

*Championing
excellence and diversity
in broadcasting*

Founded in 1983 by Jocelyn Hay CBE



The Old Rectory Business Centre
Springhead Road, Northfleet
Kent, DA11 8HN
Tel: 01474 338716
email: info@vlv.org.uk
VLV: www.vlv.org.uk

**SUBMISSION FROM VOICE OF THE LISTENER & VIEWER TO
THE DCMS CONSULTATION ON INTRODUCING FURTHER ADVERTISING
RESTRICTIONS ON TV AND ONLINE FOR PRODUCTS HIGH IN FAT, SUGAR
AND SALT (HFSS)**

June 2019

INFORMATION ABOUT THE VLV

The Voice of the Listener & Viewer Limited (VLV) represents the citizen and consumer interests in broadcasting and speaks for listeners and viewers on the full range of broadcasting issues. It uses its independent expertise to champion quality and diversity in public service broadcasting, to respond to consultations, to produce policy briefings and to conduct research. VLV has no political, commercial or sectarian affiliations and is concerned with the issues, structures, institutions and regulations that underpin the British broadcasting system. VLV supports the principles of public service in broadcasting. It is a charitable company limited by guarantee (registered in England and Wales No 4407712 - Charity No 1152136).

EXECUTIVE SUMMARY

1. VLV believes that the case for a proposed extension of ban on advertising of HFSS products has not been made at this time, because the Government's proposals do not adequately address the root causes of obesity. The obesity crisis is one that requires a holistic multi-faceted approach. There is a risk that a simplistic ban of the kind proposed doesn't tackle the fundamental issues. There is no convincing evidence that it would be effective; indeed there is some evidence to suggest the contrary. What is not in doubt is that it will have a significant negative impact on the finances of the commercial public service broadcasters, to the detriment of the public good. The VLV believes it would be wrong to incur this known detriment unless it is included in a far more holistic, multi-faceted approach to obesity which is currently not being proposed by the Government.
2. In light of evidence that the current HFSS advertising regulation around children's programming has failed to reduce childhood obesity in the UK, it is VLV's view that further restricting the visibility of HFSS foods on TV will not achieve the outcome the Government seeks.
3. VLV considers that the stated goal of the proposals under consideration – an estimated reduction of 1.74 kcal¹ in a child's daily consumption – is insignificant. Even if this target is achieved, the policy will have little impact on childhood obesity rates in the UK.
4. Existing HFSS regulation has not led to a decline in obesity rates because children generally do not control which food is bought and cooked in the home, exercise is a key element in weight loss but physical activity is low in the UK and regulation of HFSS online is ineffective.
5. If a further restriction on HFSS advertising were imposed on TV and online platforms, it is highly likely that businesses will increase other promotional activity in order to

¹Introducing a 2100-0530 watershed on TV advertising of HFSS (food and drink that are High in Fat, Salt and Sugar) products and similar protection for children viewing adverts online, Para 305, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/786554/advriting-consultation-impact-assessment.pdf

maintain demand for their products. This will include increased advertising in print media, cinema, billboard and outdoor advertising as well as in-store promotions.

6. Evidence suggests that manufacturers will place more adverts on TV and online after the watershed if HFSS advertising is restricted until 9pm. These adverts will continue to influence parents who watch TV after the watershed and therefore the increased advertising restrictions before 9pm will have little impact because parental influence is one of the strongest root causes of obesity.
7. It is likely that manufacturers will also increase price promotions – both temporary price reductions and multi-buy type promotions. According to Public Health England such promotions focus on HFSS products, increase the volume of food and drink people buy by 20%² and drive a higher than average increase among families in social classes C2DE.³
8. In this context VLV considers it likely that the proposed policy will fail to reduce obesity among children. Indeed, it is possible that it may result in increased consumption of HFSS products and increased obesity levels.
9. In addition, this policy will reduce the volume of UK produced content the UK's public service broadcasters commission and make them risk-averse; this in turn will result in a reduction in innovative and high quality public service content for audiences and it will also impact on the UK's creative economy.
10. The Government's approach to finding solutions to childhood obesity should be evidence-based, targeted and proportionate. VLV considers that evidence that existing advertising regulation restrictions have had little, or no, impact on childhood obesity in the UK has not been taken into account adequately in the current consultation.
11. Instead of imposing additional advertising restrictions on TV, VLV suggests that the Government should take a multi-faceted approach to address childhood obesity in the UK.
12. In order to bring about attitudinal and behaviour change significant investment needs to be made in public education and the promotion of health messaging, especially focused on the benefits of exercise and healthy eating.
13. VLV would urge the Government to collaborate with broadcasters so that important messages about healthy lifestyles reach the widest possible audience.
14. Education policy needs to encourage increased physical activity during school time.

