



Policy statement

Unhealthy food and drink marketing and children

Introduction

Around 30 per cent of children in the UK are overweight or obese.¹ Obese children are more likely to become obese adults, which in turn increases their risk of developing cardiovascular disease. Children today are eating more saturated fat and salt^{2,3} than is recommended, which over time can lead to increased blood pressure and raised cholesterol levels both of which are risk factors for heart disease and stroke.⁴ Poor diets and high blood pressure are also risk factors for diabetes.⁵ We also know that lifetime eating patterns often start in childhood and adolescence. However, current efforts to promote a healthy diet among children are being undermined by loopholes in the regulatory system of advertising to children which allows companies to use child friendly marketing techniques to advertise unhealthy food and drink products to children.⁶

BHF Statement

We know that children in the UK are exposed to promotions for food products and drinks high in fat, saturated fat, sugar, and salt (HFSS products). The BHF therefore calls on the UK Government to protect children under-16 from the influence of HFSS marketing. To do this we need a system that truly protects under 16s from sophisticated marketing campaigns and closes the loopholes that leave online advertising vastly un-regulated.

Restrictions on **TV advertising** for unhealthy products have reduced the number of advertisements children see during children's programming. However marketers can still advertise HFSS products during some of the television programmes popular with children, such as *X-Factor* and *The Simpsons* because they are not classed as children's programming. **To better protect children, all advertisements for HFSS products should be screened after the 9pm watershed.**

The current self-regulatory system for **non-broadcast advertising** which includes the internet is weak – the Committee of Advertising Practice (CAP) Code is vague and does not cover a number of significant marketing techniques. **We want to see stringent regulations brought in to protect under 16s online.**

We believe that there is a conflict of interest between a company's need to make profit and their commitment to responsible marketing. **To solve this we are calling on the government to establish a new watchdog, independent of the advertising industry to develop and enforce marketing regulations.** These regulations must provide a clear and transparent means of determining whether a product or promotion influences children, and distinguish between healthy and unhealthy foods - by using the Food Standard Agency's Nutrient Profiling Model, in the same way as TV advertisements.

Background

Advertising HFSS products to children is a concern for two main reasons; first, children are a vulnerable group that should be protected from advertising. Evidence shows that many children are unable to critically interpret advertising, and that younger children are not able to discriminate between advertising and other media content.⁷ The Office of Communications' (Ofcom) own research states that "*media literacy develops with age... it is generally agreed that before four or five years old, children regard advertising as simply entertainment, while between four and seven, they begin to be able to distinguish advertising from programmes. The majority have generally grasped the intention to persuade by the age of eight, but it is only after 11 or 12 that they can articulate a critical understanding of advertising.*"⁸

Second, although it is difficult to isolate the impact of food marketing on childhood nutrition and obesity, a systematic review commissioned by the Food Standards Agency⁹ concluded that food promotion influences children's behaviour in a number of ways. This included their preferences, purchase behaviour, and consumption. The report also identifies that food promotion works both at brand and category level, meaning that an advert for a specific chocolate bar will make a person more likely to buy that brand, but also more likely to buy a chocolate bar in general. Research by Ofcom found that television advertising has a "*modest direct effect on children's food preferences, consumption and behaviour*", and that "*indirect effects are likely to be larger*".¹⁰ The Department of Health estimates that the commercial sector spent £838 million in 2007, promoting confectionery, snacks, fast food and sugary drinks.¹¹

Ultimately, food and drink producers want to build long-term relationships between young consumers and their brands and to increase product recognition. Children as young as 18 months can recognise brands, and children as young as three have been shown to prefer branded McDonald's food over identical unbranded food.¹² Young people are being targeted for their own spending power, but also because of their ability to influence their parent's spending, known as 'pester power'.

Overview of the regulatory system

Ofcom was established in 2003 as the regulator for all UK communications industries. Today all broadcasters must be licensed by Ofcom, but responsibility for the day-to-day regulation of broadcast advertising – TV and radio – lies with The Advertising Standards Authority (ASA).

