Joint Response from Action on Salt, Action on Sugar and Blood Pressure UK to - *Introducing further advertising restrictions of products high in fat, sugar and salt (HFSS) on TV and online*

Action on Salt
Action on Salt (formerly Consensus Action on Salt & Health, CASH) is an organisation supported by 24 expert members and working to reduce the salt intake of the UK population to prevent deaths, and suffering, from heart disease, stroke, kidney disease, osteoporosis, stomach cancer and obesity.

Action on Sugar
Action on Sugar is a group of experts concerned with sugar and obesity and its effects on health. It is working to reach a consensus with the food industry and Government over the harmful effects of a high calorie diet, and bring about a reduction in the amount of sugar and fat in processed foods to prevent obesity, type 2 diabetes and tooth decay.

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

Cinema, radio, print, outdoor and direct marketing should be covered in addition to the sponsorship of (including but not limited to):

- TV channels
- TV programmes
- Websites
- Sports events
- Music festivals
- School based activities

Currently programme sponsorship is regulated by Ofcom which allows HFSS adverts to be shown in a snippet at the start and end of each programme, before/after the advertisements. This creates a loophole to the 9pm watershed if it is not considered, therefore it's vital to include programme sponsorship. The restrictions should also be future-proofed to include any future advertising medium that does not already exist, that may be seen by children.

Please explain why you think that we should extend additional HFSS advertising restrictions to these types of media.

These restrictions will:

- Reduce children's exposure to HFSS advertising and in turn reduce their calorie intake
- Drive further reformulation of products
- Reduce risk of displacing advertising spend

These restrictions are easy for advertisers and regulators to understand and easy for parents and guardians to understand.

It is important to remember that the advertising restrictions are not a ban. HFSS products, defined by the NPM, will still be able to be shown between 9pm and 5.30am. Manufacturers have vast brand

portfolios, however do not advertise all their products, therefore this will give them the opportunity to advertise products that pass the NPM during the watershed period, thereby promoting more diversity within their brands. Reformulation will also provide more jobs in New Product Development, such as food technologists, nutritionists and marketers. It has been found that reformulation can be profitable for the company. Irn-Bru for example, reformulated their products so that 99% were exempt from the soft drinks levy. Whilst it would be assumed to cause a drop in sales from customers 'wanting the original flavour', Irn-Bru actually had a 6.4% improvement in gross profit[1].

1. 1.Investors Chronicle. AG Barr benefits from reformulations https://www.investorschronicle.co.uk/shares/2019/03/26/ag-barr-benefits-from-reformulations/

The Government proposes that any additional HFSS advertising restrictions apply to food and drink products included in Public Health England's sugar and calorie reduction programmes and the Soft Drinks Industry Levy, using the 2004/05 Nutrient Profiling Model to define what products are HFSS. Do you agree or disagree with this proposal?

We disagree with the proposed HFSS definition. Poor diet is responsible for more deaths than any other risks globally[1]. The majority of foods available on the supermarket shelves are processed and packaged. It is not easy to determine, by sight alone, what the healthiest choices are, despite good evidence that people, given the correct information, will make a healthier choice[2]. There is not enough information available for parents to make healthy choices due to the Government's inaction on mandating front of pack colour-coded labelling. The NPM does not just pick up 'junk food' but also healthiness of a food. It determines whether a food or drink product is classed as High Fat, Sugar, Salt (HFSS) based on 'A' and 'C' scores. 'A' scores are calculated for nutrients we should be eating less of (energy, saturated fat, sugar, salt) and 'C' scores are calculated for nutrients we should be eating more of (protein, fibre, fruit, vegetables and nuts). The total 'C' scores are subtracted from the total 'A' scores and to be defined as HFSS, the product must score 4 or more if it is a food, or 1 or more if it is a drink. The NPM and is currently used to restrict the advertising of these products to children on TV, and most recently, on the London Transport Network. Due to its effectiveness, it has been adapted by other bodies around the world to design their own NPM.[3,4] Compared to the WHO NPM, The UK's NPM is more lenient, with the WHO's model not permitting five categories, including any chocolate, sweets, cake or energy drinks, to be marketed at all[5]. The sugar and calorie reduction programmes aims to reduce the sugar and calorie content from manufacturer's current products, not to introduce new reformulated products alongside the original. Therefore there would not be a need to advertise new products that may meet these targets but still do not meet the NPM threshold, as consumers will already know about the original product that has been reformulated.

This proposed policy and the reformulation programmes can happily coexist together, alongside other policies which have different objectives and still work well together, such as labelling, education and salt reduction. Without drastic action, we will not reach the goal of halving childhood obesity by 2030. Brand owners must take responsibility and ensure they do no advertise HFSS food and drink during the set advertising restrictions. Delivery services such as Deliveroo and Uber Eats also have a role to play, who tend to advertise just HFSS food and drink. We do not accept the proposal to apply the NPM to food and drink categories included in PHE's sugar and calorie reduction programmes. Firstly, the proposal fails to include either infant formula, alcohol or any salt reduction targets, therefore salty food, that may not contribute a lot of calories, would still be advertised. Products that are high in salt and saturated fat, including cheese and salted butter (high in both salt and saturated fat), baked beans, deli meats, stocks and gravies, all of which are major

