



British Screen Advisory Council

'Bringing the audiovisual industries together'



Submission to:

**HM Government Consultation:
Introducing further advertising
restrictions on TV and online for products
high in fat, sugar and salt (HFSS)**

10 June 2019

About BSAC

1. The British Screen Advisory Council (BSAC) is an independent, industry-funded body which works to advance the prosperity and enhance the prestige, effectiveness and reputation of the audiovisual and interactive industries of the United Kingdom. As a membership organisation comprising senior executives from the broadest possible range of interests in the screen sectors, it provides an informed lead on emerging business trends and advice on policy.
2. Members¹ are senior figures drawn from a wide range of businesses and organisations operating in the film, TV, video game, online and/or mobile sectors. We aim to cover the whole value chain as well as the full range of means of distribution, so include members who can speak for writers, technicians, independent producers, directors, studio operators, distributors, exhibitors, broadcasters, games publishers, games developers, pay TV platforms and online platforms. This is a unique cross-sectoral mix, with a balance of creative, policy and business specialists.

Introduction

3. This BSAC paper is submitted to the Department of Health and Social Care in response to the HM Government consultation on introducing further advertising restrictions on TV and online for products high in fat, sugar and salt (HFSS).
4. BSAC has taken a long standing interest in regulatory developments affecting screen sector businesses. We also fully support the aim of halving childhood obesity by 2030 and significantly reducing the gap in obesity between children from the most and least deprived areas. However, we do not believe that the evidence supports the conclusion that further restricting children's exposure to adverts for HFSS products on TV and online is an effective or proportionate mechanism for achieving this shared goal. What is clear, is that further advertising restrictions would cause significant damage to key parts of the Creative Industries sector.

A complex issue

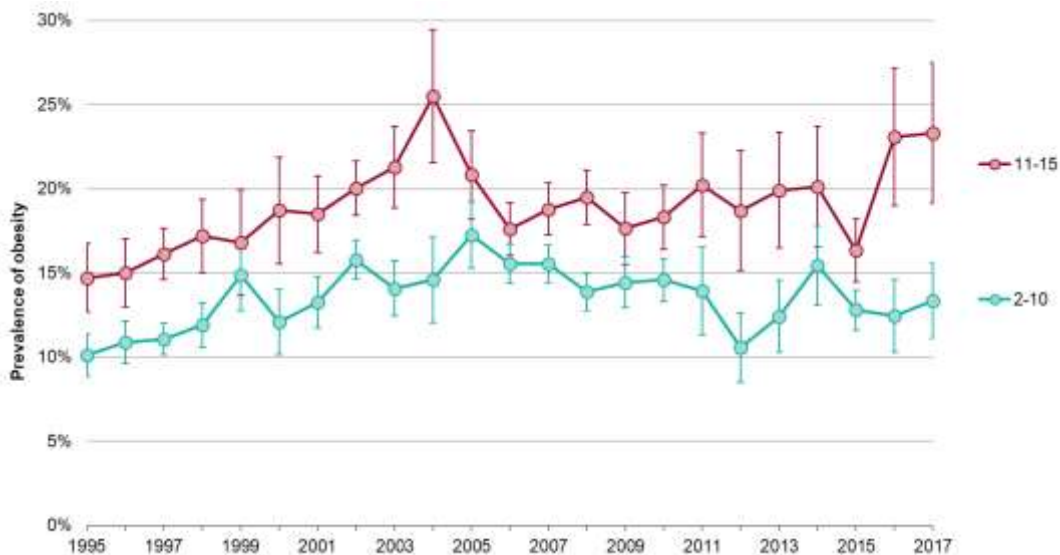
5. The Consultation rightly acknowledges that the "*factors that influence obesity are complex and there is no single solution*", going on to express a desire to "*ensure that any future restrictions are proportionate*"².

