Consultation document:

Restricting promotions of products high in fat, sugar and salt by location and by price

Consultation closes at 11:59pm on 6 April 2019

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.

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1. **Do you think there are any other retailers that the restrictions suggested in this consultation should apply to?**

* Yes
* No

If yes, please explain which retailers and why.

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1. **Do you think there are any retailers that the restrictions suggested in this consultation should not apply to?**

* Yes
* No

If yes, please explain which retailers and why.

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1. **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.

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1. **Do you think that the restrictions should also apply to imported products within the specified product categories in scope?**

* Yes
* No

Please explain your answer.

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1. **Do you think that the restrictions should also apply to online shopping?**

* Yes
* No

Please explain your answer.

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1. **If the restrictions applied to online retailers, how could this work in practice?**

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1. **Who should be responsible for making sure the price restrictions are followed: the retailer that sells the products or the manufacturer that makes them?**

* Retailer
* Manufacturer

Please explain your answer.

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1. **Who should be responsible for making sure the location restrictions are followed: the retailer that sells the products or the manufacturer that makes them?**

* Retailer
* Manufacturer

Please explain your answer.

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Price promotion restrictions

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

*(Additional information:*

*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.)*

* Option 1
* Option 2
* Neither

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.

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1. **Do you think that the price restrictions should apply to ‘multibuy’ promotions and ‘extra free’ promotions of pre-packaged HFSS products?**

*(Additional information: Terms used in this consultation - please note these are not the final definitions and are simply presented as a guide*

* *Multi-buy promotions - where the discount is obtained by purchasing more than one unit, such as in 'buy one get one free' and '3 for 2' offers*
* *Extra free / Extra for the same price - when the consumer is given more for the same price, such as 50% extra free)*
* Yes
* No

Please explain your answer.

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1. **Do you currently use or do you know about any official definitions of these types of price promotions?**

* Yes
* No

If yes, please provide them below.

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1. **Do you think there are any other types of price promotion that should be restricted that we have not mentioned?**

* Yes
* No

If yes, please explain which types of promotion and why.

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1. **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)?**

*(Additional information:*

*Product categories included in PHE's sugar reduction programme: breakfast cereals, yoghurts, biscuits, cakes, confectionery, morning goods (e.g. pastries), puddings, ice cream, sweet spreads, fruit based drinks and milk based drinks with added sugar.*

*Product categories included in PHE's calorie reduction programme: ready meals, pizzas, meat products, savoury snack products, sauces and dressings, prepared sandwiches and composite salads.*

*Products included in the SDIL: soft drinks with added sugar.)*

* Yes
* No

Please explain your answer.

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1. **Do you think any other product categories should be included in these restrictions?**

* Yes
* No

If yes, please explain which product categories and why.

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1. **Do you think any of these categories should not be included?**

* Yes
* No

If yes, please explain which product categories and why.

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1. **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?**

*(Additional information: Terms used in this consultation - please note these are not the final definitions and are simply presented as a guide.*

*Free refill: A promotion that occurs when a drink, for example soft drink, tea or coffee is allowed to be filled again, free of charge, after being consumed.)*

* Yes
* No

Please explain your answer.

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1. **For food and drink consumed outside of the home, are there other types of price promotion that should be restricted?**

* Yes
* No

If yes, please explain which promotions we should consider and why.

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Location restrictions

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

*(Additional information:*

*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.)*

* Option 1
* Option 2
* Neither

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.

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1. **Do you think that the location restrictions should apply to all of the following locations: store entrances, ends of aisles and checkout areas?**

*(Additional information: Terms used in this consultation - please note these are not the final definitions and are simply presented as a guide.*

*Checkout area: the till point or a self-checkout area and the surrounding floor space area, as well as the queueing areas leading to the till point or self-checkout.*

*End of aisle: the display/point of purchase advertising of products placed at the ends of shelf rows in stores, or on separate units adjacent to the ends of shelf rows.*

*Store entrance display: the display of products on units/shelves placed at/in the vicinity of the store entrance(s), including in front of or surrounding the entrance(s) )*

* Yes
* No

Please explain your answer.

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1. **Do you currently use or do you know about any official definitions for these locations?**

* Yes
* No

If yes, please provide them below.

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1. **Do you think there are other locations inside stores where the restrictions should apply to?**

* Yes
* No

If yes, please explain which locations and why.

