



ACS Submission - Introducing further advertising restrictions on TV and online for products high in fat, sugar and salt (HFSS)

ACS (the Association of Convenience Stores) welcomes the opportunity to respond to the Department of Health and Social Care and Department for Digital, Culture, Media and Sport's consultation on further advertising restrictions for products high in fat, salt and sugar. ACS represents 33,500 local shops across the country including the Co-op, One Stop, Spar UK, Nisa Retail, Costcutter and thousands of independent retailers.

Convenience retailers provide range of grocery products and services to their local communities. There is a significant variety of products offered in-store, with chilled foods one of the most popular categories in the convenience sector, representing 13.6% of total sales¹. Fruit and vegetables represent 4.3% of sales in the convenience sector and canned and packaged grocery represents 7.2% of sales¹. Convenience stores also offer essential services including Post Office, free to use ATMs, bill payment services and parcel collection.

Local shops have an important role to play in promoting healthy eating and ensuring that healthy products are available for customers and the industry wants to align with the Department of Health and Social Care's ambitions to reduce childhood obesity. Convenience retailers are already following consumer trends, by increasing and promoting healthier ranges. In ACS' Voice of Local Shops survey of 1,210 independent retailers, 27% had increased their range of fruit and vegetables and a quarter of retailers responded that they run more promotions on fruit and vegetables compared to the previous year². ACS is also supportive of Healthy Start and has developed an animation to encourage more retailers to accept Healthy Start Vouchers³.

Convenience stores serve a wide range of customers, varying in age, social group and profile. The average age of a convenience store customer is 47 years old, and the age group most likely to visit a convenience store is 35-54yrs (33%) followed by 55-74yrs (29%), 25-34yrs (17%) and 16-24yrs (13%) and 75+ (8%)⁴. The advertising methods that our members use are mainly in store and target adult shoppers however retailers also rely on direct mail leaflet advertising, broadcast advertising and increasingly on social media platforms, mainly Facebook (33%) and Twitter (21%) with 5% of convenience retailers using Instagram to advertise their store⁵.

Our members value the ability to advertise the products that they sell in broadcast and non-broadcast media. As such, ACS believes that any proposed changes to extend advertising restrictions on HFSS products must be based on evidence which shows that further

¹ ACS Local Shop Report 2018 (refers to sales value not volume of sales)

² ACS Voice of Local Shops survey August 2018

³ [ACS Advice: Healthy Start](#)

⁴ ACS Local Shop Report 2018

⁵ ACS Local Shop Report 2018

restrictions would help to reduce childhood obesity in the UK. As recognised in the consultation, we are still awaiting the outcome of the Broadcast Committee of Advertising Practice's (BCAP) call for evidence on the current HFSS restrictions on broadcast television and the Committee of Advertising Practices' (CAP) review of their new rules on HFSS products. We believe the government should await the recommendations made by BCAP and CAP and monitor their next steps, which may include changes to their rules, before committing to legislative interventions.

We believe that the government should also consider how these proposals will interact with the other measures proposed in Chapter 2 of the childhood obesity which have been consulted on. Measures to mandate calorie labelling and introduce an age restriction for energy drinks will result in additional complexity for retailers. While the proposed restrictions on the promotion and location of high fat, salt or sugar presents the most onerous operational burdens on retailers.

Please see below for ACS' response to the relevant consultation questions:

- 1. The Government proposes that any further advertising restrictions apply to broadcast TV and online. Do you think that any further advertising restrictions should be applied to other types of media in addition to broadcast TV and online?**

No.

- 4. The Government proposes that any additional advertising restrictions apply to food and drink products in Public Health England's sugar and calorie reduction programmes, and the Soft Drink Industry Levy, using the NPM 2004/5 to define what products are HFSS. Do you agree or disagree with this proposal?**

Disagree.

Convenience stores also sell a range of products that could be affected by the proposed restrictions in the consultation including confectionery, savoury snacks, bakery products and soft drinks. Nearly half (47.8%) of all the convenience sector's sales could be affected by the proposed restrictions⁶ under the current HFSS rules. This percentage is of affected sales categories against the total sales value of the convenience sector in the UK. In the table below, we have set out which unhealthy products captured by the PHE reformulation programmes and Soft Drinks Industry Levy would fall into the product categories that convenience retailers sell.

