



Committee of Advertising Practice  
Mid City Place 71 High Holborn London WC1V 6QT  
Telephone 020 7492 2200 Fax 020 7404 3404  
Textphone 020 7242 8159 Email enquiries@cap.org.uk  
Online www.cap.org.uk

Mr Ian Blair  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
Southwark Bridge  
London SE1 9HA

28 September 2006

Dear Ian,

**Television Advertising of Food and Drink Products to Children - Revised BCAP Content Proposal**

I enclose the TV content rules proposal that BCAP recommends to Ofcom. The rules include significant changes to BCAP's original proposal as set out in Ofcom's consultation. Those changes result from BCAP's evaluation of responses to questions 7, 8 and 9 of Ofcom's consultation. A detailed evaluation of those responses is enclosed for your consideration, but I should like to draw to your attention some of our thoughts on the evaluation process and BCAP's consideration of the most significant points raised by respondents.

The two "big themes", use of the undifferentiated approach (all foods, not HFSS foods only) and age banding, polarised most responses, with industry stakeholders holding one position and other respondents generally having another. Exceptions to that pattern of responses include the British Medical Association's and the Trading Standards Institute's support for the undifferentiated approach and McDonald's Restaurants', Unilever's and Jetix Nickelodeon and Turner Broadcasting's opposition to it.

We considered that, because they had been removed from the respondents' full submission to the consultation, some of the responses to the three questions lacked context, sometimes rendering them ambiguous. We sought, nevertheless, to reflect the responses faithfully.

Some respondents have commented on aspects of the consultation other than the content of BCAP's rules or guidance notes, for example the inclusion of sponsorship in advertising minutage. Because those responses would not, under any circumstances, merit a change to BCAP's rules or guidance notes, we have recognised that fact in the evaluation and commented on them if BCAP has an agreed position.

### Evaluation: Specific questions

- Q7: Do you agree that revised content standards should apply to the advertising or sponsorship of all food and drink advertisements?

The evaluation of responses to this question was made difficult because the question is ambiguously worded and respondents interpreted the question in different ways. The three main interpretations were:

- I. Do you agree that revised content standards should apply to the advertising or sponsorship of **all** food and drink ~~advertisements~~ (products)? That prompted respondents to comment on whether content restrictions should apply to all foods or HFSS foods only.
- II. Do you agree that revised content standards should apply to the advertising **or** sponsorship of all food and drink ~~advertisements~~ (products)? That prompted respondents to comment on whether revised content standards should apply to advertisements only or to advertisements and sponsorship equally.
- III. Do you agree that **BCAP's** revised content standards should apply to the advertising or sponsorship of all food and drink ~~advertisements~~ (products)? That prompted respondents to comment on the suitability of BCAP's proposals generally.

We considered that the first two of those interpretations received the weight of responses to question 7:

1. The application of the rules to HFSS products only (differentiated approach) or all foods (undifferentiated approach)

Roughly the same number of respondents supported the differentiated approach as supported the undifferentiated approach. Health and child welfare groups comprised most respondents backing a differentiated approach whereas food and drinks manufacturers, broadcasters, health and medical trade bodies and individuals comprised those backing an undifferentiated approach.

Because BCAP's proposal did not differentiate, pro-differentiation respondents considered non-HFSS foods would be unfairly restricted, thereby preventing the

promotion of healthy foods to young children. Some respondents supported the FSA model as the means of differentiation.

BCAP considered that neither the weight of responses nor the points raised in support of differentiation merit a change from the undifferentiated approach, favoured by BCAP, to the differentiated approach. (See Annex C, enclosed, for a more detailed consideration of BCAP's response.)

2. The rules should apply to ads only or to ads and sponsorship equally.

A significant majority of respondents considered that the rules should apply to ads and sponsorship, citing, for example, a need for consistency in approach. Some BCAP members, food and drink trade bodies and manufacturers opposed the application of the rules to sponsorship. They argued that sponsorship differs in purpose and content and that, by treating it the same as ads, Ofcom is at odds with its separation principle, "to maintain a distinction between advertising and sponsorship".

BCAP considered that those responses are a comment on the application of the rules, not on the content of them, so consideration of the responses would not result in changes to BCAP's proposed rules or guidance. We have recognised that fact in the evaluation but have, nevertheless, restated BCAP's general position, already expressed by letter to Ofcom, that all broadcast sponsorship should fall under an Ofcom sponsorship code uniquely administered by Ofcom. The text of that Code should be entirely separate from that of the BCAP TV Code, even though it might cover much of the same ground relevant to both advertisements and sponsorship. It is worth noting that the AAC had highlighted the separation principle in its response to the Ofcom consultation.

- Q8: Do you consider that the proposed age bands used in those rules aimed at preventing targeting of specific groups of children are appropriate?

Again, roughly the same number of respondents considered the proposed age bands are suitable as considered them unsuitable. Health, consumer, and child welfare groups and individuals comprised those who considered the age bands are unsuitable whereas food and drinks manufacturers and broadcast advertising industry stakeholders comprised those who supported the proposed age banding.

Some respondents considered that age-banding should be extended to protect the under 10s for all advertising techniques restricted by the BCAP rules. Others wanted the banding to be extended to protect the under 12s, an age at which those respondents considered children develop a critical understanding of ads. But a significant majority of those who considered the proposed age bands are wrong wanted the banding to cover all children aged under 16. Many consider that BCAP has no justification for targeting different age groups between 4 and 15 years of age. Notably, Coca-Cola responded that it does not target the under 12s and GlaxoSmithKline made clear that it would prefer to see restrictions extended to under 13s but understood that the proposed age banding was the only practical means of restricting age banding.

BCAP considered that differentiating children by age is the only practical means of restricting certain advertising techniques to children at different stages of cognitive development. We considered that the proposals apply to all children (persons under 16 years of age) but they place prohibitions on specific advertising techniques in advertisements targeted at pre-school and primary-school school children.

BCAP originally defined band 2 as 5 to 10 years. That approximates to primary school children but more 11 year olds are at primary school than are at secondary school. At Ofcom's suggestion, BCAP changed the upper limit to 9 years, an age that corresponds with BARB research data on which broadcasters rely for programming and scheduling decisions and advertisers use to buy airtime. BCAP's proposal, however, places restrictions on the content of advertisements, not programmes or scheduling.

Ofcom's report, "Childhood Obesity – Food Advertising in Context", presented wide-ranging research findings into the influence and role of food promotion. It found that "Before four or five years old, children regard advertising as simply entertainment, while between four and seven, they begin to be able to distinguish advertising from programmes. The majority have generally grasped the intention to persuade by the age of eight, while after eleven or twelve they can articulate a critical understanding of advertising". Many other research studies come to similar conclusions.

BCAP considered that the existing 9 years upper limit for band 2 is difficult to justify as a child protection measure based on the research evidence available to it.

BCAP has decided to change the definition of band 2 to primary school children. By proscribing the direct targeting of certain advertising techniques to primary school or pre-school children, we considered the proposals are targeted, proportionate, practical, supported by research and in line with the objective stated by the Secretary of State for Culture, Media and Sport and with the Government's health and child protection objectives that focus on protecting primary school aged children.

BCAP considered, moreover, that the Code need not mention age bands at all and that the references to age bands in rules 7.2.3 Promotional offers, 7.2.4 Use of characters and celebrities and 8.3.1 Accuracy in food advertising should be replaced with "targeted directly at pre and primary school children" (7.2.3 and 7.2.4 and "targeted directly at children under five" (8.3.1.c).

- Q9: Do you consider the proposed content standards including their proposed wording to be appropriate, and if not, what changes would you propose, and why?

Again, several respondents focused on HFSS foods, for example 'no nutritional claims for HFSS foods'. As with question 7, most of the respondents who backed the use of a differentiated approach in the application of the content rules were health and child welfare groups. Respondents recommended several changes to the rules. The most significant suggestions are:

1. 7.2.3 Promotional offers. One respondent believed the statement that promotional offers "must not be targeted directly at children in band 1 or band 2" should be changed to "must not be likely to appeal to children".

BCAP considered that promotional offers that appeal to pre-school or primary school children are acceptable so long as the offer is advertised, for example, to parents and that promotions may be directed at secondary school children even though younger children might find the offer appealing. The ASA would no doubt decide whether an offer targeted at teenagers was done so with "a due sense of responsibility" to younger children.

2. Some respondents considered that the word 'only' should be removed from Promotional Offers 7.2.3 (b):

(b) Advertisements should not seem to encourage children to eat or drink a product *only* to obtain a promotional offer: the product should be offered on its merits, with the offer as an added incentive. Advertisements featuring a promotional offer should ensure a significant presence for the product.

Respondents considered 7.2.3(b) could otherwise be interpreted to mean that any complaint for infringement would need to prove that the advertisement encouraged children to eat or drink a product “only” to obtain the offer, not that the offer merely encouraged consumption. BCAP worded 7.2.3(b) carefully to allow a promotional offer to encourage responsible consumption of a product but neither irresponsible or excessive consumption nor consumption only to take advantage of the offer. BCAP considered that rule 7.2.1 Diet and Lifestyle ensures that advertisements cannot encourage irresponsible consumption and that rule 8.3.2 Excessive Consumption ensures that advertisements cannot encourage or condone excessive consumption of any food. BCAP considered that “only” should not be deleted from 7.2.3(b), because respondents’ concern is caught elsewhere. The AAC has pointed out that a child would not “obtain” a promotional offer and advised BCAP to amend the proposed radio rule to state:

“Advertisements should not seem to encourage children to eat or drink a product only to ~~obtain~~ **take advantage** of a promotional offer: the product should be offered on its merits, with the offer as an added incentive. Advertisements featuring a promotional offer should ensure a significant presence for the product.”

BCAP agreed that amendment improved the text.

3. Many respondents pointed out that the restriction in rule 7.2.4 (characters and celebrities) should include equity brand characters. By differentiating between brand and licensed characters popular with children, BCAP took account of available research on the relative effect upon children of brand generated characters and licensed characters. Children do not seek to emulate brand-generated characters and do not engage with them in the same way as they can do with celebrities and licensed characters known from programming or film. BCAP considered that brand-generated characters do not have the same status (iconic or of authority) that celebrities and licensed characters can have, mainly because they don’t have a life outside the brand. Also, BCAP noted that some advertising codes and regulations internationally have recognised that difference, for example the Republic of Ireland.

4. 7.2.1 Diet and lifestyle Note 5 and 8.3 Food and Dietary Supplements Note 2: Advertisements for food should not encourage inactivity or sedentary pastimes or disparage or ridicule physical activity.

Some respondents considered that the wording of the note would prevent an advertisement showing someone reading a book while eating a product. BCAP has noted the concern and has amended the note to:

“Advertisements for food should not suggest that an inactive or sedentary lifestyle is preferable to physical activity”.

5. 8.3.3 Comparisons and good dietary practice Note 2.

Two respondents suggested that the wording should be amended to state:

To reflect generally accepted good dietary practice, a ~~reasonable variety of other foods~~ **balanced meal** should be shown if the advertised product is presented as part of a meal.

BCAP considered that the guidance notes provide adequate direction on the acceptable boundaries. We considered, as a matter of principle, that Code wording should not be overly proscriptive and cannot – and should not – be tailored to specific situations. Rules drafted in that way are usually too specific and open up loopholes. The challenge is therefore to find generic wording that sets down broad principles for advertisers to follow; BCAP considered the rule and notes do just that.

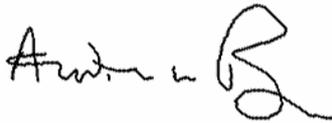
### The Advertising Advisory Committee

The AAC has been involved in the drafting of the proposal from an early stage and it supports the final content proposal. It agreed that the content proposal should apply to advertisements only and, to ensure consistency, that Ofcom should apply restrictions that are the same in principle, although not necessarily in detail, to sponsorship credits. The AAC’s position on this separation principle is highlighted in its response to the consultation and supports BCAP’s view, which has already been drawn to Ofcom’s attention.

The AAC has welcomed the extension of band 2, bringing the proposal into line with Government objectives to focus on primary school aged children. It endorsed the fact that these proposals cover all food advertisements directed at children under 16. The AAC considered that, because research evidence does not support many of the consumer lobby groups' points, specific restrictions on particular age groups need not be increased to cover all children under 16.

In conclusion, BCAP considers that its content proposal properly takes into account the views of the public, the AAC, industry, health and welfare organisations, academic institutions and consumer bodies. BCAP's evaluation of significant comments (Annex C) illustrates that the restrictions it proposes are robust and are in accordance with the Government's objectives criteria for strengthening the existing code on television advertising in respect of food and drink advertising to children.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Andrew Brown', with a stylized flourish at the end.

Andrew Brown  
Chairman, BCAP

CC: Tim Suter, Kate Stross, Julie Myers

Annex A: BCAP's TV content rules proposal  
Annex B: Post-evaluation changes to BCAP's content rules proposal  
Annex C: BCAP's evaluation of significant consultation responses  
Annex D: Table of all responses to questions 7, 8 and 9

## Final BCAP TV Content Rules Proposal

### **7.2 FOOD AND SOFT DRINK ADVERTISING AND CHILDREN**

**Notes:**

1. *The rules in 7.2 must be read in conjunction with the other rules in this Code, especially section 8.3, 'Food and Dietary Supplements'. References to food apply also, where relevant, to beverages.*

2. *These definitions apply in rule 7.2:*

- *'Children' refers to persons under 16 years of age:*
- *Licensed Characters - those characters that are borrowed equities and have no historical association with the product.*
- *Equity Brand Characters – those characters that have been created by the advertiser and have no separate identity outside their associated product or brand.*

#### **7.2.1 Diet and lifestyle.**

Advertisements must avoid anything likely to encourage poor nutritional habits or an unhealthy lifestyle in children.

**Notes:**

(1) *This rule does not preclude responsible advertising for any products including those that should be eaten only in moderation.*

(2) *In particular, advertisements should not encourage excessive consumption of any food or drink, frequent eating between meals or eating immediately before going to bed.*

(3) *It is important to avoid encouraging or condoning attitudes associated with poor diets, for example, a dislike of green vegetables.*

(4) *Portion sizes or quantities of food shown should be responsible and relevant to the scene depicted, especially if children are involved. No advertisement should suggest that a portion intended for more than one person is to be consumed by a single individual or an adult's portion, by a small child.*

(5) *Advertisements for food should not suggest that an inactive or sedentary lifestyle is preferable to physical activity.*

#### **7.2.2 Pressure to purchase**

**Note:** *Please see also 7.3 [Revised numbering] (Pressure to purchase)*

(a) Although children may be expected to exercise some preference over the food they eat or drink, advertisements must be prepared with a due sense of responsibility and should not directly advise or ask children to buy or to ask their parents or other adults to make enquiries or purchases

**Notes:**

(1) *This extends to behaviour shown: for example, a child should not be shown asking for a product or putting it into the parent's trolley in the supermarket.*

(2) *Phrases such as "Ask Mummy to buy you" are not acceptable.*

(b) Nothing in an advertisement may seem to encourage children to pester or make a nuisance of themselves.

(c) Advertisements must not imply that children will be inferior to others, disloyal or will have let someone down, if they or their family do not buy, consume or use a product or service.

(d) Advertisements must neither try to sell to children by appealing to emotions such as pity, fear, loyalty or self-confidence nor suggest that having the advertised product somehow confers superiority, for example making a child more confident, clever, popular, or successful.

(e) Advertisements addressed to children should avoid 'high pressure' and 'hard sell' techniques, i.e. urging children to buy or persuade others to buy. Neither the words used nor the tone of the advertisement should suggest that young viewers are being bullied, cajoled or otherwise put under pressure to acquire the advertised item.

(f) If an advertisement for a children's product contains a price, the price must not be minimised by the use of words such as "only" or "just".

**Note:**

*Products and prices should not be presented in a way that suggests children or their families can easily afford them.*

### **7.2.3 Promotional offers**

Promotional offers should be used with a due sense of responsibility and must not be targeted directly at pre-school or primary school children.

(a) Advertisements featuring promotional offers linked to food products of interest to children must avoid creating a sense of urgency or encouraging the purchase of excessive quantities for irresponsible consumption.

(b) Advertisements should not seem to encourage children to eat or drink a product only to take advantage of a promotional offer: the product should be offered on its merits, with the offer as an added incentive. Advertisements featuring a promotional offer should ensure a significant presence for the product.

(c) Advertisements for collection-based promotions must not seem to urge children or their parents to buy excessive quantities of food. They should not directly encourage children only to collect promotional items or emphasise the number of items to be collected. If promotional offers can also be bought, that should be made clear. Closing dates for collection-based promotions should enable the whole set to be collected without having to buy excessive or irresponsible quantities of the product in a short time. There should be no suggestion of "Hurry and buy".

(d) If they feature large pack sizes or promotional offers, e.g. "3 for the price of 2", advertisements should not encourage children to eat more than they otherwise would.

(e) The notion of excessive or irresponsible consumption relates to the frequency of consumption as well as the amount consumed.

#### **7.2.4 Use of characters and celebrities**

Celebrities and licensed characters popular with children must be used with a due sense of responsibility. They may not be used in advertisements targeted directly at pre-school or primary school children.

**Notes:**

*(1) Advertisements must not, for example, suggest that consuming the advertised product will enable children to resemble an admired figure or role-model or that by not doing so children will fail in loyalty or let someone down.*

*(2) This prohibition does not apply to advertiser-created equity brand characters (puppets, persons or characters), which may be used by advertisers to sell the products they were designed to sell.*

*(3) Persons such as professional actors or announcers who are not identified with characters in programmes appealing to children may be used as presenters.*

*(4) Celebrities and characters well-known to children may present factual and relevant generic statements about nutrition, safety, education, etc.*

### **8.3 FOOD AND DIETARY SUPPLEMENTS**

**Notes:**

*(1) The rules in 8.3 must be read in conjunction with the relevant legislation including the Food Labelling Regulations 1996 (as amended) and especially Schedule 6. They apply to all advertising for food products. If an advertisement is targeted at children, Section 7 of this Code also applies.*

*(2) Public health policy increasingly emphasises good dietary behaviour and an active lifestyle as a means of promoting health. Commercial product advertising cannot reasonably be expected to perform the same role as education and public information in promoting a varied and balanced diet but should not undermine progress towards national dietary improvement by misleading or confusing consumers or by setting bad examples, particularly to children. Advertisements for food should not suggest that an inactive or sedentary lifestyle is preferable to physical activity.*

#### **8.3.1 Accuracy in food advertising**

(a) Nutrition claims (eg “full of the goodness of vitamin C”) or health claims (eg “aids a healthy digestion”) must be supported by sound scientific evidence. Advertising must not give a misleading impression of the nutritional or health benefits of the product as a whole and factual nutrition statements should not imply a nutritional or health claim that cannot be supported. Ambiguous wording that could be understood as a nutritional claim must be avoided. For example, “goodness” should not be used as a synonym for “wholesomeness” and, if a claim relates to taste, that should be made clear, e.g. “It tastes good”, not “It is good”. The scientific meaning of the word “energy”, i.e. calorific value, should not be confused with its colloquial meaning of physical vigour

(b) Nutritional claims and health claims should relate to benefits that are significant and relevant to groups likely to be strongly interested in the advertisement. Claims should be presented clearly and without exaggeration

(c) No nutritional or health claim may be targeted directly at children under 5

(d) The fact that a food product is a good source of certain nutrients does not justify generalised claims of a wider nutritional benefit

**Notes:**

*(1) Claims of nutritional or health benefits should be considered in the context of a balanced diet or lifestyle or both.*

*(2) A wide range of guidelines that offers best-practice advice for nutritional claims and healthy eating is available. For example, DEFRA Guidelines for the Use of Certain Nutrition Claims in Food Labelling and Advertising include a recommendation to avoid “% fat free” claims (issued November 1999). Appropriate consideration and uniform application of such guidelines is needed from the relevant pre-clearance and adjudicatory bodies.*

*(3) Licensees may also find the Joint Health Claims Initiative Code of Practice useful.*

### **8.3.2 Excessive consumption**

Advertisements must not encourage or condone excessive consumption of any food

**Notes:**

*(1) Interpretation of this rule should be by reference to generally accepted nutritional advice. It would clearly not be inconsistent with shots of someone enjoying a chocolate bar; it would, however, preclude someone being shown eating whole boxes of chocolates in one sitting.*

*(2) Portion sizes or quantities of food shown should be suitable for the occasion and the people portrayed, especially if children are involved. Advertisements should not suggest that a portion intended for more than one person is to be consumed by a single individual or an adult’s portion, by a small child.*

*(3) If they feature large pack sizes or promotional offers, e.g. “3 for the price of 2”, advertisements should not encourage people to eat more than they otherwise would.*

*(4) The notion of excessive consumption relates to the frequency of consumption as well as the amount consumed.*

### **8.3.3 Comparisons and good dietary practice**

Advertisements must not disparage good dietary practice. Comparisons between products must not discourage the selection of options such as fresh fruit and vegetables, which accepted dietary opinion recommends should form a greater part of the average diet

**Notes:**

*(1) Advertisements should not seem to contradict or ignore good dietary practice.*

*(2) To reflect generally accepted good dietary practice, a reasonable variety of other foods should be shown if the advertised product is presented as part of a meal.*

*(3) Food products not intended as substitutes for meals should not be presented as such.*

#### **8.3.4 Oral health**

Advertisements must not encourage or condone damaging oral health care practices

**Note:**

*For instance, advertisements must not encourage frequent consumption throughout the day, particularly of potentially cariogenic products such as those containing sugar. This rule has children's dental health particularly in mind.*

#### **8.3.5 Dietary supplements**

(a) Advertisements must not suggest that it is necessary or therapeutic for the average person to augment their diet or that dietary supplements can enhance normal good physical or mental condition

(b) Advertisements must clearly establish those groups of people likely to benefit from a particular form of supplement

**Note to 8.3.5(b):**

*Only certain groups are likely to benefit from particular vitamin or mineral supplements. They might include people on a restricted dietary regimen, those eating unsupplemented, low-energy diets, women of child-bearing age (particularly if they are planning to have a baby, are pregnant or lactating), growing children and some individuals over 50.*

## Post-evaluation changes to BCAP's content rules proposal

(Deletions are struck through; additions are highlighted)

### **7.2 FOOD AND SOFT DRINK ADVERTISING AND CHILDREN**

**Notes:**

1. The rules in 7.2 must be read in conjunction with the other rules in this Code, especially section 8.3, 'Food and Dietary Supplements'. References to food apply also, where relevant, to beverages.

