Research report

News report. Gaps and weaknesses in controls on food and drink marketing to children in the UK

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A R T I C L E   I N   F O

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A B S T R A C T

In 2011 the National Heart Forum completed a commission from the UK Department of Health to conduct a mapping and consultation exercise on the marketing and promotion of food and drinks to children. One of the outputs was an analysis of the regulatory environment including statutory and self-regulatory rules and voluntary codes of conduct. The key findings and observations from this analysis are presented in this short report.

Compared with other countries around the world, the UK has a relatively developed regulatory landscape for controls on marketing food and drinks to children (Hawkes & Lobstein, 2011). In spite of this, children in the UK have continuing contact with marketing and promotions from advertisers within the UK and from sources beyond UK borders, using a range of new and traditional media.

British policy makers have signaled concerns that more needs to be done to protect children. The Government-commissioned report on the Impact of the Commercial World on Children’s Wellbeing (DCSF, 2009) concludes that the public is not well-informed about the effect of marketing campaigns on children and that some areas of regulation are insufficient. The Bailey Review of Commercialisation and Sexualisation of Childhood (Bailey, 2011) made specific recommendations that peer-to-peer marketing practices involving children should be banned and that there should be a single website where complaints about advertising, programmes or products could be made.

As a starting point for the development of future regulations, principles or standards to reduce the marketing pressure on children and adolescents, the UK government commissioned the National Heart Forum to review current controls on food marketing, to include marketing practices, regulations, policies, commitments and proposals in order to identify the gaps and weaknesses. The present short report summarises the findings.

Three research tasks were undertaken: the first consisted of a desk-based review conducted in 2010 examining publicly available reports, data and studies from government, commercial and academic sources. Special effort was made to identify information about marketing in media that fell outside of regulatory regimes, including in-school marketing, product packaging, point of sale promotions and sponsorship. The second task consisted of content analysis of 63 advertiser-owned websites and associated marketing activities, recording the presence or absence of mechanisms used by advertisers to appeal to visitors to their websites, mechanisms to prevent children accessing material on the sites, and statements about nutrition and health on the websites. The third task examined current statutory and self-regulatory regimes and codes on food and drink marketing to children applicable in the UK. This was assisted by members of an advisory group including government officials, industry and consumer bodies. The summaries of self regulatory codes were cross-checked with comments from the UK Advertising Standards Authority. Full details of the methodologies are available at http://www.heartforum.org.uk/our-work/policy/nutrition/marketing-food-and-drink-to-children/.

This study found a significant body of literature describing children’s use of media, trends in marketing both to children and to adults, and the types of food and drinks being promoted to children. Children are using a mix of media earlier in their lives than previously. Marketing effort is moving into new media, although...
traditional media such as television remain important. The analysis
of 63 food company websites shows that food and drink marketing
aimed at children and seen by children continues to be dominated
by pre-sugared breakfast cereals, soft drinks, confectionery,
savoury snacks and fast food outlets, and all of the brands use a
variety of child-appealing techniques on product packaging such
as licensed or equity–brand characters, free gifts, prizes and give-
aways.

Regulation that applies to advertising and marketing of food to
children in the UK includes statutory regulation (administered by
government or government regulator), co-regulation (between
regulator and industry) and self regulation (industry). Rules are
set at EU as well as national level with some marketing communica-
tions regulated by enactments of EU Directives (e.g. product
placement in TV programmes is in part regulated under the Audio
codes of practice and best practice guidelines apply in the UK
market, of which most have been developed by advertising and
marketing trade bodies or food industry trade bodies, and a minor-
ity have been developed by government jointly with self-regula-
tory agencies. Some codes specifically address a particular issue,
such as digital marketing, data collection and parental consent
direct marketing. There are also individual food company and
licensing company pledges and policies which operate at dif-
ferent levels and in different geographical areas.

A summary of the principal gaps and weaknesses is given in
Table 1. In addition, it should be noted that regulations apply to
‘advertising’ and to ‘marketing communications which are directly
connected with the supply of goods and services’ such as sales
promotions. Other promotional activity falls outside of these
definitions, such as the presentation or ‘editorializing’ about
brands or products via websites or mobile messaging. In-school
marketing (other than sales promotions), product packaging,
point-of-sale marketing and sponsorship (other than TV pro-
gramme sponsorship) are also excluded. Techniques including
product and brand integration in digital media, formulation and
presentation of products (including colours, flavours or shapes),

