

## Evaluation of responses to Question 4 a) – Introducing a media placement restriction

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

CAP proposed to introduce a new rule prohibiting the placement of HFSS product advertising in media targeted at or likely to appeal particularly to children.

	Respondent making points in favour of CAP's proposal	Summary of significant points	CAP's evaluation:
4.a.1.1	AA, ADPH, FDF, IPM, OAS, Nestle	Respondents considered that introducing a placement restriction would be important to reducing children's exposure to HFSS product advertising and general awareness of HFSS products.	CAP agrees.
4.a.1.2	CAA/UKCA	Respondents believed the proposal was a positive step toward healthier outcomes even though, they maintained, there was no proven link between advertising and wider concerns over obesity.	As outlined in Regulatory Statement section 4.1.6, the assessment of evidence cited by respondents, reaffirms CAP's conclusion that, although it is small, advertising does have an effect on children's food preferences and behaviour. Additionally, as CAP noted in section 40 of the consultation document, the evidence suggests that there are some links between advertising and diet, but very little longer-term research to identify any direct links to health, in particular, obesity.
4.a.1.3	ASDA	Respondent recognized the case for change, subject to the outcome of the consultation process and a robust and balanced assessment of the available evidence.	CAP considers that this consultation process has been extensive and robust. It has arrived at an evidence-based decision (see Regulatory Statement sections 4.1 and 4.6 in particular).

4.a.1.4	RSPH	Respondent supported the proposal with particular reference to websites and social media. They believed work they had carried out showed young people were significantly exposed to HFSS product advertising.	Media change is an important factor in CAP's decision to introduce new restrictions on HFSS advertising.
4.a.1.5	HoM	Respondent maintained that the disingenuous manner in which food was marketed to children distorted choice. They believed the issue should be addressed to respect children's rights and protect a vulnerable group.	In coming to its decision, CAP has had regard to the vulnerabilities of children and sought to take proportionate steps to protect them. As outlined in section 39 of the consultation document, CAP's policy aim is to place appropriate restrictions on advertising to protect the health and well-being of children.
4.a.1.6	BC, C4, CFT, Danone, FDF, HF, LNCDU, LRS, OHA, Nestle, NHS (Sco), PM, RSPH	Respondents considered that a consistent approach across all media was beneficial. Most respondents believed it was important to bring the non-broadcast rules into line with BCAP's rules for TV advertising. Several respondents noted changes in children's media habits; specifically, the shift away from TV watching to online content. Some respondents pointed out that the proposal would result in a level playing field between different media.	Consistency between media is an important consideration. As outlined in Regulatory Statement section 4.1, CAP's decision recognises the changes in media and children's habits that have occurred over the past decade. CAP also notes the benefits of a level playing field between different media in providing certainty for advertisers and mitigating compliance costs.
4.a.1.7	BC, HF, IPH, OHA, WCRF	Respondents considered that changes in children's media habits and the growing importance of online media were important factors. They maintained that those developments were increasing children's exposure to HFSS advertising. Several respondents noted the growth in the use of tablets and smartphones to provide individual access to online content.	As noted above, media change and the rapid growth of online media use are important factors in CAP's decision. Although data is not available to allow precise modelling, CAP's <i>Regulatory and economic impact assessment</i> acknowledges that content analyses and recall studies suggest that exposure is likely to occur at a reasonable level of significance. The growth of new media environments has undoubtedly created significant new opportunities for advertisers to engage with children. The new media placement restriction will address this.
4.a.1.8	PHE	Respondent supported the introduction of a placement restriction and cited evidence included in its review, <i>Sugar Reduction: the evidence for action</i> , on the impact of advertising on food choice.	See Regulatory Statement sections 4.1 and 4.5.

