

CAP Consultation: food and soft drink advertising to children

Annex 5

BCAP Guidance: Identifying brand advertising promoting HFSS products



Advertising Guidance Note no. 3

Broadcast Committee of Advertising Practice (BCAP)

Differentiating HFSS product TV advertisements from brand TV advertisement rules



1. Background

BCAP offers Guidance on the interpretation of The UK Code of Broadcast Advertising, the BCAP Code.

Guidance reflects how BCAP intends the Code to be interpreted but does not bind the ASA in the event of a complaint about an advertisement that follows it. The ASA is the sole body responsible for the interpretation of the BCAP Code rules

For advice on specific TV advertisements, consult Clearcast, www.clearcast.co.uk.

2. What this Guidance applies to

This Guidance is intended to give greater certainty about when the rules that govern TV advertisements that promote, directly or indirectly, an HFSS product apply. HFSS products are food or drink products that are assessed as being high in fat, salt or sugar in accordance with the nutrient profiling scheme published by the Food Standards Agency (FSA) on 6 December 2005 or as amended. TV advertisements for HFSS products attract specific content and scheduling restrictions, set out in section 3 of this Guidance. Those restrictions do not apply to advertisements for non-HFSS products or to brand advertising and brand sponsorship. BCAP acknowledges that differentiating an HFSS product advertisement from a brand advertisement is not always easy. The problem is especially stark if the brand is inextricably linked with a distinct product and the brand name is featured on other distinct products. BCAP intends this Guidance to help advertisers, agencies, television broadcasters and the ASA achieve a common understanding of where to draw the line between HFSS product advertisements and brand advertisements. BCAP considers this Guidance supports compliance with the letter and the spirit of the HFSS product TV advertising rules and takes into account the legitimate rights of advertisers to promote their brands.

3. Restrictions on TV advertising for HFSS products

Content restrictions

Section 13 Food, food supplements and associated health or nutritional claims

13.9 Promotional offers Promotional offers should be used with a due sense of responsibility. They may not be used in HFSS product advertisements targeted directly at pre-school or primary school children.

13.10 Use of characters and celebrities Licensed characters and celebrities popular with children must be used with a due sense of responsibility. They may not be used in HFSS product advertisements targeted directly at pre-school or primary school children

13.11 Accuracy in food advertising No nutrition or health claim may be used in HFSS product advertisements targeted directly at pre-school or primary school children.

Scheduling restrictions

Section 32 Scheduling

32.5 Under-16s

The following may not be advertised in or adjacent to children's programmes or programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 16: 32.5.1 food or drink products that are assessed as high in fat, salt or sugar (HFSS) in accordance with the nutrient profiling scheme published by the Food Standards Agency (FSA) on 6 December 2005. Information on the FSA's nutrient profiling scheme is available on the FSA website at:

<http://www.food.gov.uk/healthiereating/advertisingtochildren/nutlab/nutprofmod>
www.food.gov.uk/healthiereating/advertisingtochildren/nutlab/nutprofmod

4. Differentiating HFSS product TV ads from brand TV ads

Principles:

The restrictions on TV advertisements for HFSS products have been introduced against a background of concern about rising childhood obesity. The Government has undertaken to reduce the demand for less healthy food options and to encourage the promotion of healthier alternatives and a healthy, active lifestyle to children. That provides important and relevant context to the application of the HFSS product-specific rules and can help develop an understanding of the spirit and purpose of a brand advertisement.

The HFSS product-specific rules do not apply to TV advertisements for food or drink products that are assessed as not being high in fat, salt or sugar in accordance with the nutrient profiling scheme published by the Food Standards Agency on 6 December 2005 or as amended. BCAP acknowledges that differentiating an HFSS product advertisement from a brand advertisement is not always easy. This guidance sets out scenarios in which that problem could arise and provides BCAP's opinion on whether the ad amounts to an HFSS product advertisement. The list of scenarios is not exhaustive. BCAP strongly advises that advertisers should exercise caution and not rely entirely on the scenarios outlined in this Guidance because other factors could lead to a TV advertisement being judged to be an advertisement for an HFSS product and not a brand advertisement or *vice versa*.

5. Scenarios

Likely to be regarded as an ad for an HFSS product	Unlikely to be regarded as an ad for an HFSS product
An advertisement refers to or prominently features an identifiable HFSS product.	An advertisement neither refers to nor prominently features an identifiable HFSS product.
OR	
An advertisement contains a direct response mechanic relating to a specific HFSS product.	An advertisement does not contain a direct response mechanic relating to an HFSS product but may encourage the audience to buy a non-HFSS product or may promote a range, or ranges, of different products.
OR	
An advertisement refers to or features a brand name that is synonymous with a specific HFSS product. ⁹ That name could be featured on other products or product variants but is inextricably linked to a specific HFSS product.	An advertisement refers to or features a brand name. That name is synonymous not with a specific HFSS product but with a range, or ranges, of products that are sold under that name. ¹
OR	
An advertisement refers to or prominently features a product but does not provide enough information for the audience to identify it as a product that can be nutrient profiled. The advertiser does not provide evidence that its range of that type of product is mainly non-HFSS. (For the avoidance of doubt, an advertisement that refers to a brand name that incorporates the name of a type of food or drink product will not be subject to the HFSS restrictions merely because it mentions that brand name.)	An advertisement refers to or prominently features a product but does not provide enough information for the audience to identify it as a product that can be nutrient profiled. The advertiser provides evidence that its range of that type of product is mainly non-HFSS.
OR	

<p>An advertisement for a brand refers to or features, for example, a strapline, celebrity, licensed character, brand-generated character or branding synonymous with a specific HFSS product.¹</p>	<p>An advertisement for a specific non-HFSS product refers to or features, for example, a strapline, celebrity, licensed character, brand-generated character or branding synonymous with a specific HFSS product.¹</p>
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¹ For the purposes of this Guidance, “synonymous with” should be taken to mean “very strongly associated with” a specific HFSS product.