

Evaluation of responses to Question 5 – Identifying media subject to the media placement restriction

It is often straight-forward to identify media targeted at children. Where media has a broader audience, CAP uses a “particular appeal” test – where more than 25% of the audience are understood to be of a particular age or younger – to identify media that should not carry advertising for certain products media. Should the CAP Code use the 25% measure for the purpose of restricting HFSS product advertising?

CAP proposed to apply the rule limiting the placement of HFSS product advertisements to non-broadcast media where more than 25% of the audience are understood to be under 12 or, subject to the outcome of the consultation, under 16.

	Respondent making points <u>in favour</u> of CAP's proposal	Summary of significant points	CAP's evaluation:
5.1.1	ASDA, McDonalds, PHDW	Respondents noted the proposed test was well-established and considered that it was likely that industry would be familiar with its requirements. It was likely to make implementation easier.	See Regulatory Statement section 4.7.5.
5.1.2	ASDA, IAB, IPA, IPM	Respondents noted the record of the proposed approach as part of rules in policy areas, such as alcohol and gambling.	See Regulatory Statement section 4.7.5.
5.1.3	BSDA	Respondent noted the TV audience indexing system based on Broadcast Advertising Research Bureau (BARB) data was not available to non-broadcast media platforms. They accepted that the 25% threshold was an appropriate approach.	See Regulatory Statement section 4.7.3.

5.1.4	Mars	Respondent supported the proposal as it was in line with their internal marketing guidelines and they considered it a proportionate quantitative measure.	CAP notes the respondent's point.
5.1.5	NMA	Respondent considered that the proposal was appropriate, if CAP concluded that further restrictions were necessary.	CAP notes the respondent's point.

	Respondent making points against CAP's proposal	Summary of significant points	CAP's evaluation:
5.2.1	BASCD, BDA (Dental), HoM, NS, OAS, UKHF, WCRF	Respondents considered the proposal afforded insufficient protection for children.	See Regulatory Statement sections 4.7.2 and 4.7.3.
5.2.2	SG	Respondent questioned the 25% threshold, especially if it applied only to under-12s. Taking cinema as an example, they noted most films assessed through FAME as 'family' films would fail the test if applied to under-12s but met it if applied to under-16s.	See Regulatory Statement sections 4.7.2 and 4.7.3.
5.2.3	CRUK, OGBDBA	Respondents considered the 25% threshold to be arbitrary; they asked for the basis upon which the threshold was decided. CRUK pointed out that the audience indexing test for TV advertising was based on children being over-represented in an audience by 20%.	See Regulatory Statement section 4.7.3.
5.2.4	ABGPHT, ACAD2, AoS/CASH, BASCD, BC, BGCBC, CFC, CFT, CRUK, DPPW, HF, JOFF, LNCDU, NS,	Respondents pointed out that a 25% threshold could be a significant number of children in absolute terms.	See Regulatory Statement section 4.7.3.

	OHA, PHD, PHE, SW, TCBC, Which?		
5.2.5	PHE	Respondent called for the restrictions to apply across the full range of media that children were likely to be exposed to rather than limiting by the 'particular appeal' test proposed. They pointed out that using the 25% threshold could expose a very large number of children to HFSS product advertising. They called for an approach based on absolute numbers.	See Regulatory Statement section 4.7.3.
5.2.6	PHE	Respondent believed the proposal was ignoring the fundamental principle of reducing and protecting children from exposure to advertising of HFSS products.	See Regulatory Statement section 4.7.3.
5.2.7	ABGPHT, AoS/CASH, BGCBC, CFC, DPPW, JOFF, LNCDU, NS PHD, SW, TCBC, WCRF	Respondents said the proposal would still allow up to 25% of an audience of children to be exposed to the marketing communication, when the aim of the restrictions – and of WHO's recommendations – was to minimise children's exposure to HFSS advertising. 25% could also be 25% of a very large number, especially for something which was particularly popular online.	See Regulatory Statement section 4.7.3.
5.2.8	NHS (Sco)	Respondent did not agree that the recommendation of the 25% measure for the purpose of restricting HFSS product advertising was sufficient to ensure that children and young people were not exposed to HFSS advertising.	See Regulatory Statement section 4.7.3.
5.2.9	CRUK, FSS	Respondents considered that CAP had not made the case that an audience index was the most appropriate way to comprehensively reduce children's exposure to HFSS product advertising.	See Regulatory Statement section 4.7.3.

