



ACS Submission: CAP consultation on food and soft drink advertising to children for non-broadcast media

ACS (the Association of Convenience Stores) welcomes the opportunity to respond to the Committee of Advertising Practices consultation on food and soft drink advertising to children. ACS represents 33,500 local shops across the country including Spar UK, Nisa Retail, Costcutter and thousands of independent stores.

Retailers sell a range of grocery products and provide a number of services to their local communities. There is a significant variety of products offered in-store, chilled foods are one of the more popular categories in the convenience sector, representing 13.4% of sales, followed by canned and packaged grocery (7.4%) and fruit and vegetables, which represent 6.3% of sales. Convenience stores also offer essential community services including Post Offices, free to use ATMs, bill payment services and parcel collection^[1].

Local shops serve a wide range of customers, varying in age, social group and profile. The average age of a convenience store customer is 46 years old, the age group most likely to visit a convenience store is 55yrs + (36%) followed by 35-54yrs (34%), 25-34yrs (16%) and 16-24yrs (14%)^[2]. The advertising methods that our members use are mainly in store and target adult shoppers however retailers also rely on direct mail leaflet advising and increasing on social media platforms, mainly Facebook (23%) and Twitter (20%). From discussions with members, the only advertising they use which particularly targets children are promotions around seasonal events. Seasonal promotions used by retailers would mainly be in-store or point-of-sale advertising which sits outside the remit of the code.

Convenience store retailers have a role to play in the obesity debate and the industry wants to align with the Government ambitions to reduce childhood obesity. Convenience retailers are already following consumer trends, by increasing and promoting healthier ranges in-store. In ACS' Voice of Local Shops survey of 1,210 independent retailers, 37% of retailers stated that they run more promotions on healthier products now than compared to three years ago, while 33% said they had increased the range of fruit and veg in their store compared to five years ago. In 2014, fruit and vegetables was the fastest growing category, its sales value increasing by 8.4%^[3], and remains a prominent sales category in the convenience sector.

There is a significant variety in the products offered in different types of store, depending on their size, location and ownership type. For example, while 41% of independent retailers said their store sells more fruit and vegetables than it did five years ago, 35% responded that they did not sell fruit and vegetable in their store. Independent retailers tend to operate in smaller format stores compared to multiple retailers. 61% of independent retailers will operate in locations up to 999sq ft compared to 17% of multiples who trade in smaller format

^[1] [ACS Local Shop Report 2015](#)

^[2] ACS Local Shop Report 2015

^[3] ACS Local Shop Report 2014

stores. This demonstrates that not all convenience stores carry the same product range and the smallest operators are not targeting consumers looking to do a weekly shop.

CAP outlines on its website their commitment to good regulation: *“Together, CAP and the ASA are committed to regulating in a way that is transparent, proportionate, targeted, evidence-based, consistent and accountable.”*^[4] ACS believes that any proposed changes to extend placement restriction on HFSS products must be based on evidence. CAP should not respond to political pressure around obesity but should introduce advertising restrictions that are based on evidence that shows that further restrictions would help to reduce childhood obesity in the UK.

ACS is willing to work with CAP on future changes to advertising regulations, to support them to understand the impact on retailers and how best to communicate changes to retailers. Please see below for ACS’ response to the relevant consultation questions:

Question 1

a. Should the CAP Code be updated to introduce tougher restrictions on the advertising of products high in fat, salt or sugar (HFSS)?

ACS believes that any proposed changes to extend placement restriction on HFSS product advertising to non-broadcast media must have supporting evidence to justify the change. The consultation document notes that the proposed change is not based on any new evidence or the impact of HFSS advertising on children:

“CAP’s case for change is not driven by new understanding of the level of food and soft drink advertising’s effect on children’s behaviour. There is a link, but for the most part, it is short-term and relatively small when compared to factors like parental influence. The evidence arising since 2007, when CAP last strengthened the rules, has not fundamentally changed this picture.”

We question whether it is necessary to change the rules without significant new evidence showing that changes to non-broadcast media will make a fundamental difference to young people’s health choices.