¹ For a full list of BSAC Members, see our website at: <https://www.bsac.uk.com/membership/>

² See HM Government consultation, 'Further advertising restrictions for products high in fat, salt and sugar' (18 March 2019), Executive Summary, p.3, at

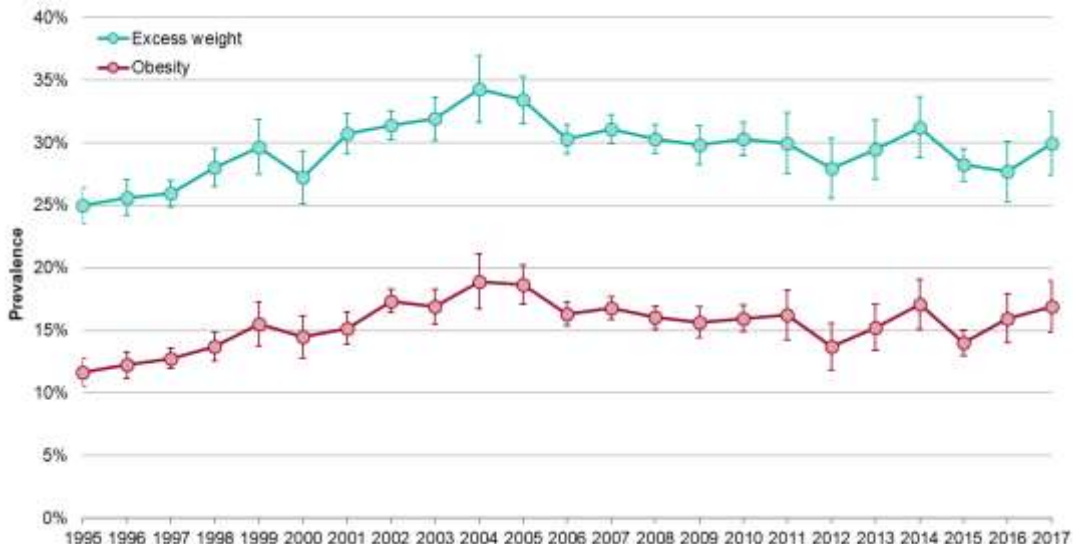
6. Looking at long term trends, the Health Survey for England³ shows that obesity among 2-15 years olds rose sharply in the years to 2004/2005, falling after that peak and following a more varied pattern in the subsequent years without ever rising to the levels of 15 years ago. The same study shows a similar long-term trend for obesity and overweight combined.

Fig.1: Trend in the prevalence of obesity – children aged 2-10 and 11-15 years



Source: Public Health England

Fig. 2: Trend in the prevalence of obesity and excess weight – children aged 2-15 years



Source: Public Health England

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/807378/hfss-advertising-consultation-10-april-2019.pdf
 3 See: Public health England, 'Patterns and trends in child obesity' (February 2019), pp.10-11, at, <https://app.box.com/s/og3q86aqejc99okxe9xyvpfvo21xai21/file/393885709361>

7. What those headlines do not reveal is that the trends are markedly different for different demographics. BSAC notes that within the overall ‘child’ category, age bands are important. Overall childhood obesity rates for reception age children have remained broadly flat since 2006-7⁴. In that year, 9.9% of reception children were measured as obese or severely obese, falling slightly to 9.5% in 2017-18. In contrast, obesity rates for Year 6 children have risen over the same period, from 17.5% to 20.1%.
8. In common with many other developed nations⁵, obesity rates in the UK, including childhood obesity rates, are significantly correlated to levels of deprivation and show marked gender biases. The NHS National Child Measurement Programme 2016-17, which measured the BMI of 629,359 reception age UK children and 556,452 Year 6 children, found that:
 - Obesity prevalence was higher for boys than girls in both age groups.
 - Obesity prevalence for children living in the most deprived areas was more than double that of those living in the least deprived areas for both reception and year 6.
 - The deprivation gap as measured by the differences in obesity prevalence between the most and least deprived areas has increased over time. It has increased more for boys than girls in year 6.
 - Obesity prevalence varied by local authority. For reception, this ranged from 4.8% in Kingston-upon-Thames to 13.5% in Wolverhampton. In year 6, the range was from 11.3% in Rutland to 29.2% in Barking and Dagenham.
9. There are also marked differences between developed nations. The OECD Obesity Update 2017 reports that at age 15 self-reported rates of overweight (including obesity) varied in 2013-14 from 12% or below in Denmark, Turkey, France and Switzerland to over 20% in Greece, Canada and the USA (where the rate exceeds 30%). The figure for the UK was 14%, slightly below the OECD29 average of 15.5%.