2. These definitions apply in rule 7.2:

- 'Children' refers to persons under 16 years of age:
  - ~~Pre-school~~ (Band 1)
  - ~~5 to 9 years~~ (Band 2)
  - ~~10 to 15 years~~ (Band 3)
- Licensed Characters - those characters that are borrowed equities and have no historical association with the product.
- Equity Brand Characters – those characters that have been created by the advertiser and have no separate identity outside their associated product or brand.

#### **7.2.1 Diet and lifestyle.**

Advertisements must avoid anything likely to encourage poor nutritional habits or an unhealthy lifestyle in children.

**Notes:**

(1) This rule does not preclude responsible advertising for any products including those that should be eaten only in moderation.

(2) In particular, advertisements should not encourage excessive consumption of any food or drink, frequent eating between meals or eating immediately before going to bed.

(3) It is important to avoid encouraging or condoning attitudes associated with poor diets, for example, a dislike of green vegetables.

(4) Portion sizes or quantities of food shown should be responsible and relevant to the scene depicted, especially if children are involved. No advertisement should suggest that a portion intended for more than one person is to be consumed by a single individual or an adult's portion, by a small child.

(5) Advertisements for food should not ~~suggest that an~~ ~~encourage inactivity~~ ~~inactive~~ or sedentary ~~pastimes or~~ ~~disparage or ridicule~~ ~~lifestyle is preferable to~~ physical activity.

#### **7.2.2 Pressure to purchase**

**Note:** Please see also 7.3 [Revised numbering] (Pressure to purchase)

(a) Although children may be expected to exercise some preference over the food they eat or drink, advertisements must be prepared with a due sense of responsibility and should not directly advise or ask children to buy or to ask their parents or other adults to make enquiries or purchases

**Notes:**

(1) *This extends to behaviour shown: for example, a child should not be shown asking for a product or putting it into the parent's trolley in the supermarket.*

(2) *Phrases such as "Ask Mummy to buy you" are not acceptable.*

(b) Nothing in an advertisement may seem to encourage children to pester or make a nuisance of themselves.

(c) Advertisements must not imply that children will be inferior to others, disloyal or will have let someone down, if they or their family do not buy, consume or use a product or service.

(d) Advertisements must neither try to sell to children by appealing to emotions such as pity, fear, loyalty or self-confidence nor suggest that having the advertised product somehow confers superiority, for example making a child more confident, clever, popular, or successful.

(e) Advertisements addressed to children should avoid 'high pressure' and 'hard sell' techniques, i.e. urging children to buy or persuade others to buy. Neither the words used nor the tone of the advertisement should suggest that young viewers are being bullied, cajoled or otherwise put under pressure to acquire the advertised item.

(f) If an advertisement for a children's product contains a price, the price must not be minimised by the use of words such as "only" or "just".

**Note:**

*Products and prices should not be presented in a way that suggests children or their families can easily afford them.*

### 7.2.3 Promotional offers

Promotional offers should be used with a due sense of responsibility and must not be targeted directly at children in band 1 or band 2 pre-school or primary school children.

(a) Advertisements featuring promotional offers linked to food products of interest to children must avoid creating a sense of urgency or encouraging the purchase of excessive quantities for irresponsible consumption.

(b) Advertisements should not seem to encourage children to eat or drink a product only to obtain take advantage of a promotional offer: the product should be offered on its merits, with the offer as an added incentive. Advertisements featuring a promotional offer should ensure a significant presence for the product.

(c) Advertisements for collection-based promotions must not seem to urge children or their parents to buy excessive quantities of food. They should not directly encourage children only to collect promotional items or emphasise the number of items to be collected. If promotional offers can also be bought, that should be made clear. Closing

dates for collection-based promotions should enable the whole set to be collected without having to buy excessive or irresponsible quantities of the product in a short time. There should be no suggestion of “Hurry and buy”.

(d) If they feature large pack sizes or promotional offers, e.g. “3 for the price of 2”, advertisements should not encourage children to eat more than they otherwise would.

(e) The notion of excessive or irresponsible consumption relates to the frequency of consumption as well as the amount consumed.

#### **7.2.4 Use of characters and celebrities**

Celebrities and licensed characters popular with children must be used with a due sense of responsibility. They may not be used in advertisements targeted directly at ~~children in band 1 or band 2~~ pre-school or primary school children.

##### **Notes:**

(1) *Advertisements must not, for example, suggest that consuming the advertised product will enable children to resemble an admired figure or role-model or that by not doing so children will fail in loyalty or let someone down.*

(2) *This prohibition does not apply to advertiser-created equity brand characters (puppets, persons or characters), which may be used by advertisers to sell the products they were designed to sell.*

(3) *Persons such as professional actors or announcers who are not identified with characters in programmes appealing to children may be used as presenters.*

(4) *Celebrities and characters well-known to children may present factual and relevant generic statements about nutrition, safety, education, etc.*

### **8.3 FOOD AND DIETARY SUPPLEMENTS**

##### **Notes:**

(1) *The rules in 8.3 must be read in conjunction with the relevant legislation including the Food Labelling Regulations 1996 (as amended) and especially Schedule 6. They apply to all advertising for food products. If an advertisement is targeted at children, Section 7 of this Code also applies.*

(2) *Public health policy increasingly emphasises good dietary behaviour and an active lifestyle as a means of promoting health. Commercial product advertising cannot reasonably be expected to perform the same role as education and public information in promoting a varied and balanced diet but should not undermine progress towards national dietary improvement by misleading or confusing consumers or by setting bad examples, particularly to children. Advertisements for food should not ~~suggest that an encourage inactivity inactive~~ or sedentary ~~pastimes or disparage or ridicule~~ lifestyle is preferable to physical activity.*

#### **8.3.1 Accuracy in food advertising**

(a) Nutrition claims (eg “full of the goodness of vitamin C”) or health claims (eg “aids a healthy digestion”) must be supported by sound scientific evidence. Advertising must not give a misleading impression of the nutritional or health benefits of the product as a whole and factual nutrition statements should not imply a nutritional or health claim that

cannot be supported. Ambiguous wording that could be understood as a nutritional claim must be avoided. For example, “goodness” should not be used as a synonym for “wholesomeness” and, if a claim relates to taste, that should be made clear, e.g. “It tastes good”, not “It is good”. The scientific meaning of the word “energy”, i.e. calorific value, should not be confused with its colloquial meaning of physical vigour

(b) Nutritional claims and health claims should relate to benefits that are significant and relevant to groups likely to be strongly interested in the advertisement. Claims should be presented clearly and without exaggeration

(c) No nutritional or health claim may be targeted directly at children in band 1 under 5

(d) The fact that a food product is a good source of certain nutrients does not justify generalised claims of a wider nutritional benefit

**Notes:**

*(1) Claims of nutritional or health benefits should be considered in the context of a balanced diet or lifestyle or both.*

*(2) A wide range of guidelines that offers best-practice advice for nutritional claims and healthy eating is available. For example, DEFRA Guidelines for the Use of Certain Nutrition Claims in Food Labelling and Advertising include a recommendation to avoid “% fat free” claims (issued November 1999). Appropriate consideration and uniform application of such guidelines is needed from the relevant pre-clearance and adjudicatory bodies.*

*(3) Licensees may also find the Joint Health Claims Initiative Code of Practice useful.*

### **8.3.2 Excessive consumption**

Advertisements must not encourage or condone excessive consumption of any food

**Notes:**

*(1) Interpretation of this rule should be by reference to generally accepted nutritional advice. It would clearly not be inconsistent with shots of someone enjoying a chocolate bar; it would, however, preclude someone being shown eating whole boxes of chocolates in one sitting.*

*(2) Portion sizes or quantities of food shown should be suitable for the occasion and the people portrayed, especially if children are involved. Advertisements should not suggest that a portion intended for more than one person is to be consumed by a single individual or an adult’s portion, by a small child.*

*(3) If they feature large pack sizes or promotional offers, e.g. “3 for the price of 2”, advertisements should not encourage people to eat more than they otherwise would.*

*(4) The notion of excessive consumption relates to the frequency of consumption as well as the amount consumed.*

### 8.3.3 Comparisons and good dietary practice

Advertisements must not disparage good dietary practice. Comparisons between products must not discourage the selection of options such as fresh fruit and vegetables, which accepted dietary opinion recommends should form a greater part of the average diet

**Notes:**

*(1) Advertisements should not seem to contradict or ignore good dietary practice.*

*(2) To reflect generally accepted good dietary practice, a reasonable variety of other foods should be shown if the advertised product is presented as part of a meal.*

*(3) Food products not intended as substitutes for meals should not be presented as such.*

### 8.3.4 Oral health

Advertisements must not encourage or condone damaging oral health care practices

**Note:**

*For instance, advertisements must not encourage frequent consumption throughout the day, particularly of potentially cariogenic products such as those containing sugar. This rule has children's dental health particularly in mind.*

### 8.3.5 Dietary supplements

(a) Advertisements must not suggest that it is necessary or therapeutic for the average person to augment their diet or that dietary supplements can enhance normal good physical or mental condition

(b) Advertisements must clearly establish those groups of people likely to benefit from a particular form of supplement

**Note to 8.3.5(b):**

*Only certain groups are likely to benefit from particular vitamin or mineral supplements. They might include people on a restricted dietary regimen, those eating unsupplemented, low-energy diets, women of child-bearing age (particularly if they are planning to have a baby, are pregnant or lactating), growing children and some individuals over 50.*

## ANNEX C

**BCAP’s evaluation of significant responses to questions 7, 8 and 9 (about the BCAP content proposal) of the Ofcom consultation on the TV advertising of food and soft drinks to children.**

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

SIGNIFICANT RESPONSES		EVALUATION	
Respondent(s)	Key Points	BCAP Comments	Drafting Change
<p>Association for the Study of Obesity; The British Heart Foundation; The British Retail Consortium; The Children’s Food Bill’s Coalition; Consensus Action on Salt and Health (CASH); Diabetes UK; Heart of Mersey; National Heart Forum; National Oral Health Promotion Group; Northern Ireland Chest Heart &amp; Stroke Association; The Nutrition Society; Office of the Children’s Commissioner; PACT; The Royal Society of Health; UK Public Health Association (UKPHA); Unilever; University of Liverpool; Co-op; Confidential responses (x3); Helen Palmer; Miss K Sutton (Community</p>	<p><b>1. No. The revised content standards should apply exclusively to HFSS food and drink sponsorship and advertisements.</b></p> <p>Points raised in support:</p> <p>1.1 Retailers and marketers should be allowed to advertise healthy foods or non-HFSS foods to children. Prohibiting promotions of healthy foods is</p>	<p>1. Having considered the Food and Drink Federation’s (FDFs) position on nutrient profiling, BCAP, which includes broadcaster, advertiser and agency members, shares the FDF’s central reservation about the concept of nutrient profiling as expressed in the FDF’s submission to the Ofcom consultation:</p> <p>“It is the combination of foods eaten, the frequency of consumption and portion size that is important in achieving a balanced diet; none of these factors are considered (in nutrient profiling).”</p> <p>BCAP considers that that point and specific objections to the FSA nutrient profiling model – see BCAP’s response in 1.3 below – render nutrient profiling an inadequate basis for revising the content standards.</p> <p>1.1 BCAP’s TV content proposals do not proscribe, explicitly or implicitly, non-HFSS foods from being advertised to children.</p>	<p><b>NA</b></p>

Dietician)	<p>contrary to Government policy.</p> <p>1.2 The use of celebrities and characters to promote fruit and vegetables would have positive future benefits. Prohibiting such promotions of healthy foods is contrary to Government policy. Advertisers should be able to promote healthier options to young audiences in fun and exciting ways.</p> <p>1.3 The FSA nutrient profiling model should be used to differentiate between HFSS and healthier foods.</p>	<p>1.2 BCAP's TV content proposals ensure that all food and drink products are advertised in a socially responsible way, with particular regard to the welfare of children. It is not realistic to fully satisfy all parties to a debate that polarises legitimately held opinions; balances must be struck. Because BCAP considers it is unjustifiable to separate foods that are perceived to be "bad" from foods that are perceived to be "good" – see above and BCAP's response to point 1.3 below – BCAP considers that its revised standards should apply to all food and drink products. BCAP's rules place new restrictions on advertising techniques (including the use of celebrities and licensed characters popular with children) that, arguably, are designed to emotionally engage young children. The rules exempt, however, advertisements that include factual and relevant generic statements about nutrition, safety, education, etc, which may feature celebrities and characters well-known to children. That exemption will allow, for example, celebrities to endorse a 5-a-day campaign. BCAP's proposals satisfy the public policy imperative by restricting the scope of advertising for HFSS products without unduly restricting the advertising of non-HFSS products, or preventing the communication of information that emphasises good dietary behaviour and an active lifestyle in accordance with public health policy.</p> <p>1.3 Having considered the Food and Drink Federation's (FDFs) position on nutrient profiling, BCAP, which includes broadcaster,</p>	
------------	---	---	--

		<p>advertiser and agency members, shares the FDF's reservations about the FSA model as expressed in the FDF's submission to the Ofcom consultation:</p> <ul style="list-style-type: none"><li>• "The model does not consider the vitamin or mineral content, nor any of the food's non-nutrient properties, such as antioxidants, or how many additives it contains; aspects which to many consumers are just as important as the nutritional content.</li><li>• The model appears to be based on the scientifically invalid assumption that 'good' nutrients can balance out 'bad' nutrients.</li><li>• The model classifies many nutritious products commonly eaten by children as 'unhealthy' e.g. cheese, raisins and breakfast cereals.</li><li>• The approach adopted by FSA is a subjective judgment of the perceived nutritional value of a product. It only looks at a very narrow snapshot of a product's nutritional value and classifies some foods which are major contributors of important nutrients as 'unhealthy'.</li><li>• The approach used in developing the FSA model is invalid because it is circular: it starts from a subjective list of 'good' and 'bad' foods; moves on to devise a points scoring scheme which reflects that assessment, and then validates the point scoring system against the original list. "</li></ul>	
--	--	--	--

		BCAP considers that the FSA nutrient profiling model is an inadequate basis for revising the content standards.	
<p>Angie Jefferson (independent Dietician); The British Dietetic Association; British Medical Association; The British Psychological Society; Consumer Council for Northern Ireland; IASO International Obesity Task Force; John Hooper &amp; Jessica Mann (disassociation from ofcom Advisory Committee for England); Kraft Foods UK Ireland; Mary Creagh MP; Safe Food; School Food Trust; The Scientific Advisory Committee on Nutrition; GlaxoSmith Kline; Health Promotion Agency for NI; Tading Standards Institute; Vimto Soft Drinks; The Caroline Walker Trust (CWT); Advisory Committee for England; Alex Heylin; Andrew Sprod; Anne Lockett; Chris Rose; Confidential responses (x2); Dympna Edwards; Mrs E Lelliott; Miss Evans; Ian Fenn; Miss J Brookes; Mrs Jean Hodgeson; Kate Barker; Liam Kelly; Mandy Barlow; Mark McCaghrey;</p>	<p><b>2. Yes. The revised content standards should apply to all food and drink sponsorship and advertisements.</b></p>	<p>2. BCAP agrees. (See point 1 above)</p>	<p><b>NA</b></p>

Noel Kelly; Miss R Lloyd; Mr S Norris; Dr Theodore T Tsikas			
Advertising Advisory Committee; Advertising Association; BACC; Cadburys Scweppes; five; Flextech; FAU; Food and Drink Federation; GMTV; IPA; ISBA; Nestle UK and Cereal Partners; Pepsico; SNACMA; United Biscuits; Confidential responses (x5)	<p><b>3. The revised content standards should not apply to food and drink <u>sponsorship</u>.</b></p> <p>Points raised in support:</p>	<p>3. BCAP understands that this response is not a comment on the BCAP content proposals but on the application of them.</p> <p>BCAP considers that, in principle, Ofcom should not use the BCAP TV Code to regulate sponsorship. The BCAP TV Code covers advertising including teleshopping. Sponsorship is covered by Ofcom's Broadcasting Code.</p> <p>BCAP recognises, however, that Ofcom's Broadcasting Code, Rule 9.4 states "sponsorship on radio and television must comply with both the advertising content and scheduling rules that apply to that medium". BCAP considers this is at odds with Ofcom's sponsorship separation principle; "... to maintain a distinction between advertising and sponsorship". Furthermore, the current situation risks double jeopardy because the ASA and Ofcom could interpret the BCAP Codes differently. That causes uncertainty for broadcast advertising stakeholders.</p> <p>BCAP does not propose to complicate an already confusing situation for broadcast advertising stakeholders by calling for a disapplication of the Ofcom Broadcasting Code, Rule 9.4, for food and drink sponsorship. Instead, BCAP reiterates its position that all broadcast sponsorship should fall under an Ofcom sponsorship code uniquely administered by Ofcom. The text of that Code should be entirely separate from that of the BCAP TV Code, even though it might cover much of the same ground relevant to both advertisements and sponsorship.</p>	NA

	<p>3.1 Advertising and sponsorship differ in purpose and content; sponsorship messages are explicitly prohibited from containing advertising messages or calls to action and may not encourage the purchase or rental of products or services.</p> <p>3.2 Advertising and sponsorship are subject to different regulatory regimes; BCAP/ASA regulates TV advertising under the BCAP TV Advertising Standards Code and Ofcom regulates sponsorship under the Ofcom Broadcasting Code.</p> <p>3.3 Sponsorship is being considered separately by the Department of Health's Food and Drink Advertising and Promotion Forum and should not be part of this consultation. Ofcom's regulatory objectives, as stated in paragraph 5.2 of section 5, are concerned with HFSS <u>advertising</u> (not sponsorship) to young children only.</p> <p>3.4 BCAP was not informed that the proposed content standards would be applied to sponsorship and did not take sponsorship into account when formulating its proposals.</p>	<p>3.1 BCAP agrees. The Ofcom Broadcasting Code Rule 9.14 states "Sponsorship must be clearly separated from advertising."</p> <p>3.2 BCAP agrees. Ofcom's administration of the BCAP TV Code for the content of sponsorship risks double jeopardy because the ASA and Ofcom could reach conflicting decisions on similar content. That causes uncertainty for broadcast advertising stakeholders.</p> <p>3.3 BCAP understands that the terms of reference for the Department of Health's Food and Drink Advertising and Promotion Forum extends to non-broadcast matters only. BCAP agrees that Ofcom's introductory paragraph to its regulatory objectives, Section 5, paragraph 5.2, state "measures need to be taken on an industry-wide basis to reduce the impact of television advertising of HFSS products". BCAP recognises, however, that advertising and sponsorship are both forms of marketing communication, albeit different in purpose and content, and it is therefore legitimate for Ofcom to consult on sponsorship. But Ofcom regulates sponsorship and BCAP/ASA regulates advertising. That demarcation should be reflected in separate codes, which should be separately administered.</p> <p>3.4 BCAP is aware that the Ofcom Broadcasting Code, Rule 9.4, requires broadcasters to ensure that the content of sponsorship complies with the BCAP TV Code but, as stated in 3 above, it considers that requirement</p>	
--	--	---	--

		unsatisfactory.	
Advertising Association; Flextech; FAU; Food and Drink Federation	<b>4. Sponsorship is not and should not be counted as advertising minutage.</b>	<p>4. BCAP understands that this response is not a comment on the BCAP content proposals.</p> <p>BCAP agrees. BCAP understands that the Ofcom consultation could result in unprecedented volume restrictions to sponsorship. Volume restrictions have hitherto applied only to advertisements, which Ofcom acknowledges is distinct from sponsorship in terms of content and purpose. Rules on volume restrictions are set out in Ofcom's Rules on the Amount and Distribution of Broadcast Advertising (RADA), which does not refer to sponsorship</p>	<b>NA</b>
The Caroline Walker Trust (CWT); Association for the Study of Obesity; The British Psychological Society	<b>5. The revised content standards should be extended to cover all children under 16.</b>	<p>5. BCAP's content proposals apply to all children (persons under 16 years of age) but they place prohibitions on specific advertising techniques in advertisements targeted at younger children.</p> <p>That approach is in line with the objective stated by the Secretary of State for Culture, Media and Sport, who called for "targeted and proportionate" proposals for strengthening the existing code on TV advertising in respect of food and drink to children.</p> <p>Ofcom's publication, "Childhood Obesity – Food Advertising in Context", presented wide-ranging research findings into the influence and role of food promotion. It found that, "Before four or five years old, children regard advertising as simply entertainment, while between four and seven, they begin to be able to distinguish advertising from programmes. The majority have generally grasped the intention to persuade by the age of eight, while after eleven or twelve they can articulate a critical understanding of advertising".</p> <p>BCAP consider that the upper limit of band 2 should be increased to include all primary school aged children. This change will bring the content proposal</p>	<b>NA</b>

	<p>Points raised in support:</p> <p>5.1 Insufficient evidence to conclude that children's understanding of the intent behind advertising is beginning to approximate to an adult norm by 8 years of age and develops from then on.</p>	<p>into line with current research. By proscribing the use of certain advertising techniques to children in band 1 (pre school) and band 2 (primary school), BCAP considers its proposals are targeted, proportionate and practical. (See page 13 for BCAP's full response on age bands).</p> <p>5.1 BCAP and Ofcom have made use of the most contemporary research available to both organisations including Ofcom's publication, "Childhood Obesity – Food Advertising in Context". (See also 5 above.)</p>	
McCain Foods GB Ltd	<p><b>6. Though logical, introducing content rules alongside scheduling rules will make it more difficult to identify the causes of purchasing or eating habits than if one or other of the measure was introduced in isolation.</b></p>	<p>6. BCAP understands that this response is not a comment on the BCAP content proposals.</p> <p>In its submission to the Ofcom consultation, BCAP considered that, although section D (pages 112 and 113) of section 7 in Annex 6, the Impact Assessment, discusses the content of advertisements and the benefits arising from the adoption of the BCAP proposal, the benefits assessments of the three packages earlier in the Annex do not mention the content change benefits. We believe considerable benefits arise from the BCAP proposal that risk going unnoticed by readers of the consultation. That fact might lead respondents to respond to the questions on volume and scheduling restrictions without taking proper account of the full benefits of the BCAP content proposals.</p>	<b>NA</b>
IPA; Kellogg's	<p><b>7. It is correct to apply strict content rules to food advertising targeted at children under 10.</b></p>	<p>7. BCAP agrees. Ofcom's publication, "Childhood Obesity – Food Advertising in Context", presented wide-ranging research findings into the influence and role of food promotion. It found that, "Before four or five years old, children regard advertising as simply entertainment, while between four and seven, they begin to be able to distinguish</p>	<b>NA</b>