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1. **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?**

*(Additional information:*

*Product categories included in PHE's sugar reduction programme: breakfast cereals, yoghurts, biscuits, cakes, confectionery, morning goods (e.g. pastries), puddings, ice cream, sweet spreads, fruit based drinks and milk based drinks with added sugar.*

*Product categories included in PHE's calorie reduction programme: ready meals, pizzas, meat products, savoury snack products, sauces and dressings, prepared sandwiches and composite salads.*

*Products included in the SDIL: soft drinks with added sugar.)*

* Yes
* No

1. **Do you think any other product categories should be included in these restrictions?**

* Yes
* No

If yes, please explain which product categories and why.

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1. **Do you think any of these product categories should not be included?**

* Yes
* No

If yes, please explain which product categories and why.

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Definitions

1. **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?**

*(Additional information: The 2004/5 Nutrient profiling model (NPM) was developed by the Food Standards Agency (FSA) to provide Ofcom, the broadcast regulator, with a tool to differentiate foods on the basis of their nutritional composition. The NPM has also been used for non-broadcast media (including print, cinema, online and in social media) since July 2017. Each food and drink is assigned a score based on how much sugar, fat, salt, fruit, vegetables, nuts, fibre and protein it contains, which helps to determine whether individual products should or should not be advertised to children.)*

* Yes
* No

If you answered no, what other ways could we use? Please explain your suggestions.

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1. **Do you think that micro, small, medium and large businesses should be defined by how many employees they have, as defined in the EU recommendation 2003/361?**

*(Additional information:*

*Type of business: Micro, small, medium and large businesses are defined by the number of employees in the EU recommendation 2003/361.   
- Micro (fewer than 10 employees)  
- Small (10-49 employees)  
- Medium (50-249 employees)   
- Large (250+ employees)*

* Yes
* No

1. **Do you think we should consider other ways to define businesses apart from the number of employees, such as floor space/size or turnover?**

* Yes
* No

If yes, please explain which methods you think we should consider and why.

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Businesses and products out of scope

1. **Should the price restrictions apply to microbusinesses?**

*(Additional information: Terms used in this consultation - please note these are not the final definitions and are simply presented as a guide.*

*Microbusiness is defined as a business with fewer than 10 employees)*

* Yes
* No

Please explain your answer.

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1. **Should the price restrictions apply to specialist retailers?**

*(Additional information: Terms used in this consultation - please note these are not the final definitions and are simply presented as a guide.*

*Specialist retailer: A retailer that exclusively sells one type of products, such as chocolatier, sweets shop, cheese shop.)*

* Yes
* No

Please explain your answer.

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1. **Should the price restrictions apply to** **products that are non- pre-packaged?**

*(Additional information: Terms used in this consultation - please note these are not the final definitions and are simply presented as a guide.*

*Non-pre-packaged food and drink products: food and drink sold loose, for example loose bakery products sold in coffee shops, products from a supermarket's delicatessen counter etc.)*

* Yes
* No

Please explain your answer.

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1. **Should the price restrictions apply to** **meal deals in the retail or out of home sector?**

*(Additional information: Terms used in this consultation - please note these are not the final definitions and are simply presented as a guide.*

*Meal deal promotion: Type of price promotion linking products together for the purpose of satisfying customer demand for a meal suggestion at a discounted price. This promotion requires purchase of 2 or more products as part of a meal at a special discount compared to the price when bought separately. A typical example is ‘sandwich + drink + snack for £3’.*

*Out of home sector: Businesses that sell food and drink products to be consumed outside the home or on the go, for example restaurants, coffee shops, take-aways.)*

* Yes
* No

Please explain your answer.

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1. **Should the price restrictions apply to** **any other price promotion activity in the out of home sector?**

*(Additional information: Terms used in this consultation - please note these are not the final definitions and are simply presented as a guide.*

*Out of home sector: Businesses that sell food and drink products to be consumed outside the home or on the go, for example restaurants, coffee shops, take-aways.)*

* Yes
* No

Please explain your answer.

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1. **Should the location restrictions apply to very small stores that do not have distinct checkout, front of store and aisle end areas, even if they are part of a chain?**

* Yes
* No

Please explain your answer.

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1. **Should the location restrictions apply to specialist retailers?**

*(Additional information: Terms used in this consultation - please note these are not the final definitions and are simply presented as a guide.*

*Specialist retailer: A retailer that exclusively sells one type of products, such as chocolatier, sweets shop, cheese shop.)*

* Yes
* No

Please explain your answer.

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1. **Should the location restrictions apply to non-pre-packaged products?**

*(Additional information: Terms used in this consultation - please note these are not the final definitions and are simply presented as a guide.*

*Non-pre-packaged food and drink products: food and drink sold loose, for example loose bakery products sold in coffee shops, products from a supermarket's delicatessen counter etc.)*

* Yes
* No

Please explain your answer.

