

Department of Health and Social Care
Restricting promotions of products high in fat, sugar and salt by location and by price
Consultation questions

Businesses and products affected

1. Do you think that the restrictions suggested in this consultation should apply to all retail businesses in England that sell food and drink products, including franchises? Yes/No. Please explain your answer.

Yes. The College supports the restrictions applying to any place where targeted foods are sold to the public, except where they are not sold in the course of business (e.g. charity bake sales).

2. Do you think there are any other retailers that the restrictions suggested in this consultation should apply to? Yes/No. If yes, please explain which retailers and why.

Yes. As mentioned in the answer to question 1, the College supports the restrictions applying to any place where HFSS foods are sold to the public, except where they are not sold in the course of business (e.g. for charity).

3. Do you think there are any retailers that the restrictions suggested in this consultation should not apply to? Yes/No. If yes, please explain which retailers and why.

No.

4. Do you think that the restrictions should also apply to retailers that do not primarily sell food and drink, for example, clothes retailers and newsagents? Yes/No. Please explain your answer.

Yes. As mentioned in the answer to question 1, the College supports the restrictions applying to any place where HFSS foods are sold to the public, except where they are not sold in the course of business (e.g. for charity).

5. Do you think that the restrictions should also apply to imported products within the specified product categories in scope? Yes/No. Please explain your answer.

Yes. From a clinical perspective there is no reason why imported products should receive an exemption from the restrictions. There may be practical issues in terms of the labelling of ingredients on imported products to determine if they are HFSS, however in order for the public to make more informed choices about food, nutritional labelling must be clear, consistent and easily understood.

6. Do you think that the restrictions should also apply to online shopping? Yes/No. Please explain your answer.

Yes. Restrictions should be applied in an equivalent way online as far as possible. Online sales are growing and to exempt online sales from the restrictions would leave a large loophole.

7. If the restrictions applied to online retailers, how could this work in practice?

There are already examples of restrictions followed by online retailers, for example the ban on alcohol multi-buy sales in Scotland, and this precedent should be learned from and best practice adapted for HFSS products.

8. Who should be responsible for making sure the price restrictions are followed: the retailer that sells the products or the manufacturer that makes them? Retailer/Manufacturer. Please explain your answer.

Retailer. The retailer is responsible at the point of choice, however the product manufacturer will have the necessary data to inform decisions on HFSS items and therefore must be required to provide this to the retailer.

9. Who should be responsible for making sure the location restrictions are followed: the retailer that sells the products or the manufacturer that makes them? Retailer/Manufacturer. Please explain your answer.

Retailer. The retailer is responsible at the point of choice.

Price promotion restrictions

10. Which of the following options do you think is the most appropriate for achieving the aims of this policy:

Option 1 - Require retailers to ensure that all their volume based price promotions on food and drink are on healthier products.

Option 2 - We are open to alternative suggestions from stakeholders as to how this policy could be implemented in order to reduce overconsumption of HFSS products but also to encourage businesses to promote healthier products and to further incentivise reformulation. For example, we have explored the possible impact of requiring retailers to ensure that at least 80% of their sales from volume based price promotions on all food and drink per year are on healthier products.

Neither

Please explain your answer.

Option 1. The College is keen to support positive action rather than have only punitive options and option 1 seems a more straightforward choice.

11. If you are proposing an alternative option, please explain how your preferred option would better deliver the aims of this policy, how it would be delivered and whether there would be any practical and/or implementation issues that we should be aware of.

12. Do you think that the price restrictions should apply to ‘multibuy’ promotions and ‘extra free’ promotions of pre-packaged HFSS products (see Annex 5)? Yes/No. Please explain your answer.

Yes. These promotions are likely to encourage overconsumption.

13. Do you currently use or do you know about any official definitions of these types of price promotions? Yes/No. If yes, please provide them below.

The College has no particular comments on this issue.

14. Do you think there are any other types of price promotion that should be restricted that we have not mentioned? Yes/No. If yes, please explain which types of promotion and why.

In the out of home sector, “all you can eat” buffet style meals for a set price should be considered in terms of HFSS content as these promotions are likely to encourage overconsumption. Consideration should also be given to food and other retail/entertainment promotions, such as the purchase of a cinema ticket plus sweets/drink/popcorn.

15. Do you think that the price restrictions should apply to pre-packaged products which fall into the categories included in Public Health England’s (PHE) sugar and calorie reduction programmes and in the Soft Drinks Industry Levy (SDIL), and are classed as high in fat, sugar or salt (HFSS) (see Annex 3)? Yes/No. Please explain why.

Yes. Products which fall into these categories are generally “additional” to a normal healthy diet and it would therefore be reasonable for them to be subject to price restrictions.

16. Do you think any other product categories should be included in these restrictions? Yes/No. If yes, please explain which product categories and why.

