

Comments on UK Department of Health and Social Care's consultation on advertising restrictions on TV and online for products high in fat, sugar and salt (HFSS)

10 June 2019

Summary

World Cancer Research Fund International (**WCRF International**) leads and unifies a network of cancer prevention charities with a global reach, including World Cancer Research Fund UK (**WCRF UK**). We are the world's leading authority on cancer prevention research related to diet, weight and physical activity. We work collaboratively with organisations around the world to encourage governments to implement policies to prevent cancer and other non-communicable diseases (NCDs).

We welcome the UK Government's consultation on online and TV restrictions on the advertising of high fat, salt and sugar foods (HFSS). This is a positive step towards the Government's ambition of halving childhood obesity by 2030. **We know that obesity increases the risk of at least 12 different types of cancer¹.**

As members of the Obesity Health Alliance (OHA), we fully support the consultation response of the OHA and the approach to introduce a 5.30am - 9pm watershed on HFSS adverts across **all media**. However, we would like to raise and reiterate some further specific issues.

We support the proposal outlined in Option 1. However, we believe that the restrictions should be based on the UK Government's **full Nutrient Profile Model**; there should be **no exemptions online**; **no exemptions on TV programmes or audiences**; and restrictions should be **expanded over a range of media**.

We agree with the UK Government's **mandatory approach to the regulation of advertising of HFSS products**. Implementing mandatory restrictions as opposed to voluntary restrictions support consumers to make healthier choices and reduce their consumption of HFSS pre-packaged food products.

Restricting advertising of HFSS food products is one part of a wider package of policies needed to address diet-related NCDs. WCRF International advocates for governments to take a comprehensive policy approach to promoting healthy diets and reducing overweight, obesity and diet-related NCDs. This proposed policy should be viewed as one action in a range of actions to promote healthy diets and nutrition of children.

¹ <https://www.wcrf.org/dietandcancer/exposures/body-fatness>

Our recommendations:

1. Meeting International legal obligations

Addressing childhood obesity is a human rights issue. In 2016, the Commission on Ending Childhood Obesity stated, “Tackling childhood obesity resonates with the universal acceptance of the rights of the child to a healthy life as well as the obligations assumed by State Parties to the Convention on the Rights of the Child.”

It is important for the UK Government to implement marketing restrictions on HFSS foods to meet its obligations outlined in the UN Convention on the Rights of the Child², the most widely ratified human rights treaty in the world. The Committee on the Rights of the Child has interpreted the regulation of food marketing as a measure of compliance with government responsibilities under the Convention. In 2013, the Committee’s general comment³ confirmed the need for regulating the marketing of HFSS foods. The Convention provides an important platform to regulate HFSS food marketing to children by establishing the obligations of governments to develop and implement marketing restrictions.

Further to this, given the compelling evidence that marketing influences children’s food preferences and contributes to obesity, the World Health Assembly endorsed Resolution WHA63.14, (**WHO Recommendations**) in 2010. The set of WHO Recommendations on the marketing of foods and non-alcoholic beverages to children establishes a mandate for global action to reduce the impact of marketing HFSS foods.

The 5.30am - 9pm watershed would go some way to assist the UK government in its domestic implementation of the Convention on the Rights of the Child and the WHO Recommendations.

2. Fulfilling policy objectives

The UK Government has stated that the objective of the proposed policy is to:

- a) reduce children’s exposure to HFSS advertising, to reduce children’s overconsumption of these products;
- b) ensure that any potential future restriction drives reformulation of products by brands;
- c) ensure that any potential future restrictions would be proportionate and targeted to the products of most concern to childhood obesity, and limit the advertising children see; and
- d) ensure that any potential future restrictions would be easily understood by parents, so that they can be supported in making healthy choices for their families.

We consider that the main aim of any marketing restriction should be to reduce the exposure of children to HFSS products that contribute to children being overweight

²The UN CRC was unanimously adopted by the United Nations General Assembly in 1989 and ratified by the UK in 1991

³ General comment No. 16 (2013) on State obligations regarding the impact of the business sector on children’s rights’ Committee on the Rights of the Child.

and obese and we commend the UK Government for including this as one of the objectives. We also affirm that Option 1 is also the most proportionate marketing restriction, meeting the Government's third policy objective. The evidence base outlining the danger of exposing children to HFSS marketing is overwhelming and robust⁴ and the marketing restriction proposed is a justified and proportionate response to achieve the Government's objectives. Having an explicit and clear policy objective to reduce children's exposure to HFSS marketing is a crucial step in designing and implementing a robust marketing restriction, and ensuring that the policy measure used to achieve this objective is effective.