The Broadcast Committee of Advertising Practice (BCAP) has a co-regulatory partnership with Ofcom and is responsible for writing and updating the UK Code of Broadcast Advertising Practice - which applies to all advertising and the sponsorship of radio and television programmes - although any major changes must be approved by Ofcom. The BCAP is comprised of broadcasters, advertisers, agencies, and direct marketers, including the Advertising Association, the Direct Marketing Association, ITV plc, Channel 4, Channel 5 and BSkyB.

Similarly, the Committee of Advertising Practice (CAP) writes and reviews the UK Code of Advertising Practice, which covers non-broadcast media, including print,

online, emails, texts, cinema and DVD. This includes companies' own websites and third party space under their control, such as Twitter and Facebook and adverts featured on Video on Demand (VOD) services in the same way that other online adverts and website content is regulated.

The ASA council is responsible for responding to consumer and industry complaints about advertisements, and adjudicating on investigations of complaints about potential breaches of the BCAP and CAP codes. The ASA Council is made up of two panels, one each for broadcast and non-broadcast advertising, and has 13 members, two-thirds of whom are independent of the advertising industry.

This self-regulatory system is funded by a voluntary 0.1% levy on advertising spend.

Television advertising

Despite increased competition from the internet, television remains popular amongst children and young people, with those aged between 5-15 years watching an average of 15 hours of television a week.¹³ One of the factors linking overweight, obesity and television is that it is a sedentary behaviour. Alongside this several studies have also associated television food advertising with an increase in children's snacking, and the consumption of energy-dense snacks in particular.^{14,15,16}

In 2007 Ofcom introduced regulations on the advertisement of food and drink products to children.¹⁷ Under these regulations the advertising of HFSS products – as calculated by the nutrient profiling model¹⁸ - targeted to children aged 9 years and under is prohibited. This was strengthened in 2008 restricting advertisements or sponsorship for HFSS products in and around all programmes specifically made for children, or of particular appeal to children under the age of 16. Also prohibited is the use of licensed or brand characters, celebrities, promotional offers, and nutritional or health claims in advertisements for HFSS products targeted at preschool or primary school children irrespective of scheduling.

However the effectiveness of the regulation is called into question by research which suggests that when comparing the six months prior and post regulation implementation the amount of HFSS adverts that children viewed was unaffected and actually increased the amount of HFSS products the total audience viewed due to advertisers shifting their spend to 'adult or family programming.'¹⁹

Loopholes in television advertising regulation

One of the main loopholes of the BCAP code is that it only covers programmes classified as 'children's programming' which is measured by the proportion of the total audience that are children, rather than the total number of children watching. This loophole is compounded by children's shifting viewing habits, with more children now watching later in the evening, peaking between 8-9pm.²⁰ Crucially, the peak viewing time falls within the typical scheduling of 'adult or family programming' and is therefore exempt from regulations.

This means that some of the shows most watched by children, such as *X-Factor*, *Britain's Got Talent* and *Coronation Street*, are not affected. Recent research from the University of Liverpool, surveyed the adverts that ran during *X-Factor*, *Hollyoaks* and *The Simpsons* during December 2013. These programmes were chosen because they fall within 'adult or family programming' yet are popular with younger viewers.

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The research found that 22 per cent of adverts advertised food items, including fast-food restaurants and chocolate and confectionery products.²¹ Therefore exposing children to marketing that would otherwise be prohibited during 'children's programming'.

As part of its public health guidance on preventing cardiovascular disease, NICE also recommends that broadcast advertising regulations should be extended to restrict all adverts for HFSS products before 9pm in order to better protect children.²²

Despite research from Ofcom which shows that a pre-9pm ban would reduce the amount of HFSS adverts seen by children by 82 per cent compared to 37 per cent for the current regulations²³ Ofcom considered that the loss of revenue to broadcasters could not be justified by the benefits of extending the regulations.^{24,25} This is a clear example of prioritising profits over health.

