

***Advertising restrictions for less healthy food or drink on TV and online: secondary legislation to provide brand advertising exemption - consultation document***

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CONSULTATION QUESTIONS

**Questions for organisations**

1. Which sector does your organisation work in? Public
2. How would you describe the work of your organisation? Academic
3. Where does your organisation operate or provide services? The whole of the UK

**Questions on the draft regulations for all respondents**

1. Do you agree or disagree that the draft regulations make clear how brand advertisements will be treated by the advertising restrictions?

The draft regulations clearly set out the process for determining whether an advertisement qualifies for exemption as a brand advertisement. However, we express concern about the underlying assumption that brand advertising has a limited impact on people's behaviour and food choices, especially children's. For example, Kelly et al. (2019) show that repeated exposure to brand elements such as logos, jingles, and mascots creates strong brand attachment in children, even in the absence of specific product depictions. Norman et al. (2020) also found that even a single exposure to a previously unfamiliar brand via television or advergames increased children's brand recognition and desire to consume. These findings suggest that if the content-only approach to brand assessment is upheld, there is a regulatory gap as it fails to account for the behavioural impact of brand marketing techniques.

2. Do you agree or disagree that the draft regulations provide a clear definition of a 'brand advertisement'?

Evidence indicates that brand advertising is a critical component of unhealthy food marketing strategies, and clarity of definition should not override the need for regulatory comprehensiveness. Mulligan et al. (2025) found that children's food preferences and intentions were influenced by brand advertising that did not depict a specific product, even though the impact was less than that of product marketing. Therefore, the exclusion of

contextual brand associations from the definition may fail to capture the full range of persuasive brand advertising techniques. A content-only test risks enabling forms of advertising that remain powerful but unregulated.

3. Do you agree or disagree that the draft regulations provide a clear definition of 'depict'?

We agree that the term "depict" is defined broadly and appropriately encompasses multimodal branding techniques (text, imagery, jingles, etc.). We support the inclusion of cumulative branding effects in this definition. However, the implementation of this definition must consider the recognition thresholds of children and adolescents, who are known to be responsive to brand cues. For instance, Norman et al. (2020) found that exposure to unfamiliar food brands through either television advertising or advergames significantly increased children's brand recognition, positive brand attitudes, and desire to eat the advertised products, demonstrating that even brief, single-media exposures to brand cues can shape preferences. Mulligan et al. (2025) also found that children exposed to brand cues alone demonstrated measurable shifts in preference and behaviour, which supports a stricter interpretation of depictions in regulatory practice.

4. Do you agree or disagree that the draft regulations are clear on how the exemption will apply to a brand for a 'range of products'?

The criteria for assessing whether a brand advertisement references a "range of products" are clear. However, this approach may inadvertently legitimise advertising by brands whose range includes multiple less healthy items, as long as specific products are not depicted. Many food brands market both healthy and unhealthy variants under a single brand. Bandy et al. (2021) found that most leading UK food companies had portfolios dominated by less healthy products. This raises concerns that brand advertising for a 'range' may still promote less healthy products indirectly.

5. Do you agree or disagree that the draft regulations provide a clear definition of a 'specific' less healthy food or drink product?

The definition of a "specific" product is unambiguous and appropriately tied to brand and composition. However, the singular focus on specific products may obscure the cumulative impact of brand advertising for broader product ranges, especially when those ranges predominantly include less healthy options. Both Mulligan et al. (2025) and Kelly et al. (2019) demonstrate that brand-level marketing, even without reference to a specific product, still influences attitudes and behaviours.

6. Do you agree or disagree that the draft regulations provide a clear definition of a 'photographic image' of a food or drink product?

The draft regulations clearly define a photographic image and distinguish it from brand imagery. However, visual depictions of packaging and stylised representations may still evoke specific unhealthy products, particularly for well-established brands. For example, advances in CGI and product stylisation may lead to situations where product cues are not "photographic" but still clearly identifiable. Kelly et al. (2019) and Norman et al. (2020) demonstrate that children's brand recall and preferences can be shaped by non-photographic elements (e.g. colours, logos, mascots).

## References

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