

ADVERTISING ASSOCIATION - WRITTEN EVIDENCE (FDO0079)

The Advertising Association brings together the UK's advertising industry to promote the role and rights of responsible advertising – advertising that is trusted, inclusive and sustainable – and its value to people, society, businesses, and the economy.

We bring together the advertisers, agencies, commercial media, ad tech companies, and online platforms, through their trade associations, to reach a consensus on the issues that affect them. We develop and communicate industry-wide positions for politicians and opinion-formers, and publish industry research through advertising's think-tank, Credos, including the Advertising Pays series which has quantified the advertising industry's contribution to the economy, culture, jobs and society.

Summary

1. The Advertising Association welcomes the opportunity to engage with this call for evidence. We are responding in our capacity as representatives of the advertising industry and so will limit our comments to questions relating to our sector.
2. Our industry recognises the issue of overweight and obesity in the UK and have been engaged in this policy area over several decades, primarily through the debate around High Fat, Salt, and Sugar (HFSS) foods. We hope that the Committee will take note of the breadth of evidence and experience that we have built up as a result of these policy discussions.
3. We have several key points which we would like to bring to the Committee's attention:
 - I. **Obesity is a complex problem arising from a range of factors.** This includes local levels of deprivation and inequality, and the affordability and accessibility of healthy food options. In this context, advertising can only ever play a very small role in the overall food environment, with most firms in the food and drink industry not advertising at all (or only at small scale locally).
 - II. **The evidence that further restrictions or bans would be effective is lacking.** Much of the evidence is based on studies which have been carried out in situations which do not reflect real-world environments and effects of advertising, and / or which have had their findings mischaracterised or exaggerated by other stakeholders.

- III. **Advertising is a regulated industry.** The independent Advertising Standards Authority (ASA) has acted as the regulator for over 60 years and is seen as a gold standard internationally for robust self- and co-regulation. The existing regulatory system ensures that rules can often be implemented and updated more quickly than through legislation. It also maintains industry buy-in and confidence in the system.
- IV. **Existing and incoming restrictions should be evaluated for their impact before any further restrictions are recommended – and any future regulations should be implemented through the self- and co-regulatory system.** While we believe it is clear that there is no credible evidence to support further restrictions in this area, if the Committee recommends changes we believe that restrictions should be implemented through the self-regulatory system rather than legislation. Legislation in this space should be a last resort rather than a first response – and only if there is substantive evidence that restrictions implemented by the self-regulatory system have not worked and that statutory restrictions would bring real benefit.

Obesity is a complex problem arising from a range of factors

4. There is no single factor that is causing the obesity crisis. There is, however, a clear link between obesity levels and local levels of deprivation and inequality, the lack of affordable and conveniently accessible healthy food options, a lack of education to facilitate healthy lifestyles (including basic cooking skills and an understanding of healthy diets), and the rapid increase in the number of small, local fast-food outlets and delivery services.
5. This has been noted in various ways by numerous witnesses to the Committee's inquiry.¹ For instance:
 - I. Professor Christina Vogel observed that *"the significant burden of poor diet, obesity and ill health falls among the families who are most socioeconomically disadvantaged in our society. There are some stark inequalities shown through data with childhood obesity. Children living in the most deprived areas are much more likely to be overweight and obese than children living in the most affluent areas. Again, that difference has almost doubled in the last 15 years, going from 9% to 17% from 2008 to 2019. We also need to recognise that adults living in the most disadvantaged areas can expect to live eight fewer years than adults living in the most affluent areas."*
 - II. Alice Wiseman stated that the *"most deprived parts of our communities experience the highest levels of overweight and obesity. This is largely driven by the price of food for these communities. Healthy foods are three times more expensive per calorie than less healthy foods. Energy dense foods of poor nutritional value are much cheaper."*
 - III. Professor Maria Bryant observed that *"if you are a child living in a more deprived area, you are twice as likely to become somebody living with obesity. As a child with severe obesity, you are four times likelier to live in a deprived neighbourhood. It is certainly not an equal condition."*
 - IV. Professor Emilia Lake noted that *"if you are experiencing food insecurity, you are one and a half times more likely to be affected by obesity. The evidence is now at a point where food insecurity is a well-established driver of obesity. That is the academic assumption: it is a driver. We now need to address it. Insecurity is a complex problem. When you are food insecure, you are not just food insecure but fuel insecure, you are probably living in poor housing, you probably do not have*

