Introduction

The Institute of Public Health in Ireland

The remit of the Institute of Public Health in Ireland (IPH) is to promote cooperation for public health between Northern Ireland and the Republic of Ireland in the areas of research and information, capacity building and policy advice. Our approach is to support Departments of Health and their agencies in both jurisdictions, and maximise the benefits of all-island cooperation to achieve practical benefits for people in Northern Ireland and the Republic of Ireland.

IPH welcomes this second opportunity to submit our views to the Broadcasting Authority of Ireland on the important issue of regulation of the advertising of high fat, sugar, salt (HFSS) foods to children. A range of evidence supporting the importance of restricting HFSS advertising to children was clearly set out in our previous submission to the BAI in the earlier phase of consultation, and is not repeated in this submission.

IPH views that the restriction of the advertisement of foods that are high in fat, salt and/or sugar is one of a range of actions needed to reorient families towards healthier eating practices and tackle Ireland’s unacceptable level of overweight and obesity. The restriction of the advertisement of HFSS products has the potential to influence children’s food preferences, food requests and ultimately support families to purchase more healthy options. The restrictions can support achievement of this outcome in three ways (i) by reducing the level of exposure of children to HFSS advertising (through scheduling restrictions) (ii) by restricting the power of that advertising (through content restrictions) (iii) by incentivising the food industry to develop more nutritious recipes with lower levels of fat, salt and sugar in order to enjoy less restricted advertising times.

The benefits of these restrictions have the potential to extend beyond the issue of overweight and obesity and its associated elevated risk of heart disease, stroke and cancer. If effective in reducing the excessive contribution of fat, salt and sugar to the diets of Irish families, there may also be independent effects in terms of reducing the population health burden of diabetes, dental caries and hypertension.

In IPH, we have an extensive portfolio of work in this area including:

- Membership of the Health Research Board Centre for Diet and Research in partnership with University College Cork, University College Dublin, University of Ulster and the Teagasc Food Research Centre.
- Research on food poverty and evaluation of healthy eating initiatives such as the Decent Food for All programme in Northern Ireland.
- The Obesity Hub – an online resource as part of the Health Well which provides ease of access to the best international evidence on obesity as well as tools for networking and collaborative working.
- A range of policy submissions/consultation responses relevant to the prevention of obesity North and South.
- Population prevalence estimates of chronic diseases related to obesity including diabetes, coronary artery disease, hypertension and stroke, as part of the *Making Chronic Condition Count* series.
- Work supporting the implementation of health impact assessment and a ‘health in all policies’ approach to better population health.
- Active membership of a number of groups working to address obesity including the National Heart Alliance and the Health Service Executive Health Inequalities Working Group.

Further details available at [www.publichealth.ie](http://www.publichealth.ie); The Obesity Hub can be accessed through the Health Well website at [www.thehealthwell.info](http://www.thehealthwell.info)
Key points

Poor quality diets and overweight/obesity are significant threats to population health in Ireland. The obesity epidemic is developing rapidly in Irish children and all possible evidence-based measures must be utilised to address it.

Television food advertisements currently viewed by Irish children are heavily dominated by HFSS foods/drinks. Consumption of these foods is consistent with an unhealthy diet and an increased risk of overweight and obesity. Systematic review evidence shows that food advertising to children affects their food preferences, food requests and intake.

The efforts and resources being directed towards preventing childhood obesity by families, the health service, schools and other sectors should be supported, not threatened, by the actions of the food industry.

Children are limited in their capacity to interpret advertising and can be easily led by TV food advertising. Children are engaging with more media and at a younger age including multichannel TV, mobile phone messaging and apps, gaming and social media. Children have significant spending power and influence over household and parental purchasing decisions.

IPH recommends the adoption of the Nutrient Profiling Model of the Food Standards Agency as a tool to restrict the advertising of HFSS foods to children in Ireland.

Based on the evidence of children’s television viewing behaviours and the urgency of Ireland’s child obesity epidemic, food advertising of foods failing the Nutrient Profile Model (NPM) standard should be restricted between 6am and 9pm.

If exemptions are to be made for certain food products on the basis of nutrient components (e.g. cheese), all exemptions must be clearly justified in terms of the nutritional well-being of children and be developed in a way that does not undermine the core intention of the overall restrictions.

A specific type of co-regulation approach is recommended with responsibility for certifying a product as a HFSS food. This shared responsibility should be between the food advertiser/manufacturer and an independent statutory agency.

