



Consultation on restricting promotions of products high in fat, sugar and salt by location and by price

Response by the Faculty of Dental Surgery at the Royal College of Surgeons

About the Faculty

The Faculty of Dental Surgery at the Royal College of Surgeons is a professional body committed to enabling dental surgeons to achieve and maintain excellence in practice and patient care. We represent over 5,500 specialist dentists, the majority of whom provide patient care in primary, secondary or community care settings, or hold key public health roles.

Businesses and products affected

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

Yes – the restrictions should apply to all food and drink retail businesses that sell food and drink products, including franchises

The Faculty of Dental Surgery at the Royal College of Surgeons welcomes the opportunity to contribute to the Department of Health and Social Care's consultation on restricting price and location promotions for products that are high in fat, sugar or salt (HFSS). The Faculty fully supports these measures, which we believe represent a vital step in addressing some of the major public health challenges we face today, and agrees that they should apply to all retail businesses in England that sell food and drink products, including franchises.

The Faculty has been campaigning for a number of years about the need to tackle the problem of child tooth decay, which affects nearly a quarter (23.3%) of five year olds in England despite being largely preventable. Tooth decay also represents the leading cause of hospital admissions amongst five to nine year olds by some distance, and is a significant source of health inequality – research by Public Health England has found that five year olds in the most deprived parts of England are nearly three times as likely to have tooth decay as those in the least deprived areas (PHE, Oral Health Survey of Five Year Old Children 2017).

Excessive sugar consumption is one of the main causes of tooth decay. The average five year old consumes their own weight in sugar each year, and concerted action is therefore needed to reduce children's sugar intake. Restricting price and location promotions for high sugar products is in our view a crucial component to be tackled. The Faculty supports the proposal

to apply this policy across all retail businesses as this approach will ensure that the restrictions are implemented consistently across the retail sector, as well as creating a level playing field for retailers themselves.

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

Yes – the restrictions should also apply to retailers that do not primarily sell food and drink such as clothes retailers and newsagents

The Faculty believes the restrictions should apply to retailers that do not primarily sell food and drink. As set out in our response to question 1, it is vital that the restrictions are implemented consistently across the retail sector in order for them to be effective, and applying them to wider businesses such as newsagents and clothes retailers is essential to achieving this objective.

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

Yes – the restrictions should also apply to online shopping

The Faculty agrees that the restrictions should apply to online shopping. Without this, there is a risk that loopholes will be created whereby retailers can still offer promotions on online purchases even though these are banned at physical outlets. In addition to undermining the robustness of the restrictions, this would also disadvantage retailers who do not have a significant online presence. Given that online shopping is now such a significant part of the retail landscape, the restrictions must apply online if they are to be effective.

Price promotion restrictions

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

- **Option 1 - Require retailers to ensure that all their volume based price promotions on food and drink are on healthier products.**
- **Option 2 - We are open to alternative suggestions from stakeholders as to how this policy could be implemented in order to reduce overconsumption of HFSS products but also to encourage businesses to promote healthier products and to further incentivise reformulation. For example, we have explored the possible impact of requiring retailers to ensure that at least 80% of their sales from volume based price promotions on all food and drink per year are on healthier products.**
- **Neither**

- **Please explain your answer.**

We support option 1

The Faculty believes that retailers should only be allowed to offer volume based price promotions on healthy products, as set out in option 1. This provides a much clearer message to consumers about the negative health impact of HFSS products. Moreover, from the perspective of implementing and monitoring the restrictions, option 1 is by far the more straightforward and we therefore strongly support this approach. Option 2 is likely to require retailers to share sales figures in order to determine that at least 80% of promotions were on healthier products.

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

Yes – the restrictions should apply to “multibuy” and “extra free” promotions of pre-packaged HFSS goods

The Faculty supports proposals to apply restrictions to “multibuy” and “extra free” promotions as set out in the consultation. We note that analysis by Public Health England has found that such price offers encourage consumers to increase the volume of promoted products purchased by around a fifth, and that high sugar products are both more likely to be promoted and are more deeply promoted (PHE, Sugar reduction: The evidence for action – Annexe 4, 2015). Consequently, there are strong reasons to believe that applying restrictions to these types of promotion will help to reduce sugar consumption and make a valuable contribution to tackling problems such as child tooth decay.

