



Dr Beckie Lang  
External Affairs Officer  
Association for the Study of Obesity  
Rm 1.151 William Leech Building  
Newcastle University Medical School  
Framlington Place  
Newcastle upon Tyne  
NE2 4HH

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Julia Richards  
Floor 5  
Content and Standards  
Riverside House  
2A Southwark Bridge Road  
London  
SE1 9HA

Dear Ms Richards

The Association for the Study of Obesity (ASO) thanks the Office of Communications (OFCOM) for its invitation to comment on their consultation on its proposed restrictions to food and drink advertising to children.

The Association for the Study of Obesity (ASO) is the UK's foremost organisation dedicated to the understanding, prevention and treatment of obesity. The ASO brings together scientists and health professionals to advance and disseminate knowledge about obesity in the UK. Our organisation is managed by a committee from around the UK, who collectively represents the diversity of disciplines within the field, and individually, is often internationally renowned for their contribution to science or clinical practice.

Founded in 1967, the Association was the first such organisation worldwide and is affiliated to the European (EASO) and International (IASO) Associations for the Study of Obesity.

The ASO also provides the Obesity Resource Information Centre (ORIC) which acts as an independent source of scientific and clinical information on obesity.

We hope that these comments will be a useful contribution to this consultation and we would be pleased to have further discussions on specific issues if this would be helpful. If you have any queries regarding this response then, in the first instance, please address them to me at the address above.

Yours sincerely

Dr Beckie Lang  
External Affairs Officer

## Cover sheet for response to an Ofcom consultation

### BASIC DETAILS

Consultation title: Television advertising of food and drink products to children

To (Ofcom contact): Julia Richards

Name of respondent: Dr Beckie Lang

Representing (self or organisation/s): Association for the Study of Obesity

Address (if not received by email):

### CONFIDENTIALITY

What do you want Ofcom to keep confidential?

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation to be confidential, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet, and I authorise Ofcom to make use of the information in this response to meet its legal requirements. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

**Question 1:** *Do you agree that the regulatory objectives set out in paragraph 5.2 above are appropriate?*

The ASO welcome OFCOM's commitment to reducing the exposure of children to HFSS foods through TV advertising. However we feel that the objectives outlined in 5.2 fall short in two respects:

- a) OFCOM have focussed on children aged 9 years and under due to the segmentation of television audiences currently employed. This completely misses the age group of children who currently have the highest level of childhood obesity at present (12-15year olds).
- b) The proposals fail to protect children at times outside of 'designated children's viewing times' when much of their TV exposure occurs.

The ASO feel that all children (including the under 16's) should be equally protected by the OFCOM guidelines, irrespective of media literacy skills, The Hastings Review<sup>1</sup> showed that TV advertising has a moderate but significant effect on eating behaviour, and more recently, the Institute of Medicine in the USA considers food marketing to have a strong influence on children's food references, requests, and consumption<sup>2</sup>.

The distinction between adult and children viewing time is not clear cut. *Which* have highlighted that many young children watch TV outside of designated children's air time i.e. Saturday evening. Therefore whilst restrictions should not cover all airtime, a restriction including some adult viewing time should not be discounted.

Revisions to advert content is also welcomed by the ASO. Any reduction in pester power or influence to buy HFSS would contribute to a climate which supports and facilitates healthier choices.

The ASO are less concerned about the loss of revenue to broadcasters. The impact assessment suggests that any loss of revenue would amount to 2.5% of total TV revenue (assuming a pre 9pm restriction). Whilst a significant amount of money, in relative terms, this is a tiny proportion of total TV revenue. The loss of revenue will be minimised if the nutrient profiling scheme is adopted since it is likely manufacturers will switch to advertising healthier options.

**Question 2:** *Do you consider that it is desirable to distinguish between foods that are high in fat, salt or sugar and those that are healthier in order to achieve the regulatory objectives, or could an undifferentiated approach provide a reasonable alternative?*

Yes, differentiation is essential.

**Question 3:** *If so, do you consider the FSA's nutrient profiling scheme to be a practical and reasonable basis for doing so? If not, what alternative would you propose?*

Yes. The ASO would favour the use of the FSA nutrient profiling system for distinguishing foods which has been subject to extensive consultation and has been approved by the Scientific Advisory Committee on Nutrition. This model will provide an incentive for industry to reformulate their products to reduce fat, salt and sugar.

<sup>1</sup> Hastings *et al* (2003) 'Does food Promotion influence children? A systematic review of the evidence'. [http://www.ism.stir.ac.uk/pdf\\_docs/final\\_report\\_19\\_9.pdf](http://www.ism.stir.ac.uk/pdf_docs/final_report_19_9.pdf)

<sup>2</sup> McGinnis JM, Gootman JA, Kraak VI, eds. Food marketing to children and youth: threat or opportunity? Washington, D.C.: National Academies Press, 2006.

**Question 4:** *Do you agree that voluntary self-regulation would not be likely to meet Ofcom's regulatory objectives or the public policy objectives?*

Yes, we believe voluntary measures do not work. Although the ASO acknowledges that many companies have already been self-regulating for some time and this has led to some improvements.

