

Evaluation of Question 4 b) – Introducing a media placement restriction

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?

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CAP will explore through consultation whether the new rule should prohibit HFSS advertising in media targeted at or of particular appeal to children under 12 or under 16.

	Respondent making points in favour of (i) children aged 11 or younger:	Summary of significant points	CAP's evaluation:
4.b.i.1.1	IAB	Respondent pointed out that the consultation document acknowledged that there was no strong evidence of a direct link between non-broadcast advertising and excess weight or obesity. It also identified limitations to the available evidence; there were significant gaps in the online evidence base. The respondent considered, however, that it was legitimate to look beyond the evidence of effect and consider wider social issues and costs in assessing the case for change.	See Regulatory Statement section 4.6.2.
4.b.i.1.2	Dairy UK, Ferrero, IAB, PPA, Mars	Respondents supported the under 12 age category because younger children were most vulnerable, for instance, they were still in the process of forming food preferences and they had lower capacity to understand the commercial intent behind online advertising. Some respondents considered that	See Regulatory Statement section 4.6.2.

		an under 12 age category was supported by the balance of the evidence set out in the consultation document. Some believed an under 12 restriction was easier for businesses to implement.	
4.b.i.1.3	IAB	Respondent pointed out that the evidence base for advertising's effect on children's food preferences focused disproportionately on younger children.	See Regulatory Statement section 4.6.2.
4.b.i.1.4	Mars	Respondent believed the evolution of the media landscape and the development of new forms of marketing had challenged the evidence based on an assessment of TV advertising. They said, while there was a general agreement that the identification and understanding of the persuasive intent of online marketing communications was more difficult than for traditional advertising, it did not undermine 12 years old as an appropriate age threshold. The respondent believed CAP's work on critical understanding supported this.	See the evaluation of point 1.a.1.72 (Question 1a) for CAP's general view on the evidence around critical understanding. CAP considers that this supports an under-12 restriction. However, that younger children have this vulnerability does not discount the case for applying a media placement restriction to 12-15 year olds as well.
4.b.i.1.5	Ferrero	Respondent cited a World Federation of Advertisers report, which suggested that from the age of 12, children had an understanding of the persuasive intent of advertising, but children below that age had not.	See the evaluation of point 4.b.i.1.4 (above).
4.b.i.1.6	IAB	Respondent pointed out that an under 12 age category would bring the new placement restriction into line with the existing rules prohibiting certain types of creative content being used in advertisements directed at that group.	See Regulatory Statement section 4.6.2.
4.b.i.1.7	IAB	Respondent believed CAP should seek to bring the Code into line with existing good practice within the industry.	See Regulatory Statement section 4.6.2.
4.b.i.1.8	Bel UK, IAB, PFT	Respondents said CAP should follow the approach of the EU Pledge and adopt an under 12 category.	See Regulatory Statement section 4.3.

4.b.i.1.9	IAB	Respondent said the online advertising industry had implemented a self-regulatory framework for Online Behavioural Advertising (OBA). They said the framework set out what constituted good practice in relation to OBA and included a set of principles, one of the which required businesses to agree to not create OBA audience segments in order to target children aged 12 and under.	See Regulatory Statement section 4.6.2.
4.b.i.1.10	CAA/UKCA, PM	Respondents considered the under 12 category easier to implement. They pointed out that the British Board of Film Classification rating system would work more effectively as a basis for ensuring under-12s were not targeted. It would cause significantly more problems for the under 16 category.	CAP considers that responses have not shown that its decision to implement a placement restriction based on the under-16 age category would be disproportionate. See Regulatory Statement section 4.7 for more detail on the identification of media that will be subject to the restriction.
4.b.i.1.11	Dairy UK	Respondent said including 12-15 year olds in the age category of the restriction would result in media not intended for children being subject to the rules. They maintained that it was more difficult to separate that group from adult audiences when carrying out audience measurement.	CAP considers that it is proportionate to impose restrictions where a significant number of children are present in an audience. These protections should not just apply to media specifically for children (see Regulatory Statement section 4.7).
4.b.i.1.12	Dairy UK	Respondent maintained that any new regulatory approach should respect the right of consumers to receive responsible advertising for products that might be of interest to them.	As outlined in section 11 of the consultation document, CAP has had regard to commercial freedoms and consumers' general right to receive information that might be of interest to them. CAP does not consider that the new restrictions will have a disproportionate effect on adult consumers.