A second loophole is that the BCAP code is inconsistent in the age at which various marketing techniques can be used. The code classes children as below the age of 16, but only prohibits the marketing of HFSS products using licensed characters (such as cartoon characters) and celebrities for pre-school or primary school aged children. The use of brand characters – such as Kellogg's *Coco the Monkey* or *Tony the Tiger* – is not restricted at all.²⁶

Product placement of HFSS food and drinks and alcoholic beverages is prohibited in all children's programming in the UK. However, adult or family programmes bought in from abroad are exempt from the restriction on HFSS product placement. Similarly since February 2011 product placement on films (including dramas and documentaries, TV series (including soaps_ entertainment shows and sports programmes has been permitted.²⁷

Non-broadcast advertising

Online Marketing

Thanks to a steady increase in new technologies, including smartphones and tablets, online marketing has grown in recent years. Now 18 per cent of children aged between eight and eleven own a smartphone, rising to 62 per cent of 12-15 years olds. Tablet usage has tripled among those aged 5-15 since 2012. And for the first time ever children are now more likely to watch television on devices other than a TV set.²⁸

The large increase in the number of available television channels has led to smaller audiences for each channel, but digital interactive technologies have opened up new routes to reach children.²⁹ Many of the techniques used to promote food and drinks online blur the lines between what is designed to persuade and what is designed to entertain, and it is often difficult for children to identify forms of online marketing.³⁰ Advergaming are an example of this, which are online games that promote a particular brand, product or marketing message which is integrated into the game. Research suggests that advergaming for HFSS products are of particular concern because children spend longer engaging with the brand/product or message than a TV advert and engage with the brand at a deeper subconscious level.³¹ In March 2014, the Local Government Association called for pop up health warnings to precede any advergaming.³²

Furthermore, websites for foods and drinks almost exclusively promote products that are high in sugar or fat. Many websites have a wealth of features that may not be explicitly aimed at young people but the advergames, downloads, promotions, competitions and media players, alongside the use of cartoons or animations and brand characters that will undoubtedly attract children. Some examples include; Sugar Puffs competition to win thousands of toys³³ Or Capri-Sun's dedicated teen zone,³⁴ Nesquik's 'fun factory' cartoon game where you have to match up the correct flavoured milk with the right Nesquik branded bottles,³⁵ and Chewits website which features games, downloads and a 'pocket money survey'.³⁶

Many companies, brands and products also have Facebook pages and Twitter feeds to alert their followers to games, competitions, and to remind them of the brand. By becoming 'fans' and following these pages, young people alert their friends to their food and drink preferences. For example, when accessing Krave's website, after selecting UK, you are linked straight through to their Facebook page which advertises a new free game 'Pitfall' which can be downloaded to smartphones to be in with a chance of winning 'daily prizes of £10,000'.³⁷

Loopholes in non-broadcast advertising regulations

The CAP code does not distinguish between healthy and unhealthy food, and largely exists to ensure advertising must be 'responsible, must not mislead or offend.' rather than to protect and promote health. The wording of the code has been criticised for being vague and inconsistent. For example, the code states that "*marketing communications should not condone or encourage poor nutritional habits or an unhealthy lifestyle in children*" – but what constitutes 'condoning and encouraging' or 'poor habits' is left open to interpretation. In 2010 the ASA ruled that a bus stop advertisement for *Kellogg's Coco Pops* which featured Coco the Monkey in a school uniform to encourage children to snack on the high sugar cereal after school was not "socially irresponsible".³⁸ Yet in August 2014 the ASA ruled that Morrison's advert showing a child removing the salad from a burger before eating did not comply with the advertising standards.³⁹ This ruling we agree with but the differences in ruling between the two cases demonstrate the variances in ASA rulings.

