Special Focus V. Regulation of Food Advertising to Children: The UK Experience

by

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Introduction

In December 2003, the Secretary of State for Culture, Media and Sport asked Ofcom to consider proposals to strengthen rules on food and drink advertising to children on television.

As the independent regulator for television, radio, telecommunications and wireless communication services in the United Kingdom, Ofcom has a range of duties and responsibilities set down in legislation: its broadcasting duties include responsibility for setting standards in television advertising and its statutory objectives include the protection of children. At the same time, Ofcom has other statutory obligations to secure a wide range of television services of high quality and wide appeal offered to audiences by a range of different broadcasters. Furthermore Ofcom had committed itself to carry out its duties in a proportionate, evidence-based manner. Ofcom's approach to this issue therefore needs to be set in the context of managing these different duties and regulatory objectives.

In addition, because childhood obesity is a multi-faceted issue, the consideration of restrictions on the advertising/promotion of food products to children ended up requiring a multi-disciplinary/multi-agency approach and Ofcom made use of the expertise of colleagues in the Food Standards Agency (FSA) and the Department of Health on issues such as nutritional profiling, the impact of diet on the incidence of morbidity and measures of the valuation of life.

As a result of a comprehensive review of the existing evidence of the impact of advertising on children's food preferences, and a series of public consultations, a package of measures for the regulation of food advertising to children was adopted in February 2007.

The package included the following measures:

- advertisements for HFSS* products could not be shown in or around programmes specifically made for children (including pre-school children). This measure removed all HFSS advertising from dedicated children's channels;
- advertisements for HFSS products could not be shown in or around programmes of particular appeal to children under 16; and
- these restrictions applied equally to programme sponsorship by HFSS food and drink products.

In addition to these scheduling restrictions, Ofcom also proposed that revised content rules would apply to all food and drink advertising to children irrespective of when it is scheduled. The key elements of the content rules included a prohibition on the use of licensed characters, celebrities, promotional offers and health claims in advertisements for HFSS products targeted at pre-school or primary school children.

The scope for self-regulation

In the course of Ofcom's consultation process, Ofcom did consider the option of self-regulation on the part of the food and drink industry. In terms of existing self-regulatory initiatives, a number of manufacturers argued that they already had in place policies about advertising to children and were also in the process of reformulating their products to reduce the amount of fat, salt and sugar over time. For instance, Kellogg's and Coca-Cola had a policy of not advertising their products to children under the age of 12.

Although Ofcom recognised the relevance of these self-regulatory initiatives, it did not consider that they satisfied the regulatory objectives it had set out. For instance, given the objective of reducing HFSS food advertising to children under 16 years old, the manufacturers' voluntary restrictions on advertising to under-12s did not go far enough.

Ofcom also felt that restrictions on the advertising of HFSS products combined with the FSA's NP scheme would provide at least some manufacturers with an added incentive to continue to work on the re-formulation of their products so that they might be able to advertise on TV. However, Ofcom did recognise that this would simply not be possible for some categories of products *e.g.* sweets and certain types of savoury snacks.

* Scheduling restrictions will be confined to food and drink products that are assessed as "high in fat, salt and sugar" (HFSS) as defined by the FSA's nutrient profiling (NP) scheme.

Key issues in the development of the policy

Definition of children

Ofcom's initial set of proposals focused on children under 10 years old. However, there was a significant amount of criticism of this approach in consultation responses. Although most manufacturers supported Ofcom's proposals, most consumer groups, health and public sector organisations and academics argued that restrictions should extend to children aged 10 and over. They argued that although older children might understand the intent of advertising, they were still susceptible to its influence. In addition, unlike younger children, they had the means to buy HFSS products. The evidence indicated that dietary quality declined from childhood to adolescence; that obesity in children was most common in the 12-15 age group; and that older children's preferences can influence those of their younger siblings.

Having reviewed the evidence and the arguments, Ofcom amended its approach to address more clearly the potential vulnerability of older children up to the age of 15, alongside that of younger children. Ofcom noted that major advertising and marketing database companies also classified children as aged 4-15 inclusive. This increased the number of channels and broadcasters that would be affected. For instance, music channels were now within the scope of the restrictions.