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

Yes – the price restrictions should apply to pre-packed products falling within the categories included in PHE’s reformulation programmes and the soft drinks industry levy which are classed as HFSS

We support the proposal to apply price restrictions to products which fall into categories included in the sugar and calorie reduction programmes and the soft drinks industry levy. We also recognise that this provides a clear approach to identifying which products should fall within the scope of the restrictions and this is inherently consistent with other aspects of Government policy. As part of this we note that juice and milk-based drinks, which were originally excluded from the soft drinks levy, have now been included in PHE’s sugar reduction programme, and anticipate and would hope that this means they will fall within the scope of the restrictions.

However, as outlined in our responses to questions 16 and 18, we also believe that consideration should be given to extending price restrictions to certain drinks outside the

formal scope of the reformulation programmes and soft drinks industry levy, particularly “diet” and high caffeine drinks.

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

Yes – there are additional product categories that should be covered in the restrictions

We believe that there may be a strong case for including “diet” and high caffeine drinks within the scope of restrictions, even if they do not have a high enough sugar or calorie content to be captured within the reformulation programmes or the soft drinks industry levy.

The Department for Health and Social Care’s recent consultation on banning the sale of energy drinks to children highlighted that high caffeine drinks can affect children’s ability to concentrate at school, and excessive consumption has also been linked to depressive symptoms and emotional difficulties. From an oral health perspective, the high acid content of such products also means that they can contribute to problems such as tooth wear.

Although “low” or “zero” calorie versions of these products may not meet the threshold for inclusion in the reformulation programmes or soft drink industry levy, we do not believe it would be appropriate for them to be offered on price promotion due to the potential health risks of overconsumption, and therefore believe there is a strong case for extending the restrictions to include them too.

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

No – there are no product categories in PHE’s reformulation programmes and soft drinks industry levy that should be excluded from the restrictions

If a product is classified as HFSS under the Nutrient Profiling Model we believe it should be included within the scope of the price restrictions.

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

Yes – the price restrictions should also apply to free refills of sugar-sweetened beverages in the out of home sector

The Faculty supports the proposal to apply price restrictions to free refills of sugar-sweetened beverages in the out-of-home sector. However, as suggested in our response to question 16 with respect to other forms of price promotion, we also believe that consideration should be given to extending restrictions to cover free refills of other products such as “diet” and high-caffeine drinks as well.

While some versions of these products may not fall within the formal scope of the reformulation programmes or soft drinks industry levy if their sugar or calorie content does not exceed the relevant thresholds, we are concerned that allowing free refills will create the perception amongst consumers that they are “healthy” alternatives when in fact they are not, particularly given the risks to oral and general health of excessive consumption of acidic high caffeine drinks. We therefore believe that restrictions on free refills should also be extended to these products.

In addition, we also believe it will also be important for free refill restrictions to be supplemented by other measures, such as ensuring that retailers make tap water free and readily available with all meals.

Location restrictions

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

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

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

Neither

We support option 1

The Faculty believes that location restrictions should be applied to store entrances, ends of aisles and checkout areas as set out in option 1, as evidence suggests that a high proportion of products sold in prominent store locations and at the point of sale are unhealthy (J. Horsley, ‘The proportion of unhealthy foodstuffs children are exposed to at the checkout of convenience supermarkets’, Public Health Nutrition, 2015; Obesity Health Alliance, Out of Place, 2018).

In addition, we are also supportive of including online checkouts in the restrictions, as proposed on page 11 of the consultation document.

