

CAP and BCAP Consultation

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

Annex A: Mark-up of proposed BCAP Code revisions, including the proposed television rule



Explanatory notes for Annex A

This annex provides an abridged mark-up of changes to the BCAP Code including showing the text of the proposed less healthy product advertising rule for TV in situ, and other consequential amendments to relevant parts of the BCAP Code that are affected by its introduction.

The proposed 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 Part I of the [consultation document](#) on the proposed rules to implement the new restrictions. Further amendments are technical in nature, intended to improve clarity and usability. They do not reflect a change in any of BCAP's existing rules or policies. Section 13 has been updated to better link it to the scheduling rules in section 32 and alert users to the new less healthy product advertising rule for television. Section 32 has been restructured with a renumbering of the existing HFSS scheduling restriction, so it appears after the new rule.

Readers should note that deletions are struck through, and additions to the Code are marked in red. The proposed new less healthy product advertising rule and supporting information is denoted by purple text.

Proposed changes to BCAP Code section 13

The following is an abridged mark-up of changes to this Code section:

13 Food, food supplements and associated health or nutrition claims

Principle

Public health policy increasingly emphasises good dietary behaviour and an active lifestyle as a means of promoting health. Commercial product advertising cannot reasonably be expected to perform the same role as education and public information in promoting a varied and balanced diet but should not undermine progress towards national dietary improvement by misleading or confusing consumers or by setting a bad example, especially to children. The spirit, as well as the letter, of the rules in this section applies to all advertisements that promote, directly or indirectly, a food or soft drink product.

[...]

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.

Section 32 includes scheduling restrictions for high in fat, salt or sugar (HFSS) product advertisements on television, and a dedicated rule reflecting legislation that prohibits certain advertisements for HFSS products classified as “less healthy” from being included in Ofcom-licensed television services between 5:30am and 9:00pm.

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

"Children": persons below the age of 16.

"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.~~

"Equity brand characters": those characters that have been created by the advertiser and have no separate identity outside their associated product or brand.

"Licensed characters": those characters that are borrowed equities and have no historical association with the product.

*"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 may make nutritional or health claims in accordance with rule 13.4.

References to food apply also to soft drinks. [...]

Proposed changes to BCAP Code section 32

The following is an abridged mark-up of changes to this Code section:

32 Scheduling

Principle

Broadcasters must take special care when scheduling advertisements that might be unsuitable for children or young persons or the audience of religious programmes or for broadcast around sensitive programming or news items.

Particular sensitivity is required for advertisements inserted in or around news or current affairs programmes in which a news item, especially one of a tragic nature, could completely transform the context in which an advertisement having an apparent connection with it could be perceived by viewers or listeners. A separation from news references might be inadequate and suspending the advertisement altogether to avoid distress or offence could be preferable.

Ofcom's television licensees must comply with the Ofcom Code on the Scheduling of Television Advertisements, which can be consulted on the Ofcom website, www.ofcom.org.uk.

Definitions

"Adjacent" refers to an advertising break immediately before or after the programme in question.

"Current" refers to a programme still running or scheduled to be resumed in the near future.

For the purposes of rule 32.12, a "politician" is defined as a Member of, or candidate for, the European or UK Parliament, other elected Assemblies in the UK or a local authority, a Member of the UK's House of Lords or a person prominent in a political party organisation.

"Children's programme" means a programme made for persons below the age of 16.

~~*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 or 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 renumbered and moved to 32.22 on 5 January 2026

[...]

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.

[...]

Television 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 5:30am to 9:00pm timing restriction reflecting specific provisions of the Communications Act 2003 (as amended) – see rule 32.21. Other high in fat, salt or sugar (HFSS) product advertisements (including advertisements restricted by rule 32.21 shown at times outside the timing restriction) are subject to a separate scheduling restriction – see rule 32.22.

Scheduling of less healthy product advertisements

Background

The Communications Act 2003 [section 321A](#) prohibits television programme services provided between 5.30 am and 9.00 pm from including advertisements for an identifiable less healthy food or drink product. The restriction is reflected in rule 32.21.

Rule

32.21 – Television programme services must not include advertisements for an identifiable less healthy food or drink product between 5.30am and 9.00pm.

Definitions and supporting information

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 2024](#); and*
- it is a food or drink product high in fat, salt or sugar (an HFSS product).*

For guidance on the less healthy product categories set out in the 2024 Regulations, see the Department of Health and Social Care’s guidance, [Restricting advertising of less healthy food or drink on TV and online: products in scope](#).

“HFSS products” are those food or soft 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.

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 advertisement as being for that product.

The following exemptions apply to Rule 32.21.

- *Brand advertisements – In accordance with [The Advertising \(Less Healthy Food and Drink\) \(Brand Advertising Exemption\) Regulations 2025](#), advertisements that promote a brand, including the brand of a range of products are exempt. This exemption does not apply to an advertisement:*
 - *the content of which depicts a specific less healthy food or drink product;*
 - *that promotes a brand the name of which is the name of a specific less healthy food or drink product (unless the product's full name is the name or is included in the name of a company, franchise or other commercial entity which was established before 16th July 2025 and which held that name immediately before that date; or it is the name of the brand of a range of products, where that brand was in use, as the brand of that range, for the purposes of marketing, advertising or retail sale immediately before 16th July 2025 and held that name immediately before 16th July 2025); or*
 - *the content of which includes a realistic image of a food or drink product where the realistic image shows the food or drink itself and is not only of the product's packaging, and the food or drink product is visually indistinguishable from a specific less healthy food or drink product.*
- *Advertisements by food and/or drink SMEs – where the person paying is for the advertisement is a food or drink small or medium enterprise ("food or drink SME"), within the meaning given by [The Advertising \(Less Healthy Food Definitions and Exemptions\) Regulations 2024](#) (in general terms, a food or drink SME is a business that employs less than 250 people, including as part of a franchise agreement).*

Where terms are used in the rules and supporting information above that reflect legislation, their meaning should be understood with reference to the relevant legislation.

Guidance on the application of the less healthy product advertising rule (including information on the definition of terms used and the exemptions to which the rule is subject) is available [here](#).

Scheduling of HFSS product advertising


32.22 Television 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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