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/470179/Sugar_reduction_The_evidence_for_action.pdf

³https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/470175/Annexe_4_Analysis_of_price_promotions.pdf

15. VLV would propose full regulation of in-store marketing and price promotions. As noted above, it is clear from the Government's own evidence that price promotions and in-store marketing are key drivers of HFSS consumption.
16. VLV believes that any approach to restricting HFSS products needs to be platform-neutral. If regulation is applied to some platforms and not others, manufacturers will simply move their adverts and promotions to other platforms.
17. Special effort needs to be taken to target areas where there is greater need. There appears to be a 'divide' between those who are more aware of healthy lifestyles and those who are not and these appear to correlate with household income.
18. VLV recognises this wide range of solutions, all of which will need to be applied if the rise in obesity in the UK is to be stemmed, is a more complex and costly approach than imposing stricter advertising regulation on TV and online. However, it is clear that this investment is required if there is to be significant behavioural change in the UK which will lead to a reduction in the levels of obesity.

INTRODUCTION

19. VLV supports the Government's ambitions to reduce childhood obesity.
20. VLV notes that according to Public Health England 64% of the UK adult population are obese and the rate of severe obesity among children aged 10 to 11 has increased by more than a third since 2006/7 to its highest level ever⁴.
21. VLV recognises that this is a complex societal issue requiring a multifaceted solution.
22. VLV believes that the case for a proposed extension of ban on advertising of HFSS products has not been made at this time, because the Government's proposals do not adequately address the root causes of obesity. The obesity crisis is one that requires a holistic multi-faceted approach. A risk is that a simplistic ban of the kind proposed doesn't tackle the fundamental issues. There is no convincing evidence that it would be effective; indeed there is some evidence to suggest the contrary. What is not in doubt is that it will have a significant negative impact on the finances of the commercial public service broadcasters, to the detriment of the public good. The VLV believes it would be wrong to incur this known detriment unless it is included in a far more holistic, multi-faceted approach to obesity which is currently not being proposed by the Government.
23. The existing regulation of restricting HFSS advertising on TV around children's programmes, which has limited children's exposure to such advertising, has had little impact.

⁴ <https://www.gov.uk/government/news/record-high-levels-of-severe-obesity-found-in-year-6-children>

24. VLV believes that the current advertising restrictions have not resulted in a reduction in obesity because prevalence of obesity is influenced by a range of factors: declining levels of physical activity, poor dietary habits, reductions in food prices and an increase in convenience food.
25. VLV considers that the goal of the proposals under consideration – an estimated reduction of 1.74 kcal⁵ in a child’s daily consumption – is insignificant. Even if this target is achieved, the policy will have little impact on childhood obesity rates in the UK. It will however impact negatively on the UK’s public service broadcasting ecology.
26. In light of the failure of the current HFSS advertising regulation around children’s programming to reduce childhood obesity, it is VLV’s view that further restriction of HFSS food advertising on TV will not achieve the outcome the Government seeks. Instead, as explained below, it is possible it may even result in increased consumption of HFSS products and increased obesity levels. What is certain is that it will reduce the volume of UK produced content the UK’s public service broadcasters commission and make them less risk-averse; this in turn will result in less innovative and high quality public service content for audiences and it will also impact on the UK’s creative economy.
27. VLV wishes to highlight a number of principles in response to this consultation.
28. VLV believes that any approach to restricting HFSS products needs to be platform-neutral. If regulation is applied to some platforms and not others, manufacturers will simply move their adverts and promotions to other platforms. VLV notes that ‘This consultation does not explicitly consider or propose further restrictions on other forms of advertising regulated by the BCAP (radio) and CAP Codes (including print, outdoors, direct marketing and cinema).’⁶
29. The Government’s approach to finding solutions to childhood obesity should be evidence-based, targeted and proportionate. Existing advertising regulation restrictions have had little or no impact on childhood obesity in the UK. VLV considers that this evidence has not been taken into account adequately in the current consultation.
30. Special effort needs to be taken to target areas where there is greater need. There appears to be a ‘divide’ between those who are more aware of healthy lifestyles and those who are not and these appear to correlate with household income.
31. VLV supports policies which support the UK’s public service broadcasting ecology. The PSBs are currently facing a significant challenge to maintain reach in the face of

