



**Submission to Committee of Advertising Practice re: CAP Consultation on restricting advertising of unhealthy food and soft drink products in non-broadcast media**

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**About Heart of Mersey**

Heart of Mersey (HoM), part of Health Equalities Group is England's largest regional heart health charity working across the North West to reduce the risk of cardiovascular disease and related conditions such as cancer, diabetes and stroke. Heart disease and stroke prevention are major contributors to preventable illness, premature mortality and health inequalities.

HoM was first established in 2003 due to the disproportionate early death rates from heart disease and stroke in Merseyside. The key risk factors of adult smoking, 'healthy eating' and physical activity were worse than the England average and life expectancy for both men and women were lower.

All of the above remain the same in 2016 and, whilst death rates from cardiovascular disease have fallen, they are still worse than the England average. The biggest single factor which has led to the reduction in premature heart disease has been the fall in smoking. However, prevalence remains high, and this together with poor diets, are key contributors to continuing health inequalities across Merseyside.

As evidence shows that choices that influence lifestyles in early years can impact through the life course, Heart of Mersey is keen to do everything possible to enable children and young people to enjoy healthier diets both in primary school and through their teenage years.

In addition, Heart of Mersey works with 12 local authorities in the North West to deliver Food Active, a healthy weight campaign. This experience helps to inform our response.



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## Introductory statement

At an event on the 15<sup>th</sup> July 2016 at County Hall, Lancashire County Council, Preston, Food Active along with 42 supporters including academics, Directors of Public Health, public health professionals, nutritionists, students and community group members agreed to endorse the following statement from The Children's Food Campaign:

*"Children should be protected from the marketing and promotion of less healthy food and drink across all forms of media, wherever it is placed and whenever it is they see it. This includes a 9pm watershed for junk food adverts on TV, as well as comprehensive rules with no exceptions across non-broadcast media and platforms. Ideally, it should be the Government – through, for instance, its Childhood Obesity Strategy – which sets the ambitious policy goals for the Committee of Advertising Practice and other relevant bodies/regulators to then align their rules to meet. These should always be seeking to match international best practice, and adhere to World Health Organisation recommendations."*

Heart of Mersey recognises that there are high levels of disease due to poor diet. The proportion of the population affected by obesity continues to rise and of particular concern, is the increasing rate of overweight and obesity amongst infants and children. This is particularly prevalent in lower socio-economic groups. Within the North West, nearly 22.9% of the Reception year children measured in 2011/12 were overweight or obese. By Year 6, the rate of overweight and obesity doubled to 33.8%<sup>1</sup>.

There continues to be regional inequalities in oral health with almost 64% more five-year-olds suffering from the tooth decay in the North West of England than in the South East. Across the UK approximately 46,500 children and young people under 19 were admitted to hospital for a primary diagnosis of dental caries in 2013–14 which makes dental caries by far the most common reason for children aged between five and nine to be admitted to hospital<sup>2</sup>. Food and drink high in sugar play a harmful role in tooth decay.

## Consultation questions

### Q1) Restrictions on HFSS product advertising

*(a) Should the CAP Code be update to introduce tougher restrictions on the advertising of products high in fat, salt or sugar (HFSS)?*

**Yes.** Heart of Mersey supports the Children's Food Campaign (CFC) which has long been calling for tougher restrictions on the marketing of less healthy food and drink to children, on TV, online and beyond. Their research, briefings and monitoring reports all consistently show how prevalent this form of marketing is, and how the current rules are neither adequate nor robustly enforced.

Current marketing rules fail to protect children from junk food marketing online and across other forms of media. Adverts promoting junk food are targeted at children online that are



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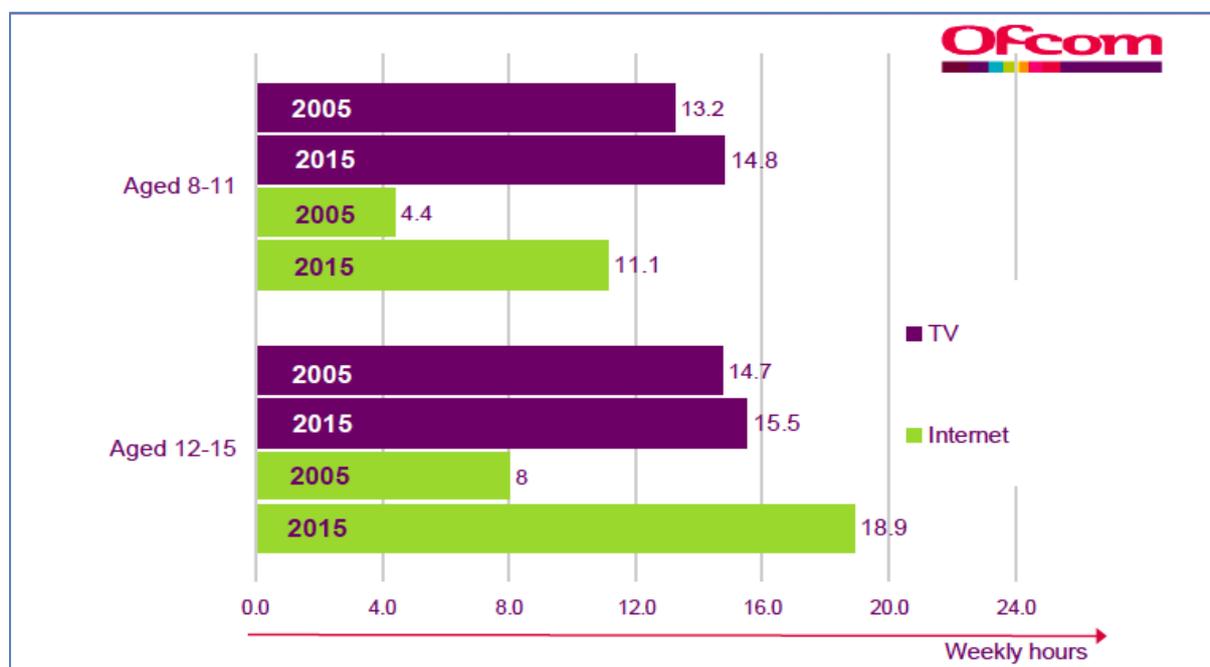
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not permitted on children’s television. As CFC have shown, brand characters, brand marketing, and product packaging featuring games and competitions are not included in the regulations. Similarly, in-school marketing, sponsorship deals and in-store placement of products are other areas not covered by the existing rules.