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

Yes – the location restrictions should apply to store entrances, ends of aisles and checkout areas

See response to question 20

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

Yes – the location restrictions should apply to all products falling within the categories included in PHE's reformulation programmes and the soft drinks industry levy which are classed as HFSS

We support the proposal to apply location restrictions to products which fall into categories included in the sugar and calorie reduction programmes and the soft drinks industry levy, and recognise that this provides a clear approach to identifying which products should fall within the scope of the restrictions. This is inherently consistent with other aspects of Government policy.

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

Yes – there are additional product categories that should be covered in the restrictions

As set out in our responses to questions 16 and 18 with respect to price restrictions, we believe that there are grounds for extending the location restrictions proposed in this consultation to cover certain products which are outside of the scope of the reformulation programmes and soft drinks industry levy, particularly “diet” and high caffeine drinks which do not have a sufficiently high sugar or calorie content to meet the relevant thresholds.

In addition, as noted in our response to question 15, we expect and hope that the inclusion of juice and milk-based drinks in PHE's sugar reduction programme means that they will fall within the scope of the location restrictions.

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

No – there are no product categories in PHE's reformulation programmes and soft drinks industry levy that should be excluded from the restrictions

If a product is classified as HFSS under the Nutrient Profiling Model we believe it should be included within the scope of the location restrictions.

Definitions

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

Yes – the 2004/5 Nutrient profiling model does provide an appropriate way of defining HFSS products

The Faculty supports the use of the Nutrient Profiling Model in determining the definition of HFSS products, which provides an evidence-based approach to deciding which food and drink categories should be included in the scope of the restrictions.

Businesses and products out of scope

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

- **Microbusinesses - we recognise it may be too difficult for micro businesses to apply the restrictions**
- **Specialist retailers - we recognise it may be impractical for retailers that only sell one type of product to apply the restrictions**
- **Products that are non- pre-packaged - we recognise it may be impractical for retailers to apply the restrictions when nutritional information is not displayed on the pack for certain products that are sold loose**
- **Meal deals in the retail or out of home sector - we recognise they are generally aimed at adults and they aim to reduce the cost of a single meal**
- **Any other price promotion activity in the out of home sector - we recognise promotions in these settings serve a different purpose to supermarket multibuy promotions and are generally aimed at groups of people eating out together**

Yes/no. Please explain your answer.

Yes – the price restrictions should apply to the businesses and products listed in question 30

We recognise that some allowances may have to be made where implementation poses particular logistical challenges for retailers, as set out in question 30, although ideally the policy should be applied as widely and consistently as possible to prevent loopholes opening which undermine the robustness of the restrictions.

We appreciate that there may be a need to be pragmatic in certain instances, for example by providing a grace period for retailers to adjust to the restrictions or rolling them out on a gradual basis, but Government must be careful to ensure that this does not detract from realising the core intent of the policy.

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

- **Very small stores that do not have distinct checkout, front of store and aisle end areas, even if they are part of a chain – we recognise it may be impractical for small outlets to apply the restrictions because they may not have distinct areas**

- **Specialist retailers – we recognise it may be impractical for retailers that only sell one type of product to apply the restrictions**
- **Non-pre-packaged products – we recognise it may be impractical for retailers to apply the restrictions when nutritional information is not displayed on the pack for certain products that are sold loose**

Yes/no. Please explain your answer.

Yes – the location restrictions should apply to the businesses and products listed in question 31

We recognise that some allowances may have to be made where implementation poses particular logistical challenges for retailers, as set out in question 31, although ideally the policy should be applied as widely and consistently as possible to prevent loopholes opening which undermine the robustness of the restrictions.

We appreciate that there may be a need to be pragmatic in certain instances, for example by providing a grace period for retailers to adjust to the restrictions or rolling them out on a gradual basis, but Government must be careful to ensure that this does not detract from realising the core intent of the policy.

Policy implementation

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

The Faculty believes it will be crucial for any guidance provided to businesses to be very clear and easy to follow, to prevent any confusion developing about which products are within the scope of the restrictions and those which are not. Moreover, it will also be important for the guidance to provide clarity about monitoring and enforcement, as it is essential for this to be effective if the policy is to be successful.

Contact

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