	<p>Points raised in support:</p> <p>7.1 Studies suggest that by 10 years old (indeed, most studies suggest an even earlier age) children are considered to have sufficient cognitive development to understand the implications of television advertising.</p>	<p>advertising from programmes. The majority have generally grasped the intention to persuade by the age of eight, while after eleven or twelve they can articulate a critical understanding of advertising". BCAP consider that band 2 should include all primary school aged children. This change will bring the content proposal into line with current research. By proscribing the use of certain advertising techniques to children in band 1 (pre-school) and band 2 (primary school), BCAP considers its proposals are targeted and proportionate. BCAP's revised age bands are the only practical means of restricting certain advertising techniques to children at different stages of cognitive development. Pre-school, primary and secondary school children (band 3) watch television at certain times of the day. It is impractical to require broadcasters to differentiate between primary school children of different ages or secondary school children of different ages, for example.</p> <p>7.1 BCAP agrees. BCAP consider that band 2 should include all primary school aged children. This change will bring the content proposal into line with current research. By proscribing the use of certain advertising techniques to children in band 1 and band 2, BCAP considers its proposals are targeted and proportionate. BCAP's proposed age bands are the only practical means of restricting certain advertising techniques to children at different stages of cognitive development. Pre-school (band 1), primary (band 2) and secondary school children (band 3) watch television at certain times of the day. It is impractical to require broadcasters to differentiate between primary school children of different ages or secondary school children of different ages, for example.</p>	
--	--	--	--

Angie Jefferson (Independent Dietician)	<b>8. The revised content standards should give consideration to the nutritional contribution of a food to a child's diet and not merely its fat, sugar or salt content.</b>	8. BCAP agrees that it is important to emphasise the benefits of a balanced diet. To that end, BCAP's revised content standards propose rules on, for example, the frequency of consumption and portion size. BCAP fully supports initiatives that encourage consumers to achieve a balanced diet.	<b>NA</b>
The British Dietetic Association	<b>9. There should be an additional rule to cover products that are promoted as being "cool". That type of advertising might lead to peer pressure and bullying and it is unfair to parents on a low income.</b>	9. BCAP's content proposals contain rules that explicitly prevent pressure to purchase, including implying that children will be inferior to others if they or their guardians don't buy the advertised product, or superior if they do. BCAP considers that, subject to its rules that prevent irresponsible and misleading advertising, advertisers are allowed to show their products in the best light.	<b>NA</b>
British Medical Association	<b>10. The BMA supports the revised advertising standards and agrees that they should be applied to advertising and sponsorship of all food and drink products. We welcome the emphasis within the standards on measures to remove the emotional attachment of children to food and drink advertising, through restrictions on the use of promotional offers, celebrities or film and cartoon characters. The BMA considers that the content standards relating to nutritional or health claims are much needed. Those revised standards will better enable parents and carers to make informed diet choices, hopefully with less pressure from the 'pester power' of children.</b>	10. BCAP agrees.	<b>NA</b>
Kraft Foods UK Ireland	<b>11. BCAP's revised content standards represent the most restrictive set of content rules anywhere in the world.</b>	11. BCAP considers its proposals are both targeted and proportionate; in accordance with Government's objectives criteria for strengthening the existing TV code on the advertising of food and drink to children.	<b>NA</b>
Association for the Study of Obesity	<b>12. Restrictions on advertising techniques should also apply to own-brand characters.</b>	12. Brand-generated characters do not have the same status (iconic or of authority) as celebrities and licensed characters can have. Therefore, children do not seek to emulate brand-generated characters and do not engage with them in the	<b>NA</b>

		<p>same way as they may with celebrities and licensed characters known from programming or film.</p> <p>Brand-generated characters cannot cause blurring between advertising and programming, because they are intrinsically linked with a particular branded product.</p> <p>Some advertising codes and regulations internationally have recognised that brand-generated characters are qualitatively different from celebrities and licensed characters and should therefore be treated differently from a regulatory perspective, for example the Republic of Ireland.</p>	
The Children's Food Bill's Coalition	<b>13. We believe BCAP's proposed content rules exhibit all the usual failings of voluntary codes.</b>	13. BCAP considers its proposals are targeted, proportionate and in accordance with Government's objectives criteria for strengthening the existing code on TV advertising in respect of food and drink to children. BCAP's Codes are not voluntary; TV channels licensed by Ofcom are mandated to comply with the letter and spirit of them.	<b>NA</b>
Which?	<b>14. As well as a 9pm watershed on HFSS products, the revised content standards should address the advertising of HFSS products to parents and to older children watching later in the evening.</b>	<p>14. BCAP agrees with Ofcom's reasoning, expressed in its consultation document, paragraphs 5.19 to 5.21, that a ban on HFSS advertising before 9pm would be disproportionate and would not meet Ofcom's regulatory objectives.</p> <p>BCAP's rules will ensure that the TV advertising of all food and drink products, including HFSS foods, is responsible with particular regard to the welfare of children. BCAP's proposals are targeted, proportionate and in accordance with Government's objectives criteria for strengthening the existing code on TV advertising in respect of food and drink to children.</p> <p>According to Ofcom's regulatory objectives, one of the aims of further regulation should be to "avoid</p>	<b>NA</b>

		intrusive regulation of advertising during adult airtime, given that adults are able to make informed decisions about advertising messages”.	
SVP McCann Erickson EMEA	<b>15. No-one has demonstrated that the content to be banned has any disproportionate effect on total food consumption; that should be the basis for any responsible discrimination.</b>	15. BCAP is mindful of research presented in Ofcom’s consultation document, which states “that television advertising has a ‘modest direct effect’ on children’s food preferences, consumption and behaviour”. BCAP has developed rules that it considers are proportionate to address that effect by restricting advertising techniques that, according to Prof. Livingstone’s research, (Ofcom’s consultation, Section 3, Research and Analysis) have, to date, been popular in the TV advertising of core category products (all foods products, chain restaurants and soft drinks). Those techniques include health claims, purchase incentives and animation.	<b>NA</b>

**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?**

SIGNIFICANT RESPONSES		EVALUATION	
Respondent(s)	Key Points	BCAP Comments	Drafting Change
Advertising Association; BACC; The British Psychological society; Cadburys Schweppes; Coca-Cola; Ferrero UK Ltd; Five; Food Advertising Unit (FAU); Food and Drink Federation; GlaxoSmith Kline; GMTV; IPA; ISBA; John Hooper and Jessica Mann; Kraft Foods UK Ireland; McCain Foods GB Ltd; National Oral Health Promotion Group; Nestle UK and Cereal Partners; PACT (Producers Alliance for Cinema and Television); Pepsico; Safe food; Snack Nut & Crisp Manufacturers Association (SNACMA); SVP McCann Erickson EMEA; United Biscuits; Vimto Soft Drinks; Confidential responses; Helen Palmer; Ian Fenn; Mrs Jean Hodgeson; John Hooper and Jessica Mann; Kate Barker; Mark McCaghrey; Miss R Lloyd	<b>1. Yes.</b>	<p>1. BCAP originally proposed band 2 as 5 to 10 years. At Ofcom’s suggestion, BCAP changed the upper limit to 9 years, an age that corresponds with BARB research data on which broadcasters rely for programming and scheduling decisions and advertisers use to buy airtime. BCAP considers that the upper limit of band 2 should be increased to include all primary school children. The BCAP proposal places restrictions on the content of advertisements, not programmes or scheduling. BCAP consider that increasing the age restriction in band 2 will bring the content proposal into line with current research making the restrictions targeted, proportionate and practical.</p> <p>BCAP’s considers that differentiating by age is the only practical means of restricting certain advertising techniques to children at different stages of cognitive development. Pre-school (band 1), primary school (band 2) and secondary school children (band 3) watch television at certain times of the day. It is impractical to require broadcasters to differentiate between primary school children of different ages or secondary school children of different ages, for example.</p> <p>BCAP’s revised age bands are in line with the objective stated by the Secretary of State for Culture, Media and Sport, who called for “targeted and proportionate” proposals for strengthening the existing code on TV advertising in respect of food</p>	<b>Definition of Band 2 to include all primary school children</b>

	<p>Points raised in support</p> <p>1.1 They offer enhanced protection for everyone with the greatest levels of protection to the most vulnerable group – they approximate to pre-school, primary school and secondary school age groups</p> <p>1.2 It is proven that a 50% reduction of impacts for all children under 16 will have a much greater impact on children under 10. It is expected that the impact for this age group will be nearer 65-70%. This is therefore completely disproportionate. We believe that intervention by Ofcom, if any, should</p>	<p>and drink to children.</p> <p>The Secretary of State for Health announced, at the Food and Drink Advertising and Promotion Forum on 26 April 2006, “my concerns are focused on protecting primary school aged children.”</p> <p>Ofcom’s publication, “Childhood Obesity – Food Advertising in Context”, presented wide-ranging research findings into the influence and role of food promotion. It found that “Before four or five years old, children regard advertising as simply entertainment, while between four and seven, they begin to be able to distinguish advertising from programmes. The majority have generally grasped the intention to persuade by the age of eight, while after eleven or twelve they can articulate a critical understanding of advertising”.</p> <p>1.1 BCAP agrees. BCAP’s revised age bands are proportionate and targeted, providing greater protection for children at an earlier stage of cognitive development who are less able to critically understand advertising messages.</p> <p>1.2 BCAP agrees that proportionate and targeted intervention should be focused on younger children, who are less able to critically understand advertising messages.</p>	
--	---	--	--

	<p>be focussed on children under 10</p> <p>1.3 This is in line with the consultation document that makes it clear that by the age of 11 or 12 children have developed a critical understanding of advertising.</p>	<p>1.3 BCAP consider that band 2 should include all primary school children and consider that doing so will bring the content proposal into line with current research making the restrictions targeted, proportionate and practical.</p>	
<p>Advertising Advisory Committee; Advisory Committee For England; Angie Jefferson (Independent Dietician); Association for the study of obesity; The British Dietetic Association; British Medical Association; The Caroline Walker Trust (CWT); The Children's Food Bill's Coalition; Consensus Action on Salt and Health; Consumer Council for Northern Ireland; Diabetes UK; Heart of Mersey; IASO International Obesity task Force; Mary Creagh MP; National Heart Forum; NHS Borders, Health Promotion; Northern Ireland Chest Heart &amp; Stroke; The Nutrition Society; Office of the Children Commissioner; The Royal Society of Health; School Food Trust; The Scientific Advisory Committee on Nutrition;</p>	<p><b>2. No.</b></p> <p>Points raised in support</p> <p>2.1 The content standards should be applied to advertising targeted at <u>all children</u> under the age of 16. BCAP has no justification for targeting different age groups between 4 and 15 years of age.</p>	<p>2. BCAP agrees. BCAP considers that band 2 should include all primary school aged children. This change will bring the content proposal into line with current research. By proscribing the use of certain advertising techniques to children in band 1 (pre-school) and band 2 (primary school), BCAP considers its proposals are targeted and proportionate. BCAP considers that differentiating children by age is the only practical means of restricting certain advertising techniques to children at different stages of cognitive development. Pre-school, primary and secondary school children (band 3) watch television at certain times of the day. It is impractical to require broadcasters to differentiate between primary school children of different ages or secondary school children of different ages, for example.</p> <p>BCAP considers that this in addition to Ofcom's scheduling and volume restrictions will go some way to address the child protection requirement.</p> <p>2.1 BCAP's content proposals apply to all children (persons under 16 years of age) but they place prohibitions on specific advertising techniques in advertisements targeted at younger children. BCAP consider that band 2 should include all primary school aged children. This change will</p>	<p><b>Definition of Band 2 to include all primary school children</b></p>

<p>Trading Standards Institute; UK Public Health Association (UKPHA); University of Liverpool; Unilever; Welsh Assembly Government; Which?; Miss Evans; Noel Kelly; Miss J Brookes; Liam Kelly; Andrew Sprod; Ms K Sutton, Community Dietician; Alex Heylin</p>		<p>bring the content proposal into line with current research. By proscribing the use of certain advertising techniques to children in band 1 (pre-school) and band 2 (primary school), BCAP considers its proposals are targeted and proportionate. BCAP considers that differentiating children by age is the only practical means of restricting certain advertising techniques to children at different stages of cognitive development. Pre-school, primary and secondary school children (band 3) watch television at certain times of the day. It is impractical to require broadcasters to differentiate between primary school children of different ages or secondary school children of different ages, for example.</p> <p>That approach is in line with the objective stated by the Secretary of State for Culture, Media and Sport, who called for “targeted and proportionate” proposals for strengthening the existing code on TV advertising in respect of food and drink to children.</p> <p>Ofcom’s publication, “Childhood Obesity – Food Advertising in Context”, presented wide-ranging research findings into the influence and role of food promotion. It found that, “Before four or five years old, children regard advertising as simply entertainment, while between four and seven, they begin to be able to distinguish advertising from programmes. The majority have generally grasped the intention to persuade by the age of eight, while after eleven or twelve they can articulate a critical understanding of advertising”. By proscribing the use of certain advertising techniques to children in band 1 and band 2, BCAP considers its proposals are both targeted and proportionate.</p>	
---	--	---	--

	<p>2.2 The age bands are unrealistic and do not take account of children’s viewing habits or their very limited understanding of nutrition and food chemistry.</p>	<p>2.2 BCAP’s rules restrict certain advertising techniques that have, to date, been used in food and soft drinks advertisements from being “directed” to young children, because those children are less able to critically understand advertising messages. (see 1 above). Advertisers direct their messages by scheduling and by content. Age bands prevent the use of certain advertising techniques being used around programmes that are of particular appeal to 0 to 4 for example. BCAP considers that changing the upper limit of band 2 to include all primary school children will bring the content proposal into line with current research making the restrictions targeted, proportionate and practical. Food ads that use those restricted advertising techniques in ads whose content is directed at children in band 1 or band 2 are proscribed at any time. BCAP considers those restrictions are targeted and proportionate. It anticipates, however, that Ofcom’s scheduling and volume restrictions will further restrict the scope of food and soft drink advertising to children who watch television outside of programmes made for children.</p>	
<p>Angie Jefferson (Independent Dietician)</p>	<p><b>3. Children over the age of 10 have higher rates of obesity than those under 10 and also have increasing control of their individual food choice and a larger disposable income to spend on food purchases.</b></p>	<p>3. BCAP is mindful of research presented in Ofcom’s consultation document, which states, “that television advertising has a ‘modest direct effect’ on children’s food preferences, consumption and behaviour.” It is widely accepted that social, environmental and cultural factors play a much greater part than advertisements in the rise of obesity and Type II Diabetes. BCAP supports initiatives to address those factors. BCAP’s content proposals apply to all children (persons under 16 years of age) but they</p>	<p><b>NA</b></p>

		<p>place prohibitions on specific advertising techniques in advertisements targeted at younger children.</p> <p>That approach is in line with the objective stated by the Secretary of State for Culture, Media and Sport, who called for “targeted and proportionate” proposals for strengthening the existing code on TV advertising in respect of food and drink to children.</p> <p>Ofcom’s publication, “Childhood Obesity – Food Advertising in Context”, presented wide-ranging research findings into the influence and role of food promotion. It found that, “Before four or five years old, children regard advertising as simply entertainment, while between four and seven, they begin to be able to distinguish advertising from programmes. The majority have generally grasped the intention to persuade by the age of eight, while after eleven or twelve they can articulate a critical understanding of advertising”. BCAP considers that changing the upper limit of band 2 to include all primary school children will bring the content proposal into line with current research making the restrictions targeted, proportionate, practical and in line with current research.</p>	
<p>The British Dietetic Association</p>	<p><b>4. It might be better to increase the age limit of protecting under 5s against nutritional and health claims to the same as the other regulations (i.e. presently under 10s).</b></p>	<p>4. BCAP considers that changing the upper limit of band 2 to include all primary school children will bring the content proposal into line with current research making the restrictions targeted, proportionate and practical.</p> <p>BCAP considers that children in band 2 understand and use nutritional and health claims to inform their preferences. As a principle, advertisers may make factual claims. Rules elsewhere in the BCAP TV Code, 5.1, 5.2, 7.1 and 8.3, ensure that advertisements that mislead or take advantage of children’s credulity are unacceptable.</p>	<p><b>NA</b></p>
<p>Chris Rose</p>	<p><b>5. Yes, but children should not be exposed to ads</b></p>	<p>5. BCAP considers that children today live in a</p>	<p><b>NA</b></p>

	<p><b>at all.</b></p>	<p>media-rich world and to try to cocoon children from advertising is unrealistic. It is important to note that the Government’s instruction to Ofcom was to “strengthen” the existing Code. The Government has explicitly stated that to recommend a complete ban on all food advertising to children would be disproportionate, that food promotion represents only a very small part of the wider picture and that, although the rules need strengthening, it is legitimate to advertise in a responsible way to children as well as adults. The Secretary of State for Culture Media and Sport stated that “As laid out in the White Paper, the Government recognizes the most effective policy response in this area will be the tightening of the rules on food promotion to children – achieved through Ofcom’s review of broadcast advertising regulations and through working with the industry on strengthening the existing voluntary codes in non-broadcast areas.”</p>	
<p>Co-op</p>	<p><b>6. Hastings concluded that advertising of HFSS has an impact on children aged 2 to 15. For that reason we believe that Ofcom should reconsider its decision to exclude HFSS advertisements aimed at children aged 10 to 16 from the ban on using celebrities.</b></p>	<p>6. BCAP’s content proposals apply to all children (persons under 16 years of age) but they place prohibitions on specific advertising techniques in advertisements targeted at younger children. BCAP considers that changing the upper limit of band 2 to include all primary school children will bring the content proposal into line with current research making the restrictions targeted, proportionate and practical.</p> <p>That approach is in line with the objective stated by the Secretary of State for Culture, Media and Sport, who called for “targeted and proportionate” proposals for strengthening the existing code on TV advertising in respect of food and drink to children.</p> <p>Ofcom’s publication, “Childhood Obesity – Food Advertising in Context”, presented wide-ranging research findings into the influence and role of food promotion. It found that, “Before four or five years</p>	<p><b>NA</b></p>

		<p>old, children regard advertising as simply entertainment, while between four and seven, they begin to be able to distinguish advertising from programmes. The majority have generally grasped the intention to persuade by the age of eight, while after eleven or twelve they can articulate a critical understanding of advertising". By proscribing the use of characters and celebrities to children in band 1 and band 2, BCAP considers its proposals are both targeted and proportionate.</p> <p>The Secretary of State for Health announced, at the Food and Drink Advertising and Promotion Forum on 26 April 2006, "my concerns are focused on protecting primary school aged children."</p> <p>BCAP believe restrictions on ads for teenagers would be disproportionate and over-protective because habits are formed earlier in childhood. Children in band 3 have a clear understanding of the purposes of advertising and the older age group of children will in any event be better protected through the content and volume and scheduling restrictions. That is why we support the focus of intervention on children of primary school age, as proposed by the Health Minister.</p> <p>The focus on primary school children is shared by the Department of Health, Department for Education and Department of Culture Media and Sport. By 2010 they have agreed to halt the year-on-year rise in obesity in pre-school and primary school aged children; the 3 departments hold joint responsibility for achieving that target. The move is in response to the key commitments in the Choosing Health White Paper (Delivering Choosing Health 2005).</p>	
Vimto Soft Drinks	<b>7. Yes. This is in line with the consultation document that makes it clear that by the age of 11</b>	7. The BACC, the pre-transmission TV advertising clearance body, broadcasters and the ASA, the	<b>NA</b>

	<p>to 12 children have developed a critical understanding of advertising. <u>We do however ask who will decide whether an advertisement is targeted at a 9 year old or an 11 year old?</u></p>	<p>independent body that adjudicates on the BCAP TV Code, have considerable experience in judging whether an advertisement for an age-restricted product, e.g. Introduction and Dating Agencies, is “directed” at viewers below the legal age of purchase or participation, i.e. 18. All parties will continue to apply a properly moderated application of the Codes.</p>	
<p>The Caroline Walker Trust (CWT)</p>	<p><b>8. No. All children up to the age of 16 years (and a considerable number of adults) are vulnerable and restrictions should apply to all children.</b></p>	<p>8. BCAP disagrees. According to Ofcom’s regulatory objectives, one of the aims of further regulation should be to “avoid intrusive regulation of advertising during adult airtime, given that adults are able to make informed decisions about advertising messages”.</p>	<p><b>NA</b></p>
<p>The Scientific Advisory Committee on Nutrition</p>	<p><b>9. In relation to the distinction made between younger and older children on grounds of their cognitive ability (“media literacy”) to interpret advertising critically (paragraph 1.13), it is relevant to note on page 15 of the Research Annexes volume: “Kunkel et al 2004 [in a report to the American Psychological Association Task Force on advertising and children] could find no study that examined the statistical relation between children’s understanding of advertising’s persuasive intent and the impact of advertising ...there is little evidence that media literacy interventions can effectively counteract the impact of advertising on children of any age, much less the younger ones who are most vulnerable to its influence”. That underlines concerns about absence of evidence and would argue for the application of the precautionary principle.</b></p>	<p>9. BCAP’s content proposals apply to all children (persons under 16 years of age) but they place prohibitions on specific advertising techniques in advertisements targeted at younger children. These proposals aim to reduce the level of children’s emotional engagement with food and drink advertisements. BCAP considers that changing the upper limit of band 2 to include all primary school children will bring the content proposal into line with current research making the restrictions targeted, proportionate and practical.</p> <p>BCAP considers that Ofcom’s publication “Childhood Obesity – Food Advertising in Context” presented wide-ranging research findings on the influence and role of food promotion. It found that, “Before four or five years old, children regard advertising as simply entertainment, while between four and seven, they begin to be able to distinguish advertising from programmes. The majority have generally grasped the intention to persuade by the age of eight, while after eleven or twelve they can articulate a critical understanding of advertising”. By proscribing certain techniques to children in band 1 and band 2, BCAP considers its proposals are both targeted and proportionate. (See BCAP response to 6).</p>	<p><b>NA</b></p>