contributors of salt to children's diets, would be exempt if only products covered by PHE's sugar and calorie reduction programmes are included. We know that an individual's preference to salt and salty foods is a learned behaviour that we acquire in childhood, therefore it is imperative that we reduce advertising of these foods to ensure children eat as little salt as possible. A high salt intake increases blood pressure and therefore the risk of stroke and cardiovascular disease which is already a risk factor of obesity and is by very definition 'HFSS'. Also, the sugar reduction programme is only currently scheduled until 2020. Secondly, the Nutrient Profile Model (NPM) is a widely used and established, evidence based tool that is already being used for advertising restrictions to children's programmes. It was one of the first nutrient profiling models developed. Introducing categorisation adds complication. The current NPM is already understood and used by itself, by the food and drink industry for advertising restrictions. Adding in further rules can only introduce issues and be more time consuming for companies. It will provide a greater incentive to reduce overall calories, sugar, saturated fat and salt rather than just focusing on one nutrient, whilst also increasing beneficial nutrients such as fruit and vegetables, fibre and protein. We also want to make it absolutely clear that using the NPM, and bringing in these restrictions, is not a ban on advertising olive oil, which for some reason seems to really bother people (it is after all, 14% saturated fat) – ie there will be no 'ban on advertising olive oil', they just won't be able to advertise before 9pm. The NPM was designed to classify food and drinks as HFSS. It was reviewed in 2018 and updates were suggested to reflect the latest dietary advice. The outcome of the review is yet to be published. Therefore, we propose that the current version of the NPM should be used, to avoid delays, against ALL food and drink products, including salty products, alcohol and infant formula and not just on certain categories. This ensures that salt, which is over consumed and bad for our health, is also covered, as well as making it more simple for the food industry to follow and much easier to monitor and measure. When it is published, to ensure the restrictions reflect current UK dietary requirements, particularly relating to free sugar, the updated NPM should take over the current 2004/2005 NPM.

1. Health effects of dietary risks in 195 countries, 1990-2017: a systematic analysis for the Global Burden of Disease Study 2017 https://www.thelancet.com/action/showPdf?pii=S0140-6736%2819%2930041-8
2. Front of pack nutrition labelling: are multiple formats a problem for consumers? https://www.ncbi.nlm.nih.gov/pubmed/22140250
3. https://academic.oup.com/advances/article/9/6/741/5194324
4. https://www.cambridge.org/core/services/aop-cambridge-core/content/view/778CCADE2005659B38A76ED61A92828D/S0029665117000362a.pdf/nutrient_profiling_for_regulatory_purposes.pdf
5. http://www.euro.who.int/__data/assets/pdf_file/0005/270716/Nutrient-children_web-new.pdf

Broadcast Options

1. **introduce a 9pm – 5:30am watershed on broadcast TV**
2. **a ladder of advertising restrictions to incentivise reformulation**
3. **no watershed**

We believe option 1 is the most appropriate option. This would reduce children's exposure to HFSS advertising and in turn reduce their calorie intake, drive further reformulation of products, reduce risk of displacing advertising spend, is easy to implement, easy for advertisers and regulators to understand and easy for parents and guardians to understand.

In 2016/17, 1/5 of children in Year 6 and 1/10 of children in Reception were classified as obese. Excessive HFSS food and drinks have been linked to weight gain (and to dental disease), as they provide a major and unnecessary source of calories with little or no nutritional value. These same children have been frequently exposed to HFSS advertising throughout their short lifetime. We understand from the analysis by the OHA that 68% of children, between the times of 7.45am and

8.14am, are actively using media and communications channels (TV, film, online, shopping, social media etc..), with 89% between 7.45pm and 7.59pm after which it slowly declines as they go to bed[1]. 59% of food and drink products advertised during the evening on TV (family viewing time) were for HFSS products, OHA & The University of Liverpool found[2]. By introducing a 9pm watershed, this will reduce children's exposure to HFSS advertisement, and therefore calorie intake (evidenced in this consultation). This will also prevent the risk of displacing HFSS advertising to another time of day popular with children. Restrictions are already in place on children's programmes, therefore if guidelines are kept the same (using the NPM to decide whether any product is HFSS) then it will be easy for industry to understand and implement. There has also been previous success, with McDonald's Happy Meals and cereals aimed at children being reformulated due to previous advertising restrictions. 72% of adults support the introduction of a 9pm watershed on TV, with 70% supporting a similar restriction online[3]. The concept is easily understandable, especially a simple time-based restriction which doesn't rely on categories. Parents will be able to understand that between 5.30am and 9pm they should not see any HFSS product being advertised. It becomes complex and confusing for parents when there are exceptions to the rule.

1. Ofcom. (2016). Children's Digital Day Report.
2. Obesity Health Alliance (2017). A Watershed Moment.
3. You Gov poll, 2038 adults, 12-13 February 2019, commissioned by Obesity Health Alliance http://obesityhealthalliance.org.uk/2019/02/28/protect-children-junk-food-advertising-say-health-experts-parents-agree/

The Government proposes an exemption for when there are low child audiences. Should this exemption apply to channels or to programmes? Please explain your answer.

Exemptions can create confusion and loopholes. However, if there is to be an exemption, both programmes and channels should be considered for low child audiences. If a channel is above the threshold, then no HFSS product should be shown on the channel. However, if a channel is below the threshold, programmes should then be looked at and HFSS products should not be shown around individual programmes that exceed the threshold. The OHA provides an example of when a channel would be below the threshold, yet have programmes that would be popular to children and therefore those programmes exceed the threshold: "For example, according to BARB data seen by Cancer Research UK[1], the channel 4Music had a 1% child audience across one week in March 2019 (defined as the average number of child viewers watching the channel for three or more minutes continuously). This channel shows several programmes likely to be popular with teenagers such as 'Keeping up with the Kardashians' and '90210' which could exceed the 1% threshold at a programme level, even if the channel as whole does not." According to the Kantar data used in this consultation, which has not been published in detail, 207 out of 310 channels would be exempt. However, it is thought that there is a high chance there will be some programmes within these channels that would have a high child audience.- for example, a child friendly programme that's being repeated on a different channel. Exemptions, as mentioned before, will create confusion. Parents are unlikely to know every channel that a restriction will apply to, PHE will find it hard to measure, and NGOs will find it difficult to scrutinise. The government will have to make this very clear with a detailed report as well as data on the number of child viewers per programme/channel.

1. BARB channel-level data for 25 March 2019 to 31 March 2019, using a similar methodology as outlined in the Impact Assessment. Dataset submitted by Cancer Research UK as an Appendix to their response.

Do you agree that 1% of the total child audience (around 90,000 children) is the appropriate level at which programmes or channels should be exempted? Please explain your answer.