	Respondent making points against (i) children aged 11 or younger:		
4.b.i.2.1	ABGPHT, AoS/CASH, BGCBC, CFC, HoM, JOFF, PHD, SW, TCBC, WCRF	Respondents said there was ample evidence to rule out the under-12s age category as the basis of a new placement restriction. They maintained that 12-15 year olds were substantially influenced by HFSS product advertising due to greater independence and higher levels of media consumption and newer forms of online media marketing practices were difficult to recognise and resist.	See Regulatory Statement section 4.6.2 and section 4.1.6 for CAP's view of the evidence base and its role in the case for regulatory change.
4.b.i.2.2	BC, MoL	Respondent believed an under 12 restriction would allow advertisers to target older children who, they considered, were highly vulnerable. MoL cited a recent systematic review of the effects of acute exposure to HFSS advertising.	See Regulatory Statement section 4.6.2.
4.b.i.2.3	CRUK	Respondent pointed out that the Ofcom and BCAP defined a child as aged 5-15 for the purposes of analysing media use and literacy, alcohol exposure and in advertising guidance for scheduling and audience indexing. The Market Research Society defined a child as any person under 16 with the vital aim to protect potentially vulnerable members of society.	General definitions of "a child" used in the UK Advertising Codes and those used or defined by other bodies or legislation, are important reference points. However, CAP's decision to adopt an under-16 restriction is based on its assessment of the evidence for different age categories of children. Although the Code has a general definition of a child, it employs specific, stated age categories for particular rules. This recognises that different age groups of children have different vulnerabilities.
4.b.i.2.4	CRUK	Respondent pointed to CAP Code rule 2.1 on the recognition of advertising and also Ofcom's research that had shown two-thirds of 12-15 years were unable to identify sponsored links or paid-for advertising on the Google search engine. They	Although it notes the findings of the Ofcom survey, CAP considers that the evidence base relating to children's critical understanding is only significant for the under-12 age category. As noted in the evaluation of point 1.a.1.72 (question 1a), the

		believed CAP had failed to protect children. Coupled with the CAP code explicitly defining a child as under-16, the respondent believed it would be inconsistent to adopt a lower category for the purpose of HFSS product advertising.	literature review CAP commissioned, Clarke and Svaenes (2014), found a body of experimental studies (several have been cited by other respondents to this consultation) into children's capacity to recognise online marketing and understand its persuasive and commercial intent. The overwhelming emphasis was on younger children and the evidence suggested that problems tend to occur only in more integrated or immersive online environments, such as advergames. Respondents should note CAP is in the process of developing new guidance on critical understanding for online advertising targeted at younger children.
4.b.i.2.5	FSS	Respondent said adopting a younger age threshold would potentially expose children between 11 and 15 years old to insufficiently restricted advertising of HFSS foods during a life-stage when dietary habits were being formed. They maintained the majority of food promotions are for HFSS foods. The respondent believed that, given the impact of dietary ill-health on Scotland's population, lack of progress towards meeting dietary goals and the known associations between environment and consumption, there could be no case for reduced restrictions on advertising to children under 16.	See Regulatory Statement section 4.6.2.
4.b.i.2.6	HoM	Respondent said research showed, of 13-17 year olds in the UK, 73% followed brands they like, 62% clicked on ads and 57% made in-app or in-game purchases. Also, whilst they tended to be media literate, children were still susceptible to advertising and marketing. The respondent cited research showing one in five food and drink retail websites featured products either directly targeted at, or appealing to teens almost all of which were HFSS.	See Regulatory Statement section 4.6.2.

