

Food and Drink Federation

Question	Your response
Introduction	<p>This submission is made by the Food and Drink Federation, which is the voice of the UK food and drink manufacturing industry, the largest manufacturing sector in the country, with a footprint in every parliamentary constituency. Our industry has a turnover of more than £112 billion, accounting for 20% of total UK manufacturing, and Gross Value Added (GVA) of more than £32 billion. Food and drink manufacturers directly employ over 478,000 people across every region and nation of the UK. 97% of our industry is small and medium-sized businesses.</p> <p>Advertising food and drink to adults is a fundamental commercial freedom. It plays an important role in differentiating brands from competitors,</p>
	<p>stimulating innovation and creating more consumer choice. Advertising often tells a story of a brand's heritage and provenance and can be a useful tool for companies to create consumer awareness of reformulated products or better for you ranges. Advertising is also critical to communicate new brands or products and is especially important for emerging businesses. The ability to use advertising and marketing to shift consumers to lower calorie, sugar or salt variants is a key mechanism recommended by Government in its reformulation programmes.</p> <p>Our members use advertising responsibly and have extremely high levels of compliance with BCAP and CAP codes. We want to ensure that companies continue to be clear about the rules, and thus welcome the opportunity to input into this consultation.</p>
<p>Question 1:</p> <p>Do you consider Ofcom's proposed rule and the proposed definitions to be inserted into the BCAP Code reflect appropriately the requirements of Section 321A of the Communications Act?</p>	<p>Agree. The proposed rule and definitions satisfy the requirements of Section 321A. However, it is important that BCAP (and CAP) is more specific, to give businesses the clarity they need to ensure full compliance. For example, the definitions in both the BCAP and CAP codes should make specific reference to the 2004/5 nutrient profiling model, rather than simply the 2011 technical guidance.</p> <p>We note that the Health and Care Act sets out that rules apply to 'identifiable less healthy food or drink' advertisements. However, for clarity the Communications Act, BCAP and CAP codes should also set out that there is an exemption for brand advertising, to prevent misinterpretation and overapplication of the rules.</p> <p>We agree that the SME exemption for the new rules should be set out in the codes. It should also be made clear that the new Regulations do not apply to business-to-business advertising, services connected to regulated radio services, transactional content, owned media, and advertisements which are intended to be accessed principally by persons outside of the UK.</p>

<p>Question 2:</p> <p>Do you consider Ofcom's proposed Rule 9.17A and the associated meaning, to be inserted into the Broadcasting Code, reflect appropriately the requirements of Section 321A of</p>	<p>Agree. More detail is needed to enable businesses to ensure full compliance. See comments above.</p>
<p>the Communications Act?</p>	
<p>Question 3:</p> <p>Do you agree with Ofcom's proposal to designate the ASA as a co-regulator for the prohibition on online advertising for less healthy food and drink products?</p>	<p>Agree. We fully support designation of ASA as a coregulator for this purpose. This is supported by ASA's long-standing experience, its independent nature and its track record of collaboration with Ofcom.</p> <p>ASA has been applying rules to HFSS advertising for over a decade, following adoption of the 2004/5 nutrient profiling model as the basis for restricting advertising to children. This experience makes ASA the obvious choice to ensure accurate, rigorous monitoring and enforcement of the technical model underpinning the HFSS definition.</p> <p>The consultation states that 'The ASA is widely recognised as a 'one-stop shop' for advertising complaints across all media'. We would support this. It will be beneficial for consumers to continue to have a single point of contact for advertising issues across all media.</p>

Any additional comments on: Ofcom's proposed approach to enforcing the new prohibition on advertising for less healthy food and drink products online; and Ofcom's assessment of the impact of our proposed approach to implementing the new restrictions on advertising and sponsorship for these products on TV, ODPS and online.

To prevent confusion and ensure compliance with the advertising codes is maintained, we would encourage Ofcom to seek assurance from DHSC that:

- The 2011 NPM guidance is updated to address the many questions that have arisen over the years, to ensure that advertisers are equipped with the correct knowledge to apply the NPM correctly and consistently.
- Clear and timely guidance is developed on what falls under the definition of the categories in scope. Although the categories will largely mirror those in the guidance for promotional restrictions for food and drinks high in fat, sugar or salt, it is imperative that guidance is consistent across both policies about what products fall within each category. This will avoid significant complexity and confusion. It will also be imperative for clear guidance to be developed across all categories for products in the out of home sector, and the new sandwiches category.

It is integral that the legislation and supporting guidance provide sufficient clarity for businesses to implement these complex regulations. As part of this, it would be helpful if ASA could provide a flowchart or decision tree for businesses to illustrate the different layers within the rules for food and drink advertisements.

It is also essential that a comprehensive and independent review of the policy is undertaken within 5 years from implementation and that a sunset clause is included. If the policy is not effective, it must be revoked.

Annex - The UK Food and Drink Manufacturing Industry

The Food and Drink Federation (FDF) is the voice of the UK food and drink manufacturing industry, the largest manufacturing sector in the country. Our industry has a turnover of more than £112 billion, accounting for 20 per cent of total UK manufacturing, and Gross Value Added (GVA) of more than £30 billion. Food and drink manufacturers directly employ over 478,000 people across every region and nation of the UK. Exports of food and drink make an increasingly important contribution to the economy, exceeding £20 billion in 2021, and going to over 220 countries worldwide. The UK's 11,675 food and drink manufacturers sit at the heart of a food and drink supply chain which is worth £116 billion to the economy and employs 4.1 million people.

The following Associations actively work with the Food and Drink Federation:

ABIM	Association of Bakery Ingredient Manufacturers
BCA	British Coffee Association
BOBMA	British Oats and Barley Millers Association
BSIA	British Starch Industry Association
BSNA	British Specialist Nutrition Association
CIMA	Cereal Ingredient Manufacturers' Association
EMMA	European Malt Product Manufacturers' Association
FCPPA	Frozen and Chilled Potato Processors Association
FOB	Federation of Bakers
GFIA	Gluten Free Industry Association
PPA	Potato Processors Association
SNACMA	Snack, Nut and Crisp Manufacturers' Association
SSA	Seasoning and Spice Association
UKAPY	UK Association of Producers of Yeast
UKTIA	United Kingdom Tea & Infusions Association Ltd

FDF also delivers specialist sector groups for members:

Ice Cream Group
Organic Group
Seafood Industry Alliance
CBD Group