

What are the issues and areas that should form Ofcom's priorities or major work areas in 2015/16?

The British Heart Foundation (BHF) is the nation's leading heart charity. We are working to achieve our vision of a world in which people do not die prematurely or suffer from cardiovascular disease. In the fight for every heartbeat we fund ground breaking medical research, provide support and care to people living with cardiovascular disease and advocate for improvement in care and services.

The British Heart Foundation strongly welcomes the opportunity to respond to this consultation. We believe that Ofcom, as the official regulatory body for communications within the UK, has a responsibility to protect children aged under 16 years old from advertisements for food and drink products that are high in saturated fat salt or sugar (HFSS).

Broadcast

We believe that it falls firmly under Ofcom's duty to ensure that consumers' are protected from harm. We interpret harm to refer to the damage of regularly eating HFSS products can have on a child's health which can have lasting impacts into adulthood.

This harm is amplified in the current context of the UK's high prevalence of childhood obesity where around 30 per cent of children are overweight or obese.ⁱ Obese children are more likely to become obese adults, which in turn increases their risk of developing cardiovascular disease. We also know that children today are eating more saturated fat and salt^{ii,iii} than is recommended, which over time can lead to increased blood pressure and raised cholesterol levels both of which are risk factors for heart disease and stroke.^{iv} We also know that lifetime eating patterns often start in childhood and adolescence.

Whilst it is difficult to apportion the direct impacts of watching HFSS adverts on weight gain, HFSS advertising to children is a concern for two main reasons:

First, children are a vulnerable group that should be protected from advertising. Evidence shows that children are unable to critically interpret advertising, and that younger children are not able to discriminate between advertising and other media content.^v Ofcom's own research states that *"media literacy develops with age and is commonly related to children's growing ability to understand the persuasive intent of advertising. It is generally agreed 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, but it is only after 11 or 12 that they can articulate a critical understanding of advertising."*^{vi}

Second, a systematic review commissioned by the Food Standards Agency^{vii} concluded that food promotion influences children's behaviour in a number of ways, including their preferences, purchase behaviour, and consumption. The report also identifies that food promotion works both at brand and category level, meaning that an advert for a specific chocolate bar will make a person more likely to buy that brand, but also more likely to buy a chocolate bar in general. Research by Ofcom found that television advertising has a *"modest*

direct effect on children's food preferences, consumption and behaviour", and that "indirect effects are likely to be larger".^{viii}

With these effects in mind we are calling for a ban on scheduling HFSS advertisements before 9pm. We feel that this is necessary because current broadcast regulations only apply to programmes classified as 'children's programming' which is measured by the proportion of the total audience that are children, rather than the total number of children watching. This loophole is compounded by children's shifting viewing habits, with more children now watching later in the evening, peaking between 8-9pm.^{ix} Crucially, the peak viewing time falls within the typical scheduling of 'adult or family programming' and is therefore exempt from regulations.

This means that some of the shows most watched by children, such as *X-Factor*, *Britain's Got Talent* and *Coronation Street*, are not affected. Recent research from the University of Liverpool, surveyed the adverts that ran during *X-Factor*, *Hollyoaks* and the *Simpsons* during December 2013. These programmes were chosen because they fall within 'adult or family programming' yet are popular with younger viewers. The research found that 22 per cent of adverts advertised food items, including fast-food restaurants and chocolate and confectionary products^x, meaning that children were being exposed to marketing that would otherwise be prohibited during 'children's programming'.

We are aware that Ofcom has already considered a 9pm watershed ban for HFSS products but concluded that although it would deliver a significantly greater reduction in the number of HFSS food and drink adverts seen by children, (82 per cent compared to 37 per cent for the current regulations^{xi}) that the loss of revenue to broadcasters would not be justified by the benefits of extending the regulations.^{xii, xiii} This is a clear example of prioritising profits over health and we urge Ofcom to reconsider the harm that this is having on younger audiences.

Online

The BHF recognise that the remit of Ofcom is restricted to TV, radio mobile and postal services. However, Ofcom's co-regulatory agreement with the Advertising Standards Authority (ASA) ensures that the ASA enforces both the BCAP and CAP Codes of advertising practice. Therefore it is Ofcom's duty to ensure that the ASA are enforcing codes that are fit for purpose.

The BHF believes that the vague and weak nature of the CAP Code is a loophole that permits marketing techniques online that would not be allowed during children's programming. The CAP code does not distinguish between healthy and unhealthy food, and largely exists to ensure advertising is "legal, decent, honest and truthful", rather than to protect and promote health. The wording of the code is vague. For example, the code states that "*Marketing communications should not condone or encourage poor nutritional habits or an unhealthy lifestyle in children*" – but what constitutes "condoning and encouraging" or "poor habits" is left open to interpretation.