⁵Introducing a 2100-0530 watershed on TV advertising of HFSS (food and drink that are High in Fat, Salt and Sugar) products and similar protection for children viewing adverts online, Para 305, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/786554/advriting-consultation-impact-assessment.pdf

⁶ Consultation Document: *Introducing further advertising restrictions on TV and online for products high in fat, sugar and salt (HFSS)*, DCMS, 18 March 2019. Page 14

the rising popularity of global subscription video on demand services. There are many benefits which derive from public service broadcasting, including supporting the UK's creative economy and providing audiences with engaging content which highlights issues such as health, food and nutrition. VLV considers the current proposals to increase restrictions on HFSS advertising will undermine delivery of public service broadcast content. VLV is not convinced the goal of this policy – to reduce obesity - will be achieved, but it is certain that as a result of it there will be a reduction in public service content on TV.

The Impact of existing HFSS advertising restrictions

32. In its review of the impact of the HFSS advertising restrictions in 2010 Ofcom concluded that compared with 2005, in 2009 overall children saw 20% less HFSS advertising on the commercial PSB channels and 33% less on the commercial non-PSB channels.⁷
33. Despite less exposure to HFSS TV advertising, the prevalence of childhood obesity has not decreased. It has remained generally stable among children aged 2-15 but has risen among 10-11 year olds.⁸
34. It is clear that the existing policy has failed to deliver the desired outcome, to reduce childhood obesity.

Why have the current HFSS restrictions failed?

35. Research shows that obesity is rising as a result of a combination of factors: a reduction in physical activity, poor eating habits, declining food prices, and a rise in the availability of convenience food – all of which are influenced by socioeconomic factors such as income.
36. **Parental influence:** It is estimated that the majority of food consumed by children is consumed at home⁹. The majority of children aged 2-15 are not directly responsible for deciding what they eat because their parents and guardians choose which food to buy. It is also clear that children's eating and lifestyle habits are heavily influenced by their home environment. The current policy is predicated on the 'pester power' of children, which is only one of a number of drivers which influence parents' shopping choices.
37. **Lack of Physical Activity:** The complexity of the cause of obesity was highlighted in a report by the Institute of Fiscal Studies in 2013¹⁰. The report shows that calorie intake in the UK declined by between 15% and 30% between 1980 and 2009 yet didn't lead to a reduction in obesity.

⁷ *HFSS Advertising Restrictions, Final Review*, Ofcom, 26 July 2010. Para 1.22

⁸ <https://www.gov.uk/government/news/record-high-levels-of-severe-obesity-found-in-year-6-children>

⁹ <https://www.ifs.org.uk/bns/bn142.pdf>. Food consumed at home accounts for over 70% of total calories purchased for all households

¹⁰ <https://www.ifs.org.uk/bns/bn142.pdf>

38. The report concluded that lack of physical exercise is a root cause of obesity:

'Changes in the nature of work and leisure, housework and other activities have led to substantial reductions in the strenuousness of daily life. In ongoing work, we are investigating how changes in purchased foods correspond to changes in time use and the strenuousness of activities. It appears that weight gain has resulted from a faster decrease in activity levels than in calories consumed, leading to an excess of calories.'

39. VLV notes research cited by Enders Analysis which highlights the lack of physical activity in the UK:

According to the WHO, in 2016 the overall percentage of adults with insufficient physical aerobic activity globally was 27.5%, although in the UK this figure was substantially worse, at 38%. Activity levels decrease in higher age groups and are linked with deprivation levels, with only 50% of individuals in deprived areas classified as meeting the aerobic guidelines.¹¹

In their report Enders goes on to say,

Obesity is a behaviourally dependent, socioeconomically driven issue that requires an equally behaviourally focused intervention to be effective in tackling the issue. An intervention such as an extended HFSS ban would be an irrelevant symbolic gesture, leaving the core causes of obesity untouched. Scientific evidence is clear about the triggers surrounding obesity, and highlights the importance of an early stage, pre and post-natal intervention to tackle obesity effectively.

40. **Online Viewing:** In the past decade there has been a significant trend of children viewing more content online. The most recent Ofcom research¹² found that 50% of 5-15s watch streaming services like Netflix, Amazon Prime Video and NOW TV and there has also been a significant increase in the proportion of children who prefer to watch YouTube content rather than TV programmes (49% in 2018 vs 20% in 2017).

41. In the context of the current consultation the problem with children viewing content online is that regulation of online platforms is less effective than it is for TV. Online platforms which are self-regulated are currently under scrutiny because of repeated regulatory infringements. 25% of 8-11 year olds have social media profiles even though the minimum age for many sites is 13. This fact in itself highlights a crucial aspect of online viewing: children can lie about their age online which means that they will be exposed to a range of advertising which is banned around children's content by the CAP code.