The consultation document notes that the proposed change is supported by advertising’s effect in its wider context, including the scale of the obesity problem, developments in online advertising and children’s changing media habits. Since the changes are not based on evidence, we urge CAP to pause until the Government have published their Childhood Obesity strategy. This may include new evidence, insight, and direction of travel in terms of changing young people and wider consumer behaviour which would ultimately result in more informed restrictions (if any) on the advertising of HFSS products.

b. Should CAP use the existing Broadcast Committee of Advertising Practice (BCAP) guidance on identifying brand advertising that promotes HFSS products to define advertising that is likely to promote an HFSS product for the purposes of new and amended rules?

^[4] [CAP: Good Regulation](#)

ACS is concerned about the use of the existing BCAP guidance for non-broadcast media as the code does not provide absolute clarity about what brand advertisements are associated with HFSS products. The BCAP guidance^[5] states: “BCAP acknowledges that differentiating an HFSS product advertisement from a brand advertisement is not always easy.”

The code also does not provide clarity on what extent advertising would be limited if it features a range of products, where one is a HFSS product. The BCAP guidance states: “the problem is especially stark if the brand is inextricably linked with a distinct product and the brand name is featured on other distinct products.”

We acknowledge that the guidance states that the scenarios included are not exhaustive but we do not believe they provide enough clarity for retailers about advertising. For example, here are two examples given in the guidance about advertising product ranges:

Regarded as an advertisement for HFSS product	Unlikely to be regarded as an ad for a HFSS product
<i>An advertisement refers to or features a brand name synonymous with specific with HFSS product. That name could be featured on other products or products variants but it is inextricably linked to a specific HFSS product.</i>	<i>An advertisement refers to or features a brand name. That name is synonymous not with a specific HFSS product but with a range, or ranges, of products that are sold under that name</i>

This example does not provide retailers with clarity about what can appropriately be featured on their advertising. There are many brand names that sell both HFSS products and diet ranges or ranges they have reformulated. If this type of advertising was restricted, it would negate the objectives of existing Government policy, such as the soft drinks levy, to encourage consumer behaviour change to lower sugar/ diet soft drinks ranges.

If this guidance is to be applicable to non-broadcast media, then it must provide greater clarity on this point. It is not sufficient to include a footnote that states: “For the purposes of this guidance, ‘synonymous with’ should be taken to mean “very strongly associated with” a specific HFSS product.” We believe that this guidance would be especially difficult for independent retailers (which make up 75% of the convenience market^[6]) to interpret when they are developing their store advertising, direct mail shots or promotions for their social media platforms. CAP must consider how it would account for communicating and advising retailers on the introduction of BCAP guidance.

Question 2

Should the CAP Code adopt the Department of Health (DH) nutrient profiling model to identify HFSS products?

There is an ongoing debate regarding which definition should be used to determine a HFSS product. One of the recommendations from Public Health England^[7] was for the Government to provide a clear definition on HFSS products. The Government have also been advised to review the existing Department of Health nutritional model profile.

^[5] [BCAP: Differentiating HFSS product TV advertisements from brand TV advertisement rules](#)

^[6] ACS Local Shop Report 2015

^[7] [Public Health England: Sugar Reduction – the evidence for action](#)

We support the continued use of the existing Department of Health nutrient profile model to identify HFSS products. However, we recommend that CAP wait for the publication of the Government's Childhood Obesity strategy and the publication of new medical evidence about the definition of HFSS products and the impact that advertising has on children's food choices.

As stated in the consultation document, CAP are committed to "an evidence based approach to policy making"^[8], therefore, we believe in order to fulfil its commitment, CAP must wait for new evidence to be published or commission its own primary research to justify extending restrictions of the placement of HFSS product advertising to non-broadcast media.

Question 4

a. Should CAP introduce a rule restricting the placement of HFSS product advertising?

Our response to this question is dependent on the evidence presented on the impact of advertising on reducing childhood obesity.

Very few of our retailer members' advertisements target children. The large majority of retailers' promotions are in-store and largely target adult consumers from their local community. As shown by the types of shoppers identified in ACS' Local Shop Report^[9]; the average age of a convenience store customer is 46 years old, the age group most likely to visit a convenience store is 55yrs + (36%) followed by 35-54yrs (34%), 25-34yrs (16%) and 16-24yrs (14%).