5.2.10	BDA (Dental), CRUK, DUK, IPH, LBH, PHK, FEC, SG, SPHSU	Respondents cited examples of family viewing or content where significant numbers of children might be exposed to HFSS advertising. They pointed out that, if they did not constitute 25% of the audience, they would not be protected by the rules. CRUK gave an example of a billboard on Transport for London premises. They pointed out that up to 1.2m of the total 4.8 million passenger journeys are made per day could be children. They gave a further example, alcohol advertising appearing during the film Skyfall. Although only 12% of viewership was under-18s, the film reached a fifth of the UK population. Consequently, 1.5 million children could have been exposed to the advertisements.	See Regulatory Statement section 4.7.3.
5.2.11	LBH, LBL, MoL	Respondents expressed concern about exposure to outdoor media. They maintained that the problem in London was particularly acute given the population and large amount of advertising in public spaces.	See Regulatory Statement section 4.7.3.
5.2.12	RCPCH	Respondent considered the proposal inappropriate because it would permit content that had equal appeal to adults and children. They called for a complete ban on HFSS product advertising before 9pm.	See the evaluation of point 1.a.1.17 (Question 1a). The concept of a “watershed” restriction is not relevant to non-broadcast media. The BCAP Code is outside the scope of this consultation.
5.2.13	OGDBA	Respondent considered that 25% was an arbitrary figure and was inappropriately high in relation to broadcasting figures. They maintained that it was not acceptable that 25% of an audience could be made up of children before the rules applied, and it was likely that that might increase health inequalities as children from more deprived backgrounds watched more television and may have had greater exposure to other media than children from other socioeconomic groups. They added that those children also had diets of poorer quality and greater prevalence of conditions such as obesity.	See the evaluation of point 1.a.1.31 (Question 1a).

5.2.14	PHK	Respondent said 25% was still a large number of children, many of whom were likely to be the more vulnerable as they were likely to live in households where there was insufficient parental guidance.	See the evaluation of point 1.a.1.31 (Question 1a)
5.2.15	CEDAR	Respondent pointed out that, for TV advertising, the “120 index” was used to define programmes ‘of particular appeal’ to children where they were over-represented in the audience by 20%. They pointed out that around 19% of the UK population were under 16 and that 120% of that figure was around 23%. The respondent nevertheless encouraged a much lower cut-off. They said it should not be one above 19%.	See Regulatory Statement section 4.7.3.
5.2.16	BDA (Dental), CFT, IPH, OAS	Respondents called for a stronger and broader model of assessing appeal to be developed.	CAP considers that such an approach would be time consuming and unnecessary. CAP considers the model adopted is proportionate and proven in its role of identifying media for the purposes of the new placement restriction.
5.2.17	ABGPHT, AoS/CASH, BGCBC, CFC, CFT, DPPW, SW, TCBC, WCRF	Respondents pointed out that the proposed particular appeal test was in use for restricting advertising to under 18s. They believed food and drink was different as the products were not age restricted. Several respondents also maintained that CAP had not evaluated the effectiveness of the test and that Alcohol Concern and other organisations working in the alcohol field had provided evidence that the rules were not effective, especially in relation to the targeting of teenagers.	See Regulatory Statement section 4.7.3.
5.2.18	ABGPHT, AoS/CASH, BGCBC, CFC, DPPW, HoM, JOFF, SW, TCBC	Respondents believed the 25% threshold was only practical to for television. They pointed out that there was nothing similar in non-broadcast media to the data provided by BARB. They maintained that non-broadcast measurement data was often partial, proprietary and inaccurate.	See Regulatory Statement section 4.7.4.