The amount of screen time children are exposed to has increased since 2005, children aged 8-11 years have increased their TV viewing times from 13.2 hours per week to 14.8 hours per week, and those aged 12-15 years have increased their viewing time from 14.7 hours to 15.5 hours per week. Whilst TV screen time have seen a modest increase, online screen time has been shown to have increased at a much greater rate with 8-11 year olds spending 11.1 hours online in 2015, opposed to be 4.4 hours in 2005, and an increase of 10.9 hours per week for 12-15 year olds, from 8 hours in 2005 to 18.9 hours in 2015<sup>3</sup>.

Table 1: Ofcom (2015)<sup>3</sup>



A Europe wide study showed that 11-16 year olds spend their time online visiting social network sites, instant messaging, YouTube and gaming<sup>4</sup>. Tactics employed by online marketers allow them to collect data on those using internet devices and market accordingly, and whilst Online Behavioural Advertising is not permitted for under 13 year olds, online apps can collect this data with ‘verifiable parental permission’<sup>5</sup>. Research suggests that parents scan online websites and apps for violent and sexual content, but have little awareness of junk food marketing aimed at their children, and the effects this can have on them developmentally (HFSS brands building an identity and ‘relationship’ with the child), socially (brands employing tactics such as ‘tag a friend’ to connect with peers) and biologically (children are impulsive and more responsive to HFSS ads than adults)<sup>6</sup>.

Therefore there needs to be increased regulation on the ways in which companies can market to children both on TV and online, including clearer guidance for parents on how data is collected.

HFSS brands are increasingly making use of influencers (e.g. vloggers and musicians) to produce and distribute marketing content, not all of it as clearly labelled as advertising as is required. In addition, misleading health or nutrition claims online and on packaging – alongside images of happy children eating the products – skew the information parents are relying on when making purchasing decisions.

*(b) Should CAP use the existing Broadcast Committee of Advertising Practice (BCAP) guidance on identifying brand advertising that promotes HFSS products to define advertising that is likely to promote an HFSS product for the purposes of new and amended rules?*

Children's knowledge of unhealthy food and drink increases their obesity risk. Children's recognition of branded food logos increases with age and compared with other children, those who recall branded unhealthy food and drink have stronger preferences for such products.

As part of her presentation at the Food Active event, Dr Boyland explained that whilst food adverts (as a % of all ads) decreased in 2010 on children's channels, proportionally non-core foods still most heavily advertised. Core foods form the five food groups of fruit, vegetables, cereals, meat and alternatives, and milk and alternatives, and 'extra' or non-core foods are everything else. This can be explained by food companies altering product presentation to meet nutrient profiling restrictions - e.g. McDonalds 'Happy meals'<sup>7</sup>.

This suggests that the existing BCAP guidance is not strong enough. The definition of advertising needs to be widened to include all forms of commercially-sourced messages which include brand names or brand-related images.

## **Q2) Selecting a nutrient profiling model**

*Should the CAP Code adopt the Department of Health (DH) nutrient profiling model to identify HFSS products?*

**Yes**, the FSA/Ofcom nutrient profile model should be adopted immediately for assessing whether a food or drink marketed in non-broadcast media is high in fat, sugar and/or salt and considered 'less healthy' and thus should not be advertised to children.

## **Q3) Existing prohibitions on the use of promotions and licensed characters and celebrities**

*There are existing rules (prohibitions on the use of promotions and of celebrities and licensed characters popular with children) in place relating to the creative content of food and soft*



*drink advertising directed at children aged 11 and younger. Should these rules now be applied to advertising for HFSS products only?*

**No.** We support the CFC's position in that we are very concerned that by allowing any non-HFSS product to be advertised to children using celebrities and licensed characters, there would be many products just under the threshold score for HFSS which would choose to exploit such advertising techniques.