**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 special notice in Annex 1)**

SIGNIFICANT RESPONSES		EVALUATION	
Respondent(s)	Rule & Comments	BCAP Comments	Drafting Change
	<p><b>7.2 FOOD AND SOFT DRINK ADVERTISING AND CHILDREN</b></p> <p><b>Notes:</b></p> <p>1. The rules in 7.2 must be read in conjunction with the other rules in this Code, especially section 8.3, 'Food and Dietary Supplements'. References to food apply also, where relevant, to beverages.</p> <p>2. These definitions apply in rule 7.2:</p> <ul style="list-style-type: none"> <li>• 'Children' refers to persons under 16 years of age: <ul style="list-style-type: none"> <li>Pre-school (Band 1)</li> <li>5 to 9 years (Band 2)</li> <li>10 to 15 years (Band 3)</li> </ul> </li> <li>• Licensed Characters - those characters that are borrowed equities and have no historical association with the product.</li> <li>• Equity Brand Characters – those characters that have been created by the advertiser and have no separate identity outside their associated product or brand.</li> </ul> <p><b>7.2.1 Diet and lifestyle.</b> Advertisements must avoid anything likely to encourage poor nutritional habits or an unhealthy lifestyle in children.</p> <p><b>Notes:</b> (1) <i>This rule does not preclude responsible advertising for any products including those that should be eaten only in moderation.</i></p>	<p>BCAP originally proposed band 2 as 5 to 10 years. At Ofcom's suggestion, BCAP changed the upper limit to 9 years, an age that corresponds with BARB research data on which broadcasters rely for programming and scheduling decisions and advertisers use to buy airtime. BCAP considers that the upper limit of band 2 should be increased to include all primary school children. The BCAP proposal places restrictions on the content of advertisements, not programmes or scheduling. BCAP consider that increasing the age restriction in band 2 will bring the content proposal into line with current research making the restrictions targeted, proportionate and practical.</p> <p>BCAP considers that differentiating children by age is the only practical means of restricting certain advertising techniques to children at different stages of cognitive development. Pre-school (band 1), primary school (band 2) and secondary school children (band 3) watch television at certain times of the day. It is impractical to require broadcasters to differentiate between primary school children of different ages or secondary school children of different ages, for example.</p>	<p><b>Remove band definitions in Note 2 to 7.2</b></p>

<p>The Children’s Food Bill’s Coalition; Consensus Action on Salt and Health; National Oral Health Promotion Group; Which?</p> <p>Confidential response</p>	<p>(2) <i>In particular, advertisements should not encourage excessive consumption of any food or drink, frequent eating between meals or eating immediately before going to bed.</i></p> <p>(3) <i>It is important to avoid encouraging or condoning attitudes associated with poor diets, for example, a dislike of green vegetables.</i></p> <p>(4) <i>Portion sizes or quantities of food shown should be responsible and relevant to the scene depicted, especially if children are involved. No advertisement should suggest that a portion intended for more than one person is to be consumed by a single individual or an adult’s portion, by a small child.</i></p> <p>(5) <i>Advertisements for food should not encourage inactivity or sedentary pastimes or disparage or ridicule physical activity.</i></p> <p><b>1. Many respondents believe that this rule is too vague and considered that it would be very difficult to apply this content restriction, because it is difficult to quantify what exactly constitutes ‘encouragement’.</b></p> <p><b>2. This rule [note 5] is too broad because it might for example; prevent an adult reading a</b></p>	<p>1. BCAP considers that the accompanying guidance notes provide adequate direction on what would be considered ‘encouraging’. The independent ASA Council is experienced in interpreting advertisements and administering advertisement content codes and will apply the letter as well as the spirit of the rule. BCAP considers, as a matter of principle, that Code wording cannot - and should not - be tailored to specific situations: rules drafted in this way are usually too specific and open up loopholes. The challenge is therefore to find generic wording that sets down broad principles for advertisers to follow; BCAP believes the rule does just that and constitutes an onerous and responsible hurdle for food advertisers.</p> <p>2. BCAP agrees.</p>	<p><b>NA</b></p> <p><b>Advertisements for food</b></p>
---	---	---	--

	<b>book while eating popcorn.</b>		<b>should not suggest that an inactive or sedentary lifestyle is preferable to physical activity</b>
	<p><b>7.2.2 Pressure to purchase</b>  <b>Note:</b> Please see also 7.3 [Revised numbering] (Pressure to purchase)  (a) Although children may be expected to exercise some preference over the food they eat or drink, advertisements must be prepared with a due sense of responsibility and should not directly advise or ask children to buy or to ask their parents or other adults to make enquiries or purchases  <b>Notes:</b>  (1) This extends to behaviour shown: for example, a child should not be shown asking for a product or putting it into the parent's trolley in the supermarket.  (2) Phrases such as "Ask Mummy to buy you" are not acceptable.  (b) Nothing in an advertisement may seem to encourage children to pester or make a nuisance of themselves.  (c) Advertisements must not imply that children will be inferior to others, disloyal or will have let someone down, if they or their family do not buy, consume or use a product or service.  (d) Advertisements must neither try to sell to children by appealing to emotions such as pity, fear, loyalty or self-confidence nor suggest that having the advertised product somehow confers superiority, for example making a child more confident, clever, popular, or successful.  (e) Advertisements addressed to children should avoid 'high pressure' and 'hard sell' techniques, i.e. urging children to buy or persuade others to buy. Neither the words used nor the tone of the advertisement should suggest that young viewers</p>		

<p>The Children's Food Bill's Coalition; National Oral Health Promotion Group; Which?</p>	<p>are being bullied, cajoled or otherwise put under pressure to acquire the advertised item.                  (f) If an advertisement for a children's product contains a price, the price must not be minimised by the use of words such as "only" or "just".  <b>Note:</b>  <i>Products and prices should not be presented in a way that suggests children or their families can easily afford them.</i></p> <p><b>3. This rule does not go far enough to decrease pester power and, again, is vague in places (specifically rule (b)). It would still allow companies to use less overt forms of pester power.</b></p>	<p>3. BCAP considers that the rule and guidance notes cater for possible treatments that could encourage pressure to purchase. The independent ASA Council will apply the letter as well as the spirit of the rule. BCAP considers, as a matter of principle, that Code wording cannot – and should not - be tailored to specific situations. Rules drafted in this way are usually too specific and open up loopholes. The challenge is therefore to find generic wording that sets down broad principles for advertisers to follow; BCAP believes the rule does just that and constitutes an onerous and responsible hurdle for advertisers.</p>	<p>NA</p>
	<p><b>7.2.3 Promotional offers</b>                  Promotional offers should be used with a due sense of responsibility and must not be targeted directly at children in band 1 or band 2.                  (a) Advertisements featuring promotional offers linked to food products of interest to children must avoid creating a sense of urgency or encouraging the purchase of excessive quantities for irresponsible consumption.                  (b) Advertisements should not seem to encourage children to eat or drink a product only to obtain a promotional offer: the product should be offered on its merits, with the offer as an added incentive.                  Advertisements featuring a promotional offer should</p>	<p>BCAP originally proposed band 2 as 5 to 10 years. At Ofcom's suggestion, BCAP changed the upper limit to 9 years, an age that corresponds with BARB research data on which broadcasters rely for programming and scheduling decisions and advertisers use to buy airtime. BCAP considers that the upper limit of band 2 should be increased to include all primary school children. The BCAP proposal places restrictions on the content of advertisements, not programmes or scheduling. BCAP consider that increasing the age restriction in band 2 will bring the content proposal into line with current research making the restrictions targeted, proportionate, practical,</p>	<p><b>Promotional offers should be used with a due sense of responsibility and must not be targeted directly at pre-school or primary school children.</b></p> <p><b>(b) Advertisements should not seem to encourage children to eat or drink a product only to take advantage</b></p>

<p>National Consumer Council</p>	<p>ensure a significant presence for the product.  (c) Advertisements for collection-based promotions must not seem to urge children or their parents to buy excessive quantities of food. They should not directly encourage children only to collect promotional items or emphasise the number of items to be collected. If promotional offers can also be bought, that should be made clear. Closing dates for collection-based promotions should enable the whole set to be collected without having to buy excessive or irresponsible quantities of the product in a short time. There should be no suggestion of "Hurry and buy".  (d) If they feature large pack sizes or promotional offers, e.g. "3 for the price of 2", advertisements should not encourage children to eat more than they otherwise would.  (e) The notion of excessive or irresponsible consumption relates to the frequency of consumption as well as the amount consumed.</p> <p><b>4. We recommend that this should include restrictions of promotional offers that are likely to appeal to children, not just those that are directly targeted at children. This restriction should apply to all children band 1, 2 and 3. We are unclear otherwise how distinctions will be made between bands 2 and 3, given that many younger children aspire to products targeted at older children.</b></p>	<p>supported by research and in line with the objective stated by the Secretary of State for Culture, Media and Sport and with the Government's health and child protection objectives that focus on protecting primary school aged children</p> <p>BCAP's revised age bands are the only practical means of restricting certain advertising techniques to children at different stages of cognitive development. Pre-school (band 1), primary school (band 2) and secondary school children (band 3) watch television at certain times of the day. It is impractical to require broadcasters to differentiate between primary school children of different ages or secondary school children of different ages, for example.</p> <p>4. BCAP considers that "likely to appeal" is too broad and is unnecessary. BCAP consider that children in band 3 (secondary school children) can articulate a critical understanding of advertising. This is supported by Ofcom's publication, "Childhood Obesity – Food Advertising in Context" 'Targeted at' refers to the content of the advertisement.</p> <p>BCAP's content proposals apply to all children (persons under 16 years of age) but they place prohibitions on specific advertising techniques in advertisements targeted at younger children.</p> <p>That approach is in line with the objective stated by the Secretary of State for Culture, Media and Sport, who called for "targeted and proportionate"</p>	<p><b>of a promotional offer: the product should be offered on its merits, with the offer as an added incentive. Advertisements featuring a promotional offer should ensure significant presence for the product.</b></p> <p><b>NA</b></p>
----------------------------------	--	--	--

<p>Heart of Mersey; National Heart Forum</p>	<p><b>5. We believe the wording of rule 7.2.3.b is too narrow and recommend deleting the word ‘only’. Otherwise it could be interpreted to mean that any complaint for infringement would need to prove that the ad encouraged children to eat or drink a product ‘only’ to obtain the offer, not that the offer merely encouraged consumption.</b></p>	<p>proposals for strengthening the existing code on TV advertising in respect of food and drink to children.</p> <p>Ofcom’s publication, “Childhood Obesity – Food Advertising in Context”, presented wide-ranging research findings into the influence and role of food promotion. It found that, “Before four or five years old, children regard advertising as simply entertainment, while between four and seven, they begin to be able to distinguish advertising from programmes. The majority have generally grasped the intention to persuade by the age of eight, while after eleven or twelve they can articulate a critical understanding of advertising”. By proscribing the use of certain advertising techniques to children under 10 years of age, BCAP considers its proposals are both targeted and proportionate.</p> <p>5. BCAP considers that an ad that merely encourages consumption is not inherently irresponsible and that rule 8.3.2, ‘Excessive Consumption’, caters for any advertisement that might encourage or condone excessive consumption.</p>	<p><b>NA</b></p>
	<p><b>7.2.4 Use of characters and celebrities</b>          Celebrities and licensed characters popular with children must be used with a due sense of responsibility. They may not be used in advertisements targeted directly at children in band 1 or band 2.  <b>Notes:</b>  <i>(1) Advertisements must not, for example, suggest that consuming the advertised product will enable children to resemble an admired figure or role-model or that by not doing so children will fail in</i></p>	<p>BCAP considers that the upper limit of band 2 should be increased to include all primary school children. The BCAP proposal places restrictions on the content of advertisements, not programmes or scheduling. BCAP consider that increasing the age restriction in band 2 will bring the content proposal into line with current research making the restrictions targeted, proportionate, practical, supported by research and in line with the objective stated by the Secretary of State for Culture, Media and Sport</p>	<p><b>Celebrities and licensed characters popular with children must be used with a due sense of responsibility. They may not be used in advertisements targeted directly at pre-school or primary school children.</b></p>

<p>University of Liverpool; The Royal Society of Health; Northern Ireland Chest Heart &amp; Stroke; National Oral Health Promotion Group; National Oral Health Promotion Group; National Consumer Council; Heart of Mersey; Consensus Action on Salt and Health; The Children’s Food Bill’s Coalition; The British Dietetic Association; Advisory Committee For England</p>	<p><i>loyalty or let someone down.</i> <i>(2) This prohibition does not apply to advertiser-created equity brand characters (puppets, persons or characters), which may be used by advertisers to sell the products they were designed to sell.</i> <i>(3) Persons such as professional actors or announcers who are not identified with characters in programmes appealing to children may be used as presenters.</i> <i>(4) Celebrities and characters well-known to children may present factual and relevant generic statements about nutrition, safety, education, etc.</i></p> <p><b>6. Ofcom’s research shows that only 6% of all core category advertising uses celebrities. Most characters are not licensed characters but equity brand characters, e.g. Tony the tiger. Respondents recommend that the restriction should be applied to equity and licensed characters in all HFSS ads targeted at children. Given the importance of using modern marketing techniques to persuade children to eat a healthier diet we believe it is counter-productive to ban the use of licensed characters and celebrities to promote, for example, fruit and vegetables.</b></p>	<p>and with the Government’s health and child protection objectives that focus on protecting primary school aged children.</p> <p>BCAP’s revised age bands are the only practical means of restricting certain advertising techniques to children at different stages of cognitive development. Pre-school (band 1), primary school (band 2) and secondary school children (band 3) watch television at certain times of the day. It is impractical to require broadcasters to differentiate between primary school children of different ages or secondary school children of different ages, for example.</p> <p>6. In distinguishing between advertiser-created equity brand characters and licensed characters popular with children, BCAP made reference to available research, including Ofcom’s publication, “Childhood Obesity – Food Advertising in Context”. Brand-generated characters do not have the same status (iconic or of authority) as celebrities and licensed characters can have. Therefore, children do not seek to emulate brand-generated characters and do not engage with them in the same way as they can do with celebrities and licensed characters known from programming or film.</p> <p>Brand-generated characters cannot cause blurring between advertising and programming, because they are intrinsically linked with a branded product, not a programme.</p> <p>Some advertising codes and regulations internationally have recognised that brand-generated characters are qualitatively different</p>	<p><b>NA</b></p>
---	---	---	------------------

		<p>from celebrities and licensed characters and should therefore be treated differently from a regulatory perspective, for example the Republic of Ireland.</p> <p>Note (4) allows the use of celebrities and characters well known to children to present factual and relevant generic statements about nutrition, safety, education, etc. That will allow, for example, celebrities to endorse a 5-a-day campaign.</p> <p>Having considered the Food and Drink Federation's (FDFs) position on nutrient profiling, BCAP, which includes broadcaster, advertiser and agency members, shares the FDF's reservations about the FSA model as expressed in the FDF's submission to the Ofcom consultation:</p> <ul style="list-style-type: none"><li>• "The model does not consider the vitamin or mineral content, nor any of the food's non-nutrient properties, such as antioxidants, or how many additives it contains; aspects which to many consumers are just as important as the nutritional content.</li><li>• The model appears to be based on the scientifically invalid assumption that 'good' nutrients can balance out 'bad' nutrients.</li><li>• The model classifies many nutritious products commonly eaten by children as 'unhealthy' e.g. cheese, raisins and breakfast cereals.</li><li>• The approach adopted by FSA is a subjective judgment of the perceived</li></ul>	
--	--	--	--

<p>University of Liverpool; The Royal Society of Health; Northern Ireland Chest Heart &amp; Stroke; National Oral Health Promotion Group; National Oral Health Promotion Group; National Consumer Council; Heart of Mersey; Consensus Action on Salt and Health; The Children’s Food Bill’s Coalition; The British Dietetic Association; Advisory Committee For England</p>	<p>6.1 Respondents do not believe that children under the age of 10 can differentiate between brand and licensed characters.</p>	<p>nutritional value of a product. It only looks at very narrow snapshot of a product's nutritional value and classifies some foods which are major contributors of important nutrients as 'unhealthy'.</p> <ul style="list-style-type: none"> <li>• The approach used in developing the FSA model is invalid because it is circular: it starts from a subjective list of 'good' and 'bad' foods; moves on to devise a points scoring scheme which reflects that assessment, and then validates the point scoring system against the original list. “</li> </ul> <p>BCAP considers that the FSA nutrient profiling model is an inadequate basis for revising the content standards.</p> <p>6.1 BCAP considers that the upper limit of band 2 should be increased to include all primary school children. The BCAP proposal places restrictions on the content of advertisements, not programmes or scheduling. BCAP considers that increasing the age restriction in band 2 will bring the content proposal into line with current research making the restrictions targeted, proportionate, practical, supported by research and in line with the objective stated by the Secretary of State for Culture, Media and Sport and with the Government’s health and child protection objectives that focus on protecting primary school aged children.</p> <p>Brand-generated characters do not have the same status (iconic or of authority) as</p>	<p>NA</p>
---	--	--	-----------

<p>Consumer Council for Northern Ireland</p>	<p>6.2 The Consumer Council for Northern Ireland supports Ofcom's position that celebrities and licensed characters should not be used in advertisements targeted directly at children under 10.</p>	<p>celebrities and licensed characters can have. Therefore, children do not seek to emulate brand-generated characters and do not engage with them in the same way as they can do with celebrities and licensed characters known from programming or film.</p> <p>Brand-generated characters cannot cause blurring between advertising and programming, as they are intrinsically linked with a branded product, not a programme.</p> <p>A number of advertising codes and regulations internationally have recognised that brand-generated characters are qualitatively different from celebrities and licensed characters and should therefore be treated differently from a regulatory perspective. For example the Republic of Ireland.</p> <p>6.2 BCAP welcomes this comment from the Consumer Council for Northern Ireland. However, BCAP considers that the upper limit of band 2 should be increased to include all primary school children. The BCAP proposal places restrictions on the content of advertisements, not programmes or scheduling. BCAP consider that increasing the age restriction in band 2 will bring the content proposal into line with current research making the restrictions targeted, proportionate, practical, supported by research and in line with the objective stated by the Secretary of State for Culture, Media and Sport and with the Government's health and child protection objectives that focus on protecting primary school aged children.</p>	<p><b>NA</b></p>
--	--	---	------------------

<p>SVP McCann Erickson EMEA</p>	<p><b>7. Most are perfectly good sense but the banning of celebrities and licenced characters is arbitrary and not supported by any science.</b></p>	<p>7. BCAP is mindful of research presented in Ofcom’s consultation document, which states, “that television advertising has a ‘modest direct effect’ on children’s food preferences, consumption and behaviour. “ BCAP has developed rules that it considers are proportionate to address that effect by restricting advertising techniques that, according to Prof. Livingstone’s research, (Ofcom’s consultation, Section 3, Research and Analysis) have, to date, been popular in the TV advertising of core category products (all foods products, chain restaurants and soft drinks). Those techniques include health claims, purchase incentives and animation.</p>	<p><b>NA</b></p>
	<p><b>8.3 FOOD AND DIETARY SUPPLEMENTS</b> <b>Notes:</b> <i>(1) The rules in 8.3 must be read in conjunction with the relevant legislation including the Food Labelling Regulations 1996 (as amended) and especially Schedule 6. They apply to all advertising for food products. If an advertisement is targeted at children, Section 7 of this Code also applies.</i> <i>(2) Public health policy increasingly emphasises good dietary behaviour and an active lifestyle as a means of promoting health. Commercial product advertising cannot reasonably be expected to perform the same role as education and public information in promoting a varied and balanced diet but should not undermine progress towards national dietary improvement by misleading or confusing consumers or by setting bad examples, particularly to children. <u>Advertisements should not, for example, encourage inactivity or sedentary pastimes or disparage or ridicule physical activity.</u></i> <b>8.3.1 Accuracy in food advertising</b></p>		<p><b>Advertisements for food should not suggest that an inactive or sedentary lifestyle is preferable to physical activity</b></p>

	<p>(a) Nutrition claims (eg “full of the goodness of vitamin C”) or health claims (eg “aids a healthy digestion”) must be supported by sound scientific evidence. Advertising must not give a misleading impression of the nutritional or health benefits of the product as a whole and factual nutrition statements should not imply a nutritional or health claim that cannot be supported. Ambiguous wording that could be understood as a nutritional claim must be avoided. For example, “goodness” should not be used as a synonym for “wholesomeness” and, if a claim relates to taste, that should be made clear, e.g. “It tastes good”, not “It is good”. The scientific meaning of the word “energy”, i.e. calorific value, should not be confused with its colloquial meaning of physical vigour</p> <p>(b) Nutritional claims and health claims should relate to benefits that are significant and relevant to groups likely to be strongly interested in the advertisement. Claims should be presented clearly and without exaggeration</p> <p>(c) No nutritional or health claim may be targeted directly at children in band 1</p> <p>(d) The fact that a food product is a good source of certain nutrients does not justify generalised claims of a wider nutritional benefit</p> <p><b>Notes:</b></p> <p><i>(1) Claims of nutritional or health benefits should be considered in the context of a balanced diet or lifestyle or both.</i></p> <p><i>(2) A wide range of guidelines that offers best-practice advice for nutritional claims and healthy eating is available. For example, DEFRA Guidelines for the Use of Certain Nutrition Claims in Food Labelling and Advertising include a recommendation to avoid “% fat free” claims (issued November 1999). Appropriate consideration and uniform application of such guidelines is needed from the relevant pre-clearance and adjudicatory</i></p>		<p><b>(c) No nutritional or health claim may be targeted directly at children under 5.</b></p>
--	---	--	--