	Respondent making points in favour of (ii) children aged 15 or younger:		
4.b.ii.1.1	PHE	Respondents considered the under 16 age category should be a minimum basis for the proposed placement restriction.	See Regulatory Statement section 4.6.2.
4.b.ii.1.2	DUK	Respondent said there was unity between the public health community and food and soft drink industry on the need for an under 16 age category.	See Regulatory Statement section 4.6.2.
4.b.ii.1.3	ACAD2, BC, BRC, Britvic, BSDA, C4, CEDAR, Danone, DUK, HF, IPH, LRS, Nestle, OHA, PepsiCo, PHDW, PHE, PHK, SG, WCRF, Which?, WOF/ASO	Respondents encouraged CAP to take consistent approach to that age category in line with the rules in the BCAP Code. Some respondents believed that that was the minimum acceptable.	See Regulatory Statement section 4.6.2.
4.b.ii.1.4	BSDA	Respondent said the evidence of children's increasing online exposure provided grounds for an approach consistent with the BCAP rules.	See Regulatory Statement section 4.6.2.

4.b.ii.1.5	FDF	Respondent noted the EU Pledge used an under 12 age category. However, they noted the approach of the CAP and BCAP Codes to defining a child as someone under the age of 16 in a UK context and considered that that was the appropriate approach.	See Regulatory Statement section 4.6.2.
4.b.ii.1.6	LNCDU	Respondent said under 16 would allow for a level playing-field and offered more effective child protection. The believed the rationale would be the same as the one Ofcom adopted to justify the restrictions it imposed on TV HFSS advertising.	See Regulatory Statement section 4.6.2.
4.b.ii.1.7	ACS, C4	Respondents said an under 16 age category would provide certainty for industry and make implementation easier.	See Regulatory Statement section 4.6.2.
4.b.ii.1.8	CoBA, BRC	Respondents supported an under 16 age category but expressed concerns about the practicalities of identifying media directed at that age group.	See Regulatory Statement section 4.6.2.
4.b.ii.1.9	PHE, MoL	Respondents pointed to evidence identified in the PHE review in support of under 16.	See Regulatory Statement section 4.6.2.
4.b.ii.1.10	SPHSU	Respondent said, in their focus group discussions, young people said they spent substantial amounts of their spare time at home online. They said the groups were made up of friendship groups. Some participants said social media advertising was ‘annoying’ with a few participants talking of using software to stop nuisance advertising. For others, advertising was something they liked and actively shared with friends, for example, by sharing photographs of certain foods. Young people were likely to spend their limited ‘pocket money’ on sweets, games or to buy fast food. Some spoke of fast food restaurants that they visited and those that they had recalled seeing advertising for. Many young people aged 12-15 years said that they were directly influenced by advertising to buy products HFSS. They discussed the features of advertising that	CAP notes the views reported by the respondent and that they are in line with other attitudinal research submitted in response to the consultation. Although such insights have their limitations – in particular, in attempting to quantify advertising’s impact – they do provide useful background, in particular on young people’s engagement with online media and the commercial world.

		attracted them; including humour, attractive and eye-catching content, and information about new products in an established range. They said they would discuss and share this type of advertising with friends. In addition, in the focus groups, young people reported a lack of parental oversight of their online activity.	
4.b.ii.1.11	PHK	Respondent recognised that the evidence base relating to the effect of advertising was stronger for under-12s. They noted only a quarter of the evidence of advertising's effect identified by the PHE evidence review related to older children, but considered that that did not mean there was no similar effect. It was possible that further research would identify it.	See Regulatory Statement section 4.6.2.
4.b.ii.1.12	OAS, UKHF	Respondents supported the under 16 category. However, they also considered that there was a case to extend the restriction to cover an age category of under 18.	See the evaluation of point 4.b.3.1 (below).
4.b.ii.1.13	NEDPH	Respondent said under 16 should be a minimum but urged CAP to consider restrictions for all age groups.	See the evaluation of point 4.b.3.1 (below) and point 1.a.1.47 (Question 1a).
4.b.ii.1.14	CEDAR	Respondent said it was clear that the impact of food marketing to adults and older children has been much less studied than that on younger children. However, they believed gaps in the evidence base represented an absence of evidence rather than evidence of absence of an effect.	See the evaluations of point 1.a.1.47 and 1.a.1.67 (Question 1a).
4.b.ii.1.15	CEDAR	Respondent said there was no reason to believe food marketing did not have an effect on adults and older children, although the mechanism might vary with age. Respondent said, whilst younger children might be particularly vulnerable to food marketing because they did not understand the persuasive intent of advertisements, older children might particularly vulnerable to food marketing because they ascribed much greater value and meaning to food branding and saw	See the evaluation of point 4.b.3.1 (below) and point 1.a.1.47 (Question 1a).