No. HFSS food and drink products influence food preference and how much children eat, evidence that has already been shown in the consultation. We support OHA in that "a child rights based approach should be applied to this policy, which prioritises the rights of all children to be protected from exposure to advertising for unhealthy food and drinks". Every child counts. As outlined in the legal analysis commissioned by UNICEF in 2018, children have the right to be protected from being exposed to unhealthy food and drink advertising, and their health should always outweigh the impact on business[1]. Whilst specific children's programmes already have restrictions placed on them, we support the evidence from OHA's submission that shows that children also watch many popular shows that aren't specifically 'children's programmes', such as soaps, dramas, quiz shows and documentaries. 2018 BARB data found out of the top 20 TV shows with the high child audiences, just 1 was considered as 'children' genre of programming[2]. 90,000 children watching a programme and seeing HFSS ads, is a completely unacceptable level of children to expose to unsuitable advertising. Out of 480 channels, in a week in March 2019, just 75 channels met the 1% threshold, 16 of which were children's channels and therefore already subject to HFSS advertising restrictions. Over 400 channels would be exempt from any proposed restrictions, with a total of 5,260,000 children being exposed to HFSS food/drink advertising which is of course, totally unacceptable[3]. This BARB data was obtained by Cancer Research UK. The Kantar data provided in the consultation, as mentioned in question 9, did not include the average number of child viewers watching programmes or channels that would be exempt under the 1% threshold. We urge the Government to publish the details of programmes and channels that would be exempt along with the average number of child viewers so that a calculation can be made to work out how much children's TV viewing time would be exempt. Allowing for exemptions would increase the chance of displacing HFSS ads, with the food and drink industry spending more on advertising to these channels/programmes and therefore increasing the exposure of HFSS ads to the children that do watch these programmes/channels. Whilst the consultation states that a 1% child audience would be 90,000, we agree with the OHA that the actual number would be higher as this only measures children between the ages of 4-15. Children under 4 can still be exposed to these programmes especially as they are at home during the day whilst not old enough to be at school. Despite the fact that 1 in 5 children are overweight or obese before they start primary school (at the age of 4 years old), this suggestion of an exemption ignores their rights to be protected from exposure of advertising of unhealthy food and drink products. In addition, children with specialist or niche interests would be unfairly impacted. Children on the autistic spectrum, for example, or other types or neurodiversity tend to have specific specialised interested as a core part of their diagnosis, and can be wide ranging from trains, to history or politics, and more likely to watch typically adult TV content[4,5]. These topics would not normally be considered of interest to children. Exemptions like this, therefore, could increase inequalities by exposing children with neurodiversity to these adverts, especially as they are more likely to be overweight or obese than their neuro-typical peers[6]. Exemptions are likely to cause more confusion to parents and families as they are unlikely to know there are any, and if you are will be unsure as to what programmes or channels will be affected. It is essential that if there were exemptions, there should be high level monitoring and measurement so that no HFSS advertisements are shown. Without monitoring, it is more likely for HFSS ads to slip through and expose children to these products. Monitoring is currently lacking, with the latest ASA report finding 490 HFSS ads shown across 55 YouTube channels[7]. This is unacceptable. According to the OHA, there will be new data[8] published in summer 2019 modelling the health impact of a 9pm watershed. This publication found that if all HFSS food and drink advertising was banned with NO exemptions, there will be an average reduction of 4.6% in the number of children with obesity (an average of 40,000

children), and a 4.9% reduction in those overweight (an average of 120,000 children). It was then calculated that this would add an average of 240,000 QALYs to today's children (n=13,729,000), and a monetary benefit of £7.4 billion, £6 billion for than the Government's IA suggestion. We are strongly opposed to any exemptions at all, including this exemption for channels or programmes with less than a 1% child audience as we believe this is a large number of children still exposed, and no child should be exposed to HFSS food and drink adverts just because they may be interested in a programme that isn't typical for a child to watch. In addition, this would clearly confuse parents further, make it much harder for PHE to measure and for NGOs to monitor and scrutinise and most importantly, could impact the most vulnerable children.

1. UNICEF. A child rights-based approach to food marketing: a guide for policy makers. 2018.
2. https://www.ofcom.org.uk/__data/assets/pdf_file/0027/134892/Children-and-Parents-Media-Use-and-Attitudes-Annex-1.pdf
3. BARB channel-level data for 25 March 2019 to 31 March 2019, using a similar methodology as outlined in the Impact Assessment. Dataset submitted by Cancer Research UK as an Appendix to their response. The March 2019 BARB child universe means the 1% threshold would be 94k rounded to nearest 1k.
4. https://www.autism.org.uk/about/behaviour/obsessions-repetitive-routines.aspx
5. Stiller A (2018). Media Use Among Children and Adolescents with Autism Spectrum Disorder: a Systematic Review. Review Journal of Autism and Developmental Disorders
6. Must et al. (2017) The effect of age on the prevalence of obesity among US youth with ASD. Childhood Obesity
7. https://www.asa.org.uk/news/banning-ads-for-hfss-food-appearing-in-children-s-online-media.html
8. Unpublished data presented at closed meeting by Dr Oli Mytton

If you do not agree that 1% of the total child audience is the correct threshold to grant an exemption please propose an alternative threshold, providing evidence to support your answer.

As mentioned in our previous answer, every single child counts. All children should be protected from unhealthy food advertising as a priority over any potential impact on business'[1]. The evidence is clear in that 'junk food' advertising can impact children's food preferences and consumption. No child should be exposed to HFSS advertising. Childhood obesity is a growing problem, as evidenced in the consultation, and we must do everything we can to protect the health of our children.

