Response to the Scottish Government's *Reducing Health Harms of Foods High in Fat, Sugar or Salt Consultation Paper*

From Obesity Action Scotland

Deadline: 9th January 2019

About Obesity Action Scotland

Obesity Action Scotland welcomes this consultation and the opportunity to provide our views.

Obesity Action Scotland is a unit that was established in summer 2015 to provide clinical leadership and independent advocacy on preventing and reducing overweight and obesity in Scotland. It is funded by a grant from the Scottish Government and hosted by the Royal College of Physicians and Surgeons of Glasgow on behalf of the Academy of Medical Royal Colleges and Faculties.

The main aims of the Unit are:

- To raise awareness and understanding of what drives obesity and the health problems associated with obesity and overweight with health practitioners, policy makers and the public
- To evaluate current research and identify strategies to prevent obesity and overweight based on the best available evidence
- To work with key organisations in Scotland, the rest of the UK and worldwide, to promote healthy weight and wellbeing
- The Steering Group of Obesity Action Scotland has members across various disciplines involved in preventing and tackling obesity and its consequences e.g. clinicians, public health experts, epidemiologists, nutritionists and dieticians, GPs and weight management experts.

General comments

This consultation deals with restrictions of the promotion and marketing of foods high in fat, sugar and salt to reduce health harms associated with excessive consumption. We strongly agree that action in this area is urgently required. We support the Scottish Government in its aims to bring forward legislation in this area.

We are aware that there are a number of ways defining the restrictions could be approached; applying a category approach as outlined in the Scottish Government consultation or applying the existing UK Nutrient Profile Model (UK NPM), either of which would have a beneficial effect. In shaping our response we have looked for an approach that brings the maximum benefit, applies a tried and tested model and considers implementation and enforcement.

We are proposing an approach based on the WHO Euro Nutrient Profile Model[1] where certain categories of food are covered by a blanket restriction based on the category descriptor and other categories have nutrient criteria set. This method of identifying unhealthy food and beverages was recommended by the World Health Organization's Commission on Ending Childhood Obesity (ECHO) as one of the means to tackle childhood obesity[2]. The categories where a nutrient criteria is set could use the WHO Euro approach[1] or the UK NPM could be applied if it can be made easily enforceable. This approach is a practical, evidence based way forward to tackle the health harming products that make up such a considerable part of our diet in Scotland and the UK. The model considers food marketing in general[3] and is currently being used by other countries[4]. It is also stricter than the current UK NPM as it does not allow marketing of sweetened energy drinks and some HFSS foods that UK NPM model allows[5]. This may change if the revised UK NPM is adopted but we are still awaiting confirmation of that and we have not yet seen any modelling to compare.

We support the proposals for restriction on promotion of price and other forms of promotion and marketing of products high in sugar, salt and fat but we are concerned that a number of loopholes will remain that could minimise the impact.

Question 1

To what degree do you agree or disagree that mandatory measures should be introduced to restrict the promotion and marketing of foods high in fat, sugar or salt to reduce health harms associated with their excessive consumption?

Strongly agree

We strongly agree that mandatory measures should be introduced to restrict the promotion and marketing of foods high in fat, sugar and salt in Scotland. We agree with the evidence presented in this consultation to justify this step. Additionally, we would like to add that the McKinsey report[6] and the Food Standards Scotland (FSS) board meeting paper[7] from 20th January 2016, both highlighted that re-balancing of promotional activity towards healthier food would only work if all industry players agreed to take action. FSS concluded that population level improvements could only be achieved with "consistency in approach within and between sectors". Similarly, representatives of the British Retail Consortium during Health Select Committee hearings in 2015 and then in 2017

[1] World Health Organization. WHO Regional Office for Europe Nutrient Profile Model. Copenhagen, Denmark: World Health Organization Reginal Office for Europe; 2015. http://www.euro.who.int/__data/assets/pdf_file/0005/270716/Nutrient-children_web-new.pdf

[2] World Health Organization. Report of the Commission on Ending Childhood Obesity. Geneva, Switzerland: World Health Organization; 2016. http://apps.who.int/iris/bitstream/10665/204176/1/9789241510066_eng.pdf. Accessed December 16, 2018.