		consuming particular (often less healthy) food brands as highly important for defining and maintaining their personal and social identity.	
4.b.ii.1.16	FF	Respondent said their environmental policy index showed a unanimous consensus among academics, public health practitioners and the third sector that under 16 should be a minimum. They added that many considered that the age category for the restriction should be under 19.	Further to its rationale above for adopting an under 16 age category for the placement restriction, CAP notes the consensus view of participants in the respondent's initiative. See also the evaluation of point 4.b.3.1 below.
4.b.ii.1.17	SG	Respondent considered the 25% threshold for identifying audiences with significant numbers of children was too high, if the age category was under 12. Applying the threshold to under 16s was a more accurate representation of media likely to appeal to children.	CAP has decided to adopt the under 16 age category. Regulatory Statement section 4.7 and the evaluation of responses to Question 5 address the approach of new rules to identifying media to which the new restrictions will apply.
4.b.ii.1.18	SG	Respondent considered that an under 16 age category would provide additional protections to under-12s, especially given the potential for age restrictions to be bypassed.	CAP notes this point in addition to its view that an under 16 restriction will make a greater contribution to the aim of changing the nature and balance of the food and soft drink advertising children see.
4.b.ii.1.19	DUK	Respondent said the under 16 category would protect the most vulnerable children, take into consideration that media literacy was not always a chronological skill that every child learnt at the same speed and protect children when they started to make more independent choices.	See Regulatory Statement section 4.6.2.
4.b.ii.1.20	CFT	Respondent recognised that the impact of food advertising on older children was under-researched, but believed the under 16 category was appropriate as it would have greater impact. They noted CAP's impact assessment made that point as well.	See Regulatory Statement section 4.6.2.
4.b.ii.1.21	LBL	Respondent cited evidence that showed older children were vulnerable to marketing and advertising; adopting an under 12 age category would allow marketers to target them.	See Regulatory Statement section 4.6.2.

4.b.ii.1.22	LBH	Respondent called on CAP to place restrictions on sponsorship, celebrity tie-ins, or brand tie-ins. They disagreed with CAP's view that the evidence showed younger children were more vulnerable.	See Regulatory Statement section 4.8 for more details on the scope of the new rules adopted. As outlined in the rationale above, CAP considers that different ages of children have different vulnerabilities. A placement restriction based on an under 16 age category is intended to address them.
4.b.ii.1.23	CRUK	Respondent said media literacy education had not been shown to provide children with an adequate defence against the persuasive power of advertising.	See the response to point 4.b.i.2.4 (above) and the evaluation of point 1.a.3.13 (Question 1a).
4.b.ii.1.24	CVUHB	Respondent expressed concerns over children critical understanding. They noted the problems of under-12s and pointed out that, while children aged 10-12 could understand an advertisement's aim, they could not explain the sales technique. The respondent supported the under 16 category.	See the response to point 4.b.i.2.4 (above).
4.b.ii.1.25	BDA (Dietetic), CRUK	Respondents maintained that older children were also vulnerable to advertising because they lacked the capacity to understand that they were being sold to.	See the response to point 4.b.i.2.4 (above)
4.b.ii.1.26	SG	Respondent said the consultation document recognized older children's inability to understand the commercial intent behind advertising, especially online.	See the response to point 4.b.i.2.4 (above)
4.b.ii.1.27	SG	Respondent said an argument for relaxing restrictions for the 12-15 age group was that they would learn and benefit from positive marketing messages. However, the respondent maintained that most food advertising was for HFSS products.	See Regulatory Statement section 4.6.2.
4.b.ii.1.28	SG	Respondent considered that it was increasingly recognised that protections for under-16s were more important than ever. They noted the recent shift by some companies to look at policies not to market to under-16s.	See Regulatory Statement section 4.6.2.