<p>Advisory Committee For England</p>	<p><i>bodies.</i>  <i>(3) Licensees may also find the Joint Health Claims Initiative Code of Practice useful</i></p> <p><b>8. Rule 8.3.1 (c) should include a restriction on band 2.</b></p>	<p>8. BCAP considers that children in band 2 and band 3 understand and use nutritional and health claims to inform their preferences. As a principle, advertisers may make factual claims. Rules elsewhere in the Code, 5.1, 5.2, 7.1 and 8.3 ensure that advertisements that mislead or take advantage of children’s credulity are unacceptable.</p>	<p><b>NA</b></p>
<p>The Children’s Food Bill’s Coalition; National Oral Health Promotion Group</p>	<p><b>9. Although they support the need for sound scientific evidence, especially the nutrient profiling system developed by the Food Standards Agency, the respondents consider that no nutritional claims for HFSS food should be made in ads targeted at children under 16.</b></p>	<p>9. (See BCAP’s response to HFSS foods in point 6).          Ofcom’s publication, “Childhood Obesity – Food Advertising in Context”, presented wide-ranging research findings into the influence and role of food promotion. It found that, “Before four or five years old, children regard advertising as simply entertainment, while between four and seven, they begin to be able to distinguish advertising from programmes. The majority have generally grasped the intention to persuade by the age of eight, while after eleven or twelve they can articulate a critical understanding of advertising”. BCAP considers that the upper limit of band 2 should be increased to include all primary school children. The BCAP proposal places restrictions on the content of advertisements, not programmes or scheduling. BCAP consider that increasing the age restriction in band 2 will bring the content proposal into line with current research making the restrictions targeted, proportionate, practical, supported by research and in line with the objective stated by the Secretary of State for Culture, Media and Sport and with the Government’s health and child protection objectives that focus on protecting</p>	<p><b>NA</b></p>

		<p>primary school aged children. By proscribing the use of certain advertising techniques to pre-school and primary school aged children, BCAP considers its proposals are both targeted and proportionate.</p> <p>BCAP considers that children in Band 2 (primary school children) understand and use nutritional and health claims to inform their preferences. As a principle, advertisers may make factual claims. Rules elsewhere in the Code, 5.1, 5.2, 7.1 and 8.3, ensure that advertisements that mislead or take advantage of children's credulity are unacceptable.</p> <p>That approach is in line with the objective stated by the Secretary of State for Culture, Media and Sport, who called for "targeted and proportionate" proposals for strengthening the existing code on TV advertising in respect of food and drink to children.</p>	
Consensus Action on Salt and Health	<p><b>10. The European Parliament has recently approved rules so that nutritional claims such as 'low in fat' cannot be made on food labels if a product is, for example, high in sugar or salt. Therefore, we expect the BCAP code to reflect these rules and request this update to be added. Essentially no nutrition claims should be made on HFSS foods.</b></p>	<p>10. This regulation has not yet been adopted into UK law. It states that a nutritional claim, for example 'low in fat', can still be made even if the product is high in sugar but the fact that the product is high in sugar will have to be stated with the same prominence as the nutrition claim. If the product was high in sugar <i>and</i> salt, the nutritional claim of low in fat would not be allowed.</p>	NA
National Consumer Council	<p><b>11. The key to the successful implementation of these rules will be the provision of detailed guidance so it is clear how the rules will be interpreted. For example, we welcome the proposed new general rule that advertisements</b></p>	<p>11. BCAP considers that the clearance body (BACC) and the independent ASA Council are used to evaluating the content of advertisements and to interpreting the Codes.</p>	NA

	<p><b>‘must avoid anything likely to encourage poor nutritional habits or an unhealthy lifestyle in children’. But we are unclear what that will mean in practice and how it will be interpreted both by advertisers, the BACC and the ASA in ruling on advertising complaints. BCAP should have an open and public consultation on draft guidance for this and other rules.</b></p>	<p>The guidance notes have been publicly consulted upon during Ofcom’s consultation; they are integrated into the code and provide adequate direction for advertisers, the BACC and the ASA.</p>	
<p>Health Promotion Agency for NI</p>	<p><b>12. We agree that nutrition claims for all foods should be supported by sound scientific evidence and must not give a misleading impression of the health benefits of the product as a whole (standard 8). We agree also that no nutritional or health claims should be targeted at pre-school children (standard 9)</b></p>	<p>12. BCAP welcomes the Health Promotion Agency for NI comments</p>	<p><b>NA</b></p>
<p>Confidential Response</p>	<p><b>13. One respondent referred to note 2 to 8.3 and suggested that it was too broad because it might prevent advertisements showing, e.g., adults eating popcorn while watching a DVD. That would therefore extend the scope of the rules beyond their impact on children</b></p>	<p>13. BCAP agrees. (See BCAP’s response to point 2.)</p>	<p><b>Advertisements for food should not suggest that an inactive or sedentary lifestyle is preferable to physical activity</b></p>
<p>The British Dietetic Association</p>	<p><b>14. BCAP should perhaps change the wording of the content standards to ensure that any nutrition and health claims are supported by sound scientific evidence and subject to scrutiny by a defined independent body. With the present wording it is unclear who makes those judgements.</b></p>	<p>14. Presently, evidence is submitted to consultants by the BACC during clearance and, if an investigation is launched, by the ASA Executive. That is standard, well-established practice. All claims must be adequately substantiated before they are put on air. When the Health and Nutrition claims regulation is passed, health and nutrition claims will have been ‘pre-cleared’ by the European Commission before they can be used in advertising.</p>	<p><b>NA</b></p>

<p>The Nutrition Society Consensus Action on Salt and Health</p> <p>National Oral Health Promotion Group;</p>	<p><b>8.3.2 Excessive consumption</b> Advertisements must not encourage or condone excessive consumption of any food <b>Notes:</b> <i>(1) Interpretation of this rule should be by reference to generally accepted nutritional advice. It would clearly not be inconsistent with shots of someone enjoying a chocolate bar; it would, however, preclude someone being shown eating whole boxes of chocolates in one sitting.</i> <i>(2) Portion sizes or quantities of food shown should be suitable for the occasion and the people portrayed, especially if children are involved. Advertisements should not suggest that a portion intended for more than one person is to be consumed by a single individual or an adult's portion, by a small child.</i> <i>(3) If they feature large pack sizes or promotional offers, e.g. "3 for the price of 2", advertisements should not encourage people to eat more than they otherwise would.</i> <i>(4) The notion of excessive consumption relates to the frequency of consumption as well as the amount consumed.</i></p> <p><b>15. The Society asks why commercial product advertising cannot be expected to emphasise 'good dietary behaviour, an active lifestyle or promote a varied and balanced diet' if relevant to their products or brand (section 8.3, note 2). The Society feels that that is what advertisers should be encouraged to do.</b></p> <p><b>16. Rule 8.3.2 on Excessive consumption: rule is ambiguous and open to interpretation,</b></p>	<p>15. BCAP considers that the guidance notes provide adequate direction on the acceptable boundaries. BCAP considers, as a matter of principle, that Code wording should not be proscriptive and cannot – and should not – be tailored to specific situations. Rules drafted in that way are usually too specific and open up loopholes. The challenge is therefore to find generic wording that sets down broad principles for advertisers to follow; BCAP believes the rule and notes do just that.</p> <p>16. BCAP considers, as a matter of principle, that Code wording cannot -and should not - be tailored</p>	<p><b>NA</b></p> <p><b>NA</b></p>
---	---	--	-----------------------------------

<p>The Children’s Food Bill’s Coalition</p>	<p><b>excessive should be defined. We support the sentiment behind this rule, but (again) feel it is worded in a way that makes it very difficult to enforce.</b></p>	<p>to specific situations. Rules drafted in that way are usually too specific and open up loopholes. The challenge is therefore to find generic wording that sets down broad principles for advertisers to follow; BCAP believes the rule and notes do just that.</p>	
<p>The Nutrition Society</p>	<p><b>8.3.3 Comparisons and good dietary practice</b>          Advertisements must not disparage good dietary practice. Comparisons between products must not discourage the selection of options such as fresh fruit and vegetables, which accepted dietary opinion recommends should form a greater part of the average diet  <b>Notes:</b>  <i>(1) Advertisements should not seem to contradict or ignore good dietary practice.</i>  <i>(2) To reflect generally accepted good dietary practice, a reasonable variety of other foods should be shown if the advertised product is presented as part of a meal.</i>  <i>(3) Food products not intended as substitutes for meals should not be presented as such</i></p> <p><b>17. The Society suggests that note 2 should be amended to ‘a balanced meal should be shown’</b></p>	<p>17. BCAP considers that the guidance notes provide adequate direction on the acceptable boundaries. BCAP considers, as a matter of principle, that Code wording should not be proscriptive and cannot – and should not – be tailored to specific situations. Rules drafted in that way are usually too specific and open up loopholes. The challenge is therefore to find generic wording that sets down broad principles for advertisers to follow; BCAP believes the rule and notes do just that.</p>	<p><b>NA</b></p>
	<p><b>8.3.4 Oral health</b>          Advertisements must not encourage or condone damaging oral health care practices  <b>Note:</b>  <i>For instance, advertisements must not encourage</i></p>		<p><b>NA</b></p>

	<i>frequent consumption throughout the day, particularly of potentially cariogenic products such as those containing sugar. This rule has children's dental health particularly in mind.</i>		
	<p><b>8.3.5 Dietary supplements</b></p> <p>(a) Advertisements must not suggest that it is necessary or therapeutic for the average person to augment their diet or that dietary supplements can enhance normal good physical or mental condition</p> <p>(b) Advertisements must clearly establish those groups of people likely to benefit from a particular form of supplement</p> <p><b>Note to 8.3.5(b):</b>  <i>Only certain groups are likely to benefit from particular vitamin or mineral supplements. They might include people on a restricted dietary regimen, those eating unsupplemented, low-energy diets, women of child-bearing age (particularly if they are planning to have a baby, are pregnant or lactating), growing children and some individuals over 50.</i></p>		<b>NA</b>
Office of the Children Commissioner	<b>18. All content standards and promotional marketing regulations should apply to all children up to age 15. The standards as proposed are not, therefore, sufficiently robust and must be redrafted to incorporate those aged up to 15, so as to effectively discourage consumption of HFSS foods in the older age group as well.</b>	18. BCAP's content proposals apply to all children (persons under 16 years of age) but they place prohibitions on specific advertising techniques in advertisements targeted at younger children.  (See BCAP response to HFSS comment in point 6)	<b>NA</b>
The Scientific Advisory Committee on Nutrition	<b>19. Ofcom has recognised that the BCAP rules are an inadequate regulatory tool by themselves but even as part of a package they are generous beyond credibility. For example, the cut-off point for promotional offers and celebrity endorsement has been determined by the categories that advertisers use to buy airtime. If the industry categories of childhood are to be used, the cut-off point for all the BCAP rules</b>	19. BCAP's content proposals apply to all children (persons under 16 years of age) but they place prohibitions on specific advertising techniques in advertisements targeted at younger children. That approach is in line with the objective stated by the Secretary of State for Culture, Media and Sport, who called for "targeted and proportionate" proposals for strengthening the existing code on TV advertising in respect of food and drink to	<b>NA</b>

	<p><b>should be 16 years, which is generally regarded as the end of childhood.</b></p>	<p>children.</p> <p>The Secretary of State for Health announced, at the Food and Drink Advertising and Promotion Forum on 26 April 2006, “my concerns are focused on protecting primary school aged children.”</p> <p>Ofcom’s publication, “Childhood Obesity – Food Advertising in Context”, presented wide-ranging research findings into the influence and role of food promotion. It found that, “Before four or five years old, children regard advertising as simply entertainment, while between four and seven, they begin to be able to distinguish advertising from programmes. The majority have generally grasped the intention to persuade by the age of eight, while after eleven or twelve they can articulate a critical understanding of advertising”. BCAP consider that the upper limit of band 2 should be increased to include all primary school children. The BCAP proposal places restrictions on the content of advertisements, not programmes or scheduling. BCAP consider that increasing the age restriction in band 2 will bring the content proposal into line with current research making the restrictions targeted, proportionate, practical, supported by research and in line with the objective stated by the Secretary of State for Culture, Media and Sport and with the Government’s health and child protection objectives that focus on protecting primary school aged children. By proscribing the use of certain advertising techniques to pre-school and primary school aged children, BCAP considers its proposals are both targeted and proportionate.</p> <p>BCAP anticipates, however, that Ofcom’s</p>	
--	--	---	--

		scheduling and volume restrictions will further restrict the scope of food and soft drink advertising to children who watch television outside of programmes made for children.	
--	--	---	--

**Respondents who made general comments**

<b>SIGNIFICANT RESPONSES</b>		<b>BCAP COMMENTS</b>	
<b>Respondents</b>	<b>Key Points</b>	<b>Evaluation</b>	<b>Drafting Change</b>
<b>(PERIOD OF GRACE)</b>			
Foodaware	<p><b>1. The proposed new BCAP rules are considered by Ofcom to be insufficient in themselves and so must incorporate additional new rules aimed at excluding or reducing the amount of HFSS advertising at certain times of day. The consultation closes on 30 June and Ofcom intends that its decision will be incorporated into the BCAP code and implemented immediately. Ofcom anticipates that the new rules should apply to any new campaign conceived after its statement and that there would be a 6 month period of grace for existing campaigns and those which are under development. Foodaware supports this approach but thinks that a 6 month period of grace is too long. (Foodaware’s member organisations include the General Consumer Council, Northern Ireland, the National Consumer Council and Which?)</b></p>	<p>1. Because of the need for the planning of advertising campaigns and booking of air time, broadcasters and advertisers require and have traditionally been given a six-month period of grace for all content Code changes. BCAP sees no reason to change that established practice. Ofcom’s delays to the consultation and extension to the deadline for consultation responses until the end of June now mean the BCAP TV Code changes cannot happen until next Spring.</p>	NA
<b>(CELEBRITIES AND CHARACTERS)</b>			
Jetix Nickelodeon and Turner Broadcasting	<p><b>2. We also have grave reservations about the proposed revisions to the BCAP code. As we have argued and demonstrated, we believe that brands such as <i>Power Rangers</i>, <i>Scooby Doo</i> and <i>SpongeBob</i> can be harnessed as forces for good in the war against childhood obesity. By prohibiting the use of licensed characters on all food and drink promotion aimed at children, BCAP would be denying manufacturers of healthy food and drink products the ability to raise the appeal to children of their products. Introducing new barriers to the promotion of healthier</b></p>	<p>2. Brand-generated characters do not have the same status (iconic or of authority) as celebrities and licensed characters can have. Therefore, children do not seek to emulate brand-generated characters and do not engage with them in the same way as they can do with celebrities and licensed characters known from programming or film.</p> <p>Brand-generated characters cannot cause blurring between advertising and programming, because they are uniquely associated with a branded</p>	NA

	<p><b>lifestyles would seem to us to be counter to the objective to reducing childhood obesity</b></p>	<p>product, not a programme.</p> <p>Some advertising codes and regulations internationally have recognised that brand-generated characters are qualitatively different from celebrities and licensed characters and should therefore be treated differently from a regulatory perspective, for example the Republic of Ireland.</p> <p>The restriction is not on the use of licensed characters in all food and drink promotions targeted at children but on the use of those in advertisements targeted directly at children in band 1 and 2 only. BCAP considers that the upper limit of band 2 should be increased to include all primary school children. The BCAP proposal places restrictions on the content of advertisements, not programmes or scheduling. BCAP consider that increasing the age restriction in band 2 will bring the content proposal into line with current research making the restrictions targeted, proportionate, practical, supported by research and in line with the objective stated by the Secretary of State for Culture, Media and Sport and with the Government's health and child protection objectives that focus on protecting primary school aged children.</p> <p>The promotion of a healthy lifestyle is not the same as the promotion of a food or drink product. The content proposals apply to advertisements for the latter, not the former. The BCAP TV code does not restrict the use of licensed characters in ads for healthy lifestyles or generic messages on nutrition, safety or similar matters. That will allow, for example, celebrities to endorse a 5-a-day campaign.</p>	
--	--	---	--

		<p>Rule 7.2.4 (4) of BCAP content proposal states:          (4) Celebrities and characters well-known to children may present factual and relevant generic statements about nutrition, safety, education, etc.</p>	
<p>McDonalds Restaurants Ltd</p>	<p><b>3. We do not intend to fully comment on the BCAP content proposals, save to comment that we believe that their impact will be highly significant and, further, to question the need for the restrictions to be applied to all foods. If it is accepted that there are benefits in promoting certain types of food to effect behavioural change, we would invite OFCOM to reassess the BCAP proposals in the same light. We believe that there is a missed opportunity to promote certain foods effectively and responsibly if the use of licensed characters, promotions and celebrities are removed altogether. We therefore believe that a total restriction of their use would be detrimental to the Government’s public policy objective. Taking this point further, we would underline the importance of the ability to use licensed characters, promotions and celebrities to deliver generic messages on nutrition, safety and similar matters.</b></p>	<p>3. (See BCAP response to point 2.)</p>	<p><b>NA</b></p>
<p><b>(HFSS FOODS)</b></p>			

<p>National Family and Parenting Institute</p>	<p><b>4. The NFPI would like to see an end to all advertising of HFSS food to under sevens. Children under the age of seven are unable to distinguish between fantasy and reality, so are particularly vulnerable to advertising during television programmes aimed at this age group. This includes after-school programming as well as daytime programming for pre-school children.</b></p>	<p>4. BCAP's content proposals apply to all children (persons under 16 years of age) and place prohibitions on specific advertising techniques in advertisements targeted at younger children.</p> <p>That approach is in line with the objective stated by the Secretary of State for Culture, Media and Sport, who called for "targeted and proportionate" proposals for strengthening the existing code on TV advertising in respect of food and drink to children.</p> <p>Ofcom's publication, "Childhood Obesity – Food Advertising in Context", presented wide-ranging research findings into the influence and role of food promotion. It found that, "Before four or five years old, children regard advertising as simply entertainment, while between four and seven, they begin to be able to distinguish advertising from programmes.</p> <p>The majority have generally grasped the intention to persuade by the age of eight, while after eleven or twelve they can articulate a critical understanding of advertising". BCAP considers that the upper limit of band 2 should be increased to include all primary school children.</p> <p>The BCAP proposal places restrictions on the content of advertisements, not programmes or scheduling. BCAP consider that increasing the age restriction in band 2 will bring the content</p>	<p><b>NA</b></p>
--	---	--	------------------

		<p>proposal into line with current research making the restrictions targeted, proportionate, practical, supported by research and in line with the objective stated by the Secretary of State for Culture, Media and Sport and with the Government's health and child protection objectives that focus on protecting primary school aged children. By proscribing the use of certain advertising techniques to pre-school and primary school aged children, BCAP considers its proposals are both targeted and proportionate. BCAP is mindful of research presented in Ofcom's consultation document which states, "that television advertising has a 'modest direct effect' on children's food preferences, consumption and behaviour. "</p> <p>Having considered the Food and Drink Federation's (FDFs) position on nutrient profiling, BCAP, which includes broadcaster, advertiser and agency members, shares the FDF's central reservation about the concept of nutrient profiling as expressed in the FDF's submission to the Ofcom consultation:</p> <p>"It is the combination of foods eaten, the frequency of consumption and portion size that is important in achieving a balanced diet; none of these factors are considered (in nutrient profiling)."</p> <p>BCAP considers that that point and specific objections to the FSA nutrient profiling model – see BCAP's response, 4.3, below – render nutrient profiling an inadequate basis for revising the content standards.</p> <ul style="list-style-type: none"> <li>• "The model does not consider the vitamin</li> </ul>	
--	--	---	--

		<p>or mineral content, nor any of the food's non-nutrient properties, such as antioxidants, or how many additives it contains; aspects which to many consumers are just as important as the nutritional content.</p> <ul style="list-style-type: none"><li>• The model appears to be based on the scientifically invalid assumption that 'good' nutrients can balance out 'bad' nutrients.</li><li>• The model classifies many nutritious products commonly eaten by children as 'unhealthy' e.g. cheese, raisins and breakfast cereals.</li><li>• The approach adopted by FSA is a subjective judgment of the perceived nutritional value of a product. It only looks at a very narrow snapshot of a product's nutritional value and classifies some foods which are major contributors of important nutrients as 'unhealthy'.</li><li>• The approach used in developing the FSA model is invalid because it is circular: it starts from a subjective list of 'good' and 'bad' foods; moves on to devise a points scoring scheme which reflects that assessment, and then validates the point scoring system against the original list. “</li></ul> <p>BCAP considers that the FSA nutrient profiling model is an inadequate basis for revising the content standards.</p>	
--	--	---	--

NCC	5. Our main concern is that the BCAP content proposals do not differentiate between HFSS foods and non-HFSS foods. Our other concern is that children aged 10 to 15 are excluded from controls on promotional offers and the use of characters and celebrities. We also recommend clearer guidance to prevent foods giving a misleading impression of their nutritional content. Such guidance should include reference to the EU Health Claims legislation.	5. (See BCAP response to point 4.)	NA
Which?	6. The proposals do not deal with older children although obesity and diet-related disease is as much of a problem for that group as for younger children. Even those measures proposed for children up to age 9 would do little to reduce their exposure to advertisements for HFSS foods. We are also concerned that the BCAP content rule changes that are proposed do not address the need for the food industry to take a more responsible approach. Even in combination, the three packages and the proposed amendment to the BCAP Code would still mean that advertisements for HFSS foods would be permitted during the times that most young children are watching.	6. BCAP considers that the industry has already 'taken a more responsible approach'; an obvious example of is that many food and drink advertisers have voluntarily already withdrawn from advertising in children's airtime or no longer target advertisements at children of certain ages.  (See BCAP response to point 4.)	NA
<b>(POSITIVE MESSAGING)</b>			
School Food Trust	7. No evidence suggests that so-called 'positive messaging' (including references in advertising to healthy or balanced eating or healthy lifestyles including adequate levels of physical activity) has an ameliorating influence on the effects of HFSS advertising.	7. BCAP does not require advertisers to include positive messages in their advertisements; those messages are included at the advertiser's discretion.	NA
Trading Standards Institute	8. TSI considered the rational for the content standards to be acceptable but would be concerned if the positive messages were given as text within the advertisement: the TSI would wonder what impact a written statement would	8. (See BCAP response to point 7)	NA

	<b>have in an ad for foods directed at under 10 year olds.</b>		
--	--	--	--

## Annex D

**All responses to questions 7, 8 and 9 (about the BCAP content proposal) of the Ofcom consultation on the TV advertising of food and soft drinks to children**

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

Respondent	Comments
<b>Advertising Advisory Committee</b>	We consider the standards which apply to advertising and sponsorship should be the same. We recognise, possible, difficulties if OFCOM uses the BCAP TV code to regulate the content of sponsorship credits as it might lead to OFCOM and the ASA applying the BCAP TV code differently. We suggest OFCOM considers including the revised content standards in a separate sponsorship code and applying them accordingly.
<b>Advertising Association</b>	No. Ofcom is confusing the regulation of advertising content and sponsorship (the latter is regulated as part of editorial under the Broadcasting Code). Moreover Ofcom is, for the first time, counting sponsorship as part of advertising minutage, which is unacceptable. (See FAU response for more detail). Sponsorship must be treated separately from advertising.
<b>Advisory Committee For England</b>	We believe that the revised advertising content standards offer a helpful framework and should apply to all food and drink ads
<b>Alex Heylin</b>	Yes
<b>Mr Andrew Holland</b>	Yes
<b>Andrew Sprod</b>	Yes
<b>Angie Jefferson (Independent Dietician)</b>	Yes – all food and drink advertisements should be treated equally. Consideration should be given to the total nutritional contribution of a food to a child's diet and not simply its fat, sugar or salt content. The standards should be clearly worded to avoid different interpretation by BCAP, regulators and the food industry.
<b>Anne Lockett</b>	Yes
<b>Association for the Study of Obesity</b>	Yes. But HFSS foods in particular. The ASO would 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. Such powerful marketing tools should be allowed in a positive way, with healthy foods such as fruit and vegetables.