¹ All quotes taken from transcripts of oral evidence to the Committee by the referenced witness.

much of an ability to cook food, you do not have the fuel to cook the food. It is a wider systems problem."

- V. Professor Barry Popkin noted that *"there is the challenge of working out ways to create—and to give low-income people access to— cheaper, healthier food."*
 - VI. Professor Dr Kevin Hall noted that *"it is actually a privilege to have the time and resources to prepare or purchase healthy meals on a regular basis."*
6. This oral evidence mirrors many previous reports and reviews carried out over time that routinely note that obesity is driven by a range of geographic and socioeconomic factors, that than falling equally across the whole population.
7. As Professor Wendy Wills put it, we need *"to look at what might work, what is driving it and how we overcome these complex factors. They are part of everyday life, but they are socially patterned. That is the key thing, really: there is a socioeconomic gradient in these things."*

In this context, advertising can only ever play a very small role in the overall food environment

8. Despite the prevailing view that obesity is driven by a complex array of factors, some of the evidence heard to date still is still based on the premise that all HFSS / UPF product consumption is driven, at least in part, by advertising.
9. In reality, only a relatively small proportion of food and drink businesses choose to advertise – and the vast majority of fast-food joints, take aways and restaurants don't advertise at all. Therefore, the vast majority of food and drink sales are entirely unrelated to advertising.
10. The idea that advertising restrictions can offer a substantive response to such a complex issue is wishful thinking, not least given the fact that previous restrictions have had no demonstrable effect.

The evidence that further restrictions or bans would be effective is lacking

11. Advertising in 'mature markets' such as confectionary and other HFSS categories does not tend to lead to market growth or overall increased consumption. This is a common misunderstanding among those observing the industry who believe that advertising "works" and must therefore lead to increased consumption. Advertising does work, but its *impact* is different in a mature

market versus an emerging one. Advertising in mature markets, where there are a plethora of brands competing for audience attention, is much more likely to result in a move of spend between brands rather than increasing the overall size of a market. This is because a mature market is one which has reached its equilibrium point and where attracting more customers to the market is unviable. This finding has been borne out in several studies, most recently in an analysis of 199 case studies by top brand strategist Bridget Angear. She found that 88% did not grow markets.²

12. Data from other regulated mature markets, such as alcohol, support the argument that consumption is not directly linked to or caused by advertising spend. The Scottish alcohol market since 2011, for example, has seen a steady increase in spend on advertising while consumption of alcohol has decreased.³
13. The Government's own evidence for its proposals to introduce a ban on HFSS advertising pre-9pm watershed and a total ban online – developed after taking into account a significant volume of submissions from a range of stakeholders during numerous public consultations – shows that the forthcoming and wide-ranging additional advertising restrictions across TV and online will make almost no difference to children's calorie intake. This is unsurprising given the intended effect of the proposals – to reduce children's exposure to advertising – has already played out in real time absent the ban, to no effect. Despite huge declines in children's exposure to TV advertising over the last decade and a half since the introduction of HFSS advertising restrictions by the ASA, obesity rates have continued to rise. We summarise this issue in Annex A.
14. In a similar vein, the more recent Transport for London (TfL) advertising ban on out-of-home HFSS adverts has done nothing to stem the rise of obesity rates in London. Assertions about the effectiveness of the TfL policy stem from misinterpretations of the flawed studies which reached these conclusions. A more detailed critique of these is provided in Annex B.
15. A thorough review of the evidence suggest none of this should be a surprise, given the main drivers of obesity are not related to advertising. Recent studies which are often cited by policymakers