4.a.1.9	SPHSU	Respondent said two systematic reviews of the evidence had found that strong regulation was more likely to have an impact on reducing the potential harm from advertising for products HFSS. They said the reviews found that that came in the form of clear statutory regulations rather than industry self-regulation.	CAP notes the evidence cited by the respondent.
4.a.1.10	LNCDU	Respondent believed the evidence supported new restrictions. They cited several key systematic reviews: Hastings et al (2003); Hastings et al (2006); McGinnis et al (2006); Cairns et al (2009) and Boyland et al (2016).	CAP took account of Hastings et al (2003), McGinnis et al (2006) and Boyland et al (2016) in developing the consultation. CAP notes several respondents cited the review carried on behalf of the WHO, Cairns, Angus and Hastings (2009), <i>The Extent, Nature and Effects of Food Promotion to Children: a Review of the Evidence to December 2008</i> . CAP notes this is an update on Hastings et al (2006), which was itself updated in a retrospective summary (Cairns et al 2013). CAP considers that the findings are in line with those of other systematic reviews considered in the consultation document and that they are subject to the same limitations; notably, the focus on studies related to TV advertising. See Regulatory Statement section 4.1.6.
4.a.1.11	CRUK	Respondent maintained that exposure to continual and repetitive marketing on a daily basis over a lifetime, across multiple platforms and settings, led to cumulative increases in energy intake and increasing obesity rates. To reflect changing media use among children and young people, the respondent believed that strong restrictions should be applied across all forms of non-broadcast media.	CAP has acknowledged the importance of media change in its rationale for regulatory change (see Regulatory Statement section 4.1). However, as noted in section 40 of the consultation document, the evidence suggests that there are some links between advertising and diet, but very little longer-term research to identify any direct links to health, in particular, obesity. The strongest part of the evidence base relates to advertising's influence on children's immediate food preferences (see again Regulatory Statement section 4.1 for further details on CAP's rationale for change).
4.a.1.12	LBL, LBH	Respondents noted the consultation document stated that HFSS product advertising spend was £178m and concluded that "children's exposure occurs at a level of some significance". They also noted the findings of PHE's review and said it was a strong basis to introduce new restrictions.	See Regulatory Statement sections 4.1 and 4.5.

4.a.1.13	PHK	Respondent cited the WHO Global Action Plan and the recommendation for limits on HFSS advertising as a basis for new restrictions in non-broadcast media.	See the evaluation of point 1.a.1.19 (Question 1a).
4.a.1.14	FEC	Respondent said one in five children in England were overweight or obese before they started primary school, and by the time they left, that increased to almost one in three. Obese children were more likely to be obese as adults, which in turn increased their risk of developing serious health conditions such as Type 2 diabetes, cancer, stroke and cardiovascular disease. The respondent said such conditions had a devastating human impact and also placed a huge financial burden on the health service. Tough action was therefore needed to protect children both in traditional media and in non-traditional media such as advergames.	CAP's rationale for regulatory change is based on the evidence of advertising's effect on children in the context of wider issues of poor childhood diet and wider health outcomes. The respondent's points add to the information CAP included in sections 23-25 of the consultation document, <i>Policy challenge: childhood diet and obesity</i> . CAP has decided to introduce a placement restriction to further mitigate the small impact advertising is understood to have on children's food preferences and behaviour.
4.a.1.15	BC	Respondent said evidence demonstrated that consumption of HFSS contributed to poor health outcomes in children and rising levels of childhood obesity.	Section 44.2 of the consultation document, in outlining CAP's reasons for proposing to introduce new restrictions on HFSS product advertising, acknowledged that HFSS products can contribute to weight gain and adverse health outcomes, especially when consumed excessively.
4.a.1.16	LNCDU	Respondent said a new placement restriction would restrict the opportunity for investment-shift from a regulated to an unregulated media.	See the evaluation of point 1.a.1.43 (Question 1a).
4.a.1.17	IPH	Respondent welcomed the proposal for restrictions on the placement of HFSS product advertising. They were also concerned that children and young people might not constitute the direct or even significant proportion of the audience for billboard media but were still exposed.	See Regulatory Statement section 4.7.
4.a.1.18	LBH	Respondent asked for more clarity on the definitions of "product advertising" and "media placement". They were concerned that loopholes could be exploited.	See the evaluation of point 1.b.3.3 (Question 1b).