Websites for foods and drinks almost exclusively promote products that are high in sugar and/or fat. Many websites have a wealth of features that may not be explicitly aimed at young people but advergames, downloads, promotions, competitions and media players, alongside the use of cartoons or animations and brand characters, will undoubtedly attract

children. Some examples include; Sugar Puffs competition to win thousands of toys^{xiv} Or Capri-Sun's dedicated teen zone.^{xv}

Many of the techniques used to promote food and drinks online blur the lines between what is designed to persuade and what is designed to entertain, and it is often difficult for children to identify forms of online marketing.^{xvi} An example of this are an advergame, which are online games that promote a particular brand, product or marketing message which is integrated into the game, such as, the Chewits website which features games, downloads and a 'pocket money survey'.^{xvii} Research suggests that advergames for HFSS products are of particular concern because children spend longer engaging with the brand/product or message than a TV advert and engage with the brand at a deeper subconscious level while the explicit part of the brain is engaged with playing the game.^{xviii}

Many companies, brands and products also have Facebook pages and Twitter feeds to alert their followers to games, competitions, and to remind them of the brand. By becoming 'fans' and following these pages, young people alert their friends to their food and drink preferences. For example, when accessing Krave's website, after selecting UK, you are linked straight through to their Facebook page which advertises a free game 'Pitfall' which can be downloaded to smartphones to be in with a chance to win 'daily prizes of £10,000'.^{xix} Krave encourages you to 'like' the page and invite your friends to do the same.

We therefore believe that current loopholes within the regulatory framework, of which Ofcom have ultimate authority is undermining current efforts to help children lead a health balanced diet and should therefore form a priority of Ofcom's work plan for 2015/16.

We reiterated our concern with existing loopholes earlier this year during the consultation on renewing Ofcom's co-regulatory agreement with BCAP.

For more information please contact Amy Smullen, Policy Officer (Prevention)

ⁱ British Heart Foundation (2013) 'Children and Young People Statistics' <http://www.bhf.org.uk/publications/view-publication.aspx?ps=1002326>

ⁱⁱ Food Standards Agency (2007) 'Low Income Diet and Nutrition Survey'

ⁱⁱⁱ Department of Health (2012) 'National Diet and Nutrition Survey: Headline Results from Years 1, 2 and 3 (combined) of the Rolling Programme 2008/09 – 2010/11'

^{iv} J.J.He, N.M.Marrero, G.A MacGregor (2007) 'Salt and blood pressure in children and adolescents.' *Journal of Human Hypertension*. doi:10.1038/sj.jhh.1002268 P1-8

^v E.g. Young B (2003) 'Does food advertising influence children's food choices?' *International Journal of Advertising* 22: 441-459. Hastings et al (2003) 'Review of the research on the effects of food promotion to children.' Food Standards Agency

^{vi} Livingstone S (2004) *Childhood Obesity – Food Advertising in Context*.

^{vii} Hastings et al (2003) 'Review of the research on the effects of food promotion to children.' Food Standards Agency.

^{viii} Ofcom (March 2006) 'Television Advertising of Food and Drink products to Children: Options for new restrictions: A consultation' (para 1.8).

^{ix} Ofcom (2013) 'Children's and young people's exposure to alcohol advertising' <http://stakeholders.ofcom.org.uk/market-data-research/other/tv-research/alcohol-advertising/>

^x Boyland, E and Halford J. (2014) Preliminary research findings (to be published)

^{xi} Ofcom (2006) 'Impact assessment – annex to consultation on television advertising of food and drink to children.'

^{xii} Ofcom (2010) 'HFSS advertising restrictions – final review.'

^{xiii} Ofcom (2006) 'Television advertising of food and drink products to children: statement and further consultation'

^{xiv} <http://www.honeymonster.co.uk/> [Accessed 14.08.14]

^{xv} <http://www.capri-sun.co.uk/teen-zone> [Accessed 6.2.14]

^{xvi} A.Nairn (2009) 'Changing the rules of the game: implicit persuasion and interactive children's marketing.' Berkley Media Studies Group

^{xvii} <http://chewits.co.uk/have-your-say/> [Accessed 14.08.14]

^{xviii} Nairn, A. (2012) 'Advergames: Its not child's play.' http://www.agnesnairn.co.uk/policy_reports/advergames-its-not-childs-play.pdf

^{xix} www.krave.com [Accessed 14.08.14]