1. https://www.unicef.org.uk/child-rights-partners/wp-content/uploads/sites/3/2016/08/CRC_summary_leaflet_Child_Rights_Partners_web_final.pdf

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

We strongly disagree with option 2, the ladder approach, as it will not have a big enough impact on the number of HFSS ads shown, only banning the very worst products. Furthermore, there is no information given as to what 'advertising freedoms' mean. The NPM, as discussed before, is an evidenced based model that has been taken and adapted by other countries around the world to classify food and drink as HFSS or non HFSS products, and therefore decides what food and drinks can and can not be advertised to children. This model is used effectively already on children's programmes, without any exemptions because children should not see HFSS food and drink adverts. So why should it be any different on the 9pm watershed since it has the same objective – protecting children from being exposed to HFSS advertising? Introducing a 'ladder approach' weakens the NPM and allows children, and parents to see HFSS products being advertised. Companies can switch from advertising food products with a score of 9 and above to a score of 8 for example, which are just as bad for children's health. This approach will not encourage the advertising of healthy products with an NPM score under 4, and we believe it will not encourage reformulation. The soft drinks levy was a success due to a clear regulatory approach, encouraging reformulation which in turn brings

investments into research and development, positively impacting the economy. If manufacturers can still advertise their products, they will have no incentive to reformulate products that CAN be made healthier with less sugar, saturated fat, salt and overall calories. Parents may be aware about the 9pm watershed but will not understand the NPM scoring system or the ladder approach, and therefore this sends confusing messages to parents. It may be assumed by parents that advertised products are the healthier products, leading them to purchase them for their children. This makes no sense at all and could cause real distress to parents once they learn the truth. The OHA have found examples of products that have scores between 4 and 9, and therefore would be able to advertise under this ladder approach with unspecified 'advertising freedoms'. These products all contain high levels of sugar. Data was taken from a survey of products promote on Tesco Online Grocery in August 2018[1]. Apple Crumble (scores 4), but with 23.9g sugar per one crumble, this product contains over the limit of a child's aged 4-6 daily intake of sugar, and 99.58% of a child's aged 7-10 daily intake of sugar. Raspberry Royale Desserts (scores 7), but with 19.1g sugar per pot, this product contains over the limit of a child's aged 4-6 daily intake of sugar, and 79.58% of a child's aged 7-10 daily intake of sugar. Ambrosia Desserts Chocolate Fudge (scores 4), but with 16.6g sugar per serving, this product contains 87.36% of a child's aged 4-6 daily intake of sugar, and 69.16% of a child's aged 7-10 daily intake of sugar. Custard Belgian Milk Chocolate (scores 5), but with 16g sugar per portion, this product contains 84.21% of a child's aged 4-6 daily intake of sugar, and 66.66% of a child's aged 7-10 daily intake of sugar. Golden Syrup Porridge (scored 7), but with 16g of sugar per serving, this product contains 84.21% of a child aged 4-6 daily intake of sugar, and 66.66% of a child aged 7-10 daily intake of sugar. Chicken Club Pizzas (scored 4) but with 1.5g of salt per serving this product contains 50% of a child aged 4-6 years recommended maximum daily intake of salt. As mentioned before, the consultation does not give any information as to what 'advertising freedoms' means. This is extremely concerning. The 9pm watershed has been modelled and shown evidence to its effectiveness towards reducing childhood obesity. A ladder approach has not. Exemptions between 10 am-3pm would expose younger children who do not yet attend school to HFSS advertising, along with exposing all children on weekends, and on school holidays. School holiday dates vary between schools, countries and counties. A threshold on advertising minutage before 9pm would also be extremely challenging to enforce and impossible for external stakeholders to scrutinise without broadcasters sharing data. We strongly urge the Government not to go with this option; we will not support this. If chosen, we support OHA in strongly recommending that the thresholds are tightened over time, in line with the timelines set by PHE's reformulation programme.

Option 3 is completely unacceptable and immoral. There is a wealth of evidence not only in this consultation but also this response that shows the positive impact a 9pm watershed will have on child overweight and obesity. In summary of the evidence; HFSS food advertising significantly affects children's food preference and consumption, children are over exposed to food advertising, and a 9pm watershed will have a positive impact on the health of children, reducing the number that are obese and overweight.

1. http://obesityhealthalliance.org.uk/wp-content/uploads/2019/04/Online-retailer-sumary-with-table.pdf

Online consultation options:

1. **Introduce a 9pm-5:30am watershed online**
2. **Strengthen current targeting restrictions**
3. **Mixed option**
4. **No government intervention**

We believe option 1 is most appropriate. This will reduce children's exposure to HFSS advertising and in turn reduce their calorie intake, drive further reformulation of products, reduce risk of displacing advertising spend, is easy to implement, easy for advertisers and regulators to understand and easy for parents and guardians to understand.

In 2016/17, 1/5 of children in Year 6 and 1/10 of children in Reception were classified as obese. Excessive HFSS food and drinks have been linked to weight gain (and to dental disease), as they provide a major and unnecessary source of calories with little or no nutritional value. These same children have been frequently exposed to HFSS advertising throughout their short lifetime. Parents are desperate to be able to make better choices for their children. 68% of children, between the times of 7.45am and 8.14am, are actively using media and communications channels (TV, film, online, shopping, social media etc..), with 89% between 7.45pm and 7.59pm after which it slowly declines as they go to bed[1]. 59% of food and drink products advertised during the evening on TV (family viewing time) were for HFSS products, OHA & The University of Liverpool found[2]. Introducing a 9pm watershed to both TV and online will reduce children's exposure to HFSS advertisement, and therefore calorie intake (evidenced in this consultation). This will also prevent the risk of displacing HFSS advertising to another time of day popular with children, or from TV to online, or vice versa. Restrictions are already in place on children's programmes, therefore if guidelines are kept the same (using the NPM to decide whether any product is HFSS) then it will be easy for industry to understand and implement. There has also been previous success, with McDonald's Happy Meals and cereals aimed at children being reformulated due to previous advertising restrictions. 72% of adults support the introduction of a 9pm watershed on TV, with 70% supporting a similar restriction online[3]. The concept is easily understandable, especially a simple time-based restriction which also doesn't rely on categories. Parents will be able to understand that between 5.30am and 9pm they should not see any HFSS product being advertised. It becomes complex and confusing for parents when there are exceptions to the rule.