<b>BACC</b>	No. Advertising and Sponsorship differ in purpose and content and are regulated differently. Sponsorship should not be included with the new advertising restrictions.
<b>The British Dietetic Association</b>	In general, we agree, but with a few considerations: The promotion of certain products that is designed to set apart those products from others on the basis of being cool should be restricted. This type of advertising may lead to peer pressure and bullying and is unfair on parents on a low income. The use of celebrities and licensed characters in advertising food and drink is a particularly important point. But, if that meant celebrities could not be used to endorse, say a 5 A DAY campaign on TV, then structures should be put in place in the standards to allow it.
<b>The British Heart Foundation</b>	No. We believe that the standards relating to the content of adverts should apply to HFSS foods. Retailers and manufacturers should be encouraged to advertise healthy foods to children and to use celebrities or licensed characters to do so.
<b>British Medical Association</b>	The BMA supports the revised advertising standards and agrees that they should be applied to advertising and sponsorship of all food and drink products. We welcome the emphasis within the standards on measures to remove the emotional attachment of children to food and drink advertising, through restrictions on the use of promotional offers, celebrities or film and cartoon characters. The BMA considers that the content standards relating to nutritional or health claims are much needed. Those revised standards will better enable parents and carers to make informed diet choices, hopefully with less pressure from the 'pester power' of children.
<b>The British Psychological Society</b>	The revised content standards described in section 5.28 should apply to all advertising or sponsorship of all food and drink advertisements [to children]. We are particularly concerned with promotional offers (including collectables and giveaways) and celebrity and character endorsement. Although there is little research on the child's understanding of the various promotional techniques used in advertising, we do know that children's understanding of the intent behind advertising is beginning to approximate to an adult norm by 8 years of age and develops from then on.
<b>The British Retail Consortium</b>	There seems to be no health justification for applying the new advertising content rules to the advertising or sponsorship of non-HFSS foods. Indeed, it could be argued that the use of celebrities and characters in the promotion of fruit and vegetables would have positive future health benefits.
<b>Cadburys Schweppes</b>	We believe the BCAP Code should not cover sponsorship, because sponsorship is distinctly different from advertising and subject to a different regulatory regime – both under the EU Broadcasting Directive and the UK Broadcasting Code. Sponsorship is regulated in an integrated way directly by OFCOM and should not be part of this consultation.
<b>The Caroline Walker Trust (CWT)</b>	Yes. But we would also like to see revised content standards extended to all children under 16 years and to include restrictions of the use of both real and fictional celebrities, brand characters and promotional offers on HFSS foods and drinks. Foods such as fruit and vegetables are rarely branded or marketed powerfully and that creates an uneven playing field.
<b>The Children's Food Bill's Coalition</b>	No. We believe that content restrictions should apply only to HFSS food. The CFB supporters were very interested to note that BCAP rejected the advice of its own consumer panel on differentiation. As we outlined in our response to Question 2, to change children's diets it is necessary to promote non-HFSS food using all of the marketing methods available. These new proposals would make it impossible to, for example, promote fruit and vegetables using celebrities or licensed characters. That is perverse and contrary to Government policy and accepted good practice.

	We are very disappointed that Ofcom see BCAP as a co-regulator. BCAP is an industry-run group whose senior members - Andrew Brown and Malcolm Earnshaw - are, respectively, chairs of the Advertising Association and the Incorporated Society of British Advertisers – the two leading industry trade associations. As we outlined in our response to Question 1, we believe the BCAP's proposed content rules exhibit all of the usual failings of voluntary codes.
<b>Chris Rose</b>	Yes
<b>Coca-Cola</b>	Coca-Cola already has a strong self-regulation position and we do not advertise in or sponsor programmes targeted at the under 12s.
<b>Confidential response</b>	Yes
<b>Confidential response</b>	No benefit to controlling the content of all food promotion because being able to promote improved or 'healthy' foods is a motivator for improvement.
<b>Confidential response</b>	Five respondents did believe the content rules should not apply to sponsorship. Reasons cited were: No BCAP involvement in sponsorship No calls to action in sponsor credits Credits not part of advertising minutage No calculation of sponsorship impacts Ofcom's regulatory objectives referred only to advertising
<b>Confidential response</b>	Content rules should apply only to HFSS foods because it would be counter-productive to the promotion of 'healthy' foods to prevent the use of e.g. licensed characters. Some successful 'healthy' food promotions use licensed characters.
<b>Confidential response</b>	Should consider exempting products with well-known benefits and a minimal contribution to diet
<b>Confidential response</b>	One respondent referred to 'recently approved EU nutrition and health claims regulation, which, he alleged, provides some derogation for claims relating to reductions in fat, salt and sugar in the interests of health education
<b>Confidential response</b>	The rules are a lost opportunity to promote positive messaging.
<b>Consensus Action on Salt and Health (CASH)</b>	CASH recommends that restrictions should be placed on the advertisement of HFSS food and drink only and the ability to promote the consumption of healthy foods should be retained.
<b>Consumer Council for Northern Ireland</b>	There must be consistency in approach in the regulation of food advertisements to children and young people, including sponsorships, celebrity endorsements, character licensing, new and novel media as well as traditional media. The NCC believes that Ofcom should review arrangements to regulate sponsorship and advertising to ensure that they are not used to circumvent or undermine the strengthened regulations for food advertising.

<b>Co-op</b>	There seems to be no obesity-related justification for applying the new advertising content rules to the advertising or sponsorship of non-HFSS foods. Indeed, it could be argued that the use of celebrities and characters in the promotion of fruit and vegetables would have positive future health benefits.
<b>Diabetes UK</b>	No. We believe that content restrictions should apply only to HFSS food. If we want to influence children to eat a healthier diet, we should be using methods to promote healthy eating in more effective ways and we feel that these restrictions are unnecessary.
<b>Dympna Edwards</b>	Yes
<b>Mrs E Lelliott</b>	Yes
<b>Miss Evans</b>	Yes
<b>Five</b>	We are concerned that in its consultation document Ofcom is proposing that these rules should apply to sponsorship without demonstrating that it has considered how relevant they might or might not be. When drawing up the rules, BCAP certainly did not consider how relevant they might be for governing sponsorship, because sponsorship falls outside its remit. We are concerned as a matter of principle and of procedure that Ofcom should consider changes to the rules governing sponsorship separately from BCAP's consideration of the rules governing advertising
<b>Flextech</b>	We strongly believe that sponsorship should not be included in whatever option Ofcom ultimately decides to implement. Sponsorship is regulated by the Ofcom Broadcasting code, not the BCAP Advertising code. Its inclusion as part of Ofcom's consultation ignores the fact that sponsorship messages are explicitly prohibited from containing advertising messages or calls to action and may not encourage the purchase or rental of products or services. Sponsorship has a very different commercial rationale from spot advertising and is not included in broadcasters' advertising minutage.
<b>Food Advertising Unit (FAU)</b>	No. The FAU disagrees that sponsorship should form part of this consultation on advertising and content minutage. Sponsorship should be removed from this consultation and separately addressed because it is regulated by Ofcom's broadcasting code not BCAP's advertising code and is not counted as advertising minutage.
<b>Food and Drink Federation</b>	No. FDF supports the FAU submission that sponsorship should not form part of this consultation on advertising content and minutage.
<b>GlaxoSmith Kline</b>	Yes, GSK already meets these criteria. As a member of the BSDA, we fully support the BCAP code.
<b>GMTV</b>	Advertising yes, sponsorship no. We believe sponsorship should be excluded from this consultation. Sponsorship content is covered by the Ofcom Broadcasting Code and should be considered separately from spot advertising. Ofcom's regulatory objectives as stated in paragraph 5.2 of section 5 are concerned with HFSS <u>advertising</u> to young children only.
<b>Health Promotion Agency for NI</b>	The HPA recognises the implications of manufacturers choosing to advertise brands when advertising of many of their products would be prohibited because of the application of the nutrient profiling model; therefore, we recommend that brand advertising and sponsorship should be restricted.
<b>Heart of Mersey</b>	Yes. The revised content standards based on differentiating between HFSS foods and healthier foods should apply to the advertising and sponsorship of all food and drink advertisements. The FSA nutrient profiling model should be used to differentiate between the different foods.

<b>Helen Palmer (public)</b>	No
<b>Ian Fenn</b>	Yes
<b>IASO International Obesity Task Force</b>	Yes
<b>IPA</b>	Yes. The IPA believes stricter content rules for children under ten should be imposed as suggested by BCAP. The IPA has representation on BCAP. The IPA wholly endorses the proposed Code. Our concern is that these already strict proposals will be extended further and the IPA believes that these changes will not by themselves make a difference to children's eating habits or obesity levels. The IPA supports and endorses the co-regulatory approach to the content of advertising as both an effective means of protecting consumers and vulnerable groups as well as the integrity of marketing communications and protecting brands. The IPA should make clear that the content standards for advertisements do not cover sponsorship specifically. The two are different and need to be treated separately. The advertising codes are not drafted with sponsorship concerns in mind and the enforcement bodies for compliance are different (the ASA enforces advertising complaints whereas Ofcom enforces complaints about sponsorship).
<b>ISBA</b>	Yes. The co regulatory Code content proposals via BCAP and endorsed by BCAP's independent AAC apply to all food advertising reflecting the Food and Drink Federation's position. But sponsorship is regulated in an integrated way directly by OFCOM as part of the content regulation and should not be part of this consultation.
<b>Miss J Brookes</b>	Yes
<b>Mrs Jean Hodgeson</b>	Yes
<b>John Hooper &amp; Jessica Mann (disassociation from Ofcom Advisory Committee for England)</b>	Yes
<b>Ms K Sutton, Community Dietitian</b>	No
<b>Kate Barker</b>	Yes
<b>Kellogg's</b>	Children develop and refine their ability to interpret advertising messages as they get older. Existing studies suggest that by 10 years old (indeed, most studies suggest an even earlier age) they are considered to have sufficient cognitive development to understand the implications of television advertising.

<b>Kraft Foods UK Ireland</b>	We accept the application and adoption of the new content rules proposed by BCAP for the advertising and sponsorship of all food and drink products. These rules were developed before having sight of the proposed scheduling or volume restrictions on advertising and may well have been drafted differently had the details of those restrictions been known. That said, they represent probably the most restrictive set of content rules anywhere in the world and their impact on reducing the attractiveness of advertising to children should be fully recognised by Ofcom when reviewing the need for additional controls.
<b>Liam Kelly</b>	Yes
<b>Mandy Barlow</b>	Yes
<b>Mark McCaghrey</b>	Yes
<b>Mary Creagh MP</b>	Yes
<b>Masterfoods</b>	We do not support the extension of proposed regulations by Ofcom to sponsorship. Sponsorship is not part of the advertising regime and is not covered by the BCAP advertising code. Sponsorship is already strictly regulated by Ofcom. Sponsorship is being considered by the Department of Health-led Food and Drink Advertising and Promotion Forum – Masterfoods will work with its trade associations to address sponsorship within the Forum.
<b>McCain Foods GB Ltd</b>	We accept that a revision of content guidelines to be introduced alongside new rules on scheduling is logical, although it will make the causes of any changes in purchasing or eating habits that could follow more difficult to disaggregate than if one or other measure were introduced in isolation.
<b>National Heart Forum</b>	We believe that the principle of differentiation between HFSS-foods and healthier foods should apply equally to the content standards and to the timing restrictions, for the reasons given in answer to Q2 above. We note that the self-regulated nature of the CAP and BCAP rules means that Ofcom must approve, not propose, content rule changes. We are aware (and Ofcom has noted) that food manufacturers, who must sign up to voluntary CAP and BCAP codes, do not accept the principle of nutrient profiling between food categories. We are also aware that the Advertising Advisory Committee to the Advertising Standards Authority recommended that the new rules should apply to HFSS products, and that disappointingly, that advice was not accepted by BCAP. In view of manufacturers' control over the CAP and BCAP codes and their stated rejection of the FSA nutrient profiling model, Ofcom should not accept the illogical assurances of BCAP (presented in paragraph 5.27) that "the application of these standards to all food and drink products would in practice prevent inappropriate techniques from being used to promote HFSS products, without unduly restricting the marketing of others foods."
<b>National Oral Health Promotion Group</b>	No - we believe that content restrictions should only apply to HFSS foods. We feel that applying these restrictions to non-HFSS foods would not support the Government strategy of improving the diet of children in England, because of the initiatives to support the increase of whole fruit and vegetables and the restriction of HFSS foods in both home-centred and child-centred environments.
<b>Nestle UK and Cereal Partners</b>	We believe sponsorship should be addressed separately; it does not fall within the BCAP code because it acts more like editorial than straight-forward advertising.

<b>NHS Borders, Health Promotion</b>	Not sure; we think adults need to have the option to choose which food they want to eat or drink.
<b>Noel Kelly</b>	Yes
<b>Northern Ireland Chest Heart &amp; Stroke</b>	The principle of differentiation should apply to the content standards as well as to the timing restrictions.
<b>The Nutrition Society</b>	The Society feels that restrictions should be placed only on advertisements for HFSS food and drink. Television advertising should not promote unhealthy lifestyles but should retain the ability to promote the consumption of healthy foods.
<b>Office of the Children's Commissioner</b>	In any revised standards, an essential requirement is to separate HFSS foods from healthier foods. Therefore, any content standards must be consistent with a pre-9pm watershed ban.
<b>PACT (Producers Alliance for Cinema and Television)</b>	No. The proposals will potentially provide more clarity for audiences with limited impact on revenues but we see no reason to introduce regulations on the advertising of healthy foods and drink. To do so could act only as a disincentive to potential advertisers.
<b>Pepsico</b>	We agree that the co-regulatory Code content proposals developed via BCAP, and endorsed by BCAP's Advertising Advisory Committee, should apply to all food and drink advertising. Sponsorship is being considered separately by the Department of Health's Food and Drink Advertising and Promotion Forum and should not be part of this consultation.
<b>Miss R Lloyd</b>	Yes
<b>The Royal Society of Health</b>	No. We believe the restrictions should apply only to HFSS foods. We recommend that Government-sponsored or Government - endorsed healthy eating campaigns are exempt or subject to separate standards.
<b>Mr S Norris</b>	Yes
<b>Safefood</b>	Safefood agrees that strictly enforced content standards should apply to the advertising or sponsorship of all food and drink advertisements.
<b>The Scientific Advisory Committee on Nutrition</b>	Yes. The standards are a step forward and all food advertising should be subject to them.
<b>School Food Trust</b>	Yes. We agree that revised content standards should apply to the advertising or sponsorship of all food and drink advertisements but the proposed revised content standards, in themselves, are inadequate. (See response to Q9.)

<b>Snack Nut &amp; Crisp Manufacturers Association (SNACMA)</b>	SNACMA does not agree. SNACMA believes that the BCAP code and the proposed revisions should apply to all advertising of food and drink. Sponsorship in general extends beyond the scope of television; it is under consideration by the Department of Health's Food and Drink Advertising and Promotion Forum and therefore should not be part of this questionnaire.
<b>SVP McCann Erickson EMEA</b>	Only in the sense of political expediency. No-one has demonstrated that the content to be banned has any disproportionate effect on total consumption; that should be the basis for any responsible discrimination.
<b>Dr Theodore T. Tsikas</b>	Yes
<b>Trading Standards Institute</b>	The difficulty of not apply it to all food and drink is that there could be ambiguity where manufacturers produce HFSS foods and other foods; therefore, the TSI would advocate that the standards should apply to all food and drink.
<b>UK Public Health Association (UKPHA)</b>	The UKPHA feels that the standards are not suitable for all food and drink advertisements because they would limit the potential for future social marketing and information or advice campaigns targeted at children in these age brackets. We recommend that Government-sponsored or Government-endorsed healthy eating campaigns are exempted from the standards. We are pleased to see that advertising standards are being applied to sponsorship.
<b>United Biscuits</b>	UB believes that the BCAP code and the proposed revisions should apply to all advertising of food and drink. Sponsorship in general extends beyond the scope of television; it is under consideration by the Department of Health's Food and Drink Advertising and Promotion Forum and therefore should not be part of this questionnaire.
<b>Unilever</b>	No. For the same reason that we believe timing restrictions should be based on differentiation, we believe that advertising content changes should be applicable only to foods high in sugar, fat and salt. Unilever UK fully supports the content changes that have been proposed and has no objections to them being applied to HFSS foods targeted at children under 10. But it will be important for advertisers to continue to be able to promote healthier offerings to young audiences in fun and exciting ways. Removing the right to use licensed characters or celebrities would inhibit their ability to do that.
<b>University of Liverpool</b>	We believe that the principle of differentiation between HFSS-foods and healthier foods should apply equally to the content standards and to the timing restrictions. We note that the self-regulated nature of the CAP and BCAP rules means that Ofcom must approve, not propose, content rule changes. We are aware (and Ofcom has noted) that food manufacturers, who must sign up to voluntary CAP and BCAP codes, do not accept the principle of nutrient profiling between food categories. We are also aware that the Advertising Advisory Committee to the Advertising Standards Authority recommended that the new rules should apply to HFSS products; that advice was not accepted by BCAP. In view of manufacturers' control over the CAP and BCAP codes and their stated rejection of the FSA nutrient profiling model, Ofcom should not accept the illogical assurances of BCAP (presented in paragraph 5.27) that "the application of these standards to all food and drink products would in practice prevent inappropriate techniques from being used to promote HFSS products, without unduly restricting the marketing of others foods."

<b>Vimto Soft Drinks</b>	Yes
<b>Which?</b>	The content standards should address the advertising and sponsorship of HFSS food and drink that falls outside of the 9.00pm watershed, for example, to address the way that HFSS products will be targeted at older children watching later in the evening and at parents.