[3] Storcksdieck genannt Bonsmann S; Comparison of the nutrient profiling schemes of the EU Pledge and the World Health Organization Regional Office for Europe; EUR 28063 EN; doi:10.2787/87440.

[4] Garbrijelcic Blenkus Mojca (2017) Restrict Marketing and Advertising to Children. Action Area 4 of the EU AP on Childhood Obesity. Update from Slovenia on process of adapting WHO Europe nutrient profile Model. Presentation from High Level Group on Nutrition and Physical Activity meeting Brussels, 8th March 2017. Available https://ec.europa.eu/health/sites/health/files/nutrition_physical_activity/docs/ev_20170308_co_05_en.pdf Accessed 09/07/2019

[5] Wicks, M., Wright, H., Wentzel-Viljoen E. (2017) Restricting the marketing of foods and non-alcoholic beverages to children in South Africa: are all nutrient profiling models the same? British Journal of Nutrition, 116 (12), 2150-2159

[6] Dobbs R, Sawers C, Thompson F, et al. Overcoming obesity. An initial economic analysis. Discussion paper. 2014

[7] Food Standards Scotland. Diet and nutrition: Proposals for setting the direction for the Scottish diet. Paper for the board meeting 20 January 2016. 2016;FSS 16/01/04

stressed the importance of government intervention to achieve a level playing field equally fair to all businesses[8,9]. The introduction of mandatory measures will create this level playing field across the retail sector and, crucially, also the out of home sector.

Conversely, voluntary agreements have been tried and have failed. Several have been in place for a number of years including the Public Health Responsibility Deal in England and the Supporting Healthy Choices framework in Scotland. Professor Susan Jebb, who chaired the Food Network of the Responsibility Deal, told the House of Commons Health Select Committee that "price promotions were an area where voluntary agreements had been explored, but would not work", because of the fundamental conflicts of interest: "price promotions cut to the heart of business competitiveness". The Commons Health Select Committee concluded that measures in this area would need to be introduced on a mandatory basis to ensure a level playing field for businesses[10].

Question 2

Should this policy only target discretionary foods? [confectionery, sweet biscuits, crisps, savoury snacks, cakes, pastries, puddings and soft drinks with added sugar]

No – there are additional categories that should also be targeted, please specify

We recommend adoption of the category descriptors that are used in the WHO Euro model[11]. The model clearly identifies categories and details what those categories include. These have been devised from food based dietary guidelines in a number of countries and consulted on widely. International customs tariff codes for products are used to determine the type of food and what category it falls within.

We suggest that the categories proposed in this consultation are defined using the WHO Euro model, which would save setting up a technical group to deliver this work. These categories are defined as follows[12]:

1) **Confectionery** and **puddings** are defined as "Chocolate and sugar confectionery, energy bars, and sweet toppings and desserts"; for example: chocolate and other product containing cocoa, white chocolate, jelly, sweets and boiled sweets, chewing gum and bubble, caramels, liquorice sweets, spreadable chocolate and other sweet sandwich toppings, nut spreads including peanut butter, cereal bars, granola bars and muesli bars, and marzipan
2) **Cakes**, **sweet biscuits** and **pastries** are defined as "Cakes, sweet biscuits and pastries; other sweet bakery wares, and dry mixes for making such"; for example: cakes, sweet biscuits and pastries; other sweet bakery wares, and dry mixes for making such

[8] The Health Committee of House of Commons. Childhood obesity: Follow-up. Seventh report of session 2016-17. 2017

[9] The House of Commons Health Committee. Childhood obesity - brave and bold action. First report of session 2015-16. 2015; HC 465.