4 See: Public health England, ‘Patterns and trends in child obesity’ (February 2019), pp.7-8, at, <https://app.box.com/s/og3q86aqejc99okxe9xyvpfvo21xai21/file/393885709361>

5 See, for example, the OECD Obesity Update 2017, which reports that “*Social inequalities in overweight and obesity are strong*” across OECD countries. See p.2, at <https://www.oecd.org/els/health-systems/Obesity-Update-2017.pdf>

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10. In addition to the complexity evidenced in prevalence and trend data, a similarly complex picture exists in relation to the causes of obesity, with declining activity rates clearly playing an important role⁶. That said, BSAC does not take issue with the statement in the Impact Assessment summarising the need to address issues with the diets of many children:

“The evidence shows that children in the UK have unbalanced diets, consuming too many calories, more sugar than recommended and not enough portions of fruit and vegetables. In particular, children between 11-18 years old consume up to three times the recommended maximum amount of sugar. There is a clear link between high sugar intake and excess calorie consumption, which increases the risk of weight gain and obesity. Taking action to improve children's diets will decrease obesity prevalence and obesity related ill health.”

11. BSAC's concern is that the action taken in response should be evidence based, proportionate and effective.

6 Writing in the *Journal of the Royal Society of Medicine* in 2004, at the peak of child obesity prevalence, David Ashton noted that *“Today, children expend about 600 kcal/day less than their counterparts 50 years ago, and contemporary British children, even in the preschool years, spend much of their time seated. Television-watching and computer games contribute, and there has been a large increase in car journeys on behalf of children. This decline in physical activity in children (and adults) has been exacerbated by the failure of successive governments to provide an environment in which physical activity can be incorporated into everyday life.”* NHS figures from 2015 confirm that activity rates for children continue to be an issue, with only 28% of 5-7 years old meeting recommended guidelines, falling to just 12% for 13-15 year olds. See Ashton, D. *Journal of the Royal Society of Medicine*, ‘Food advertising and childhood obesity’ (February 2004), vol.97(2), pp.51-52, at <https://journals.sagepub.com/doi/pdf/10.1177/014107680409700201> and NHS Digital, ‘Statistics on Obesity, Physical Activity and Diet’ (4 April 2018), at <https://files.digital.nhs.uk/publication/o/o/obes-phys-acti-diet-eng-2018-rep.pdf>

Additional regulation will have minimal impact

12. The proposition that advertising restrictions are an effective policy response to child obesity gained traction following the publication in 2003 of the Food Standards Agency's (FSA) review of research into the link between food promotion and eating behaviour in children, undertaken by Professor Gerard Hastings and colleagues at the University of Strathclyde⁷. The Hastings Report concluded that:
- i. *There is a lot of food advertising to children.*
 - ii. *The advertised diet is less healthy than the recommended one.*
 - iii. *Children enjoy and engage with food promotion.*
 - iv. *Food promotion is having an effect, particularly on children's preferences, purchase behaviour and consumption.*
 - v. *This effect is independent of other factors and operates at both a brand and category level.*

Although this was caveated with statements such as '*there is no prima facie reason to assume that promotion will undermine children's dietary health; it can influence it, but this influence could just as easily be positive as negative.*'⁸

13. A subsequent literature review by Ofcom in 2004⁹ concluded that television has a relatively modest impact on children's food preferences, and is only one among a number of factors affecting those preferences. Nonetheless, Ofcom and its co-regulatory partner the Advertising Standards Association put in place rules on both the scheduling and the content of HFSS advertising on television that are still amongst the strictest in the world.
14. Following an extended period of analysis and consultation, the strict new controls were phased in for broadcast TV services between 1 April 2007 and 1 January 2009 and constituted a ban on the scheduling of HFSS advertising during children's airtime (including both children's channels and children's slots on other channels) and around programmes with a disproportionately high child audience.