² Angear, B., 2023. *Does advertising grow markets? Another look 25 years on from Simon Broadbent's original paper*. Credos: Advertising's Big Questions series of essays. Available at: <https://adassoc.org.uk/credos/does-advertising-grow-markets-2/>

³ Credos, 2022. *Analysis of alcohol advertising and sponsorship marketing spend, alcohol consumption, and alcohol-specific harms*. Credos: London. Available at: https://adassoc.org.uk/?download_resource=https://adassoc.org.uk/wp-content/uploads/2022/08/Analysis-of-alcohol-advertising-spend-and-alcohol-consumption-FINAL.pdf

seeking to justify bans or restrictions have significant flaws and do not reflect real-life environments. This was highlighted by a paper published in June 2023 by two German academics who, after reviewing 13 of the most commonly cited studies in this area, found that:⁴

- I. There is no scientific evidence for a causal relationship between advertising and overweight (including obesity).
 - II. The vast majority of studies investigating links between dietary behaviour and advertising show methodological weaknesses.
 - III. Proponents of advertising bans grossly misinterpret the findings of individual studies based on their own interests.
16. The research looking at the impact of existing and potential advertising bans and restrictions for HFSS products does not prove that these regulations meet the stated objective of reducing obesity. There have also been no reliable studies looking at the real-life post-implementation impact of any policies which have been enacted to-date in the UK meaning that stakeholders who claim that bans have a definitive impact must rely on studies which use hypotheticals or other unreliable methodologies.

Advertising is a regulated industry

17. The independent Advertising Standards Authority (ASA) has acted as the regulator for over 60 years and is seen as a gold standard internationally for robust self- and co-regulation. Food – particularly HFSS – is the subject of extensive existing restrictions which are overseen and enforced by the ASA. Assertions that food advertising “is everywhere” do not stand up to scrutiny given the extensive restrictions in place related to when and where HFSS food can be advertised across all forms of media. There are also additional industry initiatives agreed upon by businesses in addition to the existing regulations. These include out-of-home providers not advertising HFSS products within 100m of any part of a school boundary.⁵
18. The existing regulatory system ensures that rules can be often be implemented and updated much more quickly than through legislation. It also maintains industry buy-in and confidence in the

⁴ Schüller, K and Krämer, Prof. Dr. W, 2023. *Scientific opinion on the validity of selected studies on the relationship between advertising exposure and children’s diets*. Stat-Up: Munich.

⁵ Imposing this restriction on school boundaries, rather than just school gates, helps ensure that travel routes that children take to reach their school are within the scope of the restrictions.

system. The ASA-led self- and co-regulatory system implemented restrictions on HFSS advertising in 2009. The rules apply across channels and are closely monitored. In relation to TV, for example, they state that:

- HFSS food or drink products “may not be advertised in or adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 16”.
- HFSS food and drink products are not allowed to be shown on “television channels devoted to children’s programmes, or whose programmes are or are likely to be of particular appeal to children”.

19. While the evidence shows that these restrictions have had little-to-no effect on reducing childhood obesity rate – which should be unsurprising given the small role that advertising plays versus the larger drivers of deprivation and the overall food environment, as outlined above – it is evidence of how the existing system can quickly respond to challenges in this space.

20. The evidence shows that the only clear outcome of these restrictions has been a substantial financial impact on media owners (e.g. TV) and advertising companies, as well as the wider creative industries that they support. The evidence suggests that the Government’s incoming 9pm watershed and online ban for HFSS products will only see this result reproduced on a wider scale: a loss of up to £1bn for the advertising and media sector while having negligible impacts on childhood obesity rates.

Evidence of the positive impact of advertising

21. In contrast to the evidence relating to restricting and / or banning advertising for certain products, the evidence suggests that advertising which promote healthy lifestyles can be highly successful. Indeed, many in our industry have taken matters into their own hands and led by example in ways which showcase the power of advertising to promote sustainable and healthy lifestyles in a way which engage children and parents.