1. Ofcom. (2016). Children's Digital Day Report.
2. Obesity Health Alliance (2017). A Watershed Moment.
3. You Gov poll, 2038 adults, 12-13 February 2019, commissioned by Obesity Health Alliance http://obesityhealthalliance.org.uk/2019/02/28/protect-children-junk-food-advertising-say-health-experts-parents-agree/

Should exemptions be applied to advertisers that can demonstrate exceptionally high standards of evidence that children will not be exposed to HFSS advertising?

No exemptions should be applied. As per TV, there should be no exemptions made to advertisers for online advertising. This is to avoid any loopholes, and to discourage displacement from TV to online. There should be a level playing field between TV and online so that children are fully protected regardless of what media outlet they are using. A 9pm watershed is the most comprehensive way to protect all children. Currently, we do not believe there is a way for a platform to prove, with a demonstrably high standard of evidence, that a user is not a child. No advertiser can be 100% sure that children will not be exposed to a HFSS advert as information regarding the age of an audience for a platform is highly likely to be inaccurate, and content that may seem to be of adult interest only, can often be accessed and viewed by children. Age data is highly likely to be inaccurate as

children register on social media using a false age, as found by ASA[1] . Parents (2 in 5) allow their children to use social media before the required age[2] , with nearly half of 12 year olds reporting they already have a social media account of their own despite the required minimum age being 13[3] . Assuming an audience is a certain age based on interests is also not a sufficient way of demonstrating that children will not be exposed to HFSS advertisements. Many topics and interests are shared by adults and children alike, where certain demographics (i.e those with neurodiversity) may be exposed as they may have interests in niche areas, as we laid out in our response to question 9. There has been a recent report by WHO in 2018 'Monitoring and Restricting Digital Marketing of Unhealthy Products to Children and Adolescents' which aimed to find an age verification system that provided a sufficiently high standard of evidence[4]. However, due to the reluctance to share user data by 'walled garden' companies that would be necessary for this verification process to work, the system would not be properly monitored. Media agencies categorise ad campaigns to determine what adverts are shown to whom. However there are not high enough standards for consistently specifying what category an advert belongs to, creating inconsistency and difficulty distinguishing a product category being advertised. This means adverts of a specific category cannot be restricted. As it is not possible to determine the age of the online audience and to what categories ads go into, there is no possible way to demonstrate, with a high enough standard of evidence, that no children will be exposed to HFSS advertising. No exemptions should be applied

1. ASA. (2013). 'ASA research shows children are registering on social media under false ages'. https://www.asa.org.uk/news/asa-research-shows-children-are-registering-on-social-media-under-false-ages.html
2. Ofcom. (2017). 'Children and Parents: Media Use and Attitudes Report'. https://www.ofcom.org.uk/__data/assets/pdf_file/0020/108182/children-parents-media-use-attitudes-2017.pdf
3. Ofcom. (2019). 'Children and parents: media use and attitudes report 2018'. https://www.ofcom.org.uk/research-and-data/media-literacy-research/childrens/children-and-parents-media-use-and-attitudes-report-2018
4. World Health Organisation Europe. (2018). 'Monitoring and Restricting Digital Marketing of Unhealthy Products to Children and Adolescents'. http://www.euro.who.int/__data/assets/pdf_file/0008/396764/Online-version_Digital-Mktg_March2019.pdf?ua=1

What exemptions might the Government apply to advertisers who can demonstrate exceptionally high standards of evidence?

We strongly oppose to the idea of an exemption due to our belief that there is currently no way evidence with exceptionally high standards can be produced. In order for there to be 'exceptionally high standards of evidence' if an exemption is implemented, to start, the default assumption of the age of a user should be a child, restricting all inappropriate marketing, including HFSS ads, to the child (user). This restriction can only be lifted if it is proven the user is an appropriate age, and this would have to be proven every time they use the platform[1]. Online platforms and media agencies would have to publish comprehensive and independently verified data on advertising viewed by online audiences. Without this, any exceptionally high standard of any age verification platform could be monitored or verified. As you can access online platforms across different countries, the age verification platform must be extended across countries, and to acknowledge a child a being under the age of 18, in line with the United Convention on the Rights of the Child (CRC)[2] and the WHO Commission on Ending Childhood Obesity[3]. Marketing Legislation does not currently define a child as being up to the age of 18, therefore with this definition being implemented, any age verification platform can not provide evidence of the highest standard. No exemptions should be made as we believe there is currently no evidence that can be provided with a high enough standard that will ensure no child is exposed to a HFSS advert.

1. World Health Organisation Europe. (2018). 'Monitoring and Restricting Digital Marketing of Unhealthy Products to Children and Adolescents'. http://www.euro.who.int/__data/assets/pdf_file/0008/396764/Online-version_Digital-Mktg_March2019.pdf?ua=1

2. United Nations. (1989). 'Convention on the Rights of the Child'.
3. World Health Organization. (2016). 'Report of the Commission on Ending Childhood Obesity'

Should exemptions apply to certain kinds of advertising, recognising the practical challenges of applying a time-based restriction for some kinds of advertising?

No exemptions should be made as we believe there is currently no evidence that can be provided with a high enough standard that will ensure no child is exposed to a HFSS advert. If in any doubt, advertisers must exercise caution by not advertising their HFSS product, or only advertise after 9pm.

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

As detailed above, we do not believe option 2 is appropriate as advertisers can never be 100% sure of the age of the audience they are advertising to, and due to 'walled garden' data issues, data cannot be scrutinised, and any regulation process thereby lacks transparency. This would cause confusion with parents who would never be able to know the audience size of online content or of the media platform. It is not a strong enough option as every child has the right not to be exposed to HFSS adverts.

Option 3 is completely unacceptable and immoral. There is a wealth of evidence not only in this consultation but also this response, which shows the positive impact a 9pm watershed will have on child overweight and obesity. In summary of the evidence; HFSS food advertising significantly affects children's food preference and consumption, children are over exposed to food advertising, and a 9pm watershed will have a positive impact on the health of children, reducing the number that are obese and overweight.