7 Hastings G, Stead M, McDermott L, et al., *Glasgow: University of Strathclyde Centre for Social Medicine*, 'Review of Research on the Effects of Food Promotion to Children' (22 September 2003), at http://www.sfu.ca/cmns/faculty/marontate_j/801/08-spring/ClassFolders/Iwase_Masa/SelectedTopicMaterials/foodpromotiontochildren1.pdf

8 Hastings Review, p.30

9 Ofcom, 'Childhood Obesity – Food Advertising in Context: Children's food choices, parents' understanding and influence, and the role of food promotions' (July 2004), at https://www.ofcom.org.uk/data/assets/pdf_file/0020/19343/report2.pdf

15. Ofcom reviewed the effectiveness of the new rules in 2009, after the final restrictions had come into force, comparing children's exposure to HFSS advertising in 2009 with that which had been measured in 2005, before the new rules were in place. Ofcom concluded that:

"...compared with 2005, in 2009:

- a) children saw around 37% less HFSS advertising (i.e. a reduction of 4.4 billion impacts);*
- b) younger children (4-9 year olds) saw 52% less (3.1 billion impacts); older children (10-15 year olds) saw 22% less (1.4 billion impacts);*
- c) overall, children saw 40% less HFSS advertising on the commercial PSB channels (2.4 billion impacts) and 33% less advertising on commercial non-PSB channels (2.0 billion impacts). These reductions were driven by the decline in impacts during children's airtime. In adult airtime, children saw 28% (1.4 billion impacts) less HFSS advertising on the commercial PSB channels, but saw 46% (1.3 billion impacts) more advertising on commercial non-PSB channels. As a result, children saw 1% (0.1 billion impacts) less HFSS advertising overall in adult airtime;*
- d) exposure to HFSS advertising was eliminated during children's airtime (including both children's channels and children's slots on other channels); and*
- e) despite an increase in the volume of HFSS advertising aired throughout the day, children's exposure to HFSS advertising fell in all day parts before 9pm and by 25% between the peak hours of 18:00-21:00. These reductions were driven by the decline in impacts during children's airtime."¹⁰*

16. Ofcom further noted that:

"... not all of the HFSS advertising seen by children is for products that may appeal to them. Separate analysis carried out by Ofcom suggests that overall just over 56% of all food and drink advertising seen by children was either for non-HFSS products or for HFSS products unlikely to appeal to them e.g. spreads, cooking oil and drinks mixers etc".

17. BSAC notes that the Government's own Impact Assessment indicates that Child HFSS Impacts on television fell by 70% between 2005 and 2017, due to a combination of the existing advertising restrictions and an ongoing decline in linear television viewing among children¹¹. Importantly, the advertising restrictions were extended to include other media – including online media – in 2017.

¹⁰ Ofcom, 'HFSS advertising restrictions: Final Review', (July 2010), p.6, at

https://www.ofcom.org.uk/data/assets/pdf_file/0024/31857/hfss-review-final.pdf

¹¹ Table 2 on page 26 of the Impact Assessment shows a decline in Child HFSS Impacts from 12.1 billion in 2015 to 3.6 billion in 2017. See HM Government, 'Further advertising restrictions for products high in fat, salt and sugar: impact assessment' (14 March 2019), p.26, at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/786554/advertising-consultation-impact-assessment.pdf

18. If restrictions on HFSS advertising on TV and online were an effective policy lever in the fight against childhood obesity, then it would be expected that such dramatic decreases in children's exposure to such advertising would be reflected in the obesity trend data. However, no such correlation can be seen. As Fig 1 and Fig 2 demonstrate, rates of obesity and overweight fell in the period before the TV restrictions were introduced, remained broadly flat until around 2015, before again ticking upwards in 2016 – 2017, particularly for older children.
19. This lack of correlation between advertising restrictions and obesity rates has also been seen in other countries over a considerable period of time, including in Canada¹² (where a Quebec-only ban did not deliver an improvement in obesity compared with other Canadian provinces) and in Sweden¹³. One reason is that advertising bans of the type proposed prompt manufacturers of HFSS products to drive up alternative marketing techniques, including advertising on non-restricted media, such as out of home, and through price promotions.
20. It is therefore not surprising that the Government's own Impact Assessment concludes that, once this displacement of marketing spend is taken into account, further restrictions on TV and online advertising of HFSS products will reduce children's calorie consumption by very small amounts, just:
 - 1.74 kcal/day or around 635 kcal per year¹⁴ (the equivalent of fewer than 3 standard size Mars Bars per year¹⁵) for further restrictions on TV advertising only;
 - 0.3 kcal/day or around 110 kcal/year¹⁶ (the equivalent of less than 1/2 a standard size Mars Bar per year) for further restrictions on online advertising only; and
 - 2.28 kcal/day or around 830 kcal/year¹⁷ (the equivalent of fewer than 4 standard size Mars Bars per year) for further restrictions on both TV and online advertising.
21. What is surprising, is that measures which would have very significant negative impacts on critical parts of the creative economy – a key driver of economic growth in recent years, but operating in an increasingly competitive global market – are being considered in light of those projections.

