



Action on Salt and Sugar Response to the Advertising Standards Authority Consultation on Advertising Restrictions of Less Healthy Food

About Action on Salt and Sugar

Action on Salt and Sugar is a non-profit organisation working to improve population health and food environments through impactful food and drink nutritional research. We inform policy, influence the food industry, raise awareness, and build advocacy for salt and sugar reformulation.

For more information on our submission please contact Sonia Pombo RNutr, Head of Impact and Research s.pombo@qmul.ac.uk

Question (i)

Do you agree that the position set out in part 3 above in relation to advertisements for an identifiable less healthy product appropriately reflects the relevant provisions of the Communications Act 2003? If not, please state explain why, with reference to the relevant legislative provisions.

Answer:

Yes, we agree that the position set out in part 3 more appropriately reflects the relevant provisions of the Health and Care Act 2022, and the Communications Act 2003 to '*restrict the advertising of certain food and drink products*'ⁱ, and are therefore ready to proceed as the Government has set out on the 1st of October 2025.

The advertising restrictions inserted into the Communications Act 2003 have the stated aim to; '*reduce exposure of children to less healthy food and drink advertising and therefore, reduce excess consumption of less healthy food and drink products*'ⁱⁱ. The updated ASA guidance states that '*A less healthy product is "identifiable", in relation to advertisements, if persons in the United Kingdom (or any part of the United Kingdom) could reasonably be expected to be able to identify the advertisements as being for that product.*'

Therefore, any advertisement that meets the criteria for inclusion separately set out by the Government in the regulationsⁱⁱⁱ, **whose purpose or whose effect** is to promote less healthy products, is at risk of being restricted. The ASA must take note of the recommendations set out in question ii to ensure the guidance is simple, clear and robust so that all stakeholders understand what places them more or less 'at risk'.

As well as reducing child exposure to and consumption of less healthy products, a key intention of this policy is that it incentivises the food and drink industry to reformulate so that the restrictions no longer capture these healthier products. Reformulation can take time, and businesses have already been granted a delay in the implementation of these guidelines. We have already seen active reformulation of foods coinciding with wider obesity package policies, more recently witnessed in our latest report looking at the salt and sugar content of crisps, nuts and popcorn, with case studies from businesses demonstrating the feasibility of reformulation to meet the HFSS guidelines^{iv}.

The legislation has been clear from the outset, that any advertisement whose purpose or whose effect is to promote less healthy products, will be restricted. Advertisers will have had over five years to prepare for the incoming restrictions since they were announced in July 2020 and three and a half years since the specific details of the proposals were set out. The publication of the final ASA guidance will allow the restrictions to come in on 1st October 2025.

Question (ii)

Do you agree that the proposed revisions to the guidance in Annex A responding to the legal interpretation matter explained in part 3 above, and summarised in 4.2 above are clear and accurately reflect the relevant legislation? If not, please state why, including details of any alternative approach you consider more effective.

We agree that the proposed revisions to the guidance more accurately reflect the legislation in their intention than the previous version, which had an extremely narrow and limited interpretation, and which would not have sufficiently reduced the exposure of children to less healthy food and drink advertising.

We do not agree that the proposed revisions to the guidance are clear. The revised guidance shows the direction of travel towards only showing healthier advertising, but they can be simplified further using an alternative approach.

The updated ASA guidance states that *'A less healthy product is "identifiable", in relation to advertisements, if persons in the United Kingdom (or any part of the United Kingdom) could reasonably be expected to be able to identify the advertisements as being for that product.'* However, a number of both mitigating, and exacerbating, complicated, loosely defined and untested parameters are proposed in addition to this sensible and clear statement, that will leave stakeholders less certain of whether their adverts are more or less likely to be at risk.

We believe a less equivocal approach to the range of factors, leading to the 'cumulative effect' would be more appropriate. In addition to the Identifiability test set out by Government in the regulationsⁱ, the only concept the ASA needs to lay out is 'will persons in the UK be reasonably be expected to be able to identify the advertisements as being for that product'. We support the alternative proposals to the guidance made by the Obesity Health Alliance in their submission.

Question (iii)

Do you have any further comments on the clarity or accuracy of other parts of the guidance document not affected by the issues that are subject of question (ii)? Please provide details including any suggestions for changes to the document.

We do not have any further comments on the other parts of the guidance document.

ⁱ <https://www.legislation.gov.uk/ukpga/2022/31/section/172/enacted>

ⁱⁱ <https://www.legislation.gov.uk/uksi/2022/1311/memorandum/contents>

ⁱⁱⁱ <https://www.legislation.gov.uk/uksi/2024/1266/made>

^{iv} <https://www.actiononsalt.org.uk/salt-surveys/2025/savoury-snacks/#d.en.1196021>

^v <https://www.legislation.gov.uk/uksi/2024/1266/contents/made>