The Government proposes to introduce any advertising restrictions arising from this consultation at the same time on TV and online. Do you think restrictions should be applied at the same time for TV and online?

Yes

Do you think that introducing further HFSS advertising restrictions on TV and online is likely to have an impact on people on the basis of their age, sex, race, religion, sexual orientation, pregnancy and maternity, disability, gender reassignment and marriage/civil partnership?

Placing restrictions on HFSS marketing will have a positive impact on child health as evidenced throughout the consultation and this response. The United Nations Convention on the Rights of the Child came into force in the UK in 1992. The Convention is a recognition that children need special protections, and that adults and governments must work to ensure these. Restrictions on HFSS marketing will have a significant positive impact on child health. As outlined above, the proposal to exempt channels and/ or programmes with low child audiences could disproportionately affect children with autistic spectrum disorder who are more likely to be watching TV programmes more popular with children.

Do you think that any of the proposals in this consultation would help achieve any of the following aims:

- **Eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010**
- **Advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it**
- **Fostering good relations between persons who share a relevant protected characteristic and persons who do not share it**

Yes. Children from lower socio-economic backgrounds are more likely to be overweight or obese, with reception and year 6 pupils in the most deprived areas being twice as likely to be obese, according to the latest data from the National Childhood Measurement Programme[1]. Marketing influences children's food choice and consumption, altering their food preference. HFSS marketing is often popular with children, leading them to 'pester' parents to buy the advertised unhealthy products[2,3,4,5,6]. It has been found that marketing influences teens from the most deprived communities more, where they are 40% more likely to remember junk food advertisements every day compared to teenagers from less deprived communities[7]. An Australian modelling study found that legislation to restrict HFSS TV advertising before 9.30pm is likely to be cost-effective, with children (aged 5-15) in low socio-economic groups likely to gain greater health benefits and healthcare cost savings[8].

1. NHS Digital. National Childhood Measurement Programme Data. 2016/17.
2. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/470174/Annexe_3._Marketing_evidence_review.pdf
3. Boyland E, Nolan S, Kelly B (2016). Advertising as a cue to consume: a systematic review and meta-analysis of the effects of acute exposure to unhealthy food and nonalcoholic beverage advertising on intake in children and adults Am J Clin Nutr.
4. Hastings, G. (2006) The extent, nature and effects of food promotion to children: a review of the evidence. WHO 16. 11. McDermott L et al. (2006))
5. https://www.who.int/dietphysicalactivity/publications/marketing_evidence_2009/en/
6. https://www.sciencedirect.com/science/article/pii/S0195666312001511
7. Cancer Research UK (2018). A Prime Time for Action. https://www.cancerresearchuk.org/sites/default/files/executive_summary_-_a_prime_time_for_action_.pdf 8. Brown V, et al. The Potential Cost-Effectiveness and Equity Impacts of Restricting Television Advertising of Unhealthy Food and Beverages to Australian Children. Nutrients 2018, 10(5), 622; https://doi.org/10.3390/nu10050622

We have assumed that HFSS advertising campaigns displaced to non-video forms of advertising (e.g. radio, billboards and direct mail) will have less impact on children's calorie consumption. Do you agree with this assumption?

No. Without evidence, HFSS advertising campaigns displaced to non-video forms of advertising should not be assumed to have less of an impact on children's calorie consumption. If wrong, the assumption exposes children to HFSS adverts, which evidence shows does influence children's food choice, consumption and preference. A wrong assumption that it does influence children's food consumption however, does not affect the child. An example of how this assumption could be wrong has been provided by the OHA: 'A video advert half way down an online article is likely to be less impactful than a static outdoor advert in a place with longer dwell time such as a bus shelter or train panel.' TV has been found to be the most effective media channel whilst online display was found to be the weakest performer against the metrics, with radio, newspapers, magazines and out of home having greater influence[1]. Marketing of HFSS brands often use a range of techniques, including mass media advertising to create a 'marketing mix'. Digital marketing, as found in the 2019 narrative review funded by CRUK, plays a vital role in extending the reach and efficacy of the wider marketing mix[2].

1. Ebiquity (2018). Re-evaluating media: What the evidence reveals about the true worth of media for brand advertisers

2. Cancer Research UK analysis of Nielsen data for on linear television channels of ITV1, Channel 4, Channel 5 and Sky One in the month of May 2018. Dataset and methodology submitted by Cancer Research UK as an appendix.

Do you have any further evidence or data on the health benefits you wish to submit for us to consider for our final impact assessment?

