

Grid 2a: Current statutory and self-regulatory regimes applicable in the UK market

For details of acronyms used in this Grid, see *Taxonomy of marketing terms* in the main report.

Type of marketing or promotion	Sectoral coverage	Status of controls	Regulatory or code-owning bodies	Marketing activity covered	General provisions on marketing to children?	Scheduling rules for food and drink marketing?	Content rules for food and drink marketing?	Compliance monitoring?	Sanctions?	Definition of 'children'?	Definition of 'marketing to children'?	Categorisation of foods and beverages?	Observations
TV advertising	Terrestrial, cable and satellite commercial TV companies licensed by Ofcom	Co-regulatory ¹	Ofcom and BCAP	All advertisements (including teleshopping , content on self-promotional TV channels, TV text and interactive TV advertisements) and programme sponsorship credits on TV services licensed by Ofcom Product placement in British-made TV programmes	Yes	Yes	No HFSS product advertisements or sponsorship in children's programming or programmes of particular interest to children No promotional offers, licensed characters, celebrities or nutrition or health claims allowed in HFSS product advertisements aimed at pre-school or primary-aged children No product placement for HFSS products ² Must not condone or encourage poor nutritional habits or disparage good dietary practice. (Applicable to <16) Must not encourage 'pestering'. (Applicable to <16) Must not use hard-sell or high-pressure techniques. (Applicable to <16) Nutrition and health claims must not mislead and must comply with EC regulation. (Applicable to <16)	Yes Clearcast (pre-clearance) Advertising Standards Authority (ASA) Ofcom (scheduling)	Yes Amendment or suspension of ads (ASA) Warnings, fines, suspension of licence (Ofcom)	Yes <16	All children's programming plus programmes of particular interest to children (BARB audience index of 120) Under the BCAP Code, ads can be deemed to be targeted by their content.	Yes HFSS and non-HFSS foods defined according to Food Standards Agency Nutrient Profiling Model (NPM)	Scheduling restrictions do not apply during programmes with numerically high child audiences during 'family' or 'adult' viewing times (but which do not reach the 120 index).
Radio advertising	Commercial radio services licensed by Ofcom	Co-regulatory ¹	Ofcom and BCAP	All advertisements and programme sponsorship credits on radio services licensed by Ofcom	Yes	No	Yes No promotional offers, licensed characters or celebrities allowed in food and drink advertisements (except for fruit and vegetables) aimed at pre-school or primary-aged children. Must not condone or encourage poor nutritional habits or disparage good dietary practice. (Applicable to <16) Must not encourage 'pestering'. (Applicable to <16) Must not use hard-sell or high-pressure techniques. (Applicable to <16) Nutrition and health claims must not mislead and must comply with EC regulation. (Applicable to <16)	Yes RACC (pre-clearance) ASA Ofcom	Yes Amendment or suspension of ads (ASA) Warnings, fines, suspension of licence (Ofcom)	Yes <16	No Definition of 'children's products and services' Definition of 'products and services of interest to children'	Yes Content rules apply to all food and drink advertising except fruit and vegetables.	No scheduling restrictions HFSS /non-HFSS not differentiated.

¹ BCAP Code 2010.

² Written Ministerial Statement on Television Product Placement, 9 February 2010.

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Marketing and promotions in non-broadcast media covered under CAP code³	All paid-for space other than TV or radio UK-registered advertiser-owned websites and other non-paid-for space online under advertisers' control	Self-regulation	CAP	Advertisement in newspapers, magazines, brochures, leaflets, circulars, mailings, emails, texts, faxes, catalogues and other electronic material Posters and other promotional material in public places Cinema, video, DVD, Blu-Ray On-line ads in paid-for space, paid-for search listings, preferential listings or price comparison sites, viral ads, in-game ads, commercial classified ads, advergames that feature display ads, ads via Bluetooth and web widgets, online sales and price promotions Advertiser-owned websites and other non-paid-for space online under advertisers' control (such as social networking sites) ⁴ Marketing databases Sales promotions Advertorials	Yes	No	Yes No promotional offers, licensed characters or celebrities allowed in food and drink advertisements (except for fruit and vegetables) aimed at pre-school or primary-aged children. Must not condone or encourage poor nutritional habits or disparage good dietary practice (<16). Must not encourage 'pestering' (<16). Must not use hard-sell or high-pressure techniques (<16). Nutrition and health claims must not mislead and must comply with EC regulation (<16).	Yes Voluntary copy advice available through CAP ASA	Yes Amendment or suspension of ads (ASA) For advertiser-owned websites and other non-paid-for space online under advertisers' control, ASA may require that non-compliant marketing communications: are notified on an ASA microsite; have any paid-for search ads, which direct traffic to the non-compliant communications, removed from internet search engines; have paid-for search ads removed from search engines.	CAP Code definition is <16. Some provisions for food and drink advertising apply to pre-school or primary-aged children.	Yes Marketing communications addressed to, targeted directly at, or featuring children	Yes Rules governing food and drink marketing to children apply to all food and drink advertising except fruit and vegetables.	Focus on targeting of advertising rather than exposure to advertising. Under the extension of the digital remit of the CAP Code, marketing communications are specifically defined as those 'directly connected with the supply or transfer of goods, services'. This does not cover integration of brands or products. 'Heritage' advertising (advertising which is not part of an advertiser's current promotions strategy) not covered in the extension of the digital remit of the CAP Code.
Advertising in on-demand audiovisual media services	Non-linear audiovisual media services that are subject to regulation by ATVOD under the Communications Act 2003	Co-regulation	Ofcom and CAP	All advertisements and marketing communications	Yes See CAP provisions above.	No	Yes See CAP provisions above.	Yes ASA	Yes May be referred by ASA to Ofcom for action against media service provider to suspend non-compliant advertising.	CAP Code definition is <16.	Yes See CAP provisions above.	Yes See CAP provisions above.	
Other forms of marketing communication													
Advergaming	Games sold in the UK or on UK-registered websites	Self-regulation	CAP	Display ads in games Advergames on advertiser-owned websites or in non-paid-for space online which amount to marketing communications that are directly connected with the supply of goods, services, etc.	Yes	No	Yes	Yes	Yes, as for advertiser-owned websites and social media	<16	Yes	Yes	Product or brand integration is not covered.

