

ASA submission to Health Committee: Childhood obesity inquiry

1. Background and Introduction

- 1.1. This submission is provided by the Advertising Standards Authority (ASA), the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) – the ‘ASA system.’
- 1.2. The ASA is the UK’s independent advertising regulator. We have been administering the non-broadcast Advertising Code (written and maintained by CAP) for 56 years and the broadcast Advertising Code (written and maintained by BCAP, under contract from Ofcom) for 14 years, with our remit further extended in 2011 to include companies’ advertising claims on their own websites and in social media spaces under their control.
- 1.3. We are responsible for ensuring that advertising is legal, decent, honest and truthful and our work includes undertaking proactive projects and acting on complaints to take action against misleading, harmful or offensive advertisements. We are committed to evidence-based regulation and we continually review new evidence to ensure the rules remain fit-for-purpose.
- 1.4. In addition to investigating ads, we also provide a wealth of training and advice services (most of which are free) for advertisers, agencies and media to help them understand their responsibilities under the Codes and to ensure that fewer problem ads appear in the first place. CAP and BCAP provided over 389,000 pieces of advice in 2017.
- 1.5. The ASA is providing this written submission in response to the Health Committee inquiry into childhood obesity.

2. Consultation question: *What progress has been made with the measures contained in the plan published by the Government in August 2016?*

- 2.1. In 2017 CAP introduced new restrictions on advertisements for foods and soft drinks high in fat, salt or sugar (HFSS) in non-broadcast media, including online. The new rules brought the CAP Code into line with the rules for TV advertising in the UK Code of Broadcast Advertising. CAP introduced a new placement restriction and made amendments to existing rules on the creative content of advertising. The new rules:
 - Prohibit HFSS advertising from appearing in children's media (children defined as being under 16);
 - Prohibit HFSS advertising in other media where children make up a significant proportion of the audience;
 - Prohibit brand advertising (including, branding such as company logos or characters) that has the effect of promoting specific HFSS products, even if they are not featured directly;
 - Apply to all media, including advertising in online platforms like social networks and techniques such as advergames;
 - Use the Department of Health (DH) nutrient profiling model to differentiate between HFSS and non-HFSS products; and
 - Allow advertisements for non-HFSS products to use promotions and licensed characters and celebrities popular with children to better promote healthier options.

- 2.2. CAP's objective in introducing tougher rules was to alter the nature and balance of food advertising seen by children. CAP recognised that the advertising industry needed to play its part in responding to the public health challenges posed by poor childhood diet.
- 2.3. The wider obesity problem is a multifactorial issue with very little evidence suggesting a direct link with advertising. The evidence base shows advertising plays only a small part, especially when compared to factors like parental influences and school food policy. Nevertheless CAP concluded that there was enough evidence to make a case for stronger rules in non-broadcast media.

3. Consultation question: *What should be the priorities for further action by the Government, given its commitment that the August 2016 plan was "the start of a conversation, rather than the final word"?*

- 3.1. As an evidence-based regulator the ASA always remains open to change – it is how we ensure that the advertising rules are fit for purpose. We want to protect people, especially children, by working to ensure that every UK ad is a responsible ad. Controlling the advertising to children of foods and soft drinks high in fat, salt and sugar (HFSS foods) is central to that work.
- 3.2. The new non-broadcast restrictions are less than a year old, but they appear to be working well. So far there has been no evidence of widespread or serious non-compliance. There are some ongoing ASA investigations into ads which may have broken the new rules. We expect these cases will make it even clearer to food and drink companies where the line is now drawn. We will be carrying out monitoring work later this year, with a particular focus on social media and online environments to ensure that companies are getting it right.
- 3.3. In July 2018 CAP will undertake a review of the new non-broadcast rules; one year after the rules came into force. CAP will publish its conclusions by the end of the year, which may include additional steps that CAP considers necessary to achieve the rules' objectives (outlined above in 2.2 - 2.3).
- 3.4. The review will assess advertisers' compliance with the new rules; the regulators' success in securing amendments to or removal of ads that are found to be in breach of the rules; and, the economic and other impacts of the rules, including to children's media and advertisers. Specifically, the review will include:
 - media monitoring to assess key media environments popular with children;
 - proactive enforcement work to address problems identified through monitoring;
 - an analysis of ASA complaints data, rulings and any subsequent enforcement actions;
 - an analysis of ASA and Ofcom enforcement activity in relation to TV ads for HFSS products, with a view to considering their implications for non-broadcast regulation
 - an invitation for and analysis of stakeholder submissions on the regulatory effectiveness of the rules; and
 - an invitation for and analysis of submissions from media owners and advertisers on the rules' economic impact, with particular reference to the regulatory and economic impact assessment published in CAP's public consultation document
- 3.5. This year, BCAP will undertake a call for evidence to assist in its regulation of TV advertising for HFSS products. As the UK Government approaches the next stage of its strategy to