[10] The House of Commons Health Committee. Childhood obesity - brave and bold action. First report of session 2015-16. 2015; HC 465

[11] World Health Organization. WHO Regional Office for Europe Nutrient Profile Model. Copenhagen, Denmark: World Health Organization Reginal Office for Europe; 2015. http://www.euro.who.int/__data/assets/pdf_file/0005/270716/Nutrient-children_web-new.pdf.

[12] World Health Organization. WHO Regional Office for Europe Nutrient Profile Model. Copenhagen, Denmark: World Health Organization Reginal Office for Europe; 2015. http://www.euro.who.int/__data/assets/pdf_file/0005/270716/Nutrient-children_web-new.pdf.

3) **Crisps** and **savoury snacks** are defined as “savoury snacks”; for example: pastries, croissants, cookies/ biscuits, sponge cakes, wafers, fruit pies, sweet buns, chocolate-covered, biscuits, cake mixes, and batters
4) **soft drinks with added sugar**: drinks to which any sugar is added.

Based on this approach, the restrictions as proposed should also cover **diet soft drinks** because these products are discretionary and provide no added nutritional benefit. They are not necessary in any healthy diet. Moreover, they may introduce, maintain or reinforce preference for sweet taste, and hence items containing sugar. And, if carbonated, their acidity can contribute to dental decay. Finally, they distract attention from tap water – which should be the default healthy hydration option. The WHO Euro model proposes restrictions to any beverages to which non-calorie sweeteners are added.

The WHO Euro model targets not only categories of food proposed in this consultation but also:

(1) fruit and vegetable juices and smoothies
(2) milk drinks containing more than 2.5g/100g of total fat and/or any added sugars or non-sugar sweeteners
(3) energy drinks
(4) other beverages containing any added sugars and/or non-sugar sweeteners
(5) edible ices
(6) breakfast cereals containing more than 10g/100g of total fat and/or more than 15g/100g of total sugars, and/or more than 1.6g/100g of salt
(7) yogurts, sour milk, cream and other similar foods that contain more than 2.5g/100g of total fat and/or more than 2.0g/100g of saturated fat, and/or more than 10g/100g of total sugars, and/or more than 0.2g/100g of salt
(8) cheese that contains more than 20g/100g of total fat and/or more than 1.3g/100g of salt
(9) ready-made and convenience foods and composite dishes that contain more than 10g/100g of total fat and/or more than 4.0g/100g of saturated fat, and/or more than 10g/100g of total sugars, and/or more than 1.0g/100g of salt, and/or more than 225kcal
(10) butter and other fats and oils that have more than 20g/100g of saturated fat and/or more than 1.3g/100g of salt
(11) bread, bread products and crisp breads that contain more than 10g/100g of total fat, and/or more than 10g/100g of total sugars, and/or more than 1.2g/100g of salt
(12) fresh or dried pasta, rice or grains that contain more than 10g/100g of total fat, and/or more than 10g/100g of total sugars, and/or more than 1.2g/100g of salt
(13) processed meat, poultry, fish and similar that contain 20g/100g of total fat, and/or more than 1.7g/100g of salt
(14) processed fruit, vegetables and legumes that contain more than 5g/100g of total fat, and/or more than 10g/100g of total sugars, and/or any added sugars, and/or more than 1.0g/100g of salt
(15) sauces, dips and dressings that contain more than 10g/100g of total fat, and/or any added sugars, and/or more than 1.0g/100g of salt

Overall, this model classifies food into 17 categories covering virtually all food products (we cannot think of a product intended for human consumption that is not covered by these categories) and, as shown above, some categories have nutrient criteria set and other categories are covered by a blanket restriction based on the category descriptor.

We recommend any category based approach considers adopting this model and therefore extending the categories covered as the policy develops in the future.

Question 3

Should this policy treat ice-cream and dairy desserts as discretionary foods?

Yes

This category should be included as well. It contributes to sugar and fat intakes especially for children; for example in 2016, half of all children were eating ice-cream once a week or more (48% compared to 27% of adults[13]). We also know that ice-cream alone contributed to 1.9% of saturated fat and 1.2% of total fat purchased in 2014/15[14]. Dietary calcium should be sourced from less processed dairy products: milk, yogurt and cheese with no added sugar. Again this is consistent with the WHO Euro NPM where no marketing is permitted on edible ices including Ice cream, frozen yoghurt, iced lollies and sorbets.