22. The ‘Eat Them to Defeat Them’ campaign, for example, has been running since 2019. It has received £17.5m worth of free advertising from ITV, Channel 4, and Sky Media, as well as support from the cinema sector, and was developed by creative agency adam&eveDDB. The results include:⁶

⁶ <https://vegpower.org.uk/eat-them-to-defeat-them/>

- 36m+ people reached every year since 2019.
- 1.4 billion portions of extra vegetables sold at retail.
- 45% of parents who saw the advert said that their children ate more vegetables.
- 77% of parents whose children took part in aspects of the campaign said their children ate more vegetables.

23. In London, Lewisham Council – “one of the 20% most deprived districts / unitary authorities in England”⁷ – has worked with out-of-home advertising specialist JCDecaux and Outsmart (the industry body) as part of their Childhood Obesity Trailblazer Programme (COTP). The campaign uses community-designed adverts around the Borough to encourage people to eat healthier foods and for local businesses to sign up to the Council’s ‘Sugar Smart’ programme and sell and promote lower sugar and healthier alternative snacks. Through an agreement between the Council and JCDecaux the Council not only gets access to vast swathes of the JCDecaux estate to promote their adverts, but they also agreed on a voluntary ban on the promotions of HFSS products which, in the first year, covered 80% of the out-of-home estate in the Borough.⁸ This joint campaign has enabled the Council to create targeted interventions which are designed and implemented by the local community with the support of the advertising sector.

24. Previously, the outdoor sector collaborated in the ‘*Get Smart Outside*’ campaign where outdoor contractors have offered up to £15m worth of advertising space to local councils to promote healthy lifestyles in their locality.⁹ In 2020 the campaign collaborated with East Lothian Council to support and advise local businesses on how to provide calories and allergen information to customers. Both this and the work in Lewisham are perfect examples of public authorities working with private business for the benefit of local people – and their health.

25. We would urge the Committee to recommend that the Government consider how it can learn from these examples and look at the extent to which publicly-funded advertising campaigns might help deliver positive behavioural change.

⁷ Public Health England Local Authority Health Profile 2019. Available at: <https://fingertips.phe.org.uk/static-reports/health-profiles/2019/E09000023.html?area-name=Lewisham#:~:text=Lewisham%20is%20one%20of%20the,live%20in%20low%20income%20families.>

⁸ <https://www.local.gov.uk/lonhow-don-borough-lewisham-year-1-update>

Further Information

26. Advertising is one of the UK's domestic and international economic success stories. Spend on advertising reached an estimated £37bn in 2023 and we expect above-inflation growth in 2024. Advertising not only powers the economy, but also funds the creative and cultural industries. Everything from sponsorship of museums and music venues, to ad-funded journalism and TV, to support for our world-leading film and theatre industries: advertising is integral to the business model of companies across the UK. Restrictions and bans – particularly without a solid evidence-base supporting them – risk impacting the ongoing success of our sector and those which rely on it.
27. We are concerned that several witnesses to the Committee have suggested implementing bans or restrictions on advertising of Ultra Processed Foods (UPF) when there is no agreed definition of what qualifies as UPF. We would also draw the Committee's attention to the fact that a ban or restriction on UPF would risk undermining the Government's policy aim of promoting reformulated HFSS products. The reformulation process often results in a HFSS product becoming a UPF product (under certain definitions). As such, a ban on UPF promotions risks reducing the ability to promote healthier alternatives to existing products.
28. More broadly, our industry is concerned at the growing propensity for policymakers to call for restrictions or bans on advertising of specific products or product categories due to the perceived harm of adverts alone – particularly when these products continue to be legal to be sold and purchased in the UK. We would strongly encourage the Committee to carefully consider the evidence we have submitted here and in previous debates and determine whether it justifies undermining the legitimate right of companies to advertise and promote their legally available products.