Programmes of appeal to children

Another issue that Ofcom had to address was the definition of programmes of appeal to children (even if not aimed specifically at them). Ofcom proposed using an audience index measure to assess programmes of appeal to children – the "120 index", which identifies programmes where the proportion of children (4-15 years old) in the audience was at least 20% higher than their proportion in the general population. The 120 index approach was also already used in the application of restrictions on alcohol advertising.

Some broadcasters argued that it would be difficult to predict in advance which programmes would have an audience index over 120. However, Ofcom rejected this argument. Ofcom was aware that when broadcasters plan where to schedule advertising airtime, they analysed the audience mix that their schedule was predicted to deliver. Where a programme series was expected to be watched by an audience with a high proportion of children, the broadcaster would "block out" that programme series, preventing unsuitable advertising (*e.g.* alcohol advertising) from being scheduled in or around it. The index approach was therefore already used on a predictive and judgemental basis. Ofcom made it clear that broadcasters should not necessarily be expected to identify every single programme that would index at over 120 in advance but where a programme series or time slot consistently delivered an audience rich in children then Ofcom would expect a broadcaster to apply the 120 index approach to it.

Proportionality

In assessing the impact of different scheduling restrictions, an important issue was how "efficient" particular types of restrictions were. A number of health and consumer groups pressed for restrictions on advertising in programmes when large numbers of children were likely to be watching. Effectively this would mean restrictions on HFSS advertising stretching later into the evening.

For mass audience programmes, particularly soaps or reality shows, it is true that there will be large number of children in the audience. However, that is not to say that children would make up a significant proportion of the audience and it was not necessarily the case that HFSS advertising in and around those programmes would be aimed at those children. For example, an advert for ready to eat breakfast cereal shown in the evening was likely to be aimed at adults rather than children. Given that the objective of Ofcom's advertising restrictions was to have an impact on children's food preferences and that there was no prohibition on the purchasing of HFSS food products *per se*, Ofcom was wary about extending scheduling restrictions into times of the day when the audience was likely to be mainly adults.

To assess the efficiency of different packages of restrictions Ofcom analysed the number of adult HFSS impacts that would be restricted in addition to the children's HFSS impacts, where an impact is equivalent to one viewer watching one advertisement. For instance, a hypothetical complete ban on HFSS advertising before 9 pm would remove around six adult HFSS impacts for every child impact that was removed. In comparison, restrictions in children's airtime would remove around one adult impact for every child impact that was removed.

Impact of restrictions to date

So far, the policy has:

- *Significantly reduced the exposure of children under 16 to HFSS advertising*. The latest data available indicate that children's exposure to HFSS advertising has fallen by 37% between 2005 and 2009 (compared to the 41% reduction estimated in Ofcom's Impact Assessment).
- *Enhanced protection for children as well as parents by appropriate revisions to advertising content standards*. For instance, the number of food and drink advertising spots featuring licensed characters during children's airtime fell

by 84%. The same trend was apparent across the majority of advertising techniques targeted by the rule changes.

- *Avoided disproportionate impacts on the revenue of broadcasters.* Children's channels did experience a significant decline in food and drink advertising revenue. However, data provided by broadcasters indicated that overall advertising revenue on children's channels had nevertheless increased. And while the main commercial channels (ITV1, GMTV, Channel 4 and Five) saw a 6% decline in food and drink advertising revenue between 2005 and 2007/08, most other digital commercial channels had been able to increase their revenue from food and drink advertising, so mitigating the effects of restrictions to a greater degree than Ofcom had anticipated.
- *Avoided intrusive regulation of advertising during adult airtime.* As set out above, Ofcom limited the impact on adult airtime by ensuring restrictions are only applied where a disproportionate number of 4-15-year-olds are watching (120 indexing), and therefore the programme are considered to be of particular appeal to children.

Special Focus VI. The Case for Self-Regulation in Food Advertising

by

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With the global increase of overweight and obesity, food marketing communications, particularly to children, have been in the public and political spotlight. Advertisers have been duty bound to review their marketing communications strategies to ensure that they are aligned with and promote – rather than undermine – healthy diets and balanced lifestyles.