5.2.19	BC, Bel UK, CFT, CoBA, HoM, NS, OAS, UKHF	Respondent considered that implementation and enforcement would be difficult. Reasons included the lack of reliable data for many non-broadcast media channels.	See Regulatory Statement section 4.7.4.
5.2.20	BC	Respondent said the 25% threshold offered insufficient protection to children, and would be almost impossible to implement or enforce effectively for many forms of non-broadcast media.	See Regulatory Statement section 4.7.4.
5.2.21	FSS	Respondent noted the significant differences between non-broadcast media. They considered that clearer standards were required to address such variations	See Regulatory Statement section 4.7.4.
5.2.22	ABGPHT, AoS/CASH, BGCBC, CFC, CFT, FF, HoM, JOFF, TCBC, UKHF, WCRF	Respondents questioned whether particular appeal could be effectively monitored. Respondents expressed concerns over the lack of transparency in relying on industry to provide data; there was little scope for CAP to independently verify it.	Further to Regulatory Statement section 4.7.4, CAP is satisfied that the approach can be enforced in practice. There are independently available sources of audience measurement and the ASA is experienced in assessing data provided by advertisers.
5.2.23	HF, OHA, WCRF	Respondents expressed concerns over how the threshold would be implemented due to lack of robust and reliable data available on the audience consuming digital media. They cited the example of a child watching online videos signed into their parent's YouTube account, which would identify them as an adult and serve advertising content accordingly.	As outlined in Regulatory Statement section 4.5.4, the approach to identifying media subject to the new restriction will require advertisers to satisfy the ASA that they have appropriately targeted their advertising. Where the media allows targeting of groups of users based on account data, the ASA is likely to expect that they account for the selection of the audience given the product being advertised and associated creative content (see also Regulatory Statement section 4.7.4).
5.2.24	CRUK	Respondent was concerned over how the proposal would be enforceable. They cited the example of IP addresses, which identified devices that could be used by multiple individuals.	Advertisers might draw on several different sources of data for online media. The ASA will assess each on its merits to determine whether the marketer has appropriately targeted their advertising. The approach is presently in use in several sections of the CAP

			Code covering products such as alcohol and gambling.
5.2.25	SG, SPHSU, WCRF	Respondents were concerned about the capacity for children to register on social media using a false age. SPHSU said their qualitative research found that many children they spoke to had a Facebook account.	See the evaluation of point 5.2.23 (above).
5.2.26	CRUK	Respondent pointed out that ASA research had found children registered on social media using a false age, frequently exposing them to inappropriate advertisements. They agree with the ASA's Chief Executive's view: "On the face of it, our survey suggests that advertisers are sticking to the rules but children aren't. But before we all lay the blame with parents and guardians, we need to be honest: if advertisers and social media companies know that children say they're older than they are, don't they have a crucial part to play too?"	See the evaluation of point 5.2.23 (above).
5.2.27	FF	Respondent believed CAP should acknowledge PHE's call for a significant reduction in opportunities to market and advertise high sugar food and drink products to children and adults across all media.	See the evaluation of point 1.a.1.47 (Question 1a).
5.2.28	Ferrero	Respondents urged CAP to adopt a 35% threshold in line with the EU Pledge. They believed 25% was disproportionate and was likely to deprive too many adults of the benefits of advertising.	The proposal was based on existing practice in other policy areas in the CAP Code. It is an established approach to identifying media directed at certain age categories. CAP does not consider that a case has been made adopt the EU Pledge approach.

	Respondent making other relevant points	Summary of significant points	CAP's evaluation:
5.3.1	ABGPHT, AoS/CASH, BGCBC, CFC, DPPW, PHD	Respondents believed marketing should be assessed and classified based on its overall impression, irrespective of the media platform or venue or the percentage or total numbers of children exposed.	See Regulatory Statement sections 4.7.3 and 4.7.4.
5.3.2	ABGPHT, AoS/CASH, BGCBC, CFC, DPPW, PHD	Respondent provided examples of where the ASA had made rulings on the appeal of advertising. They noted the precedents had not been collated into guidance and urged CAP to produce a new guidance document.	CAP notes the examples provided of rulings where the ASA has decided whether a piece of content appeals particularly to children, mainly in relation to rules on alcohol or gambling. The new media placement restriction focuses on the appeal of the media. To focus simply on the appeal of content would allow HFSS advertising to continue to be targeted at children through placement in children's media. CAP does not agree with those respondents calling for a combined test based on the appeal of the product, the advertising content and the media (See Regulatory Statement sections 4.7.3 and 4.7.4).
5.3.3	ABGPHT, AoS/CASH, BGCBC, CFC, CFT, DPPW, NS, SW, TCBC, UKFPH, WCRF	Respondents called on CAP to adopt a test using three criteria to determine whether marketing communications were directed at children based on product appeal, marketing content and marketing placement. Several also cited the Obesity Policy Coalition, A comprehensive approach to protecting children from unhealthy food advertising and promotion (2011): "An unhealthy food advertisement should be considered to be 'directed to children' if assessment of any one of the following factors indicates that children are an intended or probable recipient of the advertisement:	See Regulatory Statement sections 4.7.3 and 4.7.4.