³ CAP Code 2010.

⁴ Extension of digital remit of CAP Code, implemented 1 March 2011.

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Mobile marketing (SMS, MMS)	All premium rate services which are accessed by a user in the UK or provided by a service provider which is situated in the UK	Self-regulation	CAP (see above).	Advertisements		No	No	Yes	Yes	<16	Children's services are services which, either wholly or in part, are aimed at or should have been expected to be particularly attractive to children	No	Unspecific about verification of parental consent
			Phonepay Plus ⁵	Not specified	Yes			Reprimand, fines, suspension of service					
School participation schemes (voucher or token collection, etc.)	-	Where schemes in schools are sales promotions, CAP rules apply.	CAP	-	-	-	-	-	-	-	-	-	
Commercial partnerships in schools	-	None	-	-	-	-	-	-	-	-	-	-	Not covered
Vending	Schools	Statutory	School Food Trust	Standards on all food in schools including food and drink offered in vending machines	Yes	-	Yes	Yes	Not known	All school-aged children	Standards cover school lunches, breakfast clubs, mid-morning break service, vending, tuck shops, after-school clubs.	Yes ⁷	No codes for vending in environments other than schools No restrictions on branding of vending machines in schools
		Voluntary	School Food Trust	Voluntary code of practice for drinks provided in schools ⁶	Yes	-	Yes	Yes	Not known				
Product packaging	All food and drink industry	Statutory Under General Food Law Regulation (EC) 178/2002	EC	Labelling, advertising and presentation on food packaging and settings in which food is displayed must not be misleading ⁸	No	-	No	Yes	Yes	No	No	No	No specific provisions regarding food promotion to children
Use of toys and give-aways	-	None (Not covered by Unfair Commercial Practices Directive – UK Regulations 2008)	-	-	-	-	-	-	-	-	-	-	Not covered

5 PhonepayPlus Code of Practice. 11th edition. April 2008.

6 <http://www.schoolfoodtrust.org.uk/the-standards/the-food-based-standards/voluntary-code-of-practice-for-drinks-provided-in-schools>

7 <http://www.schoolfoodtrust.org.uk/the-standards/the-food-based-standards/food-other-than-lunch>

8 Article 16. General Food Law Regulation (EC) 178/2002.

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Point of sale (retail)	All retailers and manufacturers	Statutory Under General Food Law Regulation (EC) 178/2002	EC	The manner in which [food products] are arranged and the setting in which they are displayed, and the information which is made available about them through whatever medium, shall not mislead consumers. ⁸	No	-	No	Yes Trading standards	Yes	No	No	No	No specific requirement or restrictions on children's food or food marketed to children
Sports and other sponsorship (excluding broadcast programme sponsorship)	Limited The promotional elements (marketing communications) relating to sponsorships are covered by the CAP Code.	Self-regulation (for the marketing communications only) Sponsorships themselves fall outside any regulatory framework.	CAP (partially)	Marketing communications relating to sponsorships	Yes	No	Yes (As for CAP for marketing communications only)	Yes (As for CAP for marketing communications only)	Yes (As for CAP for marketing communications only)	Yes (As for CAP for marketing communications only)	Yes (As for CAP for marketing communications only)	Yes (As for CAP for marketing communications only)	Sponsorships themselves are not covered, only the promotional elements within them.