It is important to consider how **dairy desserts** are defined. The consultation referred to the FSS research[15] showing that "the category [ice-cream and dairy desserts] accounts for around 2.1% of total fat, 3.6% of saturated fat, 3% of total sugar and 0.3% of sodium purchased". However, these numbers refer to ice-cream, and edible ices and frozen dairy desserts. There is therefore a gap: non-frozen dairy desserts. It is important to define what non-frozen dairy desserts are and know what proportion of total fat, saturated fat and sugar they contribute.

The problem of a definition of ice-cream and dairy desserts (point 5, page 11) could be simply solved by applying restrictions to all ice-cream and dairy desserts which have more than 10g/100g of total sugar, as suggested by the WHO Euro NPM.

Question 4

Please comment on our approach to defining categories and exclusions of particular foods/products from those definitions (paragraphs 9-11)?

We are aware that there are a number of ways this could be approached; applying a category approach or the existing UK Nutrient Profile Model, either of which would have a beneficial effect. In shaping our response we have looked for an approach that brings together the benefits of both approaches, applies a tried and tested model and considers implementation and enforcement. We are proposing an approach based on the WHO Euro Nutrient Profile Model[16] where certain categories of food are covered by a blanket restriction based on the category descriptor and other categories have nutrient criteria set. The nutrient criteria could be based on an approach as outlined in WHO Euro NPM document. WHO Euro NPM approach appears the most practical way forward to tackle the health harming products that make up such a considerable part of our diet in the UK.

[13] Scottish Government (2017) Scottish Health Survey 2016. Main report.
[14] Food Standards Scotland (2016) Foods and drinks purchased into the home in Scotland using data from Kantar WorldPanel. January 2016.
[15] Food Standards Scotland (2018) Monitoring retail purchase and price promotions in Scotland (2010-2016).
[16] World Health Organization. WHO Regional Office for Europe Nutrient Profile Model. Copenhagen, Denmark: World Health Organization Reginal Office for Europe; 2015.
http://www.euro.who.int/__data/assets/pdf_file/0005/270716/Nutrient-children_web-new.pdf.

We recommend adoption of the category descriptors that are used in the WHO Euro model. They have clearly identified categories and detailed what those categories include. These have been based on food based dietary guidelines in a number of countries and consulted on widely. International customs tariff codes for products are then used to determine the type of food and what category it falls within.

Applying the UK NPM requires consideration once we know the approach proposed by the UK Department of Health and Social Care. The key issues for us are around enforcement - we are still to be convinced of the ease of enforcement for local authority officers of a system that uses the UK NPM. How would an enforcement officer be able to work out the NPM score for a product during an inspection (free sugar content is necessary for calculation of NPM and is not declared on food labels)? A scoring system such as the UK NPM also makes it very difficult to have true transparency as it is also very difficult for independent or third sector organisations to calculate the score for products. Such a scoring system leaves the power in the hands of the food industry.

We would therefore advocate for the use of the categories approach in the WHO Euro NPM. This would mean that we would include products such as sugar free sweets and diet drinks. Sugar-free confectionery and diet drinks convey no nutritional benefit. They are not necessary in the healthy diet, they are optional and therefore discretionary. If anything, sugar-free sweets may introduce, maintain or reinforce preference for sweet taste.

Question 5

In relation to the foods being targeted, should this policy seek to

Restrict multi-buys: Yes

Yes, we agree that multi-buy offers as defined in this consultation document should be covered by restrictions.

Restrict sales of unlimited amounts for a fixed charge: Yes

In general, we agree with the proposal to restrict promotions of unlimited amounts for a fixed charge.