4.b.ii.1.29	SG, CFT	Respondents said the loss of revenue from sales to the 12-15 age group was relatively small compared to the health costs associated with behaviours established at that age.	See Regulatory Statement section 4.6.2.
4.b.ii.1.30	NHS (Sco)	Respondent said the Scottish Health Survey 2014 showed the percentage of children overweight or obese increased at each stage. They believed that that underscored the importance of adopting a wider age category.	See Regulatory Statement section 4.6.2.
4.b.ii.1.31	SG	Respondent cited the Scottish Health Survey 2015 showing increased prevalence of obesity in older groups of children; from 13% at age 2-6 to 18% at age 7-11 and 21% at 12-15.	See Regulatory Statement section 4.6.2.
4.b.ii.1.32	BC	Respondent pointed out that inappropriate consumption of HFSS products, in particular soft drinks, did not stop at 12. They maintained that a wider age category for the restriction would ensure that all young people benefited.	See Regulatory Statement section 4.6.2.
4.b.ii.1.33	BC, IPH, SG	Respondents said older children had much greater independence and freedom to choose their own food. They should not be encouraged to choose unhealthy options.	See Regulatory Statement section 4.6.2.
4.b.ii.1.34	IPH	Respondent said older children were likely to have a higher disposable income independent of their parents and therefore greater access to HFSS products than younger children.	See Regulatory Statement section 4.6.2.
4.b.ii.1.35	CFT, IPH	Respondents pointed out that 12-15s have the highest media consumption among children.	See Regulatory Statement section 4.6.2.
4.b.ii.1.36	CFT, FF	Respondents pointed out that a third of children were obese when they began secondary school. Older children had considerably higher rates of excess weight and obesity than primary age children.	See Regulatory Statement section 4.6.2.

4.b.ii.1.37	CFT	Respondent said 11-15 year olds did not consume enough fruit and vegetables and were consuming too much salt, sugar and saturated fat.	See Regulatory Statement section 4.6.2.
4.b.ii.1.38	OGDBA	Respondent said the capacity of children and young people to make informed decisions was not entirely dependent on age. They believed the use of product placement alongside activities that appealed to young people, such as sport, and the use of subconscious messaging mean and that in order to protect children and young people, a higher age category would be preferable.	See Regulatory Statement section 4.8 for details of the media covered by the new restrictions.
4.b.ii.1.39	PHDW	Respondent said advertisements affected children in different ways as they matured. They maintained the food industry targeted advertisements at particular ages, using different techniques. It was therefore appropriate to adopt the under 16 age category.	See Regulatory Statement section 4.6.2.
4.b.ii.1.40	FEC	Respondent supported the under 16 age category, although they acknowledged that younger children were more susceptible to advertising. In support, they cited Ofcom data on children's media habits and the UK diet and nutrition survey, which showed 11-18 year olds were most likely to exceed recommended sugar intake predominately through soft drink consumption.	See Regulatory Statement section 4.6.2.
4.b.ii.1.41	RSPH	Respondent said older children were exposed to influential advertising. They pointed out that 20% of 8-11 year olds and 65% of 12-15 year olds owned a smart phone. They believed that the potential for children to be targeted with online advertising needed to be regulated. They considered HFSS advertising to be similar to tobacco and alcohol advertising. They pointed out that 1 in 5 children were leaving primary school obese and that sugary drinks accounting for 30% of 4-10 years olds' daily sugar intake.	Diet and obesity statistics that show the impact on children of all ages. This is an important consideration in CAP's rationale for change. However, CAP disagrees with the assertion that HFSS products should be dealt with in ways similar to alcohol and tobacco. The former is an age-restricted product and the latter is considered harmful in any amount of consumption. As noted in section 42 of the consultation document, the nature of the risks and potential harms associated with HFSS products do not provide a basis for a precautionary approach. Food is not an