Affected sales categories include: Bread and bakery, canned and packaged grocery, chilled foods, confectionery, frozen foods, hot food-to-go, sandwiches, savoury snacks and soft drinks. This does not mean that the whole product category would be affected as they are not all unhealthy products in the product category but to demonstrate that the current scope of products is very broad. We have used the product category to demonstrate the extensive

⁶ ACS Local Shop Report 2018 (% of affected sales categories against the total sales value of convenience stores in the UK. Affected sales categories include: Bread and bakery, canned and packaged grocery, chilled foods, confectionery, frozen foods, hot food-to-go, sandwiches, savoury snacks and soft drinks. We do not have information on the % of affected individual products)

list of products captured by the restrictions in the convenience sector as we do not have information of the percentage of the individual product lines that convenience retailers sell that would be affected.

Please see the table below for more information.

Convenience Sector Product Categories and % of Product Categories Sales	Products captured by the Public Health England Calorie Reduction and Sugar Reduction programmes and the Soft Drinks Industry Levy
Bread and bakery - 4.7%	Biscuits Bread with additions Cakes Food to go Morning goods
Canned & packaged grocery - 7.2%	Biscuits Breakfast cereals Cakes Cooking sauces and pastes Egg products/ dishes Pasta/ rice/ noodles with added ingredients and flavours Puddings Savoury biscuits, crackers and crispbreads Sweet spreads Table sauces and dressings
Chilled Foods - 13.6%	Egg products/ dishes Food to go Meal centres without carbohydrate accompaniment Meat, fish and vegetarian pastry pies and other pastry products Pasta/ rice/ noodles with added ingredients and flavours Pizza Potato products Ready meals with carbohydrate accompaniment Prepared dips and composite salads as meal accompaniments Puddings Sausages (raw and cooked) and sausage meat products Table sauces and dressings Yoghurt and fromage frais
Confectionery - 6.2%	Chocolate confectionery Sweet confectionery
Frozen Foods - 2%	Ice cream Meal centres without carbohydrate accompaniment Meat, fish and vegetarian pastry pies and other pastry products Pasta/ rice/ noodles with added ingredients and flavours Pizza Potato products Ready meals with carbohydrate accompaniment

	Puddings Sausages (raw and cooked) and sausage meat products
Hot food-to-go - 1.5%	Egg products/ dishes Meat, fish and vegetarian pastry pies and other pastry products Pizza Sausages (raw and cooked) and sausage meat products
Sandwiches - 2.8%	Food to go
Savoury Snacks - 3.1%	Crisps and savoury snacks Food to go Savoury biscuits, crackers and crispbreads
Soft drinks - 6.7%	Milk based drinks and fruit juices which are exempt from the Soft Drinks Industry Levy Soft drinks in scope of the Soft Drinks Industry Levy

We believe that any definition of the foods affected by the restrictions would have to consider what products or foods can contribute to a healthy diet. Some of the foods currently in scope of the regulations do have nutritional value and do contribute to a healthy diet. We believe that instead of providing an extensive list of products that retailers would need to ensure that they are compliant with, which would be incredibly time consuming and administratively burdensome, the government should narrow the scope of products that would be affected by the restrictions. We believe that the government should follow the Scottish Government's proposals to only include 'discretionary foods' within scope of the restrictions. This definition is more straightforward to implement as the foods caught within the 'discretionary foods' are typically unhealthy products and would be easier to identify.

The definition of foods within scope must be clear for retailers to understand and be well communicated as it could present challenges for retailers to implement any restrictions. For example, would a retailer be required to check all the ingredients to understand if it is captured by the restrictions? Would the scope of products depend on whether the product categories captured by the Public Health England reformulation programmes changed? Therefore, the government must provide clear guidance to retailers on how they can identify products which are within the scope of the regulations. In the government's impact assessment for the consultation on restricting promotions and location of HFSS products in-store, they estimated that a retailer would need 2 minutes to identify each product caught by the regulations, which would be extremely burdensome. Under the proposed regulations, retailers would also need to ensure that they identify the products affected to comply with the advertising restrictions. Therefore, limiting the scope of products could mean that it may be easier for retailers to identify the products in scope.