As with the broadcast regulations, there is inconsistency in the age of children for which particular marketing techniques can be used – the CAP code only prohibits marketing using licensed characters, such as *Shrek* and *Scooby-Doo*, for pre-school or primary school aged children, rather than under-16s. Additionally, there are no restrictions placed on other cartoon brand characters, such as Kellogg's *Tony the Tiger*.

The CAP code is written and maintained by members of the advertising industry, through their membership of the Committee on Advertising Practice. The ASA, which monitors adherence and enforces the code, is funded by voluntary financial contributions from the advertising industry. This means that the codes are effectively developed and enforced by advertisers, and we believe this creates a conflict of interest.

When the ASA finds that an advertisement breaches the CAP Code and decides to initiate a formal review, the investigation may take several weeks before a decision is reached about whether the advert has breached the rules. By this time the advert is likely to have run its course. This system of regulation provides little incentive for companies to ensure that children are protected. The Children's Food Campaign's '*Through the Looking Glass*' report is critical of the independent nature of the ASA

complaints process given its close working relationship with CAP and of its ability to take actions against harmful or offensive arguments without placing the onus on small organisations and parents to navigate the incredibly complex procedure.⁴⁰

In February 2014 the ASA announced that over the coming months they will be conducting research *'to ensure that the regulation of food and drinks advertising continues to be effective, particularly when it comes to protecting children.'*⁴¹ As of mid-August this was yet to be published. In May the ASA's Annual Review concluded that the online remit extension, which was launched in 2011, has been a success and was *'working effectively.'*⁴² It highlighted that a key problem was that children were registering for websites using false ages. It is also the ASA's intention to consider whether new guidance is needed for industry on targeting ads online is needed.

Other marketing techniques

Other non-broadcast marketing techniques which fall through gaps in the regulations include product based techniques - such as food colouring and shape, and product packaging featuring celebrities, characters, and games or competitions.

Supermarkets and convenience stores promotions and product placement can also be used to increase consumption of HFSS items. Some retailers have voluntarily agreed not to sell unhealthy food near checkouts; Lidl and Tesco have now banned any HFSS foods near their checkouts^{43,44} which suggests a level of acceptance that in store product-placement can affect the purchasing decisions of children and their parents.

Sponsorship of events or programmes is another frequently used marketing tool, for example McDonald's and Coca Cola sponsored the London 2012 Olympics. The BHF believe that sponsorship is a means of reaching large numbers of children, to increase brand awareness and/or foster good public relations – and ultimately increase sales.

We believe a conflict of interest exists between a company's need to make profit and gain market share, and their commitment to responsible marketing. Introducing independently developed regulations and a framework for determining which products and promotions are appropriate will increase accountability.

International context

The World Health Organization is calling for global action on this issue, and has highlighted the need for clearly defined policies, which detail the communication channels to be regulated, the setting and marketing techniques to be covered, what constitutes marketing to children, as well as what foods are to be covered.⁴⁵ In 2013 they issued a critical research paper called for tighter regulation across the whole of Europe, highlighting gaps in the UK regulatory system.⁴⁶ A recommendation to member states to restrict marketing of HFSS foods was included in the EU's Action Plan on Childhood obesity.⁴⁷

Within the European Union some large companies have voluntarily signed up to *'The EU Pledge programme'* on marketing to children.⁴⁸ This includes *'no advertising of products to children under-12'* when this age group make up over 50 per cent of the audience. Other companies or TV channels have voluntarily developed their own policies, for example the Disney Channel which has banned any HFSS advertisements in the US. Self-regulatory restrictions exist in a number of EU states.⁴⁹

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Example: Chewits website⁵⁰

An example is the Chewits website which is circus themed. It hosts games and downloads. One game, Carnival Crazy shown to the right, personalises the game to the user, by name, school and pictures of friends. It also uses the brand character and the products are placed throughout the game. There is no age verification and are nudges to promote via social media are throughout.