<table>
<thead>
<tr>
<th>Gaps and potential weaknesses in UK regulations and codes</th>
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<tbody>
<tr>
<td>Communication channel</td>
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<tr>
<td>TV advertising scheduling rules do not catch programmes watched by the largest numbers of children because of the way that child audiences are calculated</td>
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<td>TV advertising content rules for food and drink do not all apply up to age 16. Some apply to pre-school and primary aged children. Scheduling rules (BCAP code) apply up to 16</td>
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<td>TV product placement rules do not cover programmes or films made outside the UK</td>
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<td>On-demand services are not subject to scheduling restrictions on HFSS advertising</td>
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<td>Radio advertising content rules for food and drink do not all apply up to age 16. Some apply to pre-school and primary aged children</td>
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<td>Radio advertising scheduling is not subject to restrictions on HFSS advertising (unlike TV)</td>
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<td>Mobile marketing is not covered by food and drink rules unless the commercial messaging is defined as ‘advertising’</td>
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<td>Vending is controlled in schools but not in other places where children may gather</td>
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<td>Branding on vending machines is not covered by school food regulations</td>
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<td>In-school marketing such as voucher collection schemes, sampling, branded school equipment is not subject to rules (except specified sales promotions)</td>
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<td>Product packaging is not restricted (with the exception of on-pack advertising for another product or sales promotion)</td>
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<td>Point of sale in-store communications are not defined as advertising</td>
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<td>Sponsorship for HFSS food products is not restricted (other than programme sponsorship in broadcast media and specified sales promotion sponsorship)</td>
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<tr>
<td>Peer to peer and viral promotion of HFSS food products is not restricted</td>
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<td>Marketing technique</td>
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<tr>
<td>Product and brand integration in digital media (e.g. product or brand placement in advergames) of HFSS food products is not restricted</td>
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<td>Digital advertising rules are applicable to marketing communications ‘that are directly connected with the supply or transfer of goods, services, opportunities or gifts . There are no restrictions on brand promotions online to match those applying to TV brand promotion.</td>
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<td>Food labelling and packaging (including gifts, claims, cartoons and licensed characters) of HFSS food products are not restricted</td>
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<td>Use of equity–brand characters is not restricted</td>
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<tr>
<td>Formulation and presentation (including colours, flavours, shapes) of HFSS food products are not restricted</td>
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<td>Premiums and give-aways (including toys with children’s meals) are not restricted</td>
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<td>Promotions at point of sale (including shelf ticketing, product display, positioning in store, dump bins and in-store sampling) are not generally covered unless defined as ‘advertising’ or ‘sales promotions’</td>
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Voluntary codes and pledges do not sufficiently plug any of
these gaps and are applied unevenly: for example, one set of
schools-based guidelines (DCSF/ISBA, 2008) apply only to schools
in England, while another, different code (CFS, 2009) applies
in Scotland and there are no codes applicable to secondary schools
in Wales. Sponsorship is addressed by three separate codes – two
in schools and one in the public sector – but no codes apply to
sponsorship of sporting or cultural events.

It should also be noted that there is no consistent definition of
the age of a child in marketing regulations or codes, which varies
between 11 and 18 years. Under statutory and self-regulatory rules
a child is defined as under the age of 16, although some self-
regulatory rules (under the CAP Code) (Advertising Standards
Authority, 2010a) apply protections to pre-school and primary
school-aged children only. The industry-owned pledges applicable
in the UK define children as under 16 (ISBA, 2007), 13 (IAB, 2009)
and 12 (EU and UNESCO Pledges) EU Pledge (2008), UNESCO
Pledge (2006). The Direct Marketing Association Code (DMA,
2003) has a range of ages between 14 and 18 according to different
activities.

The television advertising rules which prohibit high fat, sugar or
salt (HFSS) food and drink advertising in children’s programming or
programmes of special interest to children (under the BCAP
Code) (Advertising Standards Authority, 2010b) are not applied
to radio or to on-demand television. A further concern with the
BCAP Code is that it does not apply advertising restrictions to the
programmes which attract the largest number of child viewers.
Programmes broadcast outside of children’s programming are also
included if around 23% or more of the viewers are aged under 16,
but very few ‘family’ programmes (such as soaps, game shows, and
reality TV shows) are caught using this criterion.

Cross-border marketing is poorly addressed under the UK rules
and codes. Product placement rules do not apply to TV

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programmes made outside the UK and the CAP Code does not apply to advertising on non-UK registered websites.

One of the few examples where an industry code goes beyond statutory or self regulation is the Advertising Association's best practice principle on peer to peer marketing (Advertising Association., 2011). This pledges the Association's members to ensure that ‘Young people under the age of 16 should not be employed and directly or indirectly paid or paid-in-kind to actively promote brands, products, goods, services, causes or ideas to their peers, associates or friends.’ Exemptions are made for child actors and children sponsored by sports or entertainment brands.

Comments

Marketing to children is increasingly delivered across multiple media and regulatory and self-regulatory authorities are not keeping pace with the use of new technologies and techniques (Pitt, 2010). Where regulations and codes have attempted to keep up with new marketing practices, this has tended to be within specific definitions of ‘advertising’ rather than promotional activity in the wider sense. This has left some key media and techniques untouched by marketing restrictions, such as packaging, point of sale marketing, use of premiums and give-aways, use of colours, flavours and shapes in children's foods, sports and entertainment sponsorship, most forms of brand and product integration in digital media, and the use of equity brand characters.

While international government agencies recommend action, they locate the lead responsibility for setting standards and implementing controls with governments (WHO, 2010). If the UK government assumed this responsibility and chose to apply sufficiently inclusive definitions about what media and marketing techniques are covered, most of the gaps identified in this study could potentially be addressed. This would be a substantial step in protecting children and promoting cultural norms which encourage healthy eating behaviour generally.

References


Department for Children, Schools and Families and Department for Culture Media and Sport (2009). The impact of the commercial world on children's wellbeing. London: DCSF and DCMS.