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8 April 2024

Annex A: The UK Government's advertising restrictions for HFSS products – implementation date October 2025

29. The Government is due to implement further restrictions on the advertising of HFSS products which will come into effect in October 2025. This will result in a ban on advertising for HFSS products on TV/on-demand pre-9pm watershed and a total ban online. While this has been welcomed by some policymakers, the evidence predicts that the policy will be ineffective and will do little to tackle childhood obesity.
30. The Government's own Impact Assessment (IA) concluded that the TV and online restrictions would only reduce a child's daily calorie intake by an average of 2.5 calories per day.¹⁰ We were surprised to see it suggested during oral evidence that these estimates of the impact of the forthcoming restrictions were put forward 'by those who are sceptical' about the policy. In fact, these are the Government's own estimates, based on extensive consultation and drawing from evidence from supporters of the restrictions.
31. Evidence submitted to those reviews by our members suggests that these estimates are in fact significant overestimates of the potential impact, based on a handful of laboratory studies that bear no relation to the real-world circumstances in which the policy will be implemented. For instance, the study on which Government estimates for the impact of advertising exposure on consumption of HFSS products was based involved showing children HFSS adverts during children's programming (already banned by the ASA) and then given immediate unlimited and unmediated access to HFSS food (unlikely to be the real-world scenario in most households).
32. The Government's estimates would mean that the restrictions would remove only 635 calories per year from the average child's diet while costing the advertising and marketing sector an estimated £1 billion.¹¹ The impact of this on the wider TV and online advertising economy is likely to be highly detrimental.
33. During its own review of potential restrictions on TV advertising of HFSS products in 2010 Ofcom described the idea of a

¹⁰ DCMS / DHSC, 2021. *Impact Assessment: Introducing a 2100-0530 watershed on TV and online restriction for paid advertising of food and drink that are High in Fat, Salt and Sugar (HFSS) products*. Table 37, p.102. Available at: <https://assets.publishing.service.gov.uk/media/60d35279e90e0743934f6c3a/impact-assessment-hfss-advertising.pdf>

¹¹ Ibid.

pre-9pm watershed restriction as “disproportionate” and “ineffective” and concluded that such a ban would be the least targeted option for reducing children’s exposure to HFSS products on television.¹² Indeed, the overwhelming impact of this aspect of the policy is expected to be on advertisers’ ability to communicate with adult audiences about foods that are primarily consumed by adults as the restrictions will miss the child target over 98% of the time.

34. The industry accepts that these rules will come into force in October 2025 and we are working closely with the Government and the ASA to ensure full compliance across the sector. We would strongly urge the Committee to withhold from making any further recommendations on restricting food advertising until the impact – or lack thereof – of this policy has been fully and properly evaluated.

35. We are still waiting for the Government to publish the secondary regulations which will, among other things, outline the products which are in-scope of the restrictions. The consultation on these regulations closed over a year ago, and yet there is still no date from the Government about when they will be published. Without these secondary regulations the industry is unable to plan effectively for the implementation of the restrictions from October 2025, particularly as advertising campaigns often take 12 – 18 months to plan and implement. We would strongly urge the Committee to call on the Government to publish the secondary regulations immediately so that we can enable a smooth implementation time ahead of the restrictions coming into force in October 2025.

36. We are aware that the Committee and some witnesses have voiced concern about the so-called “brand exemption” in these restrictions. The reason for this is, in the words of the Government’s response to their initial consultation, is “*to ensure that brands are not pigeonholed as synonymous with HFSS products and have the freedom to reformulate and move towards offering healthier products.*”¹³ Without such an exemption, brands which offer a mix of HFSS and non-HFSS products would be banned from advertising their non-HFSS (and reformulated) products entirely.