		<p>1.The circumstances in which the advertisement was published, broadcast, displayed or otherwise communicated, including: a) the location, timing, mode and/or placement of the publication, broadcast, display or communication; and b) the nature of any media product (e.g. television program, film, website, publication) in, on, during, or in association with which the advertisement was published, broadcast, displayed or communicated; 2.The nature of the advertisement and 3.The nature of the food product advertised.”</p> <p>Some respondents pointed out that the approach was being explored or advocated in countries as diverse as Australia, Brazil, Canada, and Chile. It was also recommended by an emerging consensus of academics and public health professionals.</p>	
5.3.4	FF	<p>Respondent proposed a measure based on an assessment of the message of the advertisement, the communication method and placement. They said the measure would limit child-directed messages and communication method and reduce the probability of children being exposed to HFSS content. They added that it should be designed with input from independent experts.</p>	See Regulatory Statement sections 4.7.3 and 4.7.4.
5.3.5	CRUK	<p>Respondent called on CAP to adopt Quebec’s approach to determine whether an advertisement was directed at children, taking into account: a) the nature and destination of the product advertised, b) the manner of presenting the advertisement, and c) time and place it was shown. They also recommended that CAP consider Finland’s approach to restricting alcohol marketing to children.</p>	See Regulatory Statement sections 4.7.3 and 4.7.4.

5.3.6	CoBA	Respondent considered that CAP should explore a different approach using a set of broader factors to assess when media was of particular appeal to children. It should be based on the content, style and presentation of the media. They believed the option merited consultation with industry.	See Regulatory Statement sections 4.7.3 and 4.7.4.
5.3.7	UKFPH	Respondent believed a “particular appeal” test would allow advertisers to avoid the restrictions if they could persuade the ASA that the content was equally appealing to everyone. They maintained that the tobacco industry had used the argument in the past. The respondent said the test should be of “appeal to children” not “particular appeal”.	CAP’s proposals are intended to meet the objective of placing appropriate restrictions on HFSS advertising to children. In line with the limited evidence of advertising’s influence on children’s diet, CAP does not conclude that absolute restrictions on exposure are warranted or even viable. The new rule includes the 25% child audience threshold to provide an objective measure for non-child-oriented media where significant numbers of children might be present in the audience, irrespective of the content. Where data is available, the ASA will have primary regard to it. Where it is not, the ASA will assess the media content – including themes, imagery and the like – and the context in which it appeared.
5.3.8	NS	Respondent believed no food or beverage products should be directly marketed to children using messages and methods that attracted their attention. They added that products designed specifically for children should be promoted to parents only if they passed the DH nutrient profiling threshold.	CAP considers that such measures would be disproportionate and ineffective in meeting CAP’s policy aim of placing appropriate restrictions on food and soft drink advertising.
5.3.9	SW	Respondent maintained that it was more practical to restrict advertising to all age groups as happened with tobacco products and urged CAP to adopt a broader test of particular appeal.	See Regulatory Statement sections 4.7.3 and 4.7.4.
5.3.10	PHDW	Respondent called for the composition of the ASA and CAP bodies that adjudicated on complaints to be reconsidered. They called for equal representation between parents, children and organisations working in public health and industry. They believed that would ensure that decisions were both fair and seen to be fair, based on the spirit not the letter	The ASA Council is the independent body that enforces the CAP Code. It has final say on the question of whether an advertisement is in breach of the Code (see the ASA website for more details on its function and composition). The ASA already has a strong commitment to transparency in its decision-making; detailed rulings are published for all formally investigated cases considered by the