No.

17. Do you think any of these categories should not be included? Yes/No. If yes, please explain which product categories and why.

No.

18. Do you think that the price restrictions should also apply to free refills of sugarsweetened beverages in the out-of-home sector, if they are in scope of the SDIL, including where they could be a part of a meal deal? Yes/No. Please explain your answer.

Yes. Sugary drinks are “treats” which are unnecessary addition to meals rather than an integral part of the diet.

19. For food and drink consumed outside of the home, are there other types of price promotion that should be restricted? Yes/No. If yes, please explain which promotions we should consider and why.

Yes. As mentioned in question 14, “all you can eat” buffet style meals for a set price should be considered in terms of HFSS content as these promotions are likely to encourage overconsumption. Consideration should also be given to food and other retail/entertainment promotions, such as the purchase of a cinema ticket plus sweets/drink/popcorn.

Location restrictions

20. Which of the following options do you think is the most appropriate to achieve the aims of this policy:

Option 1 - We propose that the location restrictions should apply to the following locations: store entrances, ends of aisles and checkout areas (see Annex 2).

Option 2 - We are open to alternative suggestions from stakeholders as to how this policy could be implemented. If you are proposing an alternative option, please explain how your preferred option would better deliver the aims of this policy, how it would be delivered and whether there would be any practical and/or implementation issues that we should be aware of.

Neither

Option 1

21. Do you think that the location restrictions should apply to all of the following locations: store entrances, ends of aisles and checkout areas? Yes/No. Please explain your answer.

Yes. This is a difficult question, as what is feasible and viable in large shop may not be physically possible in a small shop or a shop that solely sells eg. confectionary. The College would tend to support the introduction of restrictions to displaying targeted foods at end of aisles etc in all locations, but recognise that this may not be straightforward and needs further consideration.

22. Do you currently use or do you know about any official definitions for these locations? Yes/No. If yes, please provide them below.

The College has no particular comments on this issue.

23. Do you think there are other locations inside stores where the restrictions should apply to? Yes/No. If yes, please explain which locations and why.

No

24. Do you think that the location restrictions should apply to all products (whether prepackaged or non-pre-packaged) which fall into the categories included in PHE's sugar and calorie reduction programmes and in the SDIL, and are classed as HFSS (see Annex 3)? Yes/No.

Yes

25. Do you think any other product categories should be included in these restrictions? Yes/No. If yes, please explain which product categories and why.

No

26. Do you think any of these product categories should not be included? Yes/No. If yes, please explain which product categories and why.

No

27. Do you think that the 2004/5 Nutrient profiling model (NPM) provides an appropriate way of defining HFSS products within the food and drink categories proposed for inclusion in this policy (see Annex 4)? Yes/No. If you answered no, what other ways could we use? Please explain your suggestions.

No. The 15-year-old nutrient profiling model is outdated and should be replaced with a model along the lines of the draft model unveiled by Public Health England in 2018.

28. Do you think that micro, small, medium and large businesses should be defined by how many employees they have, as defined in the EU recommendation 2003/361 (see Annex 5)? Yes/No.

Yes.

29. Do you think we should consider other ways to define businesses apart from the number of employees, such as floor space/size or turnover? Yes/No. If yes, please explain which methods you think we should consider and why.

No

Businesses and products out of scope

30. Should the price restrictions apply to the businesses and products below (see Annex 5):

- Microbusinesses - we recognise it may be too difficult for micro businesses to apply the restrictions
- Specialist retailers - we recognise it may be impractical for retailers that only sell one type of product to apply the restrictions
- Products that are non- pre-packaged - we recognise it may be impractical for retailers to apply the restrictions when nutritional information is not displayed on the pack for certain products that are sold loose
- Meal deals in the retail or out of home sector - we recognise they are generally aimed at adults and they aim to reduce the cost of a single meal
- Any other price promotion activity in the out of home sector - we recognise promotions in these settings serve a different purpose to supermarket multibuy promotions and are generally aimed at groups of people eating out together Yes/no. Please explain your answer.

31. Should the location restrictions apply to the businesses and products below (see Annex 5):

- Very small stores that do not have distinct checkout, front of store and aisle end areas, even if they are part of a chain – we recognise it may be impractical for small outlets to apply the restrictions because they may not have distinct areas Consultation on restricting promotions of products high in fat, sugar and salt by location and by price 19
- Specialist retailers – we recognise it may be impractical for retailers that only sell one type of product to apply the restrictions
- Non-pre-packaged products – we recognise it may be impractical for retailers to apply the restrictions when nutritional information is not displayed on the pack for certain products that are sold loose Yes/no. Please explain your answer.

32. Are there any other businesses and/or products that should be out of scope of the price and location restrictions? Yes/No. If yes, please explain which businesses and/or products and why.