However, retailer advertisements that do target children tend to relate to seasonal events, such as Halloween, Easter and Christmas. For example, in-store advertisement and signage for HFSS products may promote trick or treating activities at Halloween or Easter egg hunts at Easter. However, as highlighted above, the majority of retailer advertisements are not in the remit of the CAP code.

Any changes to introduce HFSS placement restrictions in non-broadcast media must be well communicated to retailers.

- b. If a media placement restriction is introduced, should it cover media directed at or likely to appeal particularly to children:**
- i. **aged 11 or younger?**
 - ii. **aged 15 or younger?**

As stipulated in the CAP code:

"For the purposes of this section, "children" are people of 15 and under and "young persons" are people of 16 or 17",

^[8] Point 4.1 CAP consultation on HFSS products in non-broadcast media

^[9] ACS Local Shop Report 2015

Therefore, we believe that if a media placement restriction is introduced, it should cover only media that would appeal to children aged 15 or younger. This will provide consistency with the CAP and BCAP code, and provide simplicity for retailers.

Question 5

It is often straight-forward to identify media targeted at children. Where media has a broader audience, CAP uses a “particular appeal” test – where more than 25% of the audience are understood to be of a particular age or younger – to identify media that should not carry advertising for certain products media.

Should the CAP Code use the 25% measure for the purpose of restricting HFSS product advertising?

Retailers take advantage of a wide range of non-broadcast media including in-store advertising, posters outside of store, leaflets and adverts in local newspapers. ACS is concerned that while other non-broadcast media such as websites or magazines are reasonably straightforward to identify their audience, establishing the audience of advertising used by retailers is much harder to determine.

Our primary concern is that while the majority of advertisements by retailers do not target children, they could be viewed by children. For example, out-of-store advertisements and advertisements displayed in store windows will be viewed by the public. In 2014, it was estimated that 18.8% of the UK population were aged 0-15 years old.^[10] To our understanding, if the 25% measure is used for the purposes of restricting HFSS products, advertisements such as posters in public locations promoting HFSS would be permitted, as on average less than 25% of the public would be presumed to be children. However, if the location of the advert display is near a school premise, would this be considered to be targeting children?

Moreover, leaflets which include HFSS products may also be restricted if CAP introduces a rule to restrict the placement of HFSS advertisements. The majority of retailers use leaflets to advertise promotions in-store, which are then delivered into homes. Leaflets have the same problem as posters or promotions that are displayed to the public. While they do not intend to target children, they have the potential to be viewed by children. We call on CAP to clarify how a leaflet would be determined to have “particular appeal” to children? Would this be determined by content of the leaflet or the age of population or household members?

We have the same concerns that retailer’s adverts of social media platforms may also be affected. Many retailers use social media platforms, including Facebook and Twitter to promote products and promotions in their store. While some social media sites, including Facebook, have a minimum age of 13 to become a member of the site, often children can still view the website content. Again, typically retailers do not target children through their advertising and as such social media adverts are not targeted at them, but could still be viewed by children.

^[10] [ONS: Overview of the UK population: February 2016](#)

ACS calls on CAP to clarify whether adverts in these locations would be restricted and how the “particular appeal” test would work for advertisements in public places, leaflets delivered to home, and adverts on social media platforms.

If CAP decides to proceed to extend the restrictions of HFSS product advertising to non-broadcast media, we urge CAP to ensure clear guidance on what locations constitute particular appeal for children is produced for retailer use.

Question 6

Should CAP apply the placement restriction on HFSS product advertising to all non-broadcast media within the remit of the Code, including online advertising?

As stated throughout our response to the consultation, we are wary that it will be harder to implement the placement restriction, as it is more difficult distinguishing the age profiles of users of non-broadcast media.

While we understand that other non-broadcast media aimed at children (e.g. children’s magazines) are straightforward to understand the age profile of their users, it would be difficult for a retailer to identify the age profiles of their consumers.

For more information on this submission, please contact Julie Byers, ACS Public Affairs Executive at Julie.Byers@acs.org.uk or call 01252 515001.