¹ British Heart Foundation (2013) 'Children and Young People Statistics' <http://www.bhf.org.uk/publications/view-publication.aspx?ps=1002326>

² Food Standards Agency (2007) 'Low Income Diet and Nutrition Survey'

³ Department of Health (2012) 'National Diet and Nutrition Survey: Headline Results from Years 1, 2 and 3 (combined) of the Rolling Programme 2008/09 – 2010/11'

⁴ J.J.He, N.M.Marrero, G.A MacGregor (2007) 'Salt and blood pressure in children and adolescents.' *Journal of Human Hypertension*. doi:10.1038/sj.jhh.1002268 P1-8

⁵ Diabetes UK (2014) 'The risk factors for Type 2 diabetes.' http://www.diabetes.org.uk/How_we_help/Roadshow/Risk-factors-and-symptoms/

⁶ By unhealthy foods we refer to foods high in saturated fat, salt and sugar. (HFSS)

⁷ E.g. Young B (2003) 'Does food advertising influence children's food choices?' *International journal of Advertising* 22: 441-459. Hastings et al (2003) 'Review of the research on the effects of food promotion to children.' Food Standards Agency

⁸ Livingstone S (2004) *Childhood Obesity – Food Advertising in Context*.

⁹ Hastings et al (2003) 'Review of the research on the effects of food promotion to children.' Food Standards Agency.

¹⁰ Ofcom (March 2006) 'Television Advertising of Food and Drink products to Children: Options for new restrictions: A consultation' (para 1.8).

¹¹ Department of Health (2008) 'Changes in food and drink advertising to children. A report outlining the changes in the nature and balance of food and drink advertising and promotion to children, from January 2003 to December 2007.'

¹² Culp et al (2010) *Characteristics of Food Industry Web Sites and "advergaming" Targeting Children*. *Journal of nutrition education and behaviour* Vol 42. N.o3

¹³ Ofcom (2012) 'Children and Parents: Media Use and Attitudes Report.'

<http://stakeholders.ofcom.gov.uk/binaries/research/media-literacy/oct2012/main.pdf>

¹⁴ Harris.J.L et al (2009) 'Priming effects of television food advertising on eating behaviour.' *Health Psychology* vol 28. no 4. 404-413

¹⁵ Wiecha. J.L et al. (2006) *When Children eat what they watch: impact of television viewing on dietary intake in youth*. *Archives of Paediatric and Adolescent Medicine* 160. 436-442

¹⁶ Halford J.C.G et al (2004) 'Effect of television advertisements for foods on food consumption in children.' *Elsevier*. Doi10.1016/j.appet.2003.11.006

¹⁷ Ofcom (2007) 'Television advertising of food and drink products to children – final statement.'

¹⁸ Department of Health (2011) 'Nutrient Profiling Technical guidance.'

http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_123492.pdf

¹⁹ Adams, J et al (2012) 'Effect of Restrictions on Television Food Advertising to Children on Exposure to Advertisements for 'Less Healthy' Foods: Repeat Cross Sectional Study.'

<http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0031578>

²⁰ Ofcom (2013) 'Children's and young people's exposure to alcohol advertising'

<http://stakeholders.ofcom.gov.uk/market-data-research/other/tv-research/alcohol-advertising/>