Given the weight of evidence around the exposure of children to marketing of HFSS, we wish to highlight a number of elements that should feature within the design and implementation of this policy objective.

2.1 Restrictions on TV and online HFSS advertising

We support Option 1 outlined in the consultation report for both TV and online:

Option 1: *HFSS food and drink in scope could not be advertised between 5.30am and 9pm.*

We support this option because we consider it to be the only approach that will effectively achieve the policy objective of reducing the exposure of children to HFSS product advertising. Defining the HFSS products using the Nutrient Profile Model and applying a full restriction on all advertising (including adverts) between those times will enable the UK Government to reach the overall objective of the policy. We consider Option 1 to be the most robust, comprehensive, enforceable and effective approach.

We believe that there should be a level playing field between TV and online regulations so children receive the same level of protection regardless of how they are accessing media content. We strongly believe that all children should be protected from exposure to junk food advertising and that a watershed between 5.30am and 9pm is the most comprehensive way to achieve this on TV and online.

2.2 Use of the Nutrient Profile Model

We express a strong preference for the UK Government to use the **full** Nutrient Profile Model in the design of the policy to define HFSS products. The UK Government's Nutrient Profile Model is an evidence-based tool that is well understood and already used in practice to define products that can be advertised to children (amongst other policies). We recommend that all policy design uses an evidence-based nutrition standard tool, like a nutrient profile model, to define the

⁴ Obesity Health Alliance (2019) Restricting Children's Exposure to Junk Food Advertising – Obesity Health Alliance Policy Position <http://obesityhealthalliance.org.uk/wp-content/uploads/2019/02/OHA-9pm-watershed-position-Feb-2019.pdf>

products in scope of a nutrition policy to ensure the policy is as robust and comprehensive as possible.⁵

However, we can accept the scope of the restriction only applying to those categories that are subject to the calorie/sugar reduction programme and the soft drink industry levy, as a first introductory step, but only if there is a review point built in where this can be reconsidered.

2.3 Expanding the scope of restrictions to other marketing mediums

We think the restrictions should not be limited to just online and TV. Restrictions should be expanded to cover experiential marketing, packaging, sponsorship of TV channels, programmes or websites, sponsorship of sports events, sponsorship of schools-based activities. This would ensure that the government's policy objectives are met as children are also exposed to HFSS marketing on a range of platforms.

2.4 Exemptions of programmes and audiences for TV restrictions

We do not support an exemption for channels or programmes with average audience of 1% children. Data obtained and shared by Cancer Research UK⁶ shows this would exempt the vast majority of channels with tens of 1000s of child viewers and represents a significant weakening of the policy. We believe that **all** children must be protected from being exposed to advertising of HFSS products as this meets a child rights-based approach and enables the UK Government to uphold its international obligations, discussed above.

2.5 Strengthening online restrictions

We do not consider that a high enough standard of evidence exists to grant exemptions to advertisers who argue that they are only reaching adults online – this is due to platforms not publishing data about online audiences and inherent difficulties in establishing who a user is online. Research undertaken by Ofcom⁷ ⁸ and the Advertising Standard Agency⁹ highlight that children under 12 are accessing social media, children register on social media with a false age, and are often allowed to register by their parents, despite being under the minimum age.

Furthermore, it is not adequate to show that an audience is child-based because of content targeted based on interests as opposed to age. Many interests

⁵ World Cancer Research Fund International (2018). Building momentum: lessons on implementing a robust sugar sweetened beverage tax. Available at www.wcrf.org/buildingmomentum; World Cancer Research Fund International (2019). Building momentum: lessons on implementing a robust front-of-pack food label. Available at wcrf.org/frontofpack

⁶ Cancer Research UK BARB channel-level data for 25 March 2019 to 31 March 2019, using a similar methodology as outlined in the Impact Assessment. Dataset submitted by Cancer Research UK as an Appendix to their response.