Reducing childhood obesity will have a wide range of health benefits that were not fully considered in the published impact assessment. Whilst type 2 diabetes is commonly associated with adults, it is becoming more common in children, along with non-alcoholic fatty liver disease (NAFLD). It is estimated that around 6,000 young people have type 2 diabetes in England and Wales[1]. Obesity increases the risk of type 2 diabetes, with it being more aggressive in young people than adults and complications appearing much earlier[2,3,4]. Obesity is also a risk factor for NAFLD, with the number of children being hospitalised with NAFLD having doubled since 2013 to 195[5,6]. A cause of obesity is the over consumption of calories, often obtained from food and drink products high in fat, sugar and salt. Therefore it is vital we take into account the effects on children of over consumption of these nutrients. Dietary sugar has a huge impact on dental health over a shorter timeframe than conditions associated with obesity. Whilst it is true that tooth decay is preventable, so is obesity. Almost one quarter of 5 year olds in England had obvious tooth decay in 2017[7]. It is the number one reason children (aged 6-10years) are admitted to hospital, with an 18% increase in tooth extractions on children in hospitals since 2012, costing the NHS £205 million cumulatively[7]. Between 2017 and 2018 there were 38,385 tooth extractions due to tooth decay in children. In 2017 there was almost a 20-fold difference in the severity of decay between the local authorities with the best and worst outcomes[7]. There is also a lack of information regarding salt. Whilst salt does not directly cause obesity, food high in sugar and fat that have been linked to weight gain, usually also contain high levels of salt. Therefore, we feel it is imperative that the effects of salt and health is considered. Evidence suggests that obesity, coupled with a lack of exercise, are important factors involved in the development of high blood pressure. However, there is much stronger evidence to suggest that salt intake is related to the development of hypertension, and in particular the rise in blood pressure with age[8]. Raised blood pressure is a major cause of cardiovascular disease, responsible for 62% of stroke and 49% of coronary heart disease. Importantly, the risk of CVD increases throughout the range of blood pressure, starting at 115/75 mmHg[9]. Salt is the major factor that increases blood pressure and is therefore responsible for many strokes and heart attacks every year[10]. Research shows that adults who eat too much salt, over time, are at risk of high blood pressure. However, there is evidence that eating too much salt as a child can also affect blood pressure, increasing the risk of illness later in life. Habits learned in childhood tend to carry through to adulthood, and this includes dietary habits. Learning to add salt or salty sauces to food at the dining table is typically something children learn from older family members. In addition, liking salt and salty foods is a learned taste preference and therefore, government recommendations that adults reduce their salt intake would be much more successful if children did not learn to develop a taste for salt in the first place. A high salt intake is linked to blood pressure, cardiovascular disease and bone health, as well as chronic kidney disease and stomach cancer (with high biological plausibility), the evidence for which is briefly reviewed below. There is convincing evidence that salt intake is related to chronic kidney disease[11]. High salt intake is linked to many risk factors for the progression of the disease, such as raised blood pressure, fluid retention, proteinuria, inflammation, oxidative stress, and endothelial dysfunction[12,13]. A recent Cochrane review has found consistent evidence that reducing salt intake in those with chronic kidney disease had health benefits beyond the lowering of blood pressure, such as a lower risk of proteinuria[14]. The evidence has consistently shown a link between salt intake and stomach cancer for many years. High intra-gastric sodium cause mucosal damage and inflammation[15], which can increase cell proliferation and endogenous mutations[16,17]. High salt intake

can also change the viscosity of the protective mucous barrier[18] and increase the colonization by H. pylori, which is a recognised risk factor for stomach cancer[19]. Furthermore, a more recent meta-analysis of 268,718 participants from 10 cohorts found an association between high salt intake and an increased risk of stomach cancer[20]. There is also strong evidence that obesity is associated with poor mental health such as depression[21] and anxiety[22] which this model failed to take into account when considering the benefits of reducing obesity. CRUK are submitting further detail regarding the impact obesity has of seven different types of cancer, not just 2 that the consultation mentions. We strongly encourage the Government to look further into the health benefits of reducing obesity, not just the immediate link, but the interactions and comorbidities between conditions and the positive effects eating a diet lower in fat, salt and sugar, and high in protein, fibre and fruit and vegetables, will have on health. If a reviewed impact assessment is not submitted, it should be made much clearer that the cost benefit figures are a vast underestimate and these figures should not be used to justify a weaker regulation approach.

1. https://www.diabetes.org.uk/resources-s3/2019-02/1362B_Facts%20and%20stats%20Update%20Jan%202019_LOW%20RES_EXTERNAL.pdf Us, diabetes and a lot of facts and stats www.diabetes.org.uk Headline stats Infographics available 4.7 million people in the UK have diabetes. Someone is diagnosed with diabetes every two minutes. Every week diabetes leads to more than 169 amputations 680 strokes More than 500 people with diabetes die prematurely every week.
2. Viner R. (2017) Type 2 diabetes in adolescents: a severe phenotype posing major clinical challenges and public health burden. Lancet.
3. Hannon T. (2015) Type 2 diabetes in adolescents: a severe phenotype posing major clinical challenges and public health burden. Ann. N.Y. Acad. Sci.
4. Dart et al. (2014) Earlier Onset of Complications in Youth With Type 2 Diabetes. Diabetes Care.
5. AW Marion (2004) Fatty liver disease in children. Archives of Disease in Childhood
6. Information from NHS Digital released as a response to a parliamentary question.
7. Public Health England. Oral health survey of 5 year old children 2017
8. MacGregor G A. Nutrition and blood pressure. Nutr Metab Cardiovasc Dis. 1999;9:6-15.
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10. Nagata C et al. Sodium intake and risk of death from stroke in Japanese men and women. Stroke. 2004; 35,1543-7
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16. Furihata, C., Ohta, H. and Katsuyama, T., 1996. Cause and effect between concentration-dependent tissue damage and temporary cell proliferation in rat stomach mucosa by NaCl, a stomach tumor promoter. Carcinogenesis, 17(3), pp.401-406
17. Charnley, G. and Tannenbaum, S.R., 1985. Flow cytometric analysis of the effect of sodium chloride on gastric cancer risk in the rat. Cancer research, 45(11 Part 2), pp.5608-5616
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Do you have any evidence or data that can help understand whether a proportion of this reduction would be from consumed outside the home and what impact this would have on the out-of-home sector?

Yes. 36% of the food and drink adverts shown during peak time TV programmes popular with children in 2017 (OHA, University of Liverpool) were for fast food and takeaways – the largest category in the studies analysis[1]. Most recently, it was found that fast food and delivery brands accounted for 27% of HFSS food adverts (CRUK)[2]. Therefore it is highly likely that there will also be a reduction in calories consumed outside the home. An example of the impact out of home advertisement is on peak time tv is when Dominos had a 25% sales lift when they ran advertising during the X-Factor final[3]. On top of this, portion sizes in the out-of-home sector are larger than retail, leading to over-consumption, evidenced in the PHE sugar and calorie reduction reports. By reducing sales of food OOH should therefore reduce the amount of calories consumed. A 2018 survey by Action on Sugar[4], looking at the calorie and sugar content of milkshakes sold in supermarkets, high street restaurants and fast food chains, found that some products in the out of home sector have up to four times the calories of PHE's proposed calorie limit (300kcal per serve). The worst offender had 156g of sugar per serve, six times the recommended daily amount of sugar for a 7-10 year old. A 2019 survey by Action on Salt5 of children's meals sold in the out of home sector found that 41% of dishes were high in salt, with more than Public health England's 2017 target (1.8g/portion).Additionally, some children's meals contained up to 1050 kcal per portion – more than half the recommended daily calorie intake for an adult woman. We strongly encourage Government to consider how reduced consumption from out of home can be reflected in the IA.