		of Codes, and consistent and transparent.	ASA Council. Furthermore, the Code has long been based on it applying in spirit as well as the letter.
5.3.11	BC, BDA (Dietetic), RCPCH	Respondents called for the 25% threshold to be reduced. BC maintained that the benefit of reducing adult exposure in the process outweighed the benefits of advertising for adults. BDA (Dietetic) called for 20% or, ideally, 15% to increase protections. RCPCH called for a threshold of 5% to improve protections safeguard against issues with the audience data, for instance, where a child member of the audience was improperly categorised as an adult.	See Regulatory Statement section 4.7.3.
5.3.12	ACAD2, LNCDU	Respondents called for an absolute audience limit of 1,000 where audience data was available.	See Regulatory Statement section 4.7.3.
5.3.13	CEDAR, UKFPH	Respondents called for an absolute definition of particular appeal to accompany the relative definition. They considered that such an approach was an effective means of addressing high absolute numbers of children in a large audience.	See Regulatory Statement section 4.7.3.
5.3.14	LHHS	Respondent said all HFSS product marketing directed at children should be prohibited.	See Regulatory Statement section 4.7.3.
5.3.15	Which?	Respondent believed the rules should apply to media targeted at or likely to appeal to children not media likely to appeal particularly to children.	See Regulatory Statement section 4.7.3.
5.3.16	C4	Respondent called for the approach taken in CAP to mirror as closely as possible the audience indexing framework used on TV.	See Regulatory Statement section 4.7.3.
5.3.17	RSPH	Respondent considered the proposed approach too difficult to implement and called on CAP to devise and test the efficacy of a new model.	CAP is satisfied that the approach can be enforced in practice. Developing a new model would be disproportionate and unnecessary.

5.3.18	SG	Respondent disagreed with the proposal. They suggested that a different test be devised for each medium, following recommendations from a working group and/or consultation process. They said young people's media use varied significantly; a 25% threshold across all non-broadcast media might be disproportionate in some instances and overly lenient in others.	Adopting a different test for each medium would entail significant work in developing bespoke approaches and has the potential to create significant uncertainty and additional compliance costs. CAP is not persuaded of the case for adopting a differentiated approach and abandoning media neutrality, a central principle of the CAP Code.
5.3.19	PHE	Respondent called on CAP to extend the 25% measure for scheduling or base it on the total number of children watching to reduce exposure.	See Regulatory Statement section 4.7.3.
5.3.20	BDA (Dietetic)	Respondent believed that industry data had the potential to be biased and asked that an independent data provider be used.	See Regulatory Statement section 4.7.4.
5.3.21	CRUK	Respondent said their ability to suggest improvements was impaired by the fact that civil society organisations were not privy to industry data. Because the current proposals place responsibility on the advertiser to demonstrate compliance, the public health community must be granted access to data in an open-access, publically available way to scrutinise children's exposure to marketing.	See Regulatory Statement section 4.7.3.
5.3.22	ASDA	Respondent believed it could be very difficult to evaluate the make-up of an audience, for example in-store or outdoor, and particularly online. They pointed out that affiliate marketing, which was used extensively in the retail sector, made the issue even more complex.	See Regulatory Statement section 4.7.3.
5.3.23	ASDA	Respondent said businesses needed clarity on how to determine the age profile of an audience, especially in relation to online media. They called for a standardised system of measurement and age profiling, used across industry, to ensure a level playing field for advertisers. They also called for a clear definition of "media likely to appeal particularly to children" as opposed to "media directed at children".	See Regulatory Statement section 4.7.3.

