

CAP and BCAP Consultation

Implementing further restrictions on advertising for 'less healthy' food and drink products

Annex B: Proposed BCAP Code revisions



Explanatory notes for Annex B

This annex provides a mark-up of proposed changes to relevant parts of the BCAP Code that are affected by the introduction of the less healthy product rules. The changes will affect:

- [Section 13](#) – Food, food supplements and associated health or nutrition claims
- [Section 32](#) – Scheduling

The annex should be read in conjunction with the relevant parts of the [consultation document](#). It is primarily intended to set out the proposed consequential amendments to the Code as described in Part C of the consultation document. It also includes text of the new less healthy product advertising rule and supporting information in accordance with Part B of the consultation document.

Readers should also have regard to 2.3 (Development of the proposed guidance) of the consultation document explaining CAP and BCAP's approach to Government's proposed secondary legislation (the [Advertising \(Less Healthy Food Definitions and Exemptions\) Regulations 2022](#)), which is currently subject to an ongoing Government [consultation process](#). References to the proposed secondary legislation in this document are bracketed and highlighted to indicate their provisional nature.

Readers should note that proposed deletions are struck through and additions are shown in red text. The purple text denotes wording already consulted upon and finalised by Ofcom.

Proposed changes to BCAP Code section 13 (Food, food supplements etc.)

[...]

Food and soft drink product advertising to children

Background

These rules should be read in conjunction with the general rules in this section and other rules in this code, especially Section 5: Children and, for television only, Section 32: Scheduling.

The spirit, as well as the letter, of the rules in this section applies to all advertisements that promote, directly or indirectly, a food.

Definitions

[...]

"Advertisements targeted directly at pre-school or primary school children": advertisements that directly target pre-school or primary school children through their content as opposed to their scheduling. ~~For rules on the scheduling of HFSS product advertisements, please see Section 32: Scheduling.~~

[...]

"HFSS products": those food or drink products that are assessed as **high in fat, salt or sugar** ~~High in Fat, Salt or Sugar~~ in accordance with the ~~nutrient profiling scheme published by the Food Standards Agency (FSA) on 6 December 2005~~ **Department of Health and Social Care's Nutrient Profiling Technical Guidance issued in 2011**. Information on the nutrient profiling scheme ~~model~~ is available on the Department of Health and Social Care website [here](#).

For the avoidance of doubt, HFSS product advertisements, **including advertisements for HFSS products classified as "less healthy"**, may make nutritional or health claims in accordance with rule 13.4.

For rules on the scheduling of HFSS product advertisements, including the timing restriction that applies to advertisements for those HFSS products classified as "less healthy", please see [Section 32: Scheduling](#).

References to food apply also to soft drinks.

Proposed changes to BCAP Code section 32 (Scheduling)

Definitions

[...]

The restrictions given in rules 32.1 to 32.6 apply to sponsorship of the programme.

Programme sponsorship must comply with both the content and scheduling rules that apply to television advertising under the relevant provisions of the Ofcom Broadcasting Code.

For broadcast television text and interactive television services, rule 32.20 sets out a list of products that must not be advertised around editorial content of particular appeal to children. For the avoidance of doubt, these rules apply to television text and interactive television services: 32.12, 32.13, 32.15, and 32.16 **and 32.21**.

[...]

Children's television channels

Television channels devoted to children's programmes, or whose programmes are or are likely to be of particular appeal to children, will be unlikely to be able to carry at any time advertisements of the type restricted under rules 32.1 to 32.6 **and 32.22**. Thus, for instance, dedicated children's channels may not carry an advertisement for a product restricted under rule 32.2.2 (**gambling**), or rule ~~32.5.1, namely: gambling and food or drink assessed as high in fat, salt or sugar (HFSS)~~ **32.22 (food and drink products high in fat, salt or sugar)**.

[...]

Other television scheduling or timing restrictions children

32.5 These products may not be advertised in or adjacent to 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 nutrient profiling scheme is now available on the Department of Health website at: [the nutrient profiling model](#)~~

32.5.1 [Rule deleted 1 October 2025 and replaced by rule 32.22]

[...]

Placement of television text and interactive advertisements

[...]

32.20 Broadcast television text and interactive television advertisements for these product categories must not:

- be directly accessible from programmes commissioned for, principally directed at or likely to appeal particularly to children

- be directly accessible from advertisements that are adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to children
- appear on editorial pages (text or interactive) that are likely to be of particular appeal to a significant audience of children

[...]

32.20.10 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 FSA~~ **Department of Health and Social Care's Nutrient Profiling Technical Guidance issued in 2011** (information on the nutrient profiling scheme is ~~now~~ available on the Department of Health **and Social Care's website [here](#)**) ~~the nutrient profiling model~~

This rule applies subject to the timing restriction for advertising of identifiable less healthy products in rule 32.21.

[...]

TV advertising for food and drink products and children

Advertisements for identifiable food or drink products that are classified as “less healthy” are subject to a timing restriction reflecting specific provisions of the Communications Act 2003 (as amended). Other high in fat, salt or sugar (HFSS) product advertisements are subject to a separate scheduling restriction.

Definitions and scope

“HFSS products” are those food or drink products that are assessed as high in fat, salt or sugar in accordance with the Department of Health and Social Care's Nutrient Profiling Technical Guidance issued in 2011. Information on the nutrient profiling model is available on the Department of Health and Social Care's website [here](#).

A food or drink product is “less healthy” if:

- it falls within a food or drink category specified in the **[Advertising (Less Healthy Food Definitions and Exemptions) Regulations 202X]** (“the Regulations”); and
- it is an HFSS product.

A less healthy food or drink product is identifiable, in relation to advertisements, if persons in the UK (or any part of the UK) could reasonably be expected to be able to identify the advertisements as being for that product.

Rule 32.21 does not apply to advertisements **by** or on behalf of a food or drink small or medium enterprise (“food or drink SME”), within the meaning given by the Regulations.

Restrictions on TV advertising for food or drink products

32.21 TV advertising for identifiable less healthy food or drink products may not be shown between 5.30am and 9.00pm.

Guidance on the application of this rule is available [here](#).


32.22 TV advertisements for HFSS products may not appear in or adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 16.

Guidance to help broadcasters identify brand advertisements that have the effect of promoting an HFSS product is available [here](#).

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