			age-restricted product and it is clear that consumption of an HFSS product is not, of itself, harmful. This can be contrasted, in particular with tobacco where the toxicity and highly addictive nature of the product mean any level of consumption, and therefore advertising, present a real potential for harm. Most importantly, however, evidence of a significant direct effect is absent; advertising only tangentially affects the childhood diet and obesity issue. CAP therefore considers that there are limits to what advertising restrictions can ever reasonably achieve (and be reasonably expected to achieve) in contributing to wider efforts to tackle poor diet and obesity.
4.b.ii.1.42	SG	Respondent said, as children got older and developed their cognitive skills, they were granted additional independence which leave them more exposed to advertising messages.	See Regulatory Statement section 4.6.2.
4.b.ii.1.43	Britvic	Respondent said adopting an approach in line with the BCAP Code ensured that standards remained consistent for all businesses and in line with the Code's definition of "a child".	CAP notes the benefits of consistency with the BCAP Code. See the evaluation of point 4.b.i.2.4 (above) for CAP's view on the relevance of age definitions.
4.b.ii.1.44	Nestle	Respondent agreed that non-broadcast restrictions should also be under 16 to create consistency across all media in the UK.	See Regulatory Statement section 4.6.2.
4.b.ii.1.45	CoBA	Respondent supported the under 16 age category. They considered that it would go further than existing voluntary pledges. However, they were concerned about the availability of audience measurement data to identify media that should be subject to the new restrictions.	CAP is confident that the restrictions will be effective in practice. Regulatory Statement section 4.7 and the evaluation of responses to Question 5 address the approach to identifying media to which the new restrictions will apply.
4.b.ii.1.46	BRC	Respondent noted the benefits of consistency with the BCAP Code. They were concerned, however, about the practicalities of adopting an under 16 age category. The respondent believed that existing media measurement tools were not as effective in identifying media consumed by older children.	See Regulatory Statement section 4.7.

4.b.ii.1.47	CFT	Respondent disagreed strongly that the question of whether a higher age restriction would result in disproportionate costs to advertisers and media providers should be a consideration. They noted industry bodies, including the FDF and BRC, backed a media placement restriction for under-16s.	See the evaluation of point 1.a.1.20 (Question 1a).
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	Respondent making points <u>against</u> (ii) children aged 15 or younger:		
4.b.ii.2.1	IAB	Respondent pointed to the consultation document and CAP's acknowledgement that, although there was evidence of the link between advertising and older children's food preferences, there were gaps in the evidence base. The respondent did not agree that extending the placement restriction to under-16s was justified on the basis of evidence of their high levels of excess weight and obesity. They said there needed to be evidence of a link to advertising. Similarly, although it could be argued that older children were vulnerable to factors like peer pressure or other social influences, they had not seen a case as to how advertising restrictions could have any meaningful impact on such factors.	See Regulatory Statement section 4.6.2.
4.b.ii.2.2	CAA/UKCA, PTF	Respondents maintained that an under 16 age category would make the placement restriction difficult to enforce.	CAP is confident that the restrictions will be effective in practice. The ASA is well experienced in enforcing rules restricting the placement of advertising in certain media. See the Regulatory Statement section 4.7, which addresses the approach of new rules to identifying media to which the new restrictions will apply.
4.b.ii.2.3	IAB	Respondent said CAP should not aim to restrict media more widely than was appropriate in order to address the particular issue or protect the particular audience group in question. They said the Code did not seek to absolutely prevent children seeing advertising for particular products; its purpose was to minimise the risk that children might see such advertising as	See Regulatory Statement section 4.6.2 and the evaluation of point 4.b.3.1 (below).

		far as reasonably possible. They did not consider that it was reasonable to extend the placement restriction to under-16s. They were also concerned that wider restrictions could potentially impinge on advertisers' rights to advertise to older audiences by ruling out media aimed at or consumed by older teens (e.g. those up to 18).	
4.b.ii.2.4	PPA	Respondent considered that an under 16 restriction risked distorting the market at the fringes. Media targeted or likely to appeal to under-12s were more clearly segmented.	Although CAP's <i>Regulatory and economic impact assessment</i> did note the potential for detrimental impacts on advertisements, CAP is satisfied that significant adaptation options are open to both advertisers and media owners to mitigate any negative impacts. In general, responses to the consultation have not provided information or evidence to present a case to the contrary.
4.b.ii.2.5	Ferrero	Respondent said they supported the Media Smart media literacy scheme. They said it was aimed at both younger and older children and they considered it the most appropriate response to any doubts about the legitimacy of advertising to 12-15 year olds.	See the evaluation of point 1.a.3.13 (Question 1a).