5.3.24	ACS	Respondent said, although the vast majority of advertisements by retailers did not target children, they could be viewed by children; for instance out of store or window display advertising. The respondent noted the 25% threshold and that around 19% of the population was between 0-15 years. They understood that on that basis, HFSS advertising outdoor would be permitted. However, they asked about poster sites near schools. The respondent asked about the impact on leaflets, which were commonly used by retailers to advertise in-store promotions delivered directly to homes. They were not targeted at children, but could be viewed by them.	See Regulatory Statement section 4.7.3.
5.3.25	ACS	Respondent was concerned about retailers' social media presence and engagement with consumers and the potential for children to view content not intended for them.	See the evaluation of point 5.2.23 (above).
5.3.26	IAB	Respondent said there was no one single way of measuring online audiences as there was no BARB equivalent for online media. They believed some businesses would use industry standard audience measurement data such as that provided by Nielsen or Flurry analytics.	In line with Regulatory Statement section 4.7.4, CAP acknowledges that there are a range of audience measurement data providers alongside proprietary data held by media owners.
5.3.27	IAB	Respondent said, in line with the data protection and OBA good practice described above, many online advertising businesses had policies in place that mean that they did not collect personal data (such as age) from younger children. They maintained that platforms and publishers would not be able to identify the age of their child users or audiences with sufficient accuracy. They believed advertisers would therefore need to demonstrate that 75% or more of their audience is over the specified age.	CAP notes the limitations on online media platforms. The approach outlined by the respondent is one potential approach to satisfying the ASA that the 25% threshold test has been met and that an advertisement has been appropriately targeted.
5.3.28	IAB	Respondent said there were likely to be additional costs and practical challenges for advertising intermediaries managing the placement of ads in identifying 'permitted' media	CAP noted the likelihood of additional costs to media owners in its regulatory impact assessment. However, it is not persuaded that they would be disproportionate; in particular, targeting advertising

		placements online. While they acknowledged that there were placement restrictions for age-restricted products, some online platforms and publishers did not have experience of applying such measures. The respondent pointed out that there were no regulatory media placement restrictions in the UK based on an under 12 or under 16 age category.	according to age categories is already a requirement of the Code for age-restricted products like alcohol and gambling.
5.3.29	IAB	Respondent believed the difficulties in adapting to any new restrictions would lead to businesses taking an overly cautious approach and applying restrictions on the basis of the under 18 age category currently in use for products like alcohol. They considered the impact to be disproportionate.	CAP has committed to producing new guidance and other resources to help advertisers and media owners to implement the new restrictions.
5.3.30	NMA	Respondent said it was important that generally available media, such as national and local newspapers, in print or online, should not inadvertently be caught by new restrictions. They said publishers of regional news media, in particular, stressed that they did not target younger audiences. The respondent was concerned about imposing an unnecessary burden on the industry, if they were forced to measure under-16s in their readership to satisfy the new restrictions.	See Regulatory Statement section 4.7.3.
5.3.31	PPA	Respondent said it was harder to identify media directed at the under 16 age category than it was for under 12. They said the industry standard audience measurement, NRS and its successor PamCo, measured the readership of magazine media among adults aged 16 and over. They cited the examples, such as TV listings, news and hobby titles, which were designed for whole family entertainment. The respondent was concerned that the proposed 25% threshold could be both unenforceable where data was unavailable and unduly restrictive in titles it was not intended to cover.	See Regulatory Statement section 4.7.3.

5.3.32	PPA	Respondent believed an under-16 age category would effectively prohibit HFSS product advertising in cinema as just 4% of cinema releases were classified at 18 in 2014.	See Regulatory Statement section 4.7.3.
5.3.33	ACS, BRC, CoBA, Danone, IAB, McDonalds, Nestle, PepsiCo	Respondents asked for guidance on how the test would be enforced and what advertisers needed to do to demonstrate their compliance with the new and amended rules. There were particular concerns about the availability of audience measurement data. Some respondents urged CAP to provide more information to ensure that no parties misinterpreted the requirements of the rules. Online and social media platforms were cited by several respondents.	See Regulatory Statement section 4.7.3.
5.3.34	BRC	Respondent asked for more information on how the ASA would approach an outdoor advertisement on a bus route.	See Regulatory Statement section 4.7.3.
5.3.35	ACS	Respondent asked for further information on marketing communications commonly produced by retailers, such as in-store material and leaflets.	See Regulatory Statement section 4.7.3.
5.3.36	Danone	Respondent asked for further information on the examples of general news Twitter feed, a brand website, a product brand Youtube channel and a magazine of broad appeal.	See Regulatory Statement section 4.7.3 and the evaluation of point 5.2.23 (above)
5.3.37	DUK	Respondent said the information provided was limited and it was therefore not possible to answer the question. They asked how CAP arrived at the 25% threshold and how it corresponded with the 120 index used for broadcast.	See Regulatory Statement section 4.7.3.
5.3.38	DUK	Respondent believed more information on how CAP and the ASA proposed to enforce and monitor the rule for particular types of media such as websites, and social media sites (which, they maintained, had ineffective age gating) was necessary.	See the evaluation of point 6.3.25 (Question 6)