Policy implementation

33. How much time would businesses need to prepare for implementation? Please explain your answer.

34. DHSC will provide guidance and methodology that will help businesses to know which products can or cannot be promoted. What other support is needed to put this policy into practice?

35. Would these restrictions cause any implementation or other practical issues for particular businesses that we have not considered in this consultation? Yes/No. If yes, please explain what the likely issues are and provide evidence and suggestions of how the issues could be mitigated for these businesses.

36. We welcome views through the consultation on possible approaches to enforcement. Do you have any suggestions for how we can enforce the restrictions in a way that is fair to businesses?

General IA questions

37. We have calculated illustrative transition costs in both impact assessments. Do these calculations reflect a fair assessment of the costs that would be faced by your organisation/business? Yes/No. If no, please provide any further evidence which could be used to improve our estimates. If you are referring to a specific calculation in one of the IAs, please state which one(s).

38. Are you aware of any other data sources on sales in the out-of-home food market and the nutritional content of the products sold? Yes/No. If yes, please provide details of the information contained in the data set and the provider.

39. Are you aware of any other data sources available which would improve our estimates of the

number of food retailers and out-of-home food outlets? Yes/No. If yes, please provide details of the information contained in the data set and the provider.

40. How will these proposals affect the relationships between manufacturers and retailers (e.g. sales agreements, sales targets, the future relationships and profitability)? Please provide further evidence which could be used to improve our understanding.

41. Is it reasonable to assume that retailers and out of home businesses are inspected by Trading Standards every 3.5 and 2 years, respectively? Yes/No. If no, please provide further evidence which could be used to improve our estimates.

42. Is there any additional evidence that would improve our understanding of the level of compensating behaviour which might occur? Yes/No. If yes, please provide further evidence which could be used to improve our estimates.

43. Do you have any further evidence or data you wish to submit for us to consider for our final impact assessment or any specific comments on the methodology or assumptions made? Yes/No. If yes, please provide further evidence which could be used to improve our estimates. If you are referring to a specific IA question or calculation, please state which one(s). Consultation on restricting promotions of products high in fat, sugar and salt by location and by price 21 Location restrictions IA

44. Is our assessment of the major supermarkets' approach to placing HFSS food and drinks at checkouts accurate? Yes/No. If no, please provide further evidence which could be used to improve our understanding.

45. Is there evidence to suggest that smaller retailers are voluntarily restricting the placement of HFSS food and drinks in stores? Yes/No. If yes, please provide further evidence which could be used to improve our understanding.

46. Is there any additional evidence that would improve our estimates of the use of location promotions within the domestic retail or out of home markets, the sales uplift they provide and proportion of sales they represent? Yes/No. If yes, please provide further evidence which could be used to improve our estimates. Price restrictions IA

47. Is it reasonable to assume that businesses will switch to using price cuts instead of volume offers to promote HFSS products? Yes/No. If no, please provide further evidence which could be used to improve our understanding.

48. To what extent are price promotions offered in the out of home sector? Please provide evidence which could be used to improve our understanding.

49. Do consumers respond in a similar way to price promotions offered in the out of home sector and those offered in supermarkets? Please provide further evidence which could be used to improve our understanding.

50. Is the approach used in the impact assessment suitable for assessing the impact on consumers and specifically for assessing the impact on consumer surplus? Yes/No. If no, please provide further evidence which could be used to improve our estimates.

51. How would retailers adjust their promotion strategies to meet the 80/20 target? Equalities Assessment questions To assess the potential impact of the policies proposed in Chapter 2 of the Government's Childhood Obesity Plan against the Government's duties under the Equality Act 2010 a separate Equality Analysis has been produced.

52. Do you think that the proposed policy to restrict promotions of HFSS products by location and by price is likely to have an impact on people on the basis of their age, Consultation on restricting promotions of products high in fat, sugar and salt by location and by price 22 sex, race, religion, sexual orientation, pregnancy and maternity, disability, gender reassignment and marriage/civil partnership? Yes/No. If yes, please explain your answer and provide relevant evidence.

53. Do you think that any of the proposals in this consultation would help achieve any of the following aims:

- Eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010
- Advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it?
- Fostering good relations between persons who share a relevant protected characteristic and persons who do not share it? Yes/No

54. If you answered yes to the previous question, please explain which aims it would help achieve and how.

55. If you answered no to the previous question, could the proposals be changed so that they are more effective? If yes, please explain what changes would be needed.

56. Do you think that the proposed policy to restrict promotions of HFSS products by location and by price would be likely to have an impact on people from lower socioeconomic backgrounds? Yes/No. If yes, please explain your answer and provide relevant evidence. Further points

57. Is there anything else that you would like to tell us or any more information that you would like to provide for this consultation?