**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?**

<b>Respondent</b>	<b>Comments</b>
<b>Advertising Advisory Committee</b>	See the response to question 1.
<b>Advertising Association</b>	Yes. They offer enhanced protection for everyone, with the greatest levels of protection to the most vulnerable group: younger, primary school-aged children.
<b>Advisory Committee For England</b>	We consider that all the revised advertising standards should apply to advertisements targeted at children under the age of 10.
<b>Alex Heylin</b>	Partly; what about 15+? Often, at that age, young persons start to cook and care for themselves fully and so at that point food choice habits are formed that might never be broken. I think 15 to 25 is at least as important as 10 to 15. Again, positive advertising of healthy foods together with healthy food programming targeted at this market could help extend the reach of this change over another ten-year band of youths, whose health could benefit and save the country in the long run.
<b>Mr Andrew Holland</b>	Yes
<b>Andrew Sprod</b>	I think that age bands are tricky to apply in practical terms because of the large variations in viewing within age bands.
<b>Angie Jefferson (Independent Dietician)</b>	No. The proposed bandings assume significant differences between pre-school, under 10 year and over 10 year old children in terms of the influence of food advertising on their food choice. No evidence supports those suppositions and therefore the age banding selected is purely arbitrary. Children over the age of 10 have higher rates of obesity than those under 10 and also have increasing control of their individual food choice and a larger disposable income to spend on food. If that is taken into account, the decision to apply restrictions to ads targeting the under 10s make little, if any, sense.
<b>Anne Lockett</b>	Don't know what age bands are
<b>Association for the Study of Obesity</b>	No. All children under 16 years (and indeed some adults) are vulnerable and we feel restrictions should apply to all children. Therefore the banding system, in its present form, is inadequate.
<b>BACC</b>	Yes
<b>The British Dietetic Association</b>	No see Q1 above The age limit for protecting under 5s against nutritional and health claims should be increased to the same as the age limit for the other regulations, (i.e. under 10s).
<b>British Medical Association</b>	The BMA would like to see the content standards apply to promotions targeted at all children of school age and therefore should be extended up to the age of 16 years, so that all children can be protected from the influence of food and drink advertising and sponsorship.
<b>The British Psychological Society</b>	Under 5 years of age is appropriate as we have argued in our response to question 6 about excluding food and drink advertising. In reply to question 7 the age of '8 plus' was implied for content restrictions. There is evidence that children might not be able to

	utilise an understanding of advertising until at least 12 years of age and until then they can only rely on cues to use their knowledge and understanding of advertising's intent. In addition the Swedish government has argued that children do not fully understand advertising until 12 years old and have used that argument to justify their total ban on advertising to children. However, in the absence of firm evidence on children's understanding of advertising techniques we agree that 10 years of age is suitable.
<b>Cadburys Schweppes</b>	Yes. These bands are very similar to the provisions on advertising to children that are contained in the Cadbury Schweppes Global Marketing Code. Our corporate policy is not to advertise to children under the age of eight where these constitute the majority of the audience. It is our understanding that eight years is generally accepted as the age at which children are viewed as being able to comprehend what an advertisement is seeking to achieve and to make judgments accordingly.
<b>The Caroline Walker Trust (CWT)</b>	No. All children up to the age of 16 years (and a considerable number of adults) are vulnerable and restrictions should apply to all children.
<b>The Children's Food Bill's Coalition</b>	No. We believe that all children, as defined by law, should be treated equally in these restrictions. Professor Livingstone's research clearly shows that although children's appreciation of advertising changes with age, their ability to resist it does not. Therefore we believe that, in-line with the UN convention on the rights of the child, all children should be treated equally in this consultation.
<b>Chris Rose</b>	Yes, but children should not be exposed to ads at all
<b>Coca-Cola</b>	Coca-Cola do not advertise to the under 12's.
<b>Confidential responses</b>	Four respondents agreed that the bands were appropriate although one noted that if Option 2 were adopted the bands would be immaterial and one stressed strongly that there was no justification for extension to 10 – 15 year olds.
<b>Confidential response</b>	A fifth respondent to this question said bands were not appropriate as they fundamentally disputed the link between advertising and unhealthy lifestyles.
<b>Consensus Action on Salt and Health</b>	CASH refers you to our response to question 1, regarding our concerns that children in the 10-15 years age bracket are being excluded, that only children aged 11-12 have developed a critical understanding of advertising so this should be 4-12 and 13-15. However, we strongly believe that all children require protection and policy restrictions should apply accordingly.
<b>Consumer Council for Northern Ireland</b>	The aims of further regulation should be to reduce significantly the exposure of all children and young people to HFSS products.
<b>Co-op</b>	Hastings concluded that advertising of HFSS has an impact on children aged 2 – 15 for this reason we believe that Ofcom should reconsider its decision to exclude HFSS advertisements aimed at children aged 10 – 16 from the ban on using celebrities.
<b>Diabetes UK</b>	No. We believe that these standards should go further – the definition of a child should be extended to 16 as discussed in question 1.
<b>Miss Evans</b>	I think that the age should be raised to 12 or 13: that is when most children are less active and more inclined to be sat in front of the TV than when they are younger.
<b>Ferrero UK Ltd</b>	Ferrero UK welcomes the revised BCAP content proposals, which offer significantly enhanced protection to the under 10s and that includes a ban on health claims targeting pre-school children. Ferrero does not target its advertising at pre-school children.
<b>Five</b>	Five is represented on the Broadcast Committee on Advertising Practice (BCAP), the co-regulatory body responsible under

	Ofcom's aegis for devising and reviewing the rules governing the content of television advertising. Therefore we have been involved in drawing up the new content rules with fellow broadcasters and the advertising industry. We believe that these stricter new rules will mark a step-like change in the type and nature of food and drink advertisements targeted at younger children. Many objections to such advertising, such as the use of celebrities and licensed cartoon characters or the overuse of promotional offers, would be curtailed as a result of these rules.
<b>Food Advertising Unit (FAU)</b>	Yes. The FAU believes that stricter content rules should ensure the protection of children aged under ten years, helping to meet stated Government policy, because children develop their ability to interpret advertising messages as they get older.
<b>Food and Drink Federation</b>	Yes. FDF agrees with the FAU submission.
<b>GlaxoSmith Kline</b>	GSK's position on this is made clear in our appended marketing to children guidelines. We would feel more comfortable with a higher cut off point in age of under-13 but we are satisfied that the three bands proposed (0 to 4, 4 to 9, 10 to 15) allow BCAP to identify the relevant programming for each age group.
<b>GMTV</b>	Yes. We believe the category that needs most protection is the 4 to 9s. We believe 10 to 15 year olds do not need the same protection.
<b>Health Promotion Agency for Northern Ireland</b>	(See question 9)
<b>Heart of Mersey</b>	No, the proposed age bands do not protect children aged 10 to 15.
<b>Helen Palmer</b>	Yes
<b>Ian Fenn</b>	Yes
<b>IASO International Obesity task Force</b>	No. The age bands are arbitrary and have no logical basis other than target marketing. All children should be protected.
<b>IPA</b>	Yes. The need to offer special protections to young children is recognised. At an older age, children develop a better understanding of advertising and the IPA supports better education and understanding, such as the MediaSmart initiative and a healthy living campaign, as a better and more effective means of dealing with obesity in children of an older age. A 50% reduction of impacts for all children under 16 will have a much greater impact on children under 10. It is expected that the impact for the latter age group will be nearer 65% to 70%. That reduction is therefore completely disproportionate. We believe that intervention by Ofcom, if any, should be focussed on the younger children, those under 10.
<b>ISBA</b>	Yes, they approximate to pre-school, primary school and secondary schools segments The use of these age bands enables proportionate targeting.
<b>Miss J Brookes</b>	No, I do not think they are broad enough. I think that it should be banned for all children from birth to 16. That, combined with an increase in nutritional education for children, would in my opinion decrease the number of children affected with obesity and other nutritional problems.

<b>Mrs Jean Hodgeson</b>	Yes
<b>John Hooper &amp; Jessica Mann (disassociation from Ofcom Advisory Committee for England)</b>	Yes
<b>Kate Barker</b>	Yes
<b>Ms K Sutton, Community Dietician</b>	No
<b>Kraft Foods UK Ireland</b>	Yes. The proposed age bands approximate to pre-school, primary school, and secondary school segments. Most studies recognise that foods tastes are influenced in the early years and the age banding facilitates suitable targeting of restrictions.
<b>Liam Kelly</b>	No. Anybody can eat unhealthy food; should we ban food from TV?
<b>Mark McCaghrey</b>	Yes
<b>Mary Creagh MP</b>	No. 'Children' should refer to all those under 16.
<b>McCain Foods GB Ltd</b>	The age bands seem logical and are acceptable on that basis.
<b>National Heart Forum</b>	No. The age bands proposed offer protection to children up to the age of 9 only. (See our general comments on page 7 on definitions of the age of a child).
<b>National Oral Health Promotion Group</b>	Yes - We feel that the age bandings outlined in the BCAP rules are appropriate.
<b>Nestle UK and Cereal Partners</b>	We fully support tighter content rules for the younger, under 10, age group. Considerable evidence suggests children develop a greater ability to interpret advertising messages as they get older. As a company, we do not target the pre-school age group.
<b>NHS Borders, Health Promotion</b>	Yes. Although we would like to see the age range increased from 10 to 13, we are aware that children have more "street cred" when they get older and should be able to judge whether something is healthier.
<b>Noel Kelly</b>	No. They should be higher.
<b>Northern Ireland Chest Heart &amp; Stroke</b>	No. The age bands proposed offer protection to children up to the age of 9 only. (See our general comments on page 7 on definitions of the age of a child).
<b>The Nutrition Society</b>	The Society refers you to our response to question 1: our concerns that children in the 10 to 15 years age bracket are being excluded. All children require protection and policy restrictions should apply to all children.
<b>Office of the Children Commissioner</b>	No. Any proposed restrictions must apply to all children up to age 15: all measures should apply equally to children aged 15.
<b>PACT (Producers Alliance for Cinema and Television)</b>	Yes. We agree with the principle of staggered restrictions as a way to potentially provide greater protection for different age groups but limit the damage to revenues.

<b>Pepsico</b>	Yes, given that they broadly reflect pre-school, primary school and secondary schools segments. Academic literature recognises that food tastes are partly genetic but are influenced heavily in early years and by the home, parental and peer environment.
<b>Miss R Lloyd</b>	Yes
<b>The Royal Society of Health</b>	No. The age bands offer protection to children up to the age of 9 only.
<b>Safefood</b>	Safefood acknowledges that different levels of protection are needed for different age groups and as such agrees that those in Band 1 and 2 require most protection.
<b>School Food Trust</b>	No. No justification exists for targeting different age groups between 4 and 15 years of age.
<b>The Scientific Advisory Committee on Nutrition</b>	No. The age bands are unrealistic and do not take account of children's viewing habits or their very limited understanding of nutrition and food chemistry. In relation to the distinction made between younger and older children on grounds of their cognitive ability ( <i>"media literacy"</i> ) to interpret advertising critically (paragraph 1.13), it is relevant to note on page 15 of the Research Annexes volume: <i>"Kunkel et al 2004 [in a report to the American Psychological Association Task Force on advertising and children] could find no study that examined the statistical relation between children's understanding of advertising's persuasive intent and the impact of advertising ....there is little evidence that media literacy interventions can effectively counteract the impact of advertising on children of any age, much less the younger ones who are most vulnerable to its influence"</i> . That underlines concern about absence of evidence and would argue for the application of the precautionary principle.
<b>Snack Nut &amp; Crisp Manufacturers Association (SNACMA)</b>	SNACMA accepts the age banding for children in the BACP rules. They reflect the segmentation of school ages and the changes that effect food tastes.
<b>Mr S Norris</b>	No. Advertising of all HFSS foods across all age groups, including adults, should be banned.
<b>SVP McCann Erickson EMEA</b>	Yes but the effect of the Ofcom options is fudged. It is quite clear that, if the aim is to reduce exposure by 50%, the reduction against under 10s will be far more than that.
<b>Dr Theodore T. Tsikas</b>	I don't know
<b>Trading Standards Institute</b>	TSI has not completed specific research in this area but is aware of the findings carried out by the University of Strathclyde commissioned by the Food Standards Agency. That research claims that the advertising of food does influence choice at all age ranges. For that reason, the TSI advocates restrictions no less than those in options 1 or 2.
<b>UK Public Health Association (UKPHA)</b>	The UKPHA feels that the advertising standards should be extended to offer protection to older children as well as the under-10s.
<b>Unilever</b>	Unilever accepts the need for advertising restrictions to apply to children under 10 but we would oppose the restrictions being applied to older children in the 10 to 15 age band. OFCOM's own research from Sonia Livingston shows that "whilst there is moderate evidence that television advertising influences the food and beverage beliefs of children aged 2-11, and that it influences the 'usual dietary intake' of children aged 2-5, the evidence is weaker for 6-11 year olds".
<b>United Biscuits</b>	UB supports the age banding for children in the BACP rules. They reflect the segmentation of school ages and the changes that

	affect food tastes.
<b>University of Liverpool</b>	No. The age bands offer protection to children up to the age of 9 only. (See our general comments on page 7 on definitions of the age of a child)
<b>Vimto Soft Drinks</b>	Yes, This is in line with the consultation document, which makes clear that by the age of 11 to 12 children have developed a critical understanding of advertising. We do, however, question who decides whether an advertisement is targeted at a 9 year old or an 11 year old?
<b>Welsh Assembly Government</b>	We would welcome measures that restrict advertising to children up to the age of 16, not the three options proposed, which focus on children aged 0 to 9
<b>Which?</b>	No. The age bands deal with children up to age 9 only. Please see our comments on definition of a child.

**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 special notice in Annex 1)**

<b>Respondent</b>	<b>Comments</b>
<b>Advertising Advisory Committee</b>	Yes, the proposed wording is suitable.
<b>Advertising Association</b>	We support the proposed content standards as being the most suitable for broadcast (TV) advertising and the rules have advertiser backing for transposition to non-broadcast advertising (see section 3 above). Any changes to these rules could jeopardise that process.
<b>Advisory Committee For England</b>	No 1 - seems far too vague and therefore open to interpretation No 4 should qualify the age of the children, and should be children under the age of 10. No 7 do not agree with this statement: we question the assumption of the brand character being less influential than the licensed character. We believe that children under the age of 10 are not able to differentiate between brand and licensed characters. No 9 should include under 10s.
<b>Alex Heylin</b>	Don't understand question re Annex 1 Special Notice
<b>Andrew Sprod</b>	Yes
<b>Angie Jefferson (Independent dietician)</b>	The proposed content standards are comprehensive although some of the wording is non-specific and could be open to differing interpretation by those applying these standards to different products. The wording therefore needs to be improved to avoid conflict in interpretation either by BCAP and regulators or the food industry. The content guidelines, however, should be applied to all food and drink advertising not just that targeted at specific age groups. But it makes little sense to apply content restrictions in terms of promotion of a healthy balanced diet and lifestyle and avoidance of promotion of sedentary activities to food products alone – they should be applied equally to all advertised products, including play stations and PC games, not just foods and drinks.
<b>Association for the Study of Obesity</b>	See response to question 8: 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 inadequate.
<b>BACC</b>	Yes. BACC endorses the BCAP proposals for content rule changes.
<b>The British Dietetic Association</b>	In general the wording is mostly right. But, if the standards were to be changed to allow celebrity endorsement of Healthier foods e.g. 5 A DAY, they could state: Celebrities must not be used in food and drink advertisements for HFSS foods whose content is targeted directly at children under 10. Licensed characters must not be used in food and drink advertisements for HFSS foods whose content is targeted directly at children under 10. The wording of the content standards could be changed to ensure that any nutrition and health claims are supported by sound

	scientific evidence and subject to scrutiny by a defined independent body. With the present wording, it is unclear who makes those judgements.
<b>The British Heart Foundation</b>	The BHF believes that the content rules are too vague and will be difficult if not impossible to enforce
<b>British Medical Association</b>	Other than changes we would make to the age bands, as mentioned in our answer to question 8, the BMA is happy with the proposed content standards and their wording.
<b>The British Psychological Society</b>	Yes.
<b>Cadburys Schweppes</b>	The BCAP proposals for Code content revision, as endorsed by the independent Advertising Advisory Committee, have the support of Cadbury Schweppes, the rest of the advertising industry as well as the broadcasting community and form an integral part of the alternative package 4. But we feel that OFCOM's regulatory impact assessment has not taken into account the resultant reduction in advertising attractiveness to children, implemented through considerably tougher BCAP Codes. That benefit should be taken into account and the volume and scheduling proposals scaled back to take account of it.
<b>The Caroline Walker Trust (CWT)</b>	The content standards should apply to all children.
<b>The Children's Food Bill's Coalition</b>	<p>We do not consider the BCAP content standards to be appropriate. These proposed standards tend to be vaguely worded, lack details and contain no specific targets to improve advertising. Our commentary on the rules is:</p> <p>7.2.1 Diet and lifestyle: This is vague. We believe that it would be very difficult to apply this content restriction, because it is difficult to quantify what exactly constitutes encouragement. The restriction does not go far enough. We would like the restriction to be amended to include advertising that portrays HFSS food to be tastier or "better" than non-HFSS food. For example, a recent advert for Jammy Dodgers involves the product coming to life and kicking a bag of sprouts off the table. We believe that this advert might imply to the child that sprouts are inferior to the product being advertised, thereby damaging the Government's five a day campaign.</p> <p>7.2.2. Pressure to purchase (a and b): This does not go far enough to decrease pester power. The wording itself, despite industry claims, does not ban all 'pester power' advertising; it bans only advertising that gets children to ask their parents direct questions and adverts that seem to encourage 'pester power', leaving a rather large loophole for adverts that try to encourage pester power in more subtle ways. The wording "appearance of encouraging children to pester others" is so vague that it seems to be a very difficult test to fail.</p> <p>7.2.3. Promotional offers: We welcome the inclusion of content standards relating to promotional offers. However, these new measures do not go far enough. We believe that it is very difficult to quantify exactly what constitutes an advertisement directed at this age group. For example: the advertisement now on air involving Pizza Hut and the footballer Michael Owen appeals to football fans across all age groups, including the under 10s.</p> <p>7.2.3.b: It is not clear if this proposal should apply to children under 16 or those under 10? The interpretation of "only" is also likely to be problematic.</p> <p>7.2.4: Characters and celebrities: This would prevent advertisers from using licensed characters (e.g. film or cartoon characters)</p>

	<p>that might make it difficult for younger children to distinguish between programmes and advertising. The CFB working party supports restrictions on advertisers using cartoons, licensed characters and celebrities only for the promotion of HFSS food. Given the importance of using modern marketing techniques to persuade children to eat a healthier diet, we believe it is counter-productive to ban the use of licensed characters and celebrities to promote, for example, fruit and vegetables. The CFB supporters believe that advertisers should not be allowed to use brand characters to advertise their products. This regulation would allow, for example, McDonald's to continue to use 'Ronald McDonald' in their advertisements. Given research shows that young children are unable to distinguish between adverts and programmes, it seems logical to assume that they also cannot tell the difference between 'brand' characters and 'licensed' characters. This regulation creates a substantial loop-hole that will undermine the effectiveness of the content restrictions.</p> <p>8.3.1 Accuracy in Food advertising (a and c): Although the CFB supports the need for sound scientific evidence, particularly the nutrient profiling system developed by the Food Standards Agency, we believe that no nutritional claims on HFSS food should be made in adverts targeted at children under 16.</p> <p>8.3.2 Excessive consumption: We support the sentiment behind this regulation but (again) feel it is worded in a way that makes it very difficult to enforce. This regulation should include a definition of what is meant by 'excessive consumption'.</p>
<b>Chris Rose</b>	Yes
<b>Coca-Cola</b>	Yes. We, as members of ISBA, have been involved in the development of these proposals.
<b>Confidential responses</b>	<p>Rule 7.2: One respondent suggested that Note 2 would ban the promotion of healthier snacks such as fruit, seeds, and nuts. The respondent suggested that restrictions should be targeted at snacks high in saturated fats and added sugar.</p> <p>Rule 7.2.2: One respondent suggested that the note referring to affordability might prevent retailers advertising on basis of low prices</p> <p>Rule 7.2.4: One respondent suggested that these should be allowed in advertisements for non-HFSS foods</p> <p>Rule 8.3: One respondent referred to the note on inactivity and sedentary pastimes and suggested that it was too broad because it might prevent advertisements showing, for example, adults eating popcorn while watching a DVD. That would therefore extend the scope of the rules beyond their impact on children</p> <p>Rule 8.3.3: One respondent suggested note 2 was too restrictive because it might occasionally be helpful to use only an HFSS food in an advertisement, for example to demonstrate a healthy labelling initiative.</p>
<b>Confidential responses</b>	5 respondents supported the rules without amendment
<b>Confidential responses</b>	<p>Two respondents supported the rules provided they did not apply to non-HFSS foods</p> <p>One respondent objected to the loss of revenue for broadcasters that would arise if the rules were implemented</p> <p>Two respondents suggested that it would help the promotion of non-HFSS food if licensed characters and promotional offers could be used in their advertising</p>
<b>Consensus Action on Salt and Health</b>	<p>Section 7.2.1 does not define what constitutes 'encouragement'. CASH believe this is too vague and will be difficult to uphold. Therefore CASH would like this to be more specific and include advertising that portrays HFSS food to be 'better' than non-HFSS foods. For example, in a recent Jammy Dodgers advert, the product comes to life and kicks a bag of sprouts off the table. That</p>

	<p>type of advert could imply that sprouts are inferior to the product advertised, thereby damaging the Government's 5 a day campaign.</p> <p>Section 7.2.3 states that promotional offers must not be targeted directly at children in band 1 or 2. CASH refers you to our response to questions 1 and 8 for our concerns that the age banding is inappropriate.</p> <p>Section 7.2.4 states that celebrities or licensed characters should be used with a 'due sense of responsibility'. CASH is of the opinion that they should not be used at all in advertising HFSS products to children of any age. It is not clear whether "advertiser-created equity brand characters" are allowed to be used to target children in band 1 or 2. CASH does not feel that this should be permitted because it is not possible for younger children to distinguish between adverts and programmes.</p> <p>CASH questions why commercial product advertising cannot be expected to emphasise 'good dietary behaviour, an active lifestyle or promote a varied and balanced diet' if relevant to their products or brand (section 8.3, note 2). CASH feels that that is what advertisers should be encouraged to do.</p> <p>On 8.3.1, the European Parliament has recently approved rules so that nutritional claims such as 'low in fat' cannot be made on food labels when a product is, for example, high in sugar or salt. Therefore, we expect the BCAP code to reflect those rules and request this update to be added. Essentially no nutrition claims should be made on HFSS foods.</p> <p>Section 8.3.3 note 2 states that a 'variety of other foods should be shown'. CASH would suggest that that should be amended to 'a balanced meal should be shown'.</p>
<b>Consumer Council for Northern Ireland</b>	<p>Advertisers and industry must use the promotional techniques that have been proved to appeal to children to encourage the consumption of healthier food products that have not been actively promoted to date. Nutritional claims should not be used on HFSS products. The NCC supports Ofcom's position that celebrities and licensed characters should not be used in advertisements targeted directly at children under 10. We strongly recommend that Ofcom introduce a 9pm watershed for the promotion of food to children and young people aged 16 years and under. Before 9pm the promotion of foods high in fat, salt or sugar should be banned or restricted. Strengthened regulations should be implemented as practicable and robustly monitored to ensure effective sanctions for non-compliance.</p>
<b>Miss Evans</b>	<p>Cannot remember the wording and unable to scroll back without losing the content I have already typed in - this is poorly designed</p>
<b>Ferrero UK ltd</b>	<p>Yes, Ferrero supports the BCAP content proposals.</p>
<b>Five</b>	<p>Five is represented on the Broadcast Committee on Advertising Practice (BCAP), the co-regulatory body responsible under Ofcom's aegis for devising and reviewing the rules governing the content of television advertising. Therefore we have been involved in drawing up the new content rules with fellow broadcasters and the advertising industry. We believe that these stricter new rules will mark a step-like change in the type and nature of food and drink advertisements targeted at younger children. Many objections to such advertising, such as the use of celebrities and licensed cartoon characters or the overuse of promotional offers, would be curtailed as a result of these rules.</p>
<b>Flextech</b>	<p>We support the implantation of BCAP's content proposals. They have been created through a transparent and rigorous process, which has resulted in a strong cross-industry consensus around a tight and effective set of new rules. We believe that they will play a significant role in achieving the outcomes that the Government seeks.</p>