However, point 13 on page 17, specifically the **"main meal exception"** is not clear. We would like to ask for clarification: could the products subject to restrictions (i.e. cakes or bottomless drinks) be a part of unlimited deal, if the unlimited deal applied to main meal? In some restaurants, price for a main meal includes unlimited puddings; this is the case in a popular chain of buffet restaurants[17].

'Main meal' should therefore be defined to avoid confusion. For example, could a meal-deal be defined as main meal? Does main meal exception apply to dinner only or lunchtime main meals as well?

For simplicity and to avoid grey areas, we recommend scrapping main meal exception and applying restrictions to all meals.

Not restrict temporary price reductions: No

This represents a potentially important loophole which must be plugged. The policy should therefore seek to restrict temporary price reductions as well as restricting promotion of value.

[17] https://www.cosmo-restaurants.co.uk/restaurants

The problem of defining 'temporary' should be able to be resolved based on existing consumer protection guidance for pricing.

We do not agree with the second bullet point in point 5, page 15. First, it is only a speculation that restricting price reductions could lead to more x% extra free. Then, it is even further speculation, and unsupported by evidence, that "a shift towards more x% extra free promotions is likely to lead to worse health outcomes through greater consumption". Such an approach seems unjustified because:

- X% extra free promotions would have to increase over 100-fold to match temporary price reductions on the amount of calories that is currently sold through this method. As outlined in this consultation, while 26% of calories in 2016 were purchased through retail temporary price reductions, other forms of promotions (including x% extra free) accounted only for 0.2% of calories purchased through retail.
- PHE showed that price promotions (including all types, and in proportion we currently see in the UK) lead to buying 22% more of the promoted category than expected[18]. They did not show that x% extra free promotion method results in greater consumption of purchased foods compared to temporary price reduction method.

Finally, not restricting TPRs is likely to have no effect on the uplift in calories over the festive season[19] because over a quarter of calories are purchased through TPRs.

Not restrict multi-packs? No

No, we strongly suggest that these are not exempted. We are concerned that exemption of multi-packs may create a loophole that the industry will exploit. As a minimum, if they are exempted, the retail purchase of multipacks should be closely monitored to see whether introduction of multi-buys restriction causes increase in multi-pack promotion and/or super-sizing of products. If it does, then regulations should be introduced.

Question 6

Please comment on the approach we are proposing to take to restricting forms of promotion and marketing outlined in section 5.

We strongly support measures to restrict the forms of promotion and marketing outlined in section 5, as we feel there is more than sufficient evidence for these proposals[20],[21]. However, there are a few comments we would like to make.

First, the list that illustrates other forms of promotion or marketing of foods subject to restrictions is not exhaustive. While we agree with the examples that illustrate the restrictions, we feel they should be more detailed and defined. For example, part of the proposal is to restrict branded chillers and floor display units. Currently, a company manufacturing and selling donuts (Krispy Kreme) provides such cabinets promoting and prominently displaying their products in Tesco supermarkets. Will the new restrictions mean that (a) these display cabinets are removed and the products have to

[18] Public Health England (2015) Sugar Reduction. The evidence for action. Annexe 4: An analysis of the role of price promotions on the household purchases of food and drinks high in sugar. PHE, Lodon.

[19] Food Standards Scotland (2016) Foods and drinks purchased into the home in Scotland using data from Kantar WorldPanel. January 2016.

[20] Obesity Actions Scotland (2016) *Briefing paper: Obesity and Price Promotions.* Available form: http://www.obesityactionscotland.org/media/1024/obesityandpricepromotionsweb.pdf

[21] Obesity Action Scotland (2017) *Briefing paper: Advertising, Marketing and Obesity.* Available from: http://www.obesityactionscotland.org/media/1019/advertisingmarketingandobesitynov17web.pdf

be sold with other cakes and pastries, (b) cabinets are unbranded but stay in prominent places (i.e. close to store entrance), or (c) they are unbranded and have to be placed in the section of the store that has got this category of foods (bakery)? We would urge you to ensure that these display cabinets are totally removed and no positional advantage is given to discretionary foods.