A carefully designed monitoring system should be implemented to regularly evaluate the effectiveness of the adopted code.
IPH response to questions

Nutrient Profiling Model
The BAI is proposing to adopt, without amendment, the Nutrient Profiling Model developed by the UK Food Standards Agency. If introduced, it will be applied to define whether a commercial communication is for a HFSS product or service and the regulations to be applied to the commercial communication.

Question 1
What are your views on this decision? Please set out whether you are in favour of this decision or whether it is a decision that you do not support. Please provide a rationale for your view.

IPH welcomes the BAI proposal to adopt the NPM of the Food Standards Agency as part of regulation of HFSS foods. This model has been introduced and evaluated in the UK. It is therefore a valid tool, but like all tools, should be subject to regular review. The use of a consistent model between Ireland and the UK would seem sensible in view of the tendency of Irish children to view UK television channels.

The discussions relating to the adoption of the NPM and in particular concerns raised in respect of cheese has been considered by IPH. The NPM is not intended for use as a dietary guidance tool. Rather the NPM is a tool facilitating the identification of HFSS foods, the consumption of which must be reduced by a variety of means if the obesity epidemic is to be addressed. While acknowledging the nutritional value of cheese in terms of calcium content, we also recognize that most cheese is also high in saturated fat. Adopting the NPM model would ideally support advertisement of lower-fat calcium-rich dairy products rich in Vitamin D while reducing the advertisement of high-fat calcium-rich dairy products without Vitamin D.

However, we acknowledge the position of the FSAI and others who are proposing an amended NPM which allows for the calcium level of the food to be taken into account, along the lines of the Food Standards of Australia and New Zealand. This approach would allow some flexibility with regard to calcium-rich cheeses. The inadequate level of calcium consumed by children and teenagers requires a comprehensive response that goes well beyond the issue of the inclusion or exclusion of cheese in the BAI Children’s Commercial Code.

We would ask that the BAI take the following points into account if an exemption for cheese is considered:
- Any decision to provide some sort of exemption for cheese from the NPM must be based on evidence that this exemption is in the interests of the nutritional well-being and health of Ireland’s children. This evidence would need to demonstrate that calcium and vitamin D requirements cannot be adequately met through the consumption of whole or low-fat fortified milk, low-fat yoghurts or other foods. It would seem appropriate that this evidence should be made publicly available and regularly reviewed.
- Any exemption must take into account the range of formats in which cheese is eaten. Cheese is important in the context of some pre-packaged convenience meals popular with children, notably pizza, macaroni cheese etc. It is not clear whether giving an exemption to cheese would relate only to cheese in its original state (such as a block, triangle etc) or also in terms of its contribution to convenience foods where cheese is the component ‘failing’ the NPM threshold.
- Any exemption for cheese should demonstrate that consideration has been given to decisions made in respect of both scheduling and content restrictions.
- Any exemption for cheese should not have the capacity to undermine the intention of the NPM model and the restrictions, such as creating a situation where products can argue a case in terms of other nutrient components. Ideally the consumption of fibre, iron and other nutrients which are known to be lacking in the diets of Irish children and teenagers should be increased through the consumption of healthy natural food products rather than through fortified HFSS foods. Similarly any exemption must make clear the situation in respect of non-cheese HFSS products with added calcium.

**Regulatory Approach**

The regulatory approach proposed in respect of commercial communications for HFSS products and services is direct independent statutory regulation via the draft revised Codes. No self- or co-regulatory approach is proposed.

**Question 2**

What are your views on this decision? Please set out whether you are in favour of this decision or whether it is a decision that you do not support. Please provide a rationale for your view.

IPH agrees that self-regulation is not a suitable option but would favour a specific type of co-regulation as it may present an opportunity for non-Irish channels that are currently not subject to regulations to participate. Co-regulation can operate in many formats and is understood in many ways. Our understanding of co-regulation in this context means that both the state agency and the food industry take responsibilities.

We believe that the responsibility for certifying that a product is/is not a HFSS food should be a shared responsibility between the food advertiser/manufacturer and an independent statutory agency. This would then be followed by copy clearance by the BAI. The Nutrition Profile Certificate submitted by the food advertiser/manufacturer should be considered an official document with sanctions in place if the certificate is found to be inaccurate or incomplete. This would be in line with the World Health Organization Set of Recommendations on the Marketing of Foods and Non-Alcoholic Beverages to Children recommendation number 9:

*The policy framework should specify enforcement mechanisms and establish systems for their implementation. In this respect, the framework should include clear definitions of sanctions and could include a system for reporting complaints.*
An annual report on the operation of the NPM should be provided by the BAI to the relevant sections of the Department of Health (health promotion, nutrition, child health, diabetes sections etc), Health Service Executive (leads on diabetes, cardiovascular disease, obesity, paediatrics), Department of Children and Youth Affairs and the Department of Communications, Energy and Natural Resources, in line with recommendation number 10 of the World Health Organization recommendations referred to above:

_All policy frameworks should include a monitoring system to ensure compliance with the objectives set out in the national policy, using clearly defined indicators._

**Draft Regulatory Measures**

Section 11 and section 13 of the draft revised Children’s Code includes a number of proposed regulatory measures. Specifically, commercial communications for HFSS food and drink shall not;

- Be permitted in children’s programmes as defined by the Code;
- Include celebrities or sports stars;
- Include programme characters e.g. Peppa Pig;
- Include licensed characters e.g. characters and personalities from cinema releases;
- Contain health or nutrition claims;
- Include promotional offers.

Section 8.4 of the draft revised General Code includes a proposal to limit the volume and frequency of advertisements for HFSS food and drink. Specifically;

- A maximum of 25% of sold advertising time and only one in four advertisements for HFSS products and services products are permissible across the broadcast day.

**Question 3**

_In terms of the Draft Children’s Code, having reviewed the specific rules set out in section 11 and section 13 of the draft Code, what is your view of each of the proposed rules? Please provide a separate comment for each of the rules that you wish to comment on._

Sections 11 and 13:

IPH supports the inclusion of these measures as means by which the power of advertising of HFSS foods to children can be reduced. The content restrictions set out are welcomed and have the capacity to support children to make more reasoned choices on food advertisements that they may be exposed to outside of ‘children’s programming’ times.
However, consideration should be given to the inclusion of ‘equity-brand’ characters in addition to licensed and programme characters.

The current variation in ages to which certain measures apply is unnecessarily complex. All measures should be U18 (i.e. where the audience is made up of 50% or more of those under the age of 18).

IPH considers the regulations in respect of scheduling restrictions to be inadequate in terms of reducing the exposure of children to HFSS foods (section 8.4 and the designation of ‘children’s programming’ in sections 11 and 13).

**Question 4**

In terms of the [Draft General Code](#), what is your view of the draft rule set out in section 8.4.3 of this draft Code? Respondents making arguments in respect of either draft Code which are based on economic impact should provide relevant data and analysis of that data to support their argument, including information on the source of the data and assumptions informing the use of the data.

IPH considers that meaningful and balanced economic analysis is an important consideration in the development of the BAI Children’s Commercial Communications Code. We believe that a balanced cost benefit analysis is required in preference to a unilateral review of the potential economic impacts on broadcasters or private industry.

Calculation of the cost benefits that could be accrued through reduced consumption of HFSS foods is a substantial and complex analysis that has not been conducted in the Irish context. Such an analysis would need to model the expected cost savings associated with preventing/delaying the onset of a number of health outcomes associated with consumption of HFSS foods in Ireland including dental caries, diabetes, hypertension, cardiovascular disease and obesity. Monetized health benefits would need to be applied to the contribution of improvements in these health outcomes to the achievement of a healthy labour force, reduced disability/premature mortality and reduced health service requirements. It is not possible to develop such an analysis within the time-frame of the development of this code.

An analysis of the economic impact of obesity in Ireland is currently underway with results expected within the year.

The relationship between volume and frequency at different times of the broadcasting day needs to be clarified. The code permits up to 25% of advertising time across the broadcasting day which suggests that the frequency could potentially be higher during the times when these advertisements are permitted to make up for the lack of all such advertising during other times.

The potential loss of jobs flagged by the food industry is unsubstantiated. The introduction of the code can provide the manufacturers with an incentive to review their recipes and develop innovative new products that are lower in fat, salt and sugar to the
market. The potential loss of jobs flagged by the food industry is, in our opinion, a worst case scenario, if the industry fails to adapt to the changing requirements of advertising and the marketplace. Loss of revenue to television channels from such advertisers is of concern but potential solutions such as industry adaptation and substitution of advertising from other sources are available.

**Additional comments**

*Question 5*

Do you have any additional views on the draft revised Codes as set out at Appendix 2 & 3?

The evidence presented in the initial BAI consultation paper showed that many Irish children are viewing television outside of the period designated as children’s viewing time. Furthermore, there is considerable evidence of unsupervised viewing. Based on the evidence of children’s TV viewing behaviours and the urgency of the obesity epidemic, we reiterate our view that restricting advertising of HFSS foods failing the NPM standard between 6am and 9pm would seem a proportionate response.
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