12 Willms JD, Tremblay MS, Katzmarzyk PT. *Obesity*, 'Geographical and demographic variation in the prevalence of overweight in Canadian children' (May 2003), vol.11(3), pp.668–73, at <https://onlinelibrary.wiley.com/doi/full/10.1038/oby.2003.95>

13 Lobstein T, Frelut M-L. *Obesity*, 'Prevalence of overweight among children in Europe' (November 2003), vol.4(4), pp.195–200, at <https://onlinelibrary.wiley.com/doi/abs/10.1046/j.1467-789X.2003.00116.x?sid=nlm%3Apubmed>

14 HM Government, 'Further advertising restrictions...Impact Assessment', paragraph 305.

15 A standard size (51g) Mars Bar contains 228kcal.

16 HM Government, 'Further advertising restrictions...Impact Assessment', paragraph 364.

17 HM Government, 'Further advertising restrictions...Impact Assessment', paragraph 343.

22. Rather than imposing further advertising restrictions on media in which children’s exposure to HFSS advertising is already severely curtailed through regulation, BSAC considers that far more emphasis should be placed on those measures which have been shown to have the greatest impact. The McKinsey ‘Global Institute report *Overcoming obesity: An initial economic analysis*’¹⁸ assessed the effectiveness of a range of policy levers implemented in the UK and concluded that portion control, reformulation and availability were far and away the most effective, with media restrictions ranked 12th out of 16 policy options. The report suggests only “*Limited evidence for behaviour change*”, let alone actual weight change, resulting from media restrictions. This contrasts starkly with the finding that, for example, weight management programmes have nearly two and a half times the impact and are supported by “*Sufficient evidence for weight change*”¹⁹.

Conclusion

23. As noted above, BSAC fully supports the aim of halving childhood obesity by 2030 and significantly reducing the gap in obesity between children from the most and least deprived areas. However, we do not believe that the evidence supports the conclusion that further restricting children’s exposure to adverts for HFSS products is an effective or proportionate mechanism for achieving this shared goal. What is clear, is that further advertising restrictions would cause significant damage to key parts of the Creative Industries sector, with broadcasters estimated to lose over £1.9 billion over 25 years if a watershed is applied on TV only, and with combined costs of £2.5 billion over the same period for broadcasters, online platforms and advertising intermediaries if a watershed is applied to television and online platforms. A watershed for online platforms only, which would be projected to have an impact of just 0.3 kcal/day, would cost online platforms £0.5 billion over 25 years.
24. Given the extent to which HFSS advertising is already regulated on TV and online, and given the minimal impact that further restrictions might have on child obesity, it does not make sense to impose such damage on a sector which is contributing so much to the UK economy.
25. We understand the political attraction of a ‘watershed’ as a well-known and well-understood regulatory mechanism, but the evidence simply does not justify a blanket ban on advertising HFSS products outside the period 9.00pm-5.30am, whether on broadcast TV or on online platforms, both of which are already subject to prohibitions on such advertising around children’s programmes or around programmes with a disproportionately high child

18 McKinsey Global Institute, ‘Overcoming obesity: An initial economic analysis’ (November 2014), at https://www.mckinsey.com/~/media/McKinsey/Business%20Functions/Economic%20Studies%20TEMP/Our%20Insights/How%20the%20world%20could%20better%20fight%20obesity/MGI_Overcoming_obesity_Full_report.ashx

19 McKinsey Global Institute, ‘Overcoming obesity...’, p.5

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audience. BSAC therefore supports retaining the current set of food advertising restrictions for broadcast TV and online. This option should be combined with further measures focussed on the most effective policy levers, including portion control, reformulation and availability.

*For more information about BSAC
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