5.3.39	ACAD2	Respondent said it was the consultation document did not adequately set out how the new rules would be effectively monitored or enforced. They considered it a crucial point, given the nature of many forms of non-broadcast media, particularly, social media.	See the evaluation of point 6.3.25 (Question 6)
5.3.40	PHK	Respondent believed the 25% threshold was a good starting point. They asked where the figure derived from.	See Regulatory Statement section 4.7.3.
5.3.41	FF	Respondent said their environmental policy index initiative had recommended that quantified targets should be introduced and monitored by independent observers to reduce children's exposure to any HFSS advertising across all mediums over a fixed period of time. They said legislative controls should be tightened if the targets were not met. In addition, the respondent called for non-compliant HFSS brands and products and/or retain a high profile in children's minds should be the subject of specific sanction, including such advertisers being required to pay a higher levy to CAP and the ASA in order to fund proactive compliance checks.	See the evaluation of point 6.3.25 (Question 6). CAP usually reviews the implementation of significant rule changes and guidance 12 months after they come into force. If challenges to this approach emerge, CAP will respond to ensure that its rules on food and soft drink advertising to children continue to meet their regulatory aims. The self-regulatory system is not a statutory one and does not, for instance, impose punitive financial measures on non-compliant advertisers.
5.3.42	FSS	Respondent said CAP should initiate an on-going monitoring and review process, along with a commitment to modify thresholds, by type of medium, based on performance.	The new restrictions will be administered by the ASA. They will investigate and rule on complaints following the implementation of the new and amended rules. If there is an indication of significant non-compliance by the industry in general or a particular sector, CAP will consider whether proactive monitoring and enforcement work is necessary. It would be disproportionate and impractical to adopt a test for identifying media for or likely to appeal particularly to children on the basis that thresholds might change at an unspecified point in the future. Aside from the significant uncertainty it would result in, CAP considers such an approach to be unnecessary and out of step with the evidence for advertising's impact on children's preferences and behaviour. CAP is satisfied that approach adopted will result in a significant reduction in children's exposure to HFSS product advertising.

5.3.43	LRS	Respondent called for a definition media to be subject to restrictions to be created in partnership with industry and policy-makers. They added that it should be reviewed regularly to reflect the changing nature of the internet and social media.	CAP does not agree that such steps are necessary (see Regulatory Statement sections 4.7.2, 4.7.3 and 4.7.4). Nevertheless, CAP has committed to producing guidance based on existing ASA precedent to provide greater compliance resources for business.
5.3.44	NHS (Sco)	Respondent called on CAP to set up a working group to consider the wider implications on children's exposure to the various types of non-broadcast advertising of HFSS products. They said a 9pm watershed on relevant types of media could be considered.	CAP approach has a proven track record of use in other policy areas. As noted elsewhere in the consultation evaluation, the evidence of the level of advertising's impact supports a proportionate approach to limiting children's exposure to HFSS product advertising. The approach CAP has taken delivers this. A wider process of consideration or review is unwarranted.
5.3.45	Dairy UK	Respondent emphasised the right of adult consumers to receive responsible advertising for products that might be of interest to them.	See Regulatory Statement sections 4.7.2 and 4.7.3.
5.3.46	Ferrero	Respondent said proportionality was important. They believed advertising to adults was a legitimate and positive technique. New restrictions should not deprive adults unnecessarily of the benefits of advertising.	See Regulatory Statement sections 4.7.2 and 4.7.3.
5.3.47	PAST	Respondent did not support further restrictions on HFSS advertising but acknowledged that the 25% threshold had some merit for developing a model of assessing audiences.	See Regulatory Statement section 4.7.2.