¹¹ Enders Analysis Response to HFSS Advertising Ban Consultation. 3 June 2019.

¹² *Children and parents: Media use and attitudes report 2018*, Ofcom, 2018

42. VLV considers that the current policy proposal does not take account of these factors which influence childhood obesity. The proposals under consideration in this consultation make the assumption that children have significant influence over what food is bought. The proposals for online regulation also do not take into account the fact that currently online regulation is ineffective in many regards.

Potential unintended consequences of current proposals

43. VLV is concerned that there will be unintended consequences if these policies are implemented: a possible rise in childhood obesity and a certain reduction in the provision of public service television content.

44. **Impact on PSB provision:** The consultation estimates that the proposed policy to further restrict HFSS advertising will lead to a reduction in income of c. £200 million a year¹³ for the commercial broadcasters. This will lead to a reduction in the commissioning of public service content for the benefit of audiences and VLV has been told by a commercial broadcaster that it is likely to reduce their appetite to broadcast more innovative content, preferring to stick with more commercially attractive content. Content which could be affected by this policy includes news and current affairs programming at a time when this type of content is needed more than ever in the ‘age of disinformation’.

45. In 2012 Professors Sonia Livingstone and Peter Lunt directly linked the decline in the provision of children’s content on ITV to the reduction in advertising income due to the ban on HFSS advertising around children’s programmes:

‘Ofcom estimated the loss in advertising revenue to commercial broadcasters at some £30 million per year (Ofcom, 2006d). Ofcom’s announcement was soon followed by an announcement from the main commercial public service broadcaster, ITV, that it had ceased to commission new children’s content and would no longer meet its quota of eight hours per week dedicated children’s programming. Although before and, arguably, since, revenues from advertising in children’s airtime have not been explicitly hypothecated to the production of children’s programming, the timing of a reduction in the former and the announcement of major cuts to the latter seems more than coincidental.’¹⁴

46. **Displacement:** Following the ban of HFSS adverts around children’s programming, Ofcom found that TV advertising spend declined in the years 2005-2009 but spend on press, online, outdoor and cinema advertising increased.¹⁵

¹³ Consultation Document: *Introducing further advertising restrictions on TV and online for products high in fat, sugar and salt (HFSS)*, DCMS, 18 March 2019.

¹⁴ *Advertising Regulation and Childhood Obesity*, Lunt and Livingstone, August 2014.
<http://sk.sagepub.com/books/media-regulation/n7.xml>

¹⁵ *Advertising Regulation and Childhood Obesity*, Lunt and Livingstone, August 2014.
<http://sk.sagepub.com/books/media-regulation/n7.xml>

47. It is notable that other advertising platforms, such as press and billboard advertising, are not within the scope of this consultation. VLV does not believe any policy decision on whether to increase restrictions on TV and online advertising should be taken without taking into consideration other advertising platforms which could influence obesity rates.
48. VLV predicts that if this policy is implemented, businesses will increase other promotional activity in order to maintain demand for their products. This will include increased advertising in print media, cinema, billboard and outdoor advertising as well as in-store promotions.
49. Evidence suggests that two strategies will be especially popular among advertisers. Firstly, they say they will place more adverts after the watershed. These are likely to influence parents who watch TV after the watershed and therefore the additional advertising restrictions before 9pm will have little impact because parental influence is one of the strongest root causes of obesity.
50. Secondly, manufacturers say they will increase in-store price promotions – both temporary price reductions and multi-buy type promotions. These are likely to focus on HFSS products and are likely to increase the volume of food and drink purchased and therefore consumed.
51. According to Public Health England food retail price promotions are more widespread in Britain than anywhere else in Europe and they focus on HFSS products. The PHE report *Sugar Reduction: the evidence for action* (2015) said,
- 'Foods on promotion account for around 40% of all expenditure on food and drinks consumed at home. Higher sugar products are promoted more than other foods. Price promotions increase the amount of food and drink people buy by around one-fifth. These are purchases people would not make without the in-store promotions.'*¹⁶
52. The Public Health England research also found that such promotions drive a material incremental increase in purchasing by families with children and a higher than average increase among families in social classes C2DE.¹⁷
53. VLV considers that a likely unintended consequence of the policy to further restrict HFSS advertising on TV and online will be to increase advertising and possibly consumption of HFSS products, especially in communities where obesity is more widespread.