Finally, although we agree with the current proposal not to treat price-marked packs as intrinsically promotional, we think that it is important to monitor whether price-marked packs would continue to be a promotional tool for foods covered by the restrictions even if they met the 'promotion of value' restrictions under this policy.

Question 7

Should the restrictions apply 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)?

Yes

We agree with this proposal. Additionally, we would like to specify that these restrictions should also apply to products subject to restrictions sold in modes of public transport and in transport hubs.

Question 8

Please comment on whether, and if so to what extent, restrictions should be applied online.

Yes, we strongly support the proposed restrictions being applied to the targeted products sold online as well.

A substantial proportion of groceries are bought online in the UK. A Kantar Worldpanel report published in 2015 revealed the UK trend of continued growth of online retail, which then accounted for 6.3% of grocery sales.[22] In 2016, UK was the world third-largest adopter of online grocery shopping, only behind South Korea and Japan, with the increase to 6.9% global market value.[23] In 2017 the online share of the UK grocery market increased again to 7.5% and Kantar Worldpanel predicted that by 2025 it would reach 12%.[24]

Convenience is one of the strong drivers on online sales. According to the Online Shopper Intelligence report from Kantar Media[25], key motives for online grocery shopping were: the ability to shop at anytime (60%), having groceries delivered to the door (58%), and the avoidance of carrying home heavy items (55%). One of the Kantar Worldpanel reports[26] suggested possible ways of increasing online sales by deliveries to tube stations or click and collect to local stores.

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[22] Kantar Worldpanel (2015) *The Great Grocery Revolution. What is really happening to Britain's supermarkets?* Thoughts on… series. Available from https://www.kantarworldpanel.com/global/Reports

[23] McKevitt, Fraser (2016) *UK leads as third-largest adopter of online grocery shopping*. 30/09/2016 Available from: https://uk.kantar.com/consumer/shoppers/2016/kantar-worldpanel-ecommerce-grocery-market-data/

[24] McKevitt, Fraser (2017) *Online FMCG sales up 7.6% in UK.* In in the online Kantar Worldpanel news centre. 21/11/2017. Available from https://www.kantarworldpanel.com/en/PR/Online-FMCG-sales-up-76-in-UK

[25] Radcliffe, Jeremy (2012) *Why shop for groceries online?* Available from: https://uk.kantar.com/consumer/shoppers/convenience-tops-list-of-reasons-for-online-grocery-shopping/

[26] Kantar Worldpanel (2015) The Great Grocery Revolution. What is really happening to Britain's supermarkets? Thoughts on… series. Available from https://www.kantarworldpanel.com/global/Reports

Below is a direct quote from the Head of Retail and Consumer Insight at Kantar Worlpanel[27]:

"Home delivery is the norm for the British consumer, even more so since the growth in popularity of services like Deliveroo. However, this is an expensive option for retailers, and substantial delivery costs are an obstacle to completing orders at the quick turnaround shoppers demand. This hasn't stopped retailers innovating to find new ways of satisfying this 'right here, right now' mindset, such as one-hour delivery from the likes of Tesco and Sainsbury's, or Amazon's up-front Prime Now subscription model. (…) In the longer term, a shift to online is presenting a real challenge for the overall FMCG market. Online, shopping lists are repeated from trip to trip, meaning opportunities for unplanned purchases are quashed. **Brands and retailers should focus on how to generate more impulse buys online**. The growth of voice recognition technology, such as Amazon's Alexa, could be one solution, as it allows consumers to make real-time, spontaneous decisions with few barriers to purchase."

The above quote shows that retailers have been very aware of the direction of changes and will be ready to actively adapt their selling techniques online. Therefore, the same restrictions on promotion of the targeted foods should be applied online.

Question 9. Should restrictions to displaying targeted foods at end of aisle, checkouts etc., not apply where there is no reasonable alternative to displaying them elsewhere?