¹² https://www.ofcom.org.uk/data/assets/pdf_file/0024/31857/hfss-review-final.pdf

¹³ <https://www.gov.uk/government/consultations/further-advertising-restrictions-for-products-high-in-fat-salt-and-sugar/outcome/introducing-further-advertising-restrictions-on-tv-and-online-for-products-high-in-fat-salt-and-sugar-government-response>

Annex B: Transport for London (TfL): Restrictions on out-of-home advertising

37. Many policymakers who champion advertising restrictions and / or bans – particularly in “non-targeted” media such as out-of-home – point to the decision by the Mayor of London to ban HFSS advertising on the Transport for London (TfL) network as proof that such policies are both workable and sensible. The evidence shows that this is incorrect.
38. The ban was first introduced in February 2019. There are two main studies, both published in 2022, whose results purport to prove the effectiveness of the policy. The first was from the London School of Hygiene and Tropical Medicine (LSHTM),¹⁴ and the second was a collaboration between academics from the LSHTM and the University of Sheffield.¹⁵ We will refer to these as Paper A and Paper B respectively.
39. Both papers claimed that the policy was a success. Paper A said that consumption of fat, chocolate and confectionary products, and other HFSS products were substantially reduced. Paper B claimed that the policy had resulted in a reduction of people living with obesity of 4.8% in just three years since being introduced. It also claimed that the policy had led to a direct reduction in instances of diabetes and cardiovascular disease among people in the capital.
40. The claims made in these studies appeared at odds with the evidence elsewhere, including the Impact Assessment the Government had put forward for its HFSS restrictions which said that calorie reduction would be limited to 2.5 calories per child per day. As such, the AA commissioned SLG Economics to conduct an independent review of the papers. The review was conducted by Stephen Gibson who is currently Chair of the Government’s Regulatory Policy Committee and a Senior Fellow at the Harvard Kennedy School of Business and Government at the University of Harvard.

¹⁴ Yau A, Berger N, Law C, Cornelsen L, Greener R, et al. (2022) Changes in household food and drink purchases following restrictions on the advertisement of high fat, salt, and sugar products across the Transport for London network: A controlled interrupted time series analysis. *PLOS Medicine* 19(2):

e1003915. <https://doi.org/10.1371/journal.pmed.1003915>

¹⁵ Thomas, C., Breeze, P., Cummins, S. *et al.* The health, cost and equity impacts of restrictions on the advertisement of high fat, salt and sugar products across the transport for London network: a health economic modelling study. *Int J Behav Nutr Phys Act* **19**, 93 (2022). <https://doi.org/10.1186/s12966-022-01331-y>

41. The review found that for Paper A the study:
- I. "Used an inappropriate counterfactual and the results are a consequence of the construction of the counterfactual rather than demonstrating the impact of the TfL advertising ban."
 - II. "Misses out over half (by calories purchased) of the HFSS product groups and as a result does not explain where 57% of the reported reduction in calories comes from."
 - III. "Suggests results that are 32 to 109 times higher than the expected results from a 9pm watershed ban on HFSS adverts on TV – this is not a credible result."
 - IV. Contains "a serious methodological gap... [by not taking] into account the extent to which people in the survey would have had the opportunity to see HFSS adverts on the TfL estate and how that would have changed over the period of the study".
 - V. "Fail[s] an important statistical tests which reduces the statistical validity of the results and the robustness of the conclusions."

The review found that for Paper B the study:

- I. "Does not provide verification or validation of the first study results – it unquestioningly assumes the results of the first study and uses this as an input into its calculations."
 - II. Is "subject to all the concerns set out above about the credibility of the first study".
 - III. Carries the "assumption that calories purchased is directly equated with calories consumed [and] ignores substitution with food purchases outside the home and food consumed in restaurants in cafes."
 - IV. Has conclusions on "the impacts on NHS and social care costs, [which] even at the highly inflated level assumed, would only make the most superficial impact on NHS obesity costs".
42. Stephen Gibson therefore concludes that "the results of both studies should not be relied upon in support of policies that restrict HFSS adverts".
43. We would strongly urge the Committee to take account of the fundamental flaws in these two pieces of research as they form the foundation of many claims by other policymakers who wish to promote advertising bans – particularly in out-of-home settings (such as billboards and bus stops). We have attached a copy of the full report for the Committee to review.