There is broad public support for restricting HFSS advertising. 2020 polling data from the Obesity Health Alliance found that 74% of people supported not showing adverts for HFSS products before 9pm on TV and online.¹⁸ In May 2021 a YouGov poll surveyed Brits' views on both banning TV advertising of HFSS food and drink before 9pm and a total ban on online advertising of these products. The 1,200 Brits surveyed were three times more likely to support the restrictions than oppose them.¹⁹

Issues with the current proposals and associated recommendations

Product categories

17. Under the current definition, this proposal is not a total HFSS restriction – merely a restriction on HFSS products that fall within the Soft Drink Industry Levy (SDIL), sugar and/or the significantly truncated calorie reduction programme categories, despite the Sugar Reduction Programme being scheduled to end this year and, to date, no further targets have been proposed. The current proposal therefore fails to include high salt products, despite the fact that excess salt consumption is the single biggest cause of high blood pressure, increasing risk of cardiovascular disease and stroke, and that improving cardiovascular outcomes is central to the NHS's Long Term Plan.²⁰ Infant formula, 'follow-on milks', food products targeted to infants under 36 months, and meal-replacement products are also omitted. Alcohol is also currently excluded from the current HFSS definition. This is despite the fact that alcohol is the leading risk factor for death, ill-health

¹⁵ 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

¹⁶ NHS Digital. (2019). *Health Survey for England 2018*. <https://digital.nhs.uk/data-and-information/publications/statistical/health-survey-for-england/2018>

¹⁷ 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

¹⁸ Obesity Health Alliance (2020). <http://obesityhealthalliance.org.uk/2020/06/03/74-of-the-public-support-government-action-on-obesity-in-the-wake-of-emerging-links-with-covid-19/>

¹⁹ <https://www.thegrocer.co.uk/health/majority-of-brits-support-total-ban-on-online-junk-food-advertising/656693.article>

²⁰ NHS. (2019). *The NHS Long Term Plan*. <https://www.longtermplan.nhs.uk/wp-content/uploads/2019/08/nhs-long-term-plan-version-1.2.pdf>

and disability among 15-49-year-olds,²¹ with the World Health Organization (WHO) recommending alcohol marketing restrictions as a highly effective policy to reduce alcohol related harm.²² Table 1 shows the large array of products that have been excluded, and will therefore still be able to be advertised, regardless of their salt, fat or sugar content.

Table 1. Products in scope of sugar, calorie and salt reduction targets, SDIL, and proposed advertising restrictions

Product	Sugar reduction	Calorie reduction	SDIL	Salt reduction	Advertising restrictions
soft drinks with added sugar	N	N	Y	N	Y
juice drinks with added sugar	N	N	Y	N	Y
milk drinks with added sugar	N	N	Y	N	Y
beverages (dried beverages)	N	N	N	Y	N
alcohol	N	N	N	N	N
follow on formula milk	N	N	N	N	N
crisps and savoury snacks	N	Y	N	Y	Y
breakfast cereal	Y	N	N	Y	Y
chocolate confectionary	Y	N	N	N	Y
sugar confectionary	Y	N	N	N	Y
ice cream	Y	N	N	N	Y
cakes	Y	N	N	Y	Y
sweet biscuits	Y	N	N	Y	Y
morning goods	Y	Y	N	Y	Y
pudding and dairy desserts	Y	N	N	Y	Y
yoghurts	Y	N	N	N	Y
pizza	N	Y	N	Y	Y
chips and potato products	N	Y	N	Y	Y
family meal centres	N	Y	N	Y	Y
complete main meals (ready meals)	N	Y	N	Y	Y
breaded and battered products	N	Y	N	Y	Y
meal replacement products	N	N	N	N	N

²¹ Public Health England (2016) *The public health burden of alcohol and the effectiveness and cost-effectiveness of alcohol control policies*. <https://www.gov.uk/government/publications/the-public-health-burden-of-alcohol-evidence-review>

²² World Health Organization (2019). Technical Package for SAFER. A World Free from Alcohol Related Harms. <https://www.who.int/publications/i/item/the-safer-technical-package>

food products targeted to infants under 36 months	Y	Y	N	Y	N
main meals (out-of-home (OOH))	N	Y	N	Y	Y
starters, sides and small plates (OOH)	N	Y	N	N	Y
children's meal bundles (OOH)	N	Y	N	Y	Y
sandwiches (retail & OOH)	N	Y	N	Y	Y
sweet spreads and sauces	Y	N	N	N	N
garlic/cheesy bread	N	Y	N	Y	N
meat products	N	N	N	Y	N
bread	N	N	N	Y	N
cheese	N	N	N	Y	N
butter	N	N	N	Y	N
fat spreads	N	N	N	Y	N
baked beans	N	N	N	Y	N
soups	N	N	N	Y	N
table sauces and condiments	N	N	N	Y	N
cook-in and pasta sauces, thick sauces and pastes	N	N	N	Y	N
biscuits (savoury)	N	N	N	Y	N
pasta	N	N	N	Y	N
rice	N	N	N	Y	N
other cereals	N	N	N	Y	N
quiche	N	N	N	Y	N
scotch eggs	N	N	N	Y	N
canned fish	N	N	N	Y	N
canned vegetables	N	N	N	Y	N
meat alternatives	N	N	N	Y	N
stocks and gravies	N	N	N	Y	N
wholesale salt	N	N	N	N	N
wholesale sugar	N	N	N	N	N
wholesale syrups	N	N	N	N	N
wholesale fruit extract	N	N	N	N	N
naturally occurring sugars	N	N	N	N	N
fruit sugars	N	N	N	N	N
wholesale vegetable oils	N	N	N	N	N
wholesale fats	N	N	N	N	N