¹⁶https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/470179/Sugar_reduction_The_evidence_for_action.pdf

¹⁷https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/470179/Sugar_reduction_The_evidence_for_action.pdf

The role PSB plays in the nation's health

54. Instead of imposing additional advertising restrictions on the commercial PSBs and other commercial channels, VLV would urge the Government to collaborate with broadcasters so that important messages about healthy lifestyles reach the widest possible audience.
55. Television has huge power to influence people's lifestyles positively. Broadcasters already play a part in helping to combat the problem of childhood obesity through behaviour change campaigns, current affairs documentaries and support and advice in discussion and entertainment programmes.
56. There are numerous programmes which foster greater awareness and a positive attitude towards food, cooking and eating. On the commercial PSBs, whose programming budgets will be cut if this policy is introduced, there have been numerous programmes which have promoted healthier attitudes towards food and been viewed by millions. These include *Food Unwrapped*, *River Cottage* and *Jamie's School Dinners* on Channel 4, *Save Money: Lose Weight*, *Tonight: Eat Yourself Healthy*, *Diabetes: The Fast Fix* on ITV, and *The Secrets of Your Supermarket Food* on Channel 5. There are also numerous programmes which promote awareness of healthy living and fitness. These include *Live Well For Longer*, *Joe Wicks: The Body Coach*, *How To Lose Weight Well* and *How To Get Fit Fast* on Channel 4.
57. In addition ITV has been running a number of campaigns to support healthy living especially aimed at children. ITV is supporting the *Daily Mile* and report that over a million extra children are taking part in the scheme and the number of schools participating has trebled as a result of their support. They have also donated £2m of their airtime to launch an advertising campaign, *Eat Them To Defeat Them*, to encourage children to eat more vegetables. On Channel 5 healthy eating is considered an important aspect of pre-school programming on Milkshake!, including *Shane the Chef* which encourages children to learn about healthy food and cooking and is supported by the British Dietetic Association.
58. In this context, it is ironic that instead of harnessing the power of the public service broadcasters and encouraging them to work with the Government on its campaign to reduce obesity, the Government is planning to implement a policy which is likely to reduce content which could be instrumental in bringing about necessary behaviour change.

Proposed Solutions

59. VLV suggests that any solution to childhood obesity in the UK needs to be multi-faceted.
60. VLV notes the success of the HENRY programme in Leeds¹⁸ which is multi-faceted and multi-layered. It aims to train early-years workers and families in relationships,

¹⁸ <https://www.theguardian.com/world/2019/may/01/leeds-becomes-first-uk-city-to-lower-its-childhood-obesity->

wellbeing, nutrition and exercise. It has been reported that obesity has declined in the area targeted by this project, whereas it has risen in areas nearby where the programme was run.

61. VLV notes that obesity is concentrated in areas of socio-economic disadvantage and we believe that the holistic approach employed in Leeds should be explored by the Government to find out whether it might be effective if it were rolled out across the country, targeting the communities which are found to have the highest levels of childhood obesity.
62. It is clear that in order to bring about attitudinal and behavior change a greater investment needs to be made in public education and the promotion of health messaging, especially focused on the benefits of exercise and healthy eating.
63. Education policy needs to encourage increased physical activity during school time. While VLV is aware of the Government's pledge to review how to encourage children to take more exercise and it's cycling and walking strategy, we note comment on these strategies by Enders Analysis:

*'... when considering the scale of the problem, these policies are nothing more than symbolic, with the government spending less than £1 billion per year in prevention activities and public health campaigns.'*¹⁹
64. VLV proposes full regulation of in-store marketing and price promotions. As noted above, it is clear from the Government's own evidence, price promotions and in-store marketing are key drivers of HFSS consumption.
65. As suggested above, VLV proposes that the Government should better utilise the power of broadcasting and video content to bring about change. Greater collaboration with the public service broadcasters could have real impact on public attitudes and behaviour.
66. Other appropriate public policy interventions could include introducing the distribution of family gym passes, cookery classes and promoting increased fruit consumption.
67. VLV recognises this wide range of solutions, all of which will need to be applied if the rise in obesity in the UK is to be stemmed, is a more complex and costly approach than imposing stricter advertising regulation on TV and online. However, it is clear that this investment is required if there is to be significant behavioural change in the UK which will lead to a reduction in the levels of obesity.

[rate](#)

¹⁹ Enders Analysis Response to HFSS Advertising Ban Consultation. 3 June 2019.

Consultation Questions

Media in scope

1. The Government proposes that any further advertising restrictions apply to broadcast TV and online. Do you think that any further advertising restrictions should be applied to other types of media in addition to broadcast TV and online?