**Question 5:** *Do you agree that the exclusion of all HFSS advertising before 9.00pm would be disproportionate?*

No. As mentioned above, the ASO would like to see restrictions to be aimed at viewings for all children under the age of 16. Many children watch TV in the early evening and work conducted by *Which* suggest that peak times are for programmes shown at around 7.30pm. This leaves a large portion of time, when children are watching, to exposure to HFSS adverts. While parents have to take some responsibility for the type of programmes their children are watching, and the advertisements that surround them, OFCOM already provide a 9pm watershed for guidance and we feel this should also be imposed on advertisements of HFSS foods and drinks. In terms of the impact on broadcasters, The Food Standards Agency (FSA) analysis estimates the public health benefits could be as high as £990 million per year. It also makes it clear this is likely to be an under-estimate of the true benefits. We are surprised that Ofcom should compare this unfavourably against the estimated cost to the broadcasting industry of up to £290 million.

**Question 6:** *Do you agree that all food and drink advertising and sponsorship should be excluded from programmes aimed at pre-school children?*

No. A total restriction (versus limits only on healthier options) would mean that healthier foods could not be advertised and this would serve neither the public health good, nor broadcasting revenue. We would like to see a restriction on HFSS foods to force companies to think about the healthier products they could advertise instead.

**Note:** *In order to finalise and approve changes to advertising content standards Ofcom may, where appropriate, need to share responses to questions 7, 8 and 9 with BCAP. Please note that an additional aim of this consultation is to consult on the wording of the proposed BCAP rules in accordance with section 324 of the Communications Act 2003 (see Annex 1).*

**Question 7:** *Do you agree that revised content standards should apply to the advertising or sponsorship of all food and drink advertisements?*

Yes, but HFSS foods in particular. However the ASO would also encourage these standards to apply to all children aged under 16 years, including the use of celebrities, licensed characters, own brand characters, promotional offers (including collectables and giveaways) on HFSS foods and drinks. There ought to be some inclusion however about utilising such powerful marketing tools in a positive way, with healthy foods such as fruit and vegetables.

**Question 8:** *Do you consider that the proposed age bands used in those rules aimed at preventing targeting of specific groups of children are appropriate?*

No. All children under 16 years (and indeed some adults) are vulnerable and we feel restrictions should apply to children as a whole. Therefore the banding system, in its present form is inappropriate.

**Question 9:** *Do you consider the proposed content standards including their proposed wording to be appropriate, and if not, what changes would you propose, and why? (Please see the special notice in Annex 1.)*

See above regarding the banding of children based on their age.

**Question 10:** *Do you consider a transitional period would be appropriate for children's channels in the context of the scheduling restrictions, and if so, what measure of the 'amount' of advertising should be used?*

It is important to reach the point where children are protected from exposure to HFSS advertising as quickly as possible. The process has already been a long one and any transitional period would mean that the regulatory objective would not be fulfilled:

- Ensure that any measures that are put in place are appropriate and sufficiently timely to enable Government to observe whether there have been changes to the nature and balance of food promotion by early 2007.

**Question 11:** *Do you consider there is a case for exempting low child audience satellite and cable channels from the provisions of Package 3?*

No. A clear, simple rule should cover all channels.

**Question 12:** *Do you agree that there should not be a phase-in period for children's channels under Package 3?*

It is important to reach the point where children are protected from exposure to HFSS advertising as quickly as possible. Therefore a phase-in period is not appropriate as it would delay action even further.

**Question 13:** *Which of the three policy packages would you prefer to be incorporated into the advertising code and for what reasons?*

The ASO feel that OFCOM have failed in their attempts to restrict the advertising of HFSS food and drinks to children in the three packages presented:

1. Package one fails to protect children above the age of 9 years from HFSS adverts. Research into children's TV viewing preferences suggests that as many children can be viewing programmes outside of designated children's times, and therefore package one would leave them open to exposure. While parents must take responsibility for the images their children are exposed to outside of specific 'children's' viewing times, they are given a 9pm watershed as guidance in terms of programme content.
2. Package 2 restricts the possibility of healthy foods being advertised to children. While HFSS adverts should be restricted, the viewing of healthy choices should not.
3. Package 3 not only restricts the option to promote healthy foods to children, but also fails to restrict HFSS adverts during periods of viewing when many children are still watching i.e. up to 9pm.

The ASO would prefer to see restrictions on all HFSS advertising up to 9pm to minimise the marketing of such products to children of all ages during the times they are most likely to watch.

**Question 14:** *Alternatively, do you consider that a combination of different elements of the three packages would be suitable? If so, which elements would you favour within an alternative package? (You should note that the analysis in the Impact Assessment has focused on estimating the costs of restricting scheduling, volume, and content separately and would therefore allow consideration of other combinations of the same elements).*

The ASO would prefer to see restrictions on all HFSS advertising up to 9pm to minimise the marketing of such products to children of all ages during the times they are most likely to watch.

**Question 15:** *Where you favour either Package 1 or 2, do you agree that it would be appropriate to allow children's channels a transitional period to phase in restrictions on HFSS / food advertising, on the lines proposed?*

It is important to reach the point where children are protected from exposure to HFSS advertising as quickly as possible.

**Question 16:** *Do you consider that the packages should include restrictions on brand advertising and sponsorship? If so, what criteria would be most appropriate to define a relevant brand? If not, do you see any issue with the prospect of food manufacturers substituting brand advertising and sponsorship for product promotion?*

All HFSS foods, as defined using the FSA nutrient profiling model should be restricted irrespective of brand. Both advertising, promotion, sponsorship or any type of marketing of such HFSS products should be restricted before the 9pm watershed to have maximum effect.

**Question 17:** *Ofcom invites comments on the implementation approach set out in paragraph 5.45 and 5.46.*

This is beyond our area of expertise. However we would also urge OFCOM to continue to consider looking at restrictions for non broadcast media.