1. Obesity Health Alliance (2016). A Watershed Moment
2. Cancer Research UK analysis of Nielsen data for on linear television channels of ITV1, Channel 4, Channel 5 and Sky One in the month of May 2018. Dataset and methodology submitted by Cancer Research UK as an appendix.
3. https://www.bbc.co.uk/news/business-42871051
4. http://www.actiononsugar.org/news-centre/press-releases/2018/call-for-ban-on-excessively-high-sugar-and-calorie-milkshakes-sold-in-high-street-restaurants--fast-food-chains-.html
5. http://www.actiononsalt.org.uk/salt-surveys/2019/salt-awareness-week-2019-survey/

Do you have any additional evidence or data that could improve our estimates of how much HFSS advertising is present, across various online platforms and formats (e.g. desktop, mobile, video pre-roll, native, search, sponsorship, other video and other display) and children's exposure to these adverts online?

We agree with the response from OHA: To inform our response to this consultation, we commissioned Dr Mimi Tatlow Golden and Dan Parker to review the analysis of children's exposure to HFSS marketing online[1]. The review has been provided to DHSC as a separate document. The analysis draws the following conclusion: In all steps but one of the Kantar analysis, the assumptions made, or data sources employed, would result in underestimates of spend and therefore of exposure. When multiplied up, the underestimate is likely to be very substantial. As the Kantar advertising spend assessments underpinning this Impact Assessment draw on underestimates of digital marketing spend at every stage of their process, children's exposure is significantly underestimated – and this just relates to the limited scope of the Kantar analysis that covers only conventional forms of online advertising. Finally, the premise that digital media exposure can be estimated from spend analyses is flawed. It must result in an underestimate of the digital advertising market, due to current trends for increased unconventional content and social driven communications. For this reason, children and young people's actual exposure to digital junk food marketing is, we consider, grossly underestimated by this assessment.

1. Examining the Kantar Consulting HFSS Digital Advertising Analysis in DCMS/DHSC Impact Assessment. Dan Parker & Dr Mimi Tatlow-Golden (2019) http://obesityhealthalliance.org.uk/wp-content/uploads/2019/06/Critique-of-online-HFSS-exposure-analysis-1-2.pdf

Our evidence on the impact of HFSS advertising on adults is inconclusive. Do you have any additional evidence which would improve our understanding of the impact HFSS advertising has on adult's food consumption, behaviours and preferences and purchases (either for themselves or their children)?

We agree with the response from OHA, who commissioned Dr Emma Boyland from the University of Liverpool to a) review the available evidence on impact of HFSS advertising on adults and b) provide a summary of evidence showing the impact of other types of unhealthy commodity advertising on adults purchasing and consumption behaviour[1]. The paper concludes the following: There is a moderate, and growing, amount of (largely, but not exclusively) cross-sectional evidence on the impact of advertising on food-related beliefs and behaviours in adults. This is consistent with, and supported by, a more substantial body of cross-sectional and experimental evidence of effects of alcohol advertising on equivalent drinking-related outcomes in adults, including a notable amount of robust data from UK populations in particular. While there appears to be insufficient evidence specifically on adults' acute food consumption following controlled food advertisement exposure for these data to be modelled in an equivalent manner to the child data in the IA, the evidence evaluated here supports a need for effects on adults to be considered in any analyses seeking to comprehensively model the efficacy of strengthening advertising restrictions on population level health outcomes in the UK. Based on the strength and scale of evidence summarised in the paper, we think it is vital that the health benefits to adults of restricting HFSS advertising is considered within the IA. As per our response to Q10, we consider this a major omission to the IA meaning the health and associated benefits have been significantly under-estimated and cannot be fairly balanced against the costs and used to justify a weaker proposal for regulation. This paper has been provided to DHSC by the OHA as a separate document.

1. Boyland E (2019). Unhealthy Food Marketing. The Impact on Adults. http://obesityhealthalliance.org.uk/wp-content/uploads/2019/05/JFM-Impact-on-Adults-Boyland-May-2019-final-002.pdf

Do you agree with our assessment of the impact on broadcasters and likely mitigations?

Yes, we agree with the response from OHA: Brands who wish to continue advertising their brands have many options open to them, including reformulating their products, shifting their advertising to post 9pm or advertising alternative non-HFSS products in their portfolio. Research by Cancer Research UK[1] found that over half (54%) of brands advertising HFSS products on TV between 6pm and 9pm had an alternative non-HFSS product which could be advertised instead. This figure does not include companies promoting a service or a message rather than a product, such as Deliveroo or Just Eat, who could easily feature a non-HFSS product in their adverts. When including brands whose parents company own a non-HFSS brand, or brand with non-HFSS products, this rises to over 80%. Likewise, although it is still very early, the Transport for London healthy food policy, which is based on the Nutrient Profile Model with no automatic product exemptions, has only prevented a small minority of brands from advertising altogether (such as chocolate brands with no non-HFSS product in their portfolio). Most brands have continued to advertise their non-HFSS products and make these the hero of their wider product range. The delivery platforms have been encouraged likewise to shift from pure brand advertising and unhealthy food imagery to including non-HFSS product examples in their campaigns. We would argue very robustly that any regulation must also contain clear guidance on brand advertising with the effect of promoting HFSS products, which should fall within scope of

any further restrictions. Whilst there could be a shift to brand advertising, we would not encourage government to create a deliberate loophole in this regard.

1. Cancer Research UK analysis of Nielsen data for on linear television channels of ITV1, Channel 4, Channel 5 and Sky One in the month of May 2018. Dataset and methodology submitted by Cancer Research UK as an appendix.