⁷ Ofcom. (2017). 'Children and Parents: Media Use and Attitudes Report'. https://www.ofcom.org.uk/__data/assets/pdf_file/0020/108182/children-parents-media-use-attitudes-2017.pdf

⁸ Ofcom. (2019). 'Children and parents: media use and attitudes report 2018'. <https://www.ofcom.org.uk/research-and-data/media-literacy-research/childrens/children-and-parents-media-use-and-attitudes-report-2018>

⁹ ASA. (2013). 'ASA research shows children are registering on social media under false ages'. <https://www.asa.org.uk/news/asa-research-shows-children-are-registering-on-social-media-under-false-ages.html>

predominantly enjoyed by adults are also enjoyed by children such as gaming, music and videos. Neither age nor interest are an adequate way of demonstrating that children will not be exposed to HFSS advertising. They are also not a good basis for regulation.

Whilst steps to develop an age verification system to a high enough standard has been outlined in the '2018 WHO Europe Report titled 'Monitoring and Restricting Digital Marketing of Unhealthy Products to Children and Adolescents'¹⁰, data on the recipients of advertising is not made available by 'walled garden' companies. This means the system cannot be robustly monitored.

With a lack of credible evidence that children will not be exposed to HFSS online, we believe that no exemptions should be applied. Furthermore, regulations on online and TV should be applied at the same time to create a level playing field between TV and online. It is important to prevent any displacement of HFSS advertising from one type of media to another. New restrictions can be introduced without delay both online and in TV. Furthermore, any delays in introducing restrictions on one medium should not be used as a reason to delay restrictions in another.

2.6 Weaknesses with Option 2

Option 2 will not provide a clear message to consumers and will be challenging to enforce. A partial advertising restriction of HFSS food will be less effective at reaching the overall objectives of the UK Government. We have significant concerns about this option as it does not address the current challenges we face in the monitoring and regulation of children's exposure to unhealthy food and drink advertising. As we have outlined in our response, advertisers can never be 100% sure about the age of the person viewing their advert. There is also the 'walled garden' data issue where the data advertisers do hold is not publicly accessible and independently verified, meaning it cannot be scrutinised and any regulation process lacks transparency.

This approach would also be very confusing to parents who would have no way of knowing the 'totality' of the child audience in the content or the media platform their child was viewing.

2.7 Monitoring and evaluation

We strongly urge the UK Government to build in monitoring and evaluation mechanisms from the outset of the policy design in order to monitor the policy's unintended, positive, negative and neutral impacts. Performance measurement and evaluation of the policy once implemented will be instrumental to understanding whether the restrictions are meeting the UK Government's objectives so the

¹⁰ World Health Organisation Europe. (2018). 'Monitoring and Restricting Digital Marketing of Unhealthy Products to Children and Adolescents'. http://www.euro.who.int/_data/assets/pdf_file/0008/396764/Online-version_Digital-Mktg_March2019.pdf?ua=1

Government can make any necessary amendments, if required. It will also provide an important evidence base for other governments to adopt similar policies.

About World Cancer Research Fund International and World Cancer Research Fund UK

World Cancer Research Fund International (**WCRF International**) champions the latest and most authoritative scientific research from around the world on cancer prevention and survival through diet, weight and physical activity, so that we can help people make informed choices to reduce their cancer risk. We influence policy at the highest level and are trusted advisors to governments and to other official bodies around the world.

World Cancer Research Fund UK (**WCRF UK**) is part of World Cancer Research Fund International's network of cancer charities with a global reach, dedicated to the prevention of cancer and survival through a healthy diet, maintaining a healthy weight, and being more physically active. WCRF UK is the only UK charity solely dedicated to funding life-changing research into the prevention and survival of cancer through diet and lifestyle.

We advocate for the wider implementation of more effective policies that create environments that are conducive for people and communities to follow our Cancer Prevention Recommendations¹¹. Our NOURISHING policy framework brings together ten policy areas where governments need to take action to promote healthy diets and reduce overweight, obesity and diet-related NCDs. The framework is accompanied by an extensive, regularly updated database of implemented government policy actions from around the world. "*Restricting food promotion and other forms of commercial promotion*" is one of the ten policy areas outlined in the NOURISHING framework.

More information on WCRF International can be found at <http://www.wcrf.org/> and www.wcrf.org/NOURISHING.

World Cancer Research Fund is a member of the Obesity Health Alliance and this submission is in alignment with the consultation response submitted by the Obesity Health Alliance.

Contact

This consultation response was prepared by Fiona Sing, Policy & Public Affairs Manager. For any queries about WCRF International's submission, please contact policy@wcrf.org.

¹¹ <http://www.wcrf.org/int/research-we-fund/our-cancer-prevention-recommendations>