5. If you do not agree with the proposal what alternative approach would you propose and why? Please provide evidence to support your answer.

As stated in response to Question 4, we believe that the scope of the products affected by the regulations should be narrowed to ensure that it is workable for retailers. Instead, we

believe that only 'discretionary foods' as proposed by the Scottish Government should be affected.

6. Please select your preferred option for potential further broadcast restrictions.

Option 3

In the Advertising Standards Authority's report, 'Children's exposure to age-restricted TV ads' published earlier this year, they found that in 2016, children saw an average of 12.4 TV ads for HFSS products per week. In 2017, that figure was 9.6 ads; a reduction of 22.9%. The report also found that children saw, on average, 1.4 more ads per week for HFSS products than for non-HFSS products (12.4 ads and 11.1 ads, respectively). While in 2017, children saw, 24 on average, 0.2 more TV ads per week for HFSS products than for non-HFSS products (9.6 ads and 9.4 ads respectively)⁷. This suggests that the voluntary codes are effective in reducing children's exposure to adverts which contain high in fat, salt or sugar products and therefore the government should await the findings and recommendations from BCAP's review of their rules for HFSS products on broadcast television before committing to legal restrictions on HFSS advertising.

19. If you would like to comment on the options that you have not chosen to support please comment here, providing evidence to support your answer. Please make it clear what option you are commenting on.

Our members value the ability to advertise the products that they sell in broadcast and non-broadcast media. We believe the government's proposals to introduce a 9pm watershed for HFSS advertising are disproportionate. Ofcom has previously published a statement on 'Television Advertising of Food and Drink Products to Children' in 2006 which suggests that "such an intervention would represent a significant intrusion on adult viewing and limit advertisers' ability to reach a legitimate audience for their products"⁸. Since this statement, children's exposure to TV adverts for food and soft drinks products has been trending downward and their exposure to adverts for HFSS products is much more limited⁹.

20. Please select your preferred option for potential further online HFSS advertising restrictions

Option 4.

CAP recently brought their rules for HFSS products broadly in line with BCAP's code in 2017. As recognised in the consultation, CAP confirmed in July 2018 that they would undertake a review to assess whether additional steps need to be taken to achieve the rules' objectives¹⁰. We believe that the government should await the conclusion and recommendations of the CAP review and monitor their impact before committing to legislative intervention which may replicate potential new rules in the code.

⁷ [ASA: Children's Exposure to Age-Restricted TV Ads](#)

⁸ [Ofcom: Television Advertising of Food and Drink Products to Children](#)

⁹ [ASA: Children's Exposure to Age-Restricted TV Ads](#)

¹⁰ [CAP: Non-broadcast food advertising rules: 12-month review](#)

Impact Assessment Questions

9. Do you have any additional evidence that would improve our understanding of the impacts on businesses? Please provide evidence especially for small and micro businesses.

We welcome that the impact assessment recognises that many small food businesses will be indirectly affected by the proposed restrictions as they are supplied by food and drink manufacturers that advertise on broadcast media who will be directly affected by the regulations. The impact assessment should also take into consideration that 31% of the convenience sector are symbol group retailers¹¹. Symbol groups (including Spar UK, Londis, Budgens, Premier, Costcutter and Nisa Retail) are based on wholesale purchase agreements and common branding. Symbol groups are likely to advertise on broadcast media and therefore will be directly affected at head office level. But independent convenience retailers will also be indirectly affected by the restrictions as they are supplied by the symbol group.

Many independent convenience retailers, which make up the majority (74%)¹² of the convenience sector will be affected directly by the proposed restrictions on HFSS advertising online as independent convenience retailers communicate to their customers on their store's website (17%), Facebook (22%), Twitter (8%), and Instagram (5%)¹³.

¹¹ ACS Local Shop Report 2018

¹² ACS Local Shop Report 2018

¹³ ACS Local Shop Report 2018