VLV does not believe the Government should impose further advertising restrictions on broadcast TV and online, for the reasons set out above.

If any further restrictions are imposed, they should be platform neutral, for the reasons set out above, apply to all types of media as well as to in-store promotions.

2. If answered yes, which other media should be subjected to further HFSS advertising restrictions?

See response to question 1.

3. Please explain why you think that we should extend additional advertising restrictions to these types of media. (Drop down list, please select all that apply)

See response to question 1.

HFSS definition

4. The Government proposes that any additional advertising restrictions apply to food and drink products in Public Health England's sugar and calorie reduction programmes, and the Soft Drink Industry Levy, using the NPM 2004/5 to define what products are HFSS. Do you agree or disagree with this proposal?

No comment.

5. If you do not agree with the proposal what alternative approach would you propose and why? Please provide evidence to support your answer.

No comment.

Broadcast consultation options

6. Please select your preferred option for potential further broadcast restrictions.

Option 3 – no watershed.

7. Please select the reason/s for your choice, providing supporting evidence for your answer.

Other – VLV does not believe this policy will achieve the desired goal to reduce childhood obesity for the reasons set out in detailed comments above. In summary:

- Children do not control the food which is bought and consumed in the home (70% of calories)
- The policy will lead to a reduction in 1.74kcal per child per day. This is negligible.
- A far more wide-ranging, multi-faceted approach will be required if childhood obesity is to be reduced.
- Manufacturers will promote their goods in other ways – moving advertising until after the watershed and increasing in-store promotions - if further advertising restrictions are imposed.

8. If you selected option 1, the Government proposes an exemption for when there are low child audiences. Should this exemption apply to channels or programmes? Please explain your answer.

N/A

9. If you selected option 1, do you agree that 1% of the total child audience (around 90,000 children) is the appropriate level at which programmes or channels should be exempted? (Choose only one) Please explain your answer.

N/A

10. If you selected option 1 and you do not agree that 1% of the total child audience is the correct threshold to grant an exemption please propose an alternative threshold, providing evidence to support your answer.

N/A

11. If you selected option 2, do you agree with the thresholds suggested for the NPM? If not please explain your reasons with supporting evidence.

N/A

12. If you selected option 2, should the NPM thresholds remain static or decrease overtime to offer rewards in line with reformulation efforts? Please explain your answer.

N/A

13. If you selected option 2, the Government proposes to allow products that fall within the middle threshold some advertising before the 9pm watershed. What advertising freedoms do you think these products could be offered?

N/A

14. If you selected option 2, the Government proposes to allow products that fall within the middle threshold some advertising before the 9pm watershed. What advertising freedoms do you think these products could be offered?

N/A

15. If you selected option 2, in your view, how easy would it be to implement a ladder option compared to the approach outlined in option 1?

N/A

16. If you selected option 2, the Government proposes an exemption for when there are low child audiences. Should this exemption apply to channels or programmes? Please explain your answer.

N/A

17. If you selected option 2, do you agree that 1% of the total child audience (around 90,000 children) is the appropriate level at which programmes or channels should be exempted? (Choose only one) Please explain your answer

N/A

18. If you selected option 2, and you do not agree that 1% of the total child audience is the appropriate level at which to grant an exemption please propose an alternative level, providing evidence to support your answer.

N/A

19. If you selected option 3, are there any alternative measures from broadcasters, regulators or the advertising sector that might help to meet our policy objectives in broadcast?

Yes. As set out above in detailed comments, VLV believes that a multi-faceted approach is required which is based on a widespread public health campaign. With reference to how broadcast and online content can be utilised to help meet the policy objectives under consideration, VLV suggests:

- Broadcasters and Government should work together to ensure that health messaging is consistent, accessible and engaging.
- Advertising of in store promotions should be fully regulated so that these do not encourage an increased consumption of calories and HFSS products.
- A public health campaign which is jointly managed by the Departments for Education, Health and DCMS to promote exercise, healthy living and nutritional awareness. This will need to be implemented at a local level across the UK.
- Stricter regulation of online advertising and online access by children aged 2-15.

20. If you would like to comment on the options that you have not chosen to support please comment here, providing evidence to support your answer. Please make it clear what option you are commenting on.

As set out above, VLV does not consider either Option 1 or Option 2 to be viable solutions to childhood obesity for reasons set out in response to Question 7. Children are influenced by their home environment; while they may have a degree of influence over which foods are bought, it is up to parents to decide which foods are consumed in the home and therefore restricting HFSS advertising which children see will have a limited impact.

