Evidence to support the implementation of better regulation of digital marketing for foods and drinks high in fat, salt and sugar

July 2019
Executive Summary

Overweight and obesity is the leading preventable cause of cancer in the UK after smoking\(^1\). It is linked to a number of health conditions, including 13 different types of cancer, causing over 22,000 cancer incidences annually (approx. 6% of all cancer cases)\(^1\). Reducing obesity levels therefore must be a key priority in improving public health and protecting future generations.

Research has consistently shown that advertising of high fat, salt, and sugar (HFSS) products influences dietary-related knowledge, attitudes, and consumption, especially amongst children and young people\(^2\). The rise of digital media has provided new opportunities for the food and drink industry to reach, influence, and interact with consumers. However, these audiences include children and young people, which has consequences. Protecting the vulnerable from exposure to HFSS advertising, wherever it appears, is vital.

As the UK Government considers how to restrict HFSS marketing and online harms, it is crucial to ensure that regulation reflects the unique digital environment to adequately protect children from the harms of marketing. This report investigates how digital marketing for HFSS food and drink is regulated in the UK and examines alternative methods of regulating online marketing. Based upon this evidence, we have produced a best practice checklist for government and regulators:

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**How can digital marketing be regulated to protect children?**

- **Introduce regulation with clear definitions**
  - Regulation should set out appropriate, objective and sufficiently wide-ranging definitions of digital marketing, using language which is compatible with the media and marketing industries.

- **Update definitions as media evolves**
  - Regulation design should be regularly revisited to ensure it keeps up with marketing and media developments. Definitions that are not exclusive to specific digital media channels means that regulations can apply to new media.

- **Marketing required to meet ‘minimum standards of design’**
  - Minimum standards of design, which provide information about nutritional content, consuming a balanced diet, and combining diet with physical activity, can help to counter-balance the promotional messages in marketing.

- **Sufficiently monitor and enforce regulation**
  - Effective regulatory design should be combined with robust independent monitoring and clear sanctions via formal processes, to ensure that producers comply with restrictions and to set precedents for future marketing activity.

- **Regularly evaluate the effects of regulation**
  - Regulation should be regularly monitored to evaluate marketing exposure among young people and the association with knowledge, attitudes and behaviour.
Why are regulations needed online?

Our previous research has shown that digital marketing differs to traditional marketing: it can target specific audiences, co-opt users in creating content, and be virally spread [3, 4, 5]. A mixture of obvious and subtle marketing tactics means that young people can’t always distinguish between marketing and organic content [6]. Regulations need to reflect this unique environment.

Findings

The UK’s current regulatory system has several limitations

In the UK, digital marketing for HFSS food and drinks is self-regulated by the advertising industry and manufacturers. Their approach still allows young people to be exposed to marketing, with few meaningful sanctions for non-compliance. As digital media can be produced and shared in real time and in large volumes, the current retrospective disciplinary approach used is not efficient in controlling such marketing as campaigns are able to reach large audiences before a decision on compliance is made.

Digital marketing involves unique considerations for regulation

To create regulations that are strong and effective, challenges with age verification, content outside of brand-controlled spaces and from other countries, and the availability of data to monitor implementation must be considered. These challenges are not unique to HFSS content, and Government need to examine how best these questions can be answered.

Regulation of digital marketing of other products provides precedents for HFSS regulation

Due to a lack of examples of statutory regulation for HFSS foods and drinks, this review looks at two case studies of digital marketing regulations of alcohol, another fast-moving consumer good. Although alcohol and HFSS products are not directly comparable, there are key similarities in how both are marketed and regulated. Understanding good practice for regulating alcohol can help inform our understanding of HFSS regulation.

Examples are considered from Finland, who have specifically designed legislation to regulate digital marketing for alcohol, and France, who have updated parts of their alcohol marketing legislation to account for new media developments. Combined, they provide useful precedents on how regulation could be applied to HFSS food and drinks in the UK. Principles from these case studies were used to inform our digital marketing regulation checklist.