As the CFC note, there is a case for loosening the restrictions on use of licensed characters and celebrities for demonstrably healthier products such as fruit and vegetables.

#### **Q4) Introducing placement restrictions**

*(a) Should CAP introduce a rule restricting the placement of HFSS product advertising?*

**Yes.** Currently there are too many loopholes available to junk food manufacturers and there is a need for a clear and definitive ruling on the placement of HFSS product advertising, on TV, online and elsewhere (sporting events etc.).

Teen mobile media users are roughly three times as receptive to mobile advertising as the total subscriber population: just over half of teen mobile media users considered themselves open to mobile advertising<sup>8</sup>.

Social media platforms and marketers report that social media marketing has a powerful capacity to *amplify* marketing effects, increasing target audience reach, ad memorability, brand linkage and likeability compared to TV alone. In France and the US, direct return on investment for online Coca-Cola and Cadbury campaigns is reported to have been about 4 times greater than for TV (e.g., in a Coca-Cola campaign in France, Facebook accounted for 2% of marketing cost but 27% of incremental sales)<sup>6</sup>.

Exposure to 'homepage ads' on desktop or laptop on Facebook (advertising that appears to the side of the main feed, and typically includes an option for the user to engage with the brand e.g. 'become a fan') increased ad recall, brand awareness and purchase intent (age of participants not given), effects that were enhanced dramatically by adding social context (evidence that a friend had engaged with, and was thus 'endorsing', the brand)<sup>9</sup>. This demonstrates the influence of Internet users over the perceptions and behaviours of others in their social network.

The disingenuous manner in which HFSS food is marketed to children means that choice is being distorted. This needs to be addressed urgently to respect children's rights and to protect this vulnerable group.



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*(b) If a media placement restriction is introduced, should it cover media directed at or likely to appeal particularly to children:*

i) aged 11 or younger? **No**    ii) aged 15 or younger? **Yes – but preference is actually for aged 17 and under.**

We support the CFC’s submission (and others) who state that WHO recommendations and the UN Convention of the Rights of the Child define a child as anyone under 18. Therefore that should be age definition which is used to give the best protection to all children.

There is ample evidence to rule out under 12s as a sufficient definition. Children aged 12 and above are substantially influenced by junk food marketing due to their greater independence and higher levels of media consumption. In addition, newer forms of digital and social media food marketing practices are often difficult, even for older children, to recognise and resist.

Research shows for 13-17 year olds in the UK: 73% follow brands they like; 62% click on ads; and 57% make in-app or in-game purchases, and whilst they tend to be media literate they are still susceptible to advertising and marketing<sup>10</sup>. During the Food Active event, Tatlow-Golden reported that one in five food/drink retail websites features products either directly targeted at, or appealing to, teens, almost all of which are HFSS (including Coca-Cola, Galaxy, Ben & Jerry, Club Orange, McVities, Lucozade, Walkers, Kitkat, Red Bull, Pringles, Tayto, Glenisk Yogurts, Volvic water). They focus on fun, entertainment, celebrities and competitions/promotions. As such teens are vulnerable<sup>6</sup>.

## **Q5) Defining the audience**

*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?*

**No.** The 25% measure offers insufficient protection to children, and would be almost impossible to implement or enforce effectively for many forms of non-broadcast media.

BARB data is available and is universally recognised as giving accurate figures on audience demographics. BARB 120 index is based on the proportion of children in the audience rather than actual viewing figures, so if a programme is also popular with adults it is unlikely to reach **120** on the index even if over a million children are watching.

Measures such as this allow children to be exposed to the marketing communication, when the aim of the restrictions – and of WHO’s recommendations – is to minimise children’s exposure to HFSS advertising. For programmes popular with both children and adults, these



measures will expose many 1000,000s of children to adverts which should predominantly be viewed only be those 18 years and older.

Table 2. Which? Consultation Response (2006)<sup>11</sup>

Programme	Numbers of children watching (000s)	Viewing Index
1. Ant & Dec's Saturday Night Takeaway	1154.5	88.78
2. Coronation Street	814.5	48.64
3. Emmerdale	545.5	42.85
4. The X Factor Results	516.6	71.60
5. The X Factor	511.7	76.63
.	.	.
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27. Spongebob Squarepants	170.3	268.69



There are no similar data sets for non-broadcast media. What data there is on audience breakdown online, for instance, is often partial, proprietary and inaccurate when it comes to age profiles. We are also concerned that CAP would rely on advertiser-provided figures and would have little way of independently verifying them.

#### Q6) Application to different media

*Should CAP apply the placement restriction on HFSS product advertising to all non-broadcast media within the remit of the Code, including online advertising?*

**Yes**, the placement restriction on HFSS product advertising should be applied to all non-broadcast media, including online advertising, without any exemptions. This also should include media currently outside of CAP's remit, including brand characters, packaging, labelling, in-school marketing, in-store placement and sponsorship.

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