Online consultation options

21. Please select your preferred option for potential further online HFSS advertising restrictions.

VLV supports Option 4 – no Government intervention - with a caveat that VLV believes that regulation governing online content should be better enforced. Currently self-regulation by online platforms is deficient. VLV understands that the Government is currently considering how to improve online regulation in its Online Harms White Paper.

22. Please select the reason/s for your choice, providing supporting evidence for your answer. Please tick all that apply.

Other – VLV does not believe this policy will achieve the desired goal to reduce childhood obesity for the reasons set out in detailed comments above. In summary:

- Children do not control the food which is bought and consumed in the home (70% of calories)
- The proposed policy will lead to a reduction in 1.74kcal per child per day. This is negligible.
- A far more wide-ranging, multi-faceted approach will be required if childhood obesity is to be reduced.
- Manufacturers will promote their goods in other ways if further advertising restrictions are imposed.

23. If you selected option 1, should exemptions be applied to advertisers that can demonstrate exceptionally high standards of evidence that children will not be exposed to HFSS advertising?

N/A

24. If you selected option 1, what evidence should be required to meet the definition of "exceptionally high standards" for the purposes of securing an exemption?

N/A

25. If you selected option 1, what exemptions might the Government apply to advertisers who can demonstrate exceptionally high standards of evidence? Please describe how they would work and provide supporting evidence.

N/A

26. If you selected option 1, should exemptions apply to certain kinds of advertising, recognising the practical challenges of applying a time-based restriction for some kinds of advertising?

N/A

27. If you selected option 2, where advertisers must consider the totality of audience information to demonstrate that no more than 25% of the audience are under 16, should this threshold be lowered:

N/A

28. If you selected option 2, for behaviourally targeted advertising, advertisers are required to use whatever sources of evidence are available to them to prove they have excluded under-16s. Do you think they should have to provide specific sources of evidence over and above the existing rules?

N/A

29. If you selected option 3, should a watershed be applied to video advertising online, and a targeting restriction for all other online advertising?

N/A

30. If you selected option 3, for advertising subject to a watershed, should exemptions be applied to advertisers who can demonstrate exceptionally high standards of evidence that children will not be exposed to HFSS advertising?

N/A

31. If you selected option 3, what evidence should be required to meet the definition of "exceptionally high standards" for the purposes of securing an exemption?

N/A

32. If you selected option 3, what exemptions might the government apply to advertisers who can demonstrate exceptionally high standards of evidence? Please describe how they would work and provide supporting evidence.

N/A

33. If you selected option 3, for advertising subject to a targeting restriction, where advertisers must consider the totality of audience information to demonstrate that no more than 25% of the audience are under 16, should this threshold be lowered:

N/A

34. If you selected option 3, for advertising subject to a targeting restriction, which has been behaviourally targeted, advertisers are required to use whatever sources of evidence are available to them to prove they have excluded under-16s. Do you think they should have to provide specific sources of evidence over and above the existing rules?

N/A

35. If you selected option 4, are there any alternative measures from online platforms, regulators or the advertising sector that might help to meet our policy objectives about online advertising?

No comment.

36. If you would like comment on any options that you have not chosen to support please comment here, providing evidence to support your answer. Please make it clear which option you are referring to.

No comment.

Implementation and next steps

37. The Government proposes to introduce any advertising restrictions arising from this consultation at the same time on TV and online. Do you think restrictions should be applied at the same time for TV and online?

If further restrictions are imposed, they should be applied at the same time, although, as stated above, VLV does not support the proposed policy.

Public Sector Equality Duty

38. Do you think that introducing further HFSS advertising restrictions on TV and online is likely to have an impact on people on the basis of their age, sex, race, religion, sexual orientation, pregnancy and maternity, disability, gender reassignment and marriage/civil partnership?

No comment.

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

No comment.

40. Do you think that the proposed policy to introduce further HFSS advertising restrictions on TV and online would be likely to have a differential impact on people from lower socio-economic backgrounds?

Yes.

VLV believes if a further restriction on HFSS advertising were imposed on TV and online platforms, it is likely that businesses will increase other promotional activity in order to maintain demand for their products. This will include increased advertising in print media, cinema, billboard and outdoor advertising as well as in-store promotions - both temporary price reductions and multi-buy type promotions. These are likely to focus on HFSS products and are likely to increase the volume of food and drink purchased and therefore consumed.