We suggest that such exemptions should be avoided. Otherwise, they could offer a major loophole which businesses would exploit. Any exemptions should be very clear and well defined, so they cannot be taken advantage of by retailers who could argue that, in their stores, there is no reasonable alternative to displaying foods subject to the restrictions. They should also be details around the impact the exemptions will have to ensure it does not undermine the effectiveness of the policy.

The example of a confectionery store from the consultation illustrates how such shop could not stop displaying foods subject to restrictions at the front of store, end of aisles or bins, as those products are their only category. However they should still not be able to draw attention to any price promotion in these areas. The restrictions should apply to the checkout locations at all stores. Checkout displays prompt impulse buys[28,29], which are additional to and on top of what the customers choose on the shop floor before they head for the checkout. There is no need for customers to be nudged to buy even more these products once waiting to pay.

The Scottish Social Attitudes survey showed that 66% of Scots support a ban on placing unhealthy foods next to checkouts[30].

Question 10. Should food marked as discounted because it is close to expiry be exempt from positioning restrictions (end of aisle, checkouts etc.) and/or 'promotion of value' restrictions?

We suggest that such exemptions should be avoided.

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[27] McKevitt, Fraser (2017) Online FMCG sales up 7.6% in UK. In in the online Kantar Worldpanel news centre. 21/11/2017. Available from https://www.kantarworldpanel.com/en/PR/Online-FMCG-sales-up-76-in-UK

[28] Cohen DA & Babey SH (2012) Candy at the cash register – a risk factor for obesity and chronic disease. N Engl J Med 367, 1381–1383.

[29] CSPI (2015) Temptation at Checkout: The power of point-of-sale retail food marketing.

[30] NHS Health Scotland (2018) Public attitudes to reducing levels of overweight and obesity in Scotland.

Question 11. Please list any other exemptions we should consider.

None.

Question 12. Please comment on our proposals for enforcement and implementation outlined in section 8.

We agree with the proposals for enforcement and implementation.

Question 13. Please comment on the proposed flexible approach outlined in section 9.

We support the proposed approach.

Question 14. If you sell, distribute or manufacture discretionary foods, please comment on how the restrictions in this consultation paper would impact you.

N/A

Question 15

What support do sellers, distributors and manufacturers need to implement the restrictions effectively?

N/A

Question 16

How would the proposed restrictions impact on the people of Scotland with respect to age, disability, gender reassignment, pregnancy and maternity, ethnicity, religion or belief, sex, sexual orientation or socioeconomic disadvantage?

Please consider both potentially positive and negative impacts, supported by evidence, and, if applicable, advise on any mitigating actions we should take.

We do not foresee any negative impacts of the proposed restrictions on the people of Scotland mentioned above, as the effects of promotions can be seen across all demographic and socioeconomic groups[31].

Any groups of Scottish society, including the vulnerable groups mentioned above, could potentially benefit from the proposed restrictions through (1) spending less on, (2) buying less of and consequently (3) consuming less of the products subject to the restrictions.

Furthermore, the more deprived households are actually more price-sensitive, and will therefore experience disproportionately greater health benefits, thus potentially narrowing the inequalities gap.

[31] Public Health England (2015) *Sugar reduction. The evidence for action.* London.

Question 17. Please outline any other comments you wish to make.

This consultation specifically deals with restrictions of the promotion and marketing of foods high in fat, sugar and salt to reduce health harms associated with excessive consumption. We are aware that the UK Department of Health and Social Care will also consult on the same issue very soon. A consistent approach would be desirable, to simplify governance, and make it easier for UK-wide businesses to comply. Future discussions should ensure that all the options are considered and that the approach adopted will see us on the path to a healthier diet which can tackle obesity and overweight in Scotland and across the UK.

Finally, the proposed restrictions should apply all the time with no seasonal exceptions. Research published by Food Standards Scotland showed that there is currently a large uplift in calories purchased from some of the discretionary food categories over the festive season.[32]

[32] Food Standards Scotland (2016) *Foods and drinks purchased into the home in Scotland using data from Kantar WorldPanel. January 2016.*