Key Policy Recommendations

The starting point of good regulatory practice would be for the UK Government to build on WHO Europe’s framework for monitoring children’s exposure to harmful marketing online, by ensuring digital advertising regulation is aligned with our best practice checklist.

Decisive policy action at a national level is key to achieving the UK Government’s ambition of halving childhood obesity rates by 2030. The UK Government must introduce a comprehensive 9pm watershed for HFSS adverts across all forms of media, including digital and online, to reduce children’s exposure.
Policy Recommendations

There is no ‘silver bullet’ to reducing obesity, and tackling this issue will require a UK-wide, whole-system approach. However, decisive policy action at a national level – and implemented without delay – will be key to achieving the Government’s goal of halving childhood obesity rates by 2030. Further restrictions on HFSS marketing on TV and online are critical to achieving this reduction. The UK Government consulted on these measures in April-June 2019, and, separately, on proposals to mitigate online harms. Follow up action is now needed.

**A new framework for regulating HFSS marketing**

The starting point of good regulatory practice would be for the UK Government to build on the World Health Organization Europe’s recently launched framework for governments to monitor children’s exposure to harmful marketing online (including HFSS food and drink) [7].

The next step would be to ensure the regulatory framework matched the best practice outlined in our checklist, which has been informed by lessons from digital regulation in other spheres and countries. The UK Government and the bodies it delegates regulatory responsibility to should introduce regulations with clear definitions, update these definitions as media evolves, and require marketing to meet minimum standards of design.

This should be underpinned by a strong regulatory system. We would like to see robust independent monitoring and clear sanctions via formal processes to ensure compliance.

**The mechanisms for regulating HFSS marketing**

To effectively protect children from exposure to HFSS marketing, the UK Government must introduce a comprehensive 9pm watershed on HFSS products across linear TV, catch-up and TV on-demand services and also to adverts online and on social media. This would reduce children’s exposure, support parents to help keep their family healthy, provide a consistent approach for industry, and minimise the risk of displacement of HFSS marketing to other media. For similar reasons, there is a strong case to extend such restrictions to cover cinema, radio, outdoor, direct and experiential marketing too.

We support the use of the 2004/5 Nutrient Profile Model (or the latest model when approved), without any exemptions or additional criteria applied, to determine what is ‘less healthy’ and thus unable to be advertised within the restrictions.

The rights of all children to be protected from exposure to HFSS food and drink advertising must be prioritised. We do not believe that it is equitable to specify an acceptable number of children that could be exposed to adverts for HFSS products.

Existing methods to determine a user’s age online are not sufficiently accurate, which means companies cannot guarantee they are not exposing children to their adverts. Age verification processes or platforms should be independently monitored and verified, and online platforms and media agencies should make audience data publicly available.

**The timing of mechanisms for regulating HFSS digital marketing**

Restrictions should come into effect for all forms of TV and online advertising at the same time, if possible. We consider that restrictions covering most forms of online marketing could be introduced quickly by regulatory bodies. Precedent was set in December 2016, when CAP announced planned restrictions on non-broadcast media, which then came into effect only seven months later, in July 2017.
This report should be referred to as follows:

“Lessons from the digital frontline: Evidence to support the implementation of better regulation of digital marketing for foods and drinks high in fat, salt and sugar.” Nathan Critchlow, Kathryn Angus, Martine Stead, Ellen Saw, Jessica Newberry Le Vay, Malcolm Clark, Emily Whiteside, Alizée Froguel, Jyotsna Vohra. 2019.

Cancer Research UK is the world’s largest independent cancer charity dedicated to saving lives through research. We support research into all aspects of cancer through the work of over 4,000 scientists, doctors and nurses. In 2017/2018, we spent £423 million on research institutes, hospitals and universities across the UK. We receive no funding from Government for our research. This research was funded by the Cancer Policy Research Centre, Cancer Research UK.

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References