	<b>Respondent making points <u>Against</u> CAP's proposal</b>	<b>Summary of significant points</b>	<b>CAP's evaluation:</b>
<b>4.a.2.1</b>	Ferrero	Respondent believed that there was no robust evidence for new restrictions on advertising.	As outlined in Regulatory Statement section 4.1, CAP considers that there is sufficient evidence, when taken in the context of the wider impact of poor diet and obesity and media change, to warrant the new restrictions CAP has adopted.
<b>4.a.2.2</b>	PAST	Respondent did not support introducing new rules restricting the placement of HFSS product advertising. They believed new rules would result in increased compliance costs to businesses and regulators, and would make little difference to childhood obesity levels.	CAP concluded in its <i>Regulatory and economic impact assessment</i> (see consultation document Annex 7) that new restrictions are unlikely to have a disproportionate impact on advertisers and media owners. CAP has seen nothing in response to the consultation that dissuades it from this conclusion.
<b>4.a.2.3</b>	PAST	Respondent considered that, although media neutrality was important, the fact that BCAP had a placement restriction for HFSS product advertising was not a justification for CAP to introduce one.	Consistency between media is an important consideration for CAP (see evaluation of point 4.a.1.6 above). It leads to several benefits in terms of levels of protection for children and certainty for businesses. However, the rationale for regulatory change centres on the evidence base around advertising's effect on children in the context of wider factors; principally, the impact of poor diet and obesity and media change.

	Respondent making other relevant points	Summary of significant points	CAP's evaluation:
4.a.3.1	ACS	Respondent said their response was dependent on the evidence presented on the impact of advertising in reducing childhood obesity.	As noted in section 17 of CAP's <i>Regulatory and economic impact assessment</i> , given advertising's relatively small role – compared with factors like parental influence – advertising restrictions alone are unlikely to have a significant long-term impact. However, as part of a wider effort, advertising restrictions have the potential to be more impactful, for instance, by changing the environment of information and influences that currently contribute to children's food preferences. There is a consensus – in the views assess in the consultation document and among some respondents – that a package of measures has the most realistic prospect of success in reversing obesity rates. As well as the potential for positive contribution to this effort, further advertising restrictions could also ensure that advertising does not undermine wider public health initiatives.
4.a.3.2	HoM	Respondent said that research showed teen mobile media users were roughly three times as receptive to mobile advertising as the total subscriber population; just over half considered themselves open to mobile advertising.	CAP's new placement restriction will cover advertising in mobile marketing.
4.a.2.3	HoM	Respondent said social media platforms and marketers reported that social media marketing had a powerful capacity to amplify marketing effects, increasing target audience reach, ad memorability, brand linkage and likeability compared to TV alone. They said, in France and the US, direct return on investment for online Coca-Cola and Cadbury campaigns were reported to have been about four times greater than for TV.	See Regulatory Statement section 4.7.

<b>4.a.2.4</b>	HoM	Respondent said exposure to homepage ads on Facebook increased recall, brand awareness and purchase intent, effects that were enhanced dramatically by adding social context; evidence that a friend had engaged with, and was thus endorsing, the brand.	See Regulatory Statement section 4.7.
<b>4.a.2.5</b>	IPH	Respondent maintained that many non-broadcast media allowed less control over viewing by parents than broadcast media. They believed social media sites could not enforce their stated age limit policies.	See Regulatory Statement section 4.7.
<b>4.a.2.6</b>	IPH	Respondent said young people were unable to recognise the commercial intent of online advertising until their pre-teen years.	See the evaluation of point 1.a.1.72 (Question 1a).
<b>4.a.2.7</b>	ACS	Respondent asked CAP to ensure that any changes to the Code must be well communicated to retailers.	During the period between the announcement of the outcome and the new restrictions coming into force, CAP will engage with industry to ensure that they have the insight and understanding to comply with the new and revised rules.
<b>4.a.2.8</b>	BDA (Dietetic)	Respondent asked CAP to regularly review the new CAP rules to keep up with new forms of media and marketing methods.	See the evaluation of point 1.a.3.20 (Question 1a).
<b>4.a.2.9</b>	Nestle	Respondent said the audience of certain types of media were difficult to assess, for example, out of home poster campaigns. They called for further guidance on identifying media targeted at children to ensure clarity and a level playing field.	See Regulatory Statement section 4.7.
<b>4.a.2.10</b>	Mars	Respondent questioned how media subject to the restrictions would be identified. They said appeal should be based on likely audience reach rather than arbitrary time cut-offs, such as a watershed.	See Regulatory Statement section 4.7.