	Respondent making other relevant points, including support for other age categories		
4.b.3.1	BDA (Dental) CRUK, LHHS, OGDBA, PHE, PUB1 SG	Respondents believed that CAP should consider the case for extending the restrictions to under-18s.	In line with the evaluation of point 1.a.1.47 (Question 1a) and CAP's general rationale for change (see Regulatory Statement section 4.1), CAP considers that the evidence base does not support this proposal. Evidence other than the recent PHE review, as assessed during the consultation development or in response to the consultation does not dissuade CAP from this view.
4.b.3.2	PHE	Respondent cited their review as evidence of the impact of all forms of advertising on food preference, choice and purchasing in children and adults.	See the evaluation of point 1.a.1.47 (Question 1a).
4.b.3.3	CRUK	Respondents said there was an evidence base for the commercial influences of marketing on children up to early adulthood.	See the evaluation of point 4.b.3.1 above.
4.b.3.4	PHE	Respondent said media was developing rapidly and older children had increasing access to such environments. They acknowledged the limitations to the evidence base, in relation to older children, but pointed to work around the impact of advergames.	See the evaluation of point 4.b.3.1 above.
4.b.3.5	PHE	Respondent said the National Diet and Nutrition Survey programme (NDNS) showed mean sugar intakes were three	See the evaluation of point 4.b.3.1 above.

		times higher than recommended in school-aged children and teenagers. They said, on average, all children's age groups were exceeding dietary recommendations for sugar, saturated fat and salt and adolescents had been found to have poorer dietary intakes than other groups.	
4.b.3.6	CRUK	Respondent said there was an unequivocal evidence base of the commercial influences of marketing on children aged up to early adulthood.	See the evaluation of point 4.b.3.1 above.
4.b.3.7	PHK	Respondent said that, if CAP aimed to be honest and transparent allowing children aged 16 and 17 to be targeted with HFSS advertising would appear to go against such aims.	See the evaluation of point 4.b.3.1 above.
4.b.3.8	ABGPHT, ACAD2, AoS/CASH, BGCBC, CFC, CRUK, DPPW, HoM, JOFF, LBH, TCBC, WCRF	Respondents said CAP should comply with international child's rights laws, which identified anyone under 18 as a child. They pointed to the UN Convention on the Rights of the Child and the WHO recommendations on tackling obesity.	General definitions of "a child" used in the UK Advertising Codes and those used or defined by other bodies or legislation, are important reference points. However, CAP's decision to adopt under 16 is based on its assessment of the evidence for different age categories of children. Although the Code has a general definition of a child, it employs specific, stated age categories for particular rules. This recognises that different groups of children have different vulnerabilities. CAP has assessed the evidence relating to various age groups and considers that there is a case to support an under 16 age category for the placement restriction. As outlined in the evaluation of point 4.b.3.1 (above), CAP does not consider the case extends to older groups. See also the evaluation of point 1.a.1.20 (Question 1a) on the legal test that CAP must satisfy.
4.b.3.9	CRUK	Respondent believed there was a case to consider a higher age category than under 16. They noted Ofcom defined "a child" to as someone aged 17 or younger. They cited the UNCRC, which also defined a child as under 18. They believed that failure to protect under 18s from excessive food and drink advertising risked breaching Article 3 of the Convention which	As outlined in section 15 of the consultation document (see also the response to point 4.b.3.8 (above), the principle legal test CAP must satisfy is laid out under Article 10 of the ECHR. Section 11 of the consultation document set out CAP's objective and its intended approach; one that has "primary regard to the protection of consumers, in general, and children in particular."

		stated that “the best interests of the child shall be the primary consideration”. The respondent also cited the European Charter of Fundamental Rights, which also required children’s best interests to be a primary consideration.	
4.b.3.10	PHE	Respondent also cited the WHO recommendations and the UN Convention on the Rights of the Child in support of an under 18 age category.	See the evaluations of point 4.b.3.1 and 4.b.3.8 (above).
4.b.3.11	IPH	Respondent said they recommended in the Republic of Ireland that broadcast advertising restrictions for HFSS foods and drinks apply to people aged under 18 and to apply a restriction where the audience was expected to comprise 50 per cent or more under 18s.	See the evaluations of point 4.b.3.1 and 4.b.3.8 (above)
4.b.3.12	CRUK	Respondent cited the Bailey Review of the Commercialisation and Sexualisation of Children conducted for the UK government in 2011. They pointed out that it defined a child as 5-16.	See the evaluations of point 4.b.3.8 and 4.b.i.2.4 (above).
4.b.3.13	SW	Respondent said media placement restriction on H-FS products should be applied to all age groups.	CAP is consulting on whether to introduce new restrictions on HFSS products. CAP has chosen to adopt the DH nutrient profiling model as a means of defining these products (see Regulatory Statement section 4.3).
4.b.3.14	ASDA	Respondent recognised the benefits for industry of consistency with the BCAP Code.	Consistency with the BCAP Code has been an important consideration throughout this wider process.
4.b.3.15	ASDA	Respondent said CAP should aim for wider consistency and address the discrepancies between the targeted age for the restriction applicable to licensed characters and that in the general provisions in the Code.	See the evaluation of point 3.3.14 (Question 3).