tackle childhood obesity, BCAP considers that it's important to provide up-to-date analysis of the latest evidence. BCAP will evaluate the latest evidence and publish its analysis in the autumn.

- 3.6. BCAP will welcome any evidence that updates and improves BCAP's understanding of:
- the public health benefits associated with restrictions on the scheduling and content of TV HFSS products ads;
 - trends in children's exposure to ads for food and soft drink advertising on TV (how many ads and what types of content and messages they're seeing) and their impact on children (in terms of immediate behaviour, dietary preferences, actual consumption and longer-term links to health);
 - the net cost to broadcasters and advertisers of banning ads for HFSS products in parts of the linear TV schedule not restricted by the current rules; and
 - the appropriateness of the policy underpinning the present rules: to reduce children's exposure to TV HFSS ads, while avoiding intrusive regulation into adult viewing time.
- 3.7. The Department of Health is consulting on a new nutrient profiling model. On completion of this work, BCAP and CAP have committed to reviewing the suitability of the new model for classifying HFSS product advertising and non-HFSS product advertising.
- 3.8. We are aware of calls for a 9pm "watershed" on HFSS products in broadcasting media. BCAP has long acknowledged that HFSS advertising has some level of impact on food preferences, but that effect has consistently been found to be small. The evidence to date does not suggest that further restrictions will have a dramatic impact on children's food choices. A 9pm restriction would signal a fundamental shift in policy that would, for the first time prohibit ads for HFSS products being shown to exclusively adult audiences. However, BCAP's call for evidence might shed new light on the evidence-base.
- 3.9. BCAP's present rules have significantly restricted where HFSS ads can be placed in relation to child audiences. Following their introduction in 2007, a review of ads between 2005 and 2009 showed that those rules resulted in a 37% reduction in children's TV HFSS food ad exposure. New data suggests that trend has continued. Children's exposure to all TV food and soft drink ads – HFSS and non-HFSS – is 40% lower than it was in 2010. For soft drinks category alone, the reduction is more than half over the same period.
- 3.10. The ASA is currently undertaking the first dedicated analysis of children's exposure to TV ads for HFSS products since 2010. The objective is to develop a means of accurately counting HFSS ads – a complex task owing to the separation of systems used to prepare ads for broadcast and those used to measure audiences post-transmission – to allow the further analysis of this trend. The ASA will publish the results in the summer.
- 3.11. The wrong restrictions on TV advertising would come at the cost of wasted time, wasted political capital and less broadcaster revenue to invest in the TV programmes that many of us enjoy watching. Before taking such a step, it's important to weigh up the options so we're confident the levers we're pulling will have enough of an effect to justify their cost.
- 3.12. Childhood obesity is a multifactorial issue, and so there must be a holistic approach to tackling it. That includes restrictions on advertising. The evidence shows the impact the current restrictions are having. The introduction of new non-broadcast rules last year proves that the ASA is very much prepared to act. And we welcome new arguments and evidence that demonstrate that it would be proportionate for us to do more.

Contact

Kate Roche
Advertising Standards Authority
kater@asa.org.uk or publicaffairs@asa.org.uk
020 7492 2176