According to Public Health England food retail price promotions are more widespread in Britain than anywhere else in Europe and they focus on HFSS products. The PHE report *Sugar Reduction: the evidence for action* (2015) said,

*'Foods on promotion account for around 40% of all expenditure on food and drinks consumed at home. Higher sugar products are promoted more than other foods. Price promotions increase the amount of food and drink people buy by around one-fifth. These are purchases people would not make without the in-store promotions.'*²⁰

This research also found that such promotions drive a material incremental increase in purchasing by families with children and a higher than average increase among families in social classes C2DE.²¹

VLV considers that a likely unintended consequence of the policy to further restrict HFSS advertising on TV and online is that it is likely to increase advertising and consumption of HFSS products, especially among people from lower socio-economic backgrounds.

Annex E - Impact assessment consultation questions

1. Do you have any additional evidence that would improve our understanding of how and where household spend on HFSS products may be displaced?

No

2. Our estimates of the impact on retailer and manufacturer profits are based on several assumptions around profit margins and retailer mark-ups. Can you provide us with any evidence that would help to improve these calculations?

No

3. Do these calculations reflect a fair assessment of the transition costs that would be faced by your organisation?

N/A

²⁰https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/470179/Sugar_reduction_The_evidence_for_action.pdf

²¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/470175/Annexe_4_Analysis_of_price_promotions.pdf

4. If your industry faces revenue or sales losses from these interventions, how long do you expect these to last?

N/A

5. We have estimated that a significant proportion of HFSS advertising on broadcast TV or online will be displaced to other forms of media. As an advertiser do you think the level of displacement for radio, print and out of home is correct?

N/A

6. We have assumed that HFSS advertising campaigns displaced to non-video forms of advertising (e.g. radio, billboards and direct mail) will have less impact on children's calorie consumption. Do you agree with this assumption?

No comment.

7. For all our options we anticipate minimal additional regulatory burdens from further advertising restrictions in terms of regulatory ongoing compliance for broadcasters, advertisers and manufacturers / retailers. Does this assessment seem reasonable?

No comment.

8. We have assumed that advertising agencies would receive lower commissions if manufacturers and retailers spent less on their advertising campaigns, but not if they shift their campaigns to other advertising media. Do you agree with this assumption?

No comment.

9. Do you have any additional evidence that would improve our understanding of the impacts on businesses? Please provide evidence especially for small and micro businesses.

No.

10. Do you have any further evidence or data on the health benefits you wish to submit for us to consider for our final impact assessment?

No.

11. Do you have any additional evidence or data that would help us improve our estimates for the additional calorie consumption caused by HFSS product advertising?

No.

12. Do you have any additional evidence or data that would help us improve our assumptions on the levels of HFSS product advertising and its impact on children's food behaviours and preferences?

No.

13. Are you able to provide any additional evidence which would improve our understanding of the long-term impact of HFSS advertising exposure during childhood on food behaviours and preferences later in life?

No.

14. To quantify the impact on food and drink retailers and manufacturers, we have assumed that the calorie reductions are derived from reduced purchasing of HFSS products brought back into the home for consumption. Do you have any evidence or data that can help understand whether a proportion of this reduction would be from consumed outside the home and what impact this would have on the out-of-home sector?

No.

15. Do you have any additional evidence that could improve our assessment of how these restrictions may impact HFSS manufacturers and retailers? Particularly learning from the experience of current children's HFSS advertising restrictions.

No.

16. Do you have any evidence or data to suggest how advertising restrictions may impact HFSS product sales of small and micro-businesses?

No.

17. Do you have any evidence or data to suggest what proportion of the fewer HFSS calories purchased due to advertising restrictions may be removed from small and micro-businesses?

No.

18. Do you have any additional evidence or data that could improve our estimates of how much HFSS advertising is present, across various online platforms and formats (e.g. desktop, mobile, video pre-roll, native, search, sponsorship, other video and other display) and children's exposure to these adverts online?

No.

19. Our evidence on the impact of HFSS advertising on adults is inconclusive. Do you have any additional evidence which would improve our understanding of the impact HFSS advertising has on adult's food consumption, behaviours and preferences and purchases (either for themselves or their children)?

No.

20. Can you provide us with any additional evidence to improve our understanding of how the pricing of advertising may change under our proposed options?

No.

21. We have assumed that businesses could partially mitigate the impact of advertising restrictions by shifting to brand advertising, reformulating products, or promoting healthier alternatives in the brand. Do you agree with our assessment of the impact on broadcasters and likely mitigations?

No.

22. What mitigating actions would your business most likely pursue?

N/A

23. The Department of Culture Media and Sport and the Department of Health and Social Care would welcome any further comments regarding;

- **The calculations conducted in the Impact assessment;**
- **The assumptions made in the Impact assessment.**

No comment.