4.b.3.16	ASDA	Respondent considered that there were difficulties in separating children’s media habits from those of young people. Unlike broadcast advertising, there was no watershed for online or printed content.	CAP is confident that the restrictions will be effective in practice. See Regulatory Statement section 4.7, which addresses the approach of new rules to identifying media to which the new restrictions will apply.
4.b.3.17	PM	Respondent supported the implementation of a placement restriction but expressed concerns over how advertising in online environments could be effectively targeted. They gave the example of shared devices, which made targeting through account data problematic.	See the evaluation of point 4.b.3.16 (above).
4.b.3.18	PM	Respondent maintained that the outdoor market was already self-regulatory with some clients and media owners already enforcing an exclusion zone around schools and playgrounds. They said longer term discussions were being held as to an agreed exclusion zone of at least 100m.	See the evaluation of point 4.b.3.16 (above).
4.b.3.19	ASDA	Respondent was concerned about how media likely to appeal particularly to children would be defined. They said CAP must be clear on what was expected of advertisers and media owners in determining the age profile of their audiences, especially in complex media like online platforms. They asked for clarity around several examples. Own websites, third party-websites and affiliate websites; especially where advertisers were not in direct control of where the content would be published. They also cited magazines and outdoor advertising. They maintained that, in practical terms, audience data held by publications and media owners might not align with the specified age limit. Advertisers might use different audience profile segmentation, for example, ages 1-4, 5-9, 10-14, and 15-19, making it difficult to assess the appeal to a specified age.	See the evaluation of point 4.b.3.16 (above).

4.b.3.20	DUK	Respondent asked for clarification as to why the age bracket is presented as '15 and under' and not 'under 16 years' as was used in the BCAP code. Using the same terminology would provide consistency for readers of the Code.	Although the Code has a general definition of a child, it employs specific, stated age categories for particular rules. This recognises that different groups of children have different vulnerabilities. CAP usually renders age categories as "under X". CAP used "11 and under" and "15 and under" in the consultation to ensure that the precise meaning of this was understood by readers i.e. that an "under 16" restriction relates to 0-15 year olds.
4.b.3.21	FF	Respondent said the diets of older teenagers were particularly susceptible to influence from advertisers as they grow more independent, and impact on health in later life. They maintained that, as regulators bound by the Department for Business, Innovation and Skill's (BIS) Regulator's Code, both CAP and BCAP were 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.	See the evaluations of point 4.b.3.1 and 4.b.3.8 (above). The BCAP Code is not within scope of this consultation.
4.b.3.22	FSS	Respondent said delaying implementation for further consultation on age threshold would not be in the interests of consumers. They urged consistency with the BCAP Code as a positive development in line with all evidence supporting an urgent need to improve dietary habits through multiple interventions including change to the food environment.	See Regulatory Statement section 4.6.2.
4.b.3.23	IAB	Respondent supported an under 12 age category but acknowledged that the availability of new evidence in the future could lead to a process for considering extending the restriction to under 16.	See Regulatory Statement section 4.6.2.
4.b.3.24	ASDA	Respondent said they expected the decision to be based on expert assessment of the evidence produced during the consultation process.	See Regulatory Statement section 4.1.6.

4.b.3.25	CFT	Respondent said they supported the Children’s Food Campaign’s view that the placement restriction should apply to media currently outside of CAP’s remit, including brand characters, packaging, labelling, in-school marketing, in-store placement and sponsorship.	See the evaluation of responses to Question 6 for more information on the media within the scope of the new restrictions.
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