18. Furthermore, the Nutrient Profile Model (NPM) is a widely used and established, evidence-based tool that is already being used for advertising restrictions to children's programmes. Introducing categorisation adds complication; the NPM's very purpose is to define products as HFSS. Using just the NPM, without categorisation, would provide a greater incentive to reduce overall calories, sugar, saturated fat and salt rather than just focusing on one nutrient, whilst also increasing beneficial nutrients such as fruit and vegetables, fibre and protein. The NPM was reviewed in 2018 and updates were suggested to reflect the latest dietary advice, but the outcome of the review is yet to be published.
19. *Recommendation:* Therefore, we propose that the current version of the NPM should be used, to avoid delays, against all food and drink products, not just certain categories. This should include salty products, alcohol, infant formula, 'follow-on milks', food products targeted to infants under 36 months, and meal-replacement products, all of which the current proposal fails to include.

Brand advertising

20. Exempting adverts where a product is not "identifiable" introduces a significant loophole. Brand advertising is a highly effective strategy used by businesses to build brand recognition and customer loyalty, by connecting with customers on an emotional level. This loophole is particularly significant for order aggregator delivery apps like Just Eat, Deliveroo and Uber Eats, who are promoting a service rather than a food or drink product, as they can easily promote their service without reference to specific product. Moreover, some brands are so recognisable that they are able to advertise their products without featuring the product in the advert at all, as demonstrated by the Pass the Heinz advert without reference to specific a product.
21. Sports sponsorship is a related issue. Whilst we acknowledge that sports sponsorship is complex, HFSS brands frequently sponsor sports teams and sporting events, so as soon as a child switches on the TV to watch a sports game or goes to see it live, they see brand advertising on team kits. These HFSS brands do not have a place in sport, as the current BiteBack2030 campaign is highlighting.²³
22. *Recommendation:* All advertising from brands synonymous with HFSS products should be included in the ban, regardless of whether a specific product is "identifiable". The definition of 'brands synonymous with HFSS' must be independently developed by experts, not left to the regulator. The existing guidance from the ASA is vague and lists scenarios rather than providing an objective definition of an HFSS brand and allows for ASA to make decisions on a 'case-by-case basis'.²⁴ HFSS brands should not sponsor sports, including individual sports people, teams, clubs and events.

All media

23. Outdoor marketing is commonly used by food brands and according to Outsmart, is the most efficient medium for those brands in terms of return on investment, having such a wide reach that 98% of people are exposed to some form of outdoor marketing daily.²⁵ Current CAP rules provide extremely limited protection to children with a suggestion that HFSS advertising should

²³ <https://www.biteback2030.com/campaign/packetin-lets-demand-honest-hundred>

²⁴ Committee of Advertising Practice. (2017). *Identifying brand advertising that has the effect of promoting an HFSS product. Advertising Guidance*. <https://www.asa.org.uk/asset/6B42B9F3-96EC-4A66-A9B50F0E21D845BF/>

²⁵ <https://www.outsmart.org.uk/>

not be placed within 100m of a primary school. This guideline is regularly breached.²⁶ A recent study examining outdoor HFSS advertising in Liverpool found that HFSS adverts were disproportionately placed in areas of social deprivation.²⁷ Given the existing inequality in levels of childhood obesity, significant displacement of HFSS advertising to outdoor advertising could contribute to widening this inequality. Extending the scope to include outdoor digital advertising would provide significant additional protection to children when they are out and about.

24. Moreover, companies use advertising on digital screens at sports games, so even with restrictions on HFSS adverts on television and online, children will still be exposed to lots of HFSS advertising if they watch sports like football and cricket.
25. *Recommendation:* We strongly recommend that all digital advertising, including billboards and streaming (e.g., music, film, TV and podcasts) services should be included in the scope of this proposed restriction.

Our Recommendations

26. We strongly recommend that the proposed Bill is adopted and further recommend several additions which would maximise the impact of the Bill, which are detailed above.
27. In addition, monies should be set asides for enforcing the Bill, including in case of legal challenge.
28. Finally, the marketing environment is fast-paced and innovative, particularly online, with new formats and marketing techniques developing all the time. It will be challenging for the Government to effectively future proof this policy by identifying now, all types of marketing scope that will be in use in the future. Therefore, it is vital that the regulation has a regular two-yearly review mechanism, where the scope can be adjusted to capture new marketing techniques that have evolved that may be exempt currently.

²⁶ https://www.sustainweb.org/news/nov18_asarulings/

²⁷ Palmer et al. (2021). *A deep learning approach to identify unhealthy advertisements in street view images*. <http://arxiv.org/abs/2007.04611>