<b>Food Advertising Unit (FAU)</b>	Yes. The FAU considers that the proposed content standards, as worded, are suitable because they: 1. would result in a substantial change in the nature of food advertising to primary school children; 2. would prevent the use of licensed characters, celebrities and promotional offers in advertisements directly targeted at children under ten years and 3. have been agreed after a lengthy and transparent process involving various bodies.
<b>Food and Drink Federation</b>	Yes. FDF considers that the proposed content standards, as worded, are suitable because they: would result in a substantial change in the nature of food and drink advertising to primary school children; prevent the use of licensed characters, celebrities and promotional offers in advertisements directly targeted to children under ten years and have been agreed after a lengthy and transparent process involving various bodies. FDF supports the FAU's detailed comments here, in particular that the significant impact of the proposed content standards, if implemented, should be fully taken into consideration alongside any volume or scheduling restrictions.
<b>GlaxoSmith Kline</b>	Yes
<b>GMTV</b>	We would support the revised BCAP Code for Food and Soft Drink Advertising, which has been agreed with Ofcom (Ofcom option 4)
<b>Health Promotion Agency for NI</b>	<p>The HPA supports the proposed food advertising content standards.</p> <p>The HPA agrees that food and drink advertisements must avoid anything likely to encourage poor nutritional habits or an unhealthy lifestyle in children (food advertising content standard 1 as outlined).</p> <p>We agree that nutrition claims for <b>all foods</b> should be supported by sound scientific evidence and must not give a misleading impression of the health benefits of the product as a whole (standard 8).</p> <p>We agree also that no nutritional or health claims may be targeted at pre-school children (standard 9) and that advertisements for any food or drink must not condone or encourage excessive consumption of any food or drink (standard 10).</p> <p>The HPA supports all the remaining proposed food advertising content standards (standards 2 to 7) as they would apply to <b>HFSS products</b>.</p> <p>But we see no reason why those food content standards should be applied to foods categorised as 'healthier' as determined by the nutrient profiling model.</p>
<b>Heart of Mersey</b>	<p>7.2.3 Promotional Offers: Should apply to all children aged 15 and under in keeping with the scheduling rules.</p> <p>7.2.3.b We believe the wording is too narrow and recommend deleting the word 'only'.</p> <p>7.2.4 Use of Celebrities and characters: Ofcom's research shows that only 6% of all category advertising uses celebrities. Most references to characters are not licensed but equity brand e.g. Tony the tiger. HOM strongly recommend that that this restriction be applied to all characters, including equity brand characters, in all HFSS ads targeted at children up to 15.</p>
<b>Ian Fenn</b>	Yes
<b>IPA</b>	<p>Yes. No change proposed. The Code changes recommended will ensure:</p> <p>Ads must avoid anything likely to encourage poor nutritional habits or an unhealthy lifestyle in children;</p> <p>Ads must not advise or ask children to buy, or ask their parents to buy, the products; promotional offers, including collectables and giveaways, must not be directly targeted at children aged under 10; ads must not encourage children to eat or drink the product only to obtain a promotional offer; celebrities and licensed characters must not be used in food and drinks ads targeted</p>

	<p>directly at children under 10;  Nutritional claims must be supported by sound scientific evidence and must not give the misleading impression of health benefits of the product as a whole; no nutritional or health claims may be targeted at pre-school children; ads must not condone or encourage excessive consumption of any food or drink.</p> <p>The IPA believes that the content proposals will have a significant impact upon the nature of food and drink advertising to children under ten years and that that should be taken in consideration alongside any volume or scheduling restrictions.</p>
<b>ISBA</b>	<p>Yes, ISBA, as part of BCAP, has been instrumental in the development of these proposals. It would be wrong to comment other than to reinforce:  The proposals were made very largely proactively from advertisers via a process involving senior representatives from virtually all food and drink advertisers.  The proposals reflect probably the most restrictive set of content rules in the world and will result in a considerable change in the nature of food and drink advertising to children under 10.</p>
<b>Miss J Brookes</b>	No
<b>Mrs Jean Hodgeson</b>	Yes
<b>John Hooper &amp; Jessica Mann (disassociation from Ofcom Advisory Committee for England)</b>	Yes, It is a credit to the self-regulatory system that such changes have been voluntarily agreed by the industry. They should be welcomed and implemented forthwith.
<b>Ms K Sutton, Community Dietician</b>	Yes
<b>Kellogg's</b>	The self-regulated code already has high levels of restrictions, which ensure honesty and decency in food advertising. Industry's decision to impose on itself more content restrictions takes it beyond anything that could be justified by the scientific evidence and that must be taken fully into account when considering any more restrictions on volume and scheduling. Absent evidence to date of a causal connection between advertising and obesity, the likely impact on consumer obesity of any more changes to advertising (whether content, volume or scheduling) are, on previous evidence, likely to be negligible at best. But, subject to that caveat, Kellogg's considers that the proposed content standards, as currently worded, are suitable because they would result in a substantial change in the nature of food and drink advertising to primary school children and have been agreed after a lengthy and transparent process involving various bodies.
<b>Kraft Foods UK Ireland</b>	Yes. Although they were developed before having sight of the proposed additional volume and scheduling restrictions (and may well have been drafted differently had the details of these restrictions been known), these content standards have been thoroughly discussed by all involved parties.
<b>Liam Kelly</b>	NO COMMENT
<b>Mandy Barlow</b>	NO COMMENT
<b>Mark McCaghrey</b>	Yes

<b>Mary Creagh MP</b>	'Poor nutritional habits' and 'unhealthy' needs to be defined. 'Children' should include all those under 16. The rules on the use of celebrities and health and nutrition claims should be extend to under 16s and should include brand characters.
<b>McCain Foods GB Ltd</b>	The content standards are acceptable.
<b>National Consumer Council</b>	<p>7.2.3 We recommend that this should include restrictions of promotional offers that are likely to appeal to children, not just those that are directly targeted at children. Those restrictions should apply to all children band 1, 2 and 3) We are unclear otherwise how distinctions will be made between band 2 and 3 given that many younger children aspire to products targeted at older children.</p> <p>7.2.4 We recommend that this should apply to all children, particularly because celebrities are more likely to be used in promotions to older children. Secondly, we consider it analogous to outlaw licensed characters but permit advertiser-created brand characters. We recommend that both should not be permitted.</p> <p>8.3.1 The key to successful implementation of these rules will be the provision of detailed guidance so it is clear how the rules will be interpreted. For example, we welcome the proposed new general rule that advertisements 'must avoid anything likely to encourage poor nutritional habits or an unhealthy lifestyle in children'. But we are unclear what that will mean in practice and how it will be interpreted by advertisers, the broadcasting advertising copy clearance (BACC) and the ASA in ruling on advertising complaints. The NCC thinks that an open and public consultation on draft guidance designed to give effect to this and other rules is essential.</p>
<b>National Heart Forum</b>	<p>It is disappointing to note that existing rules are rather misleadingly represented alongside new or amended rules within the proposed package of changes. We restrict our comments to those new rule changes: Promotional offers 7.2.3: We are concerned that this rule is limited to children under 10. The content rules should be consistent with our recommendation for those of scheduling and address all children (up to 15). 7.2.3.b The word 'only' should be deleted otherwise it could be interpreted to mean that any complaint for infringement would need to prove that the ad encouraged kids to eat or drink a product 'only' to obtain the offer, not that the offer simply encouraged consumption. 7.2.4: Ofcom's research shows that only 6% of all category advertising uses celebrities. Most references to characters are not licensed but equity brand, e.g. Tony the tiger. We recommend that this restriction should be applied to equity and licensed characters in all HFSS ads targeted at children (up to 15).</p>
<b>National Oral Health Promotion Group</b>	<p>We feel that some of the revised content standards, by BCAP, as written are vague and can be open to interpretation: 7.2.1 Diet and Lifestyle: Wording is too vague; replace the word 'encourage' because it is hard to quantify 'encouragement'. 7.2.2.a Pressure to purchase: Although we support the efforts to diminish pester power, this wording is too vague; 'appearance of encouraging' is open to interpretation. 7.2.3. Promotional offers: We support this but need more clarification on how this rule would be interpreted in promotional giveaways targeted at a range of ages. E.g. World Cup promotional giveaways targeted at football fans – under 10s included. 7.2.3.b: does the age restriction of under 10s apply here too? 7.2.4 Use of Characters and celebrities: Celebrities and characters should be used to promotes healthy foods such as fruit and vegetables in a positive way in line with Government recommendations. We believe that children are unable to distinguish between brand characters and licensed characters. 8.3.1 Nutrition and Health claims: No nutrition or health claims should be made for HFSS foods or any of their ingredients. 8.3.2 Excessive consumption: the rule is ambiguous and open to interpretation; excessive should be defined.</p>

<b>NCC</b>	We are concerned about the way in which some HFSS foods use implied nutritional claims to give a misleading impression of a food's nutritional value. We recommend that clearer guidance is required to prevent this (see below). Such guidance should include requirements of EU Health Claims legislation.
<b>Nestle UK and Cereal Partners</b>	Yes, entirely. In addition, we feel the strengthened BCAP content proposals represent a significant move on behalf of industry to constructively respond to the Choosing Health White Paper.
<b>NHS Borders, Health Promotion</b>	Yes
<b>Noel Kelly</b>	Yes
<b>Northern Ireland Chest Heart &amp; Stroke</b>	It is disappointing to note that existing rules are rather misleadingly represented alongside new or amended rules within the proposed package of changes. We restrict our comments to those new rule changes: Promotional offers 7.2.3: We are concerned that this rule is limited to children under 10. The content rules should be consistent with our recommendation for those of scheduling and address all children (up to 15). 7.2.3.b The word 'only' should be deleted otherwise it could be interpreted to mean that any complaint for infringement would need to prove that the ad encouraged kids to eat or drink a product 'only' to obtain the offer, not that the offer simply encouraged consumption. Celebrities and licensed characters 7.2.4: Ofcom's research shows that only 6% of all category advertising uses celebrities. Most references to characters are not licensed but equity brand, e.g. Tony the tiger. We recommend that that restriction should be applied to equity and licensed characters in all HFSS ads targeted at children.
<b>The Nutrition Society</b>	The Nutrition Society is concerned that the wording in the content standards is overly vague. For example, it is not stated whether celebrities or licensed characters can be used in conjunction with promotional offers. The Society feels that that should be prohibited. Section 7.2.4 states that celebrities or licensed characters should be used with a 'due sense of responsibility'. The Society is of the opinion that they should not be used at all in advertising HFSS products. The Society questions why commercial product advertising cannot be expected to emphasise 'good dietary behaviour, an active lifestyle or promote a varied and balanced diet' if relevant to their products or brand (section 8.3, note 2). The Society feels that that is what advertisers should be encouraged to do. Section 8.3.3 note 2 states that a 'variety of other foods should be shown'. The Society suggests that that should be amended to 'a balanced meal should be shown'.
<b>Office of the Children Commissioner</b>	All content standards and promotional marketing regulations should apply to all children up to age 15. The standards as proposed are not, therefore, sufficiently robust and must be redrafted to incorporate those aged up to 15, so as to effectively discourage consumption of HFSS foods in the older age group as well.
<b>PACT (Producers Alliance for Cinema and Television)</b>	Yes. These proposals have the potential to significantly alter the nature of advertising and provide greater protection for children while ensuring minimal damage to revenues and therefore investment for programming.
<b>Pepsico</b>	Yes, PepsiCo, through ISBA, has been heavily involved in the development of these proposals. We believe these Code changes are a significant pro-active step by food and drink advertisers. The proposals are probably among the most restrictive set of content rules in the world and we urge OFCOM not to overlook the extent of these changes.

<b>Miss R Lloyd</b>	Yes
<b>The Royal Society of Health</b>	<p>It is disappointing to note that existing rules are rather misleadingly represented alongside new or amended rules within the proposed package of changes. We restrict our comments to those rule changes: Promotional offers 7.2.3: We are concerned that this rule is limited to children under 10. The content rules should be consistent with our recommendation for those of scheduling and address all children (up to 15).</p> <p>7.2.3.b The word 'only' should be deleted otherwise it could be interpreted to mean that any complaint for infringement would need to prove that the ad encouraged kids to eat or drink a product 'only' to obtain the offer, not that the offer simply encouraged consumption.</p> <p>Celebrities and licensed characters 7.2.4: Ofcom's research shows that only 6% of all category advertising uses celebrities. Most references to characters are not licensed but equity brand, e.g. Tony the tiger. We recommend that that restriction should be applied to equity and licensed characters in all HFSS ads targeted at children.</p>
<b>Mr S Norris</b>	NO COMMENT
<b>Safefood</b>	In the absence of EU legislation governing health and nutrition claims, Safefood agrees that there should be specific protection for minors in the context of food and drink advertising.
<b>School Food Trust</b>	The proposed content standards are ambiguous. The main objection is that the rules would allow advertising that promotes the consumption of less healthy foods by justifying their inclusion as part of a balanced diet. Evidence from national surveys of children's food consumption makes clear that children fail to balance their diets (for example, during school lunch times when healthier food choices are available but are not selected). No evidence suggests that so-called 'positive messaging' (including references in advertising to healthy or balanced eating or healthy lifestyles including adequate levels of physical activity) has any ameliorating influences on the effects HFSS advertising.
<b>The Scientific Advisory Committee on Nutrition</b>	Ofcom has recognised that the BCAP rules are an inadequate regulatory tool by themselves but, even as part of a package, they are generous beyond credibility. For example, the cut-off point for promotional offers and celebrity endorsement has been determined by the categories that advertisers use to buy airtime. If the industry categories of childhood are to be used, the cut-off point for all the BCAP rules should be <b>16</b> years, which is generally regarded as the end of childhood.
<b>Snack Nut &amp; Crisp Manufacturers Association (SNACMA)</b>	<p>Yes, the food industry has been involved, through ISBA, with the development of the BCAP proposals.</p> <p>The changes represent a significant pro-active step by food and drink advertisers.</p>
<b>SVP McCann Erickson EMEA</b>	Most are perfectly good sense but the banning of celebrities and licensed characters is arbitrary and not supported by any science.
<b>Dr Theodore T. Tsikas</b>	No. Mandatory health warnings should be included. A notice to be included explaining that this advertisement has been paid by people who stand to make a profit out of the sale of the product.
<b>Trading Standards</b>	TSI considered the rationale for the content standards to be acceptable but we would be concerned if the messages were given

<b>Institute</b>	as text within the advertisement. For example, the TSI would wonder what impact a written statement would have in an ad for foods targeted at under 10 year olds.
<b>UK Public Health Association (UKPHA)</b>	The UKPHA recommends that Government-sponsored or Government-endorsed healthy eating campaigns should be exempted from these standards.
<b>Unilever</b>	We accept the proposed content standards.
<b>United Biscuits</b>	UB has been involved via its Trade Associations, through ISBA, with the development of the BCAP proposals. The changes represent a significant, pro-active step by food and drink advertisers. UB supports the revisions to the BCAP code but asks for a consistent and clear interpretation of the revisions.
<b>University of Liverpool</b>	<p>Promotional offers 7.2.3: We are concerned that this rule is limited to children under 10. The content rules should be consistent with our recommendation for those of scheduling and address all children (up to 15).</p> <p>7.2.3.b The word 'only' should be deleted otherwise it could be interpreted to mean that any complaint for infringement would need to prove that the ad encouraged kids to eat or drink a product 'only' to obtain the offer, not that the offer simply encouraged consumption.</p> <p>Celebrities and licensed characters 7.2.4: Ofcom's research shows that only 6% of all category advertising uses celebrities. Most references to characters are not licensed but equity brand, e.g. Tony the tiger. We recommend that that restriction should be applied to equity and licensed characters in all HFSS ads targeted at children</p>
<b>Vimto Soft Drinks</b>	Yes
<b>Which?</b>	<p>No. The proposed content standards to the BCAP Television Advertising Standards Code, taken together with the three packages, as is being proposed, would do little to address the concerns. Brand generated characters, such as Tony the Tiger, would be free to advertise HFSS foods to children up to the age of 9 at the times they are most likely to be watching. Similarly, Gary Lineker and other celebrities with a wider appeal than children up to 9 would also still be free to advertise HFSS snacks, such as crisps and fizzy drinks, to children during prime time television.</p> <p>More specific concerns include:</p> <ul style="list-style-type: none"> <li>&gt; The revised Code would still make general references to the need 'to avoid anything likely to encourage poor nutritional habits or an unhealthy lifestyle in children' (paragraph 7.2.1), instead of including specific provisions setting out that HFSS foods should not be advertised to children from all three specified bands (pre-school; 5 to 9 years; 10 to 15 years)</li> <li>&gt; We are concerned that the section on pressure to purchase (paragraph 7.2.2) would still allow companies to use less overt forms of pester power.</li> <li>&gt; Promotional offers in HFSS food and drink advertising would be restricted to children under ten only (paragraph 7.2.3).</li> <li>&gt; Celebrities would be restricted from advertising HFSS food and drinks to children under ten only (paragraph 7.2.4).</li> <li>&gt; Licensed characters popular with children would be restricted from HFSS food and drink advertisements directed to children aged under 10 only and advertiser-created equity brand characters would not be covered at all (paragraph 7.2.4). That leaves characters such as Ronald McDonald free to target children of all ages with HFSS foods.</li> </ul> <p>These content standards need to be reviewed in the context of a 9.00pm watershed, which would address most of the concerns that we have raised</p>

**General comments: Comments about the BCAP content proposal raised in addition to or instead of responses given to questions 7, 8 and 9.**

<b>Respondent</b>	<b>Comments</b>
<b>All-Party Parliamentary Group on Heart Disease</b>	The pre-9pm watershed ban would be an entirely proportionate and appropriate response to the scale of the diet and nutrition problem in the UK. Therefore that option alone will carry our support.
<b>Diabetes UK/British Heart Foundation/Cancer Research UK (joint letter)</b>	The balance of research illustrates that television food advertising clearly affects children's food preferences, consumption and behaviour. For those reasons, we support action to alter the balance of food advertising to children and consider the most effective restriction to be the 9pm watershed.
<b>Foodaware</b>	The proposed new BCAP rules are considered by Ofcom to be insufficient in themselves and so must incorporate additional new rules aimed at excluding or reducing the amount of HFSS advertising at certain times of day. The consultation closes on 30 June and Ofcom intends that its decision will be incorporated into the BCAP code and implemented immediately. Ofcom anticipates that the new rules should apply to any new campaign conceived after its statement and that a 6 month period of grace would apply for existing campaigns and those that are under development. Foodaware supports that approach but thinks that a 6 month period of grace is too long. (Foodaware's member organisations include the General Consumer Council, Northern Ireland, the National Consumer Council and Which?)
<b>Jetix Nickelodeon and Turner Broadcasting</b>	We also have grave reservations about the proposed revisions to the BCAP code. As we have argued and demonstrated, we believe that brands such as <i>Power Rangers</i> , <i>Scooby Doo</i> and <i>SpongeBob</i> can be harnessed as forces for good in the war against childhood obesity. By prohibiting the use of licensed characters on <b>all</b> food and drink promotion targeted at children, BCAP would be denying manufacturers of healthy food and drink products the ability to raise the appeal to children of their products. Introducing new barriers to the promotion of healthier lifestyles would seem to us to be counter to the objective to reducing childhood obesity
<b>McDonalds Restaurants Ltd</b>	We do not intend to fully comment on the BCAP content proposals, save to comment that we believe that their impact will be highly significant and, further, to question the need for the restrictions to be applied to all foods. If it is accepted that there are benefits in promoting certain types of food to effect behavioural change, we would invite OFCOM to reassess the BCAP proposals in the same light. We believe that there is a missed opportunity to promote certain foods effectively and responsibly if the use of licensed characters, promotions and celebrities are removed altogether. We therefore believe that a total restriction of their use would be detrimental to the Government's public policy objective. Taking this point further, we would underline the importance of the ability to use licensed characters, promotions and celebrities to deliver generic messages on nutrition, safety and similar matters.
<b>National Family and Parenting Institute</b>	The NFPI would like to see an end to all advertising of HFSS food to under sevens. Children under the age of seven are unable to distinguish between fantasy and reality, so are particularly vulnerable to advertising during television programmes targeted at that age group. That includes after-school programming as well as daytime programming for pre-school children.

<b>NCC</b>	Our main concern is that the BCAP content proposals fail to differentiate HFSS foods. Our other concern is that children aged 10 to 15 are excluded from controls on promotional offers and the use of characters and celebrities. We recommend clearer guidance to prevent foods giving a misleading impression of their nutritional content. Such guidance should include reference to the EU Health Claims legislation.
<b>Voice of the Listener and Viewer</b>	We believe that a total pre-watershed ban on HFSS advertisements would be <u>disproportionate</u> . Of Ofcom's three Options, therefore, we believe that the proportionate response lies somewhere between Options 2 and 3. VLV considers it essential that a balanced approach will also require regular monitoring, so that the content supported by continued advertising revenue can be properly evaluated against the health risks resulting from the retention of limited advertising of these products.
<b>Which?</b>	The proposals do not deal with older children although obesity and diet-related disease is as much of a problem for that group as for younger children. Even those measures proposed for children up to age 9 would do little to reduce the latter's exposure to advertisements for HFSS foods. Also, we are concerned that the BCAP content rule changes that are proposed fail to address the need for the food industry to take a more responsible approach. Even in combination, the three packages and the proposed amendment to the BCAP Code would still mean that advertisements for HFSS foods would be permitted during the times that most young children are watching.
<b>ZenithOptimedia</b>	The proposed restrictions outlined in options 1, 2 and 3 disproportionately penalise advertising agencies, television companies and a significant number of our client companies. We are not convinced that the measures address the rising obesity of children. The steps outlined seem no more than an appeasement to pressure groups and distract the real solutions required to resolve that disturbing trend. We endorse the response submitted by the IPA. We support the Option 4 being proposed.