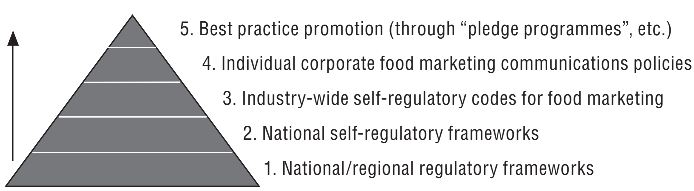
A blueprint for food and non-alcoholic beverage marketing communications

On the basis of these principles, the World Federation of Advertisers (WFA) has developed a vision for an effective policy response to public health concerns relating to food advertising to children. This vision is based on the recognition that there is no one single instrument that can effectively address the various facets of the issue and that an integrated, multi-tiered approach is necessary. This approach seeks to maximise synergies between different regulatory and self-regulatory structures and layers of rules. Each layer requires an independent monitoring component in order to create accountability and engender trust among stakeholders. A five-tiered blueprint for such a model is presented graphically below, followed by an explanation of each tier and how they interact.

At one end of the policy spectrum (the broad base of the pyramid), national regulatory frameworks set the broad parameters within which marketers are required to operate. An example of good regulatory practice along these lines is the recently adopted European Directive on Audiovisual Media Services. This directive establishes common quantitative and qualitative rules for all advertising, including strong provisions on the protection of children, while actively encouraging the establishment of codes of conduct on food advertising to children in the member States of the European Union.

At the opposite end of the policy spectrum, specific industry-led initiatives are found, such as "pledge programmes". These are framework commitments driven locally by International Food and Beverage Alliance (IFBA) members – a group of leading multinational companies, which account for the vast majority of food marketing spend globally – with a view to encouraging local operators to adopt the same basic standards. Pledge programmes thereby increase the market coverage of the framework commitments and create a level playing field among all companies. To date Pledge programmes are in place in the United States, Canada, the European Union, Switzerland, Thailand, Australia, South Africa, Brazil, Peru, Mexico, India and the GCC countries. The involvement of the leading global food advertisers in these programmes ensures that the commitments cover a significant share of the market. The effectiveness of this approach in changing the balance of food and beverage advertising to children is best demonstrated by the monitoring programme of the EU Pledge initiative in its first year of operation (2009). As well as finding virtually 100% compliance with the EU Pledge commitments, the external auditors that carried out the monitoring (Accenture Marketing Sciences) measured the change in food advertising to children under 12 in Europe since 2005, on the basis of six markets, reporting a 93% drop in advertising for products that do not meet companies' nutritional criteria in programmes with an audience composed of a majority of children, and a 56% decline in advertising for these products overall, *i.e.* in all programmes on all channels at all times. For all EU Pledge member companies'

Figure SF VI.1. **A blueprint for marketing policies on food advertising**

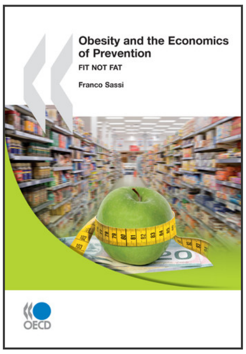


This diagram represents a deliberate over-simplification of the industry blueprint for the sake of understanding. Not all five layers are required in all markets; many markets can provide for robust self-regulatory frameworks for food and non-alcoholic beverage marketing communications by ensuring the existence of just one or three layers. Nor should this diagram imply any need to adopt layers chronologically. Indeed, in most markets where this model is being adopted, different layers are being reinforced simultaneously and at different speeds.

advertising across all products (*i.e.* no distinction on a nutritional basis) this represents a 61% drop in programmes with an audience composed of a majority of children, and a 30% decline overall.

The WFA's blueprint for framing food and beverage advertising in the interest of promoting balanced diets and healthy lifestyles is based on a collaborative, multi-stakeholder approach between the private and public sectors. A complete and effective strategy for regulating food advertising should include a number of elements related to restrictions, incentives, and good communication between consumers, industry and government. For one, policies should directly address the specific goal of limiting the exposure of children to advertising for food products that do not meet nutritional criteria and ensure that advertising does not condone or encourage unhealthy behaviours.

There are additional significant benefits to be gained from effective advertising self-regulation. These benefits can be reached more efficiently when government and industry propose good incentives for companies to develop responsible practices and promote healthier products. Making the changes that contribute to improving people's health has clear benefits for manufacturers in that they can realise the economic gains of these innovations as well as add positive associations to their brands by communicating them to consumers. A key part of the self-regulatory process is to empower consumers to make complaints and suggestions, and to provide for efficient and free redress.



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