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- ²¹ Boyland, E and Halford J. (2014) Preliminary research findings (to be published)
- ²² NICE (2010) '*Prevention of cardiovascular disease at population level*'
- ²³ Ofcom (2006) 'Impact assessment – annex to consultation on television advertising of food and drink to children.'
- ²⁴ Ofcom (2010) '*HFSS advertising restrictions – final review.*'
- ²⁵ Ofcom (2006) '*Television advertising of food and drink products to children: statement and further consultation*'
- ²⁶ Broadcast Committee of Advertising Practice TV code. Section 7.2 food and soft drink advertising to children – the use of characters and celebrities
- ²⁷ Ofcom (2014) '*Product placement on TV*' <http://consumers.ofcom.org.uk/tv-radio/television/product-placement-on-tv/>
- ²⁸ Ofcom (2013) '*Children and Parents : Media Use and Attitudes Report.*'
<http://stakeholders.ofcom.org.uk/binaries/research/media-literacy/october-2013/research07Oct2013.pdf>
- ²⁹ Calvert.S (2008) '*Children as Consumers: Advertising and Marketing. The future of children*' vol 18, Number 1, pp205-234
- ³⁰ A.Nairn (2009) '*Changing the rules of the game: implicit persuasion and interactive children's marketing.*' Berkley Media Studies Group
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- ³² The Independent (2014) '*Food giants target children with addictive advergaming*'
<http://www.independent.co.uk/news/uk/home-news/food-giants-target-children-with-addictive-advergaming-9222302.html>
- ³³ <http://www.honeymonster.co.uk/> [Accessed 14.08.14]
- ³⁴ <http://www.capri-sun.co.uk/teen-zone> [Accessed 6.2.14]
- ³⁵ <https://www.nesquik.com/adults/games/index.aspx?gid=8> [Accessed 14.08.14]
- ³⁶ <http://chewits.co.uk/have-your-say/> [Accessed 14.08.14]
- ³⁷ www.krave.com [Accessed 14.08.14]
- ³⁸ ASA (2010) '*ASA Adjudication on Kellogg Marketing and Sales Company (UK) Ltd.*'
[http://asa.org.uk/Rulings/Adjudications/2010/4/Kellogg-Marketing-and-Sales-Company-\(UK\)-Ltd/TF_ADJ_48325.aspx](http://asa.org.uk/Rulings/Adjudications/2010/4/Kellogg-Marketing-and-Sales-Company-(UK)-Ltd/TF_ADJ_48325.aspx)
- ³⁹ The Guardian (2014) '*Morrisons burger ad criticised for promoting 'unhealthy lifestyle' to kids.*'
<http://www.theguardian.com/media/2014/aug/06/morrisons-burger-ad-banned-unhealthy-lifestyle-asa>
- ⁴⁰ Children's Food Campaign (2013) '*Through the Looking Glass*' <http://www.sustainweb.org/publications/?id=273>
- ⁴¹ ASA (2014) '*CAP and ASA announce new measures to maintain effective regulation of food and drink advertising.*'
<http://www.cap.org.uk/News-reports/Media-Centre/2014/New-measures-to-maintain-effective-regulation-of-food-and-soft-drink-advertising.aspx>
- ⁴² Advertising Standards Authority (2014) '*Making Ads Clear: Annual Report 2013.*' http://www.asa.org.uk/About-ASA/~media/Files/ASA/Annual%20reports/AR%202013%20Online%20version_v3_FINAL.ashx
- ⁴³ Lidl (2014) '*Children's diets challenged by supermarket checkout chocolates.*'
http://www.lidl.co.uk/cps/rde/www_lidl_uk/hs.xsl/5028.htm
- ⁴⁴ The Guardian (2014) '*Tesco bans sweets from checkouts in all stores.*'
<http://www.theguardian.com/business/2014/may/22/tesco-bans-sweets-from-checkouts-all-stores>
- ⁴⁵ World Health Organisation (2010) '*Set of recommendations on the marketing of foods and non-alcoholic beverages to children*'
- ⁴⁶ World Health Organisation (2013) '*Marketing of foods high in fat, salt and sugar to children: update 2012-2013.*'
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- ⁴⁷ European Commission (2014) '*EU Action Plan on Childhood Obesity 2014-2020*'
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- ⁴⁸ EU Pledge accessed at <http://www.eu-pledge.eu/> 01.04.2011
- ⁴⁹ World Health Organisation (2013) '*Marketing of foods high in fat, salt and sugar to children: update 2012-2013*'
- ⁵⁰ <http://www.chewitscarnival.co.uk/> [Accessed 08.09.14]