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1. **Are there any other businesses and/or products that should be out of scope of the price and location restrictions?**

* Yes
* No

If yes, please explain which businesses and/or products and why.

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Policy implementation

1. **How much time would businesses need to prepare for implementation?**

Please explain your answer.

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1. **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?**

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1. **Would these restrictions cause any implementation or other practical issues for particular businesses that we have not considered in this consultation?**

* Yes
* No

If yes, please explain what the likely issues are and provide evidence and suggestions of how the issues could be mitigated for these businesses.

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1. **Do you have any suggestions for how we can enforce the restrictions in a way that is fair to businesses?**

Please explain your answer.

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Impact Assessment questions

To assess the potential impact of the proposed policies, we have produced two Impact Assessments (IA). These documents can be found on the main consultation page on Gov.uk. The IAs include modelling of a range of options to restrict promotions of HFSS products by location and by price. Through this modelling we established the best options to pursue and seek stakeholders' views on. As a result, we are not consulting on all the options that were modelled in the IAs.

The following questions will help us gather further evidence and gain insight into the issues raised in the impact assessments.

Please note that any information you provide may be used in our final IA that will be published.

General IA questions

1. **We have calculated illustrative transition costs in both impact assessments. Do these calculations reflect a fair assessment of the costs that would be faced by your organisation/business?**

* Yes
* No

If no, please provide any further evidence which could be used to improve our estimates.

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If you are referring to a specific calculation in one of the IAs, please state which one(s).

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1. **Are you aware of any comprehensive data sources on sales in the out-of-home food market and the nutritional content of the products sold?**

* Yes
* No

If yes, please provide details of the information contained in the data set and the provider.

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1. **Are you aware of any other data sources available which would improve our estimates of the number of food retailers and out-of-home food outlets?**

* Yes
* No

If yes, please provide details of the information contained in the data set and the provider.

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1. **How will these proposals affect the relationships between manufacturers and retailers (e.g. sales agreements, sales targets, the future relationships and profitability)?**

Please provide further evidence which could be used to improve our understanding.

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1. **Is it reasonable to assume that retailers and out of home businesses are inspected by Trading Standards every 3.5 and 2 years, respectively?**

* Yes
* No

If no, please provide further evidence which could be used to improve our estimates.

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1. **Is there any additional evidence that would improve our understanding of the level of compensating behaviour which might occur?**

* Yes
* No

If yes, please provide further evidence which could be used to improve our estimates.

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1. **Do you have any further evidence or data you wish to submit for us to consider for our final impact assessment or any specific comments on the methodology or assumptions made?**

* Yes
* No

If yes, please provide further evidence which could be used to improve our estimates.

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If you are referring to a specific IA question or calculation, please state which one(s).

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Location restrictions IA

1. **Is our assessment of the major supermarkets' approach to placing HFSS food and drinks at checkouts accurate?**

* Yes
* No

If no, please provide further evidence which could be used to improve our understanding.

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1. **Is there evidence to suggest that smaller retailers are voluntarily restricting the placement of HFSS food and drinks in stores?**

* Yes
* No

If yes, please provide further evidence which could be used to improve our understanding.

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1. **Is there any additional evidence that would improve our estimates of the use of location promotions within the domestic retail or out of home markets, the sales uplift they provide and proportion of sales they represent?**

* Yes
* No

If yes, please provide further evidence which could be used to improve our estimates.

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Price restrictions IA

1. **Is it reasonable to assume that businesses will switch to using price cuts instead of volume offers to promote HFSS products?**

* Yes
* No

If no, please provide further evidence which could be used to improve our understanding.

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1. **To what extent are price promotions offered in the out of home sector?**

Please provide evidence which could be used to improve our understanding.

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1. **Do consumers respond in a similar way to price promotions offered in the out of home sector and those offered in supermarkets?**

* Yes
* No

Please provide further evidence which could be used to improve our understanding.

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1. **Is the approach used in the impact assessment suitable for assessing the impact on consumers and specifically for assessing the impact on consumer surplus?**

* Yes
* No

If no, please provide further evidence which could be used to improve our estimates.

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1. **If you are responding to this consultation on behalf of a business, how would retailers adjust their promotion strategies to meet the 80/20 target?**

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Equalities Assessment questions

To assess the potential impact of the polices proposed in Chapter 2 of the Government’s Childhood Obesity Plan against the Government's duties under the Equality Act 2010 a separate Equality Analysis has been produced.

1. **Do you think that the proposed policy to restrict promotions of HFSS products by location and by price 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?**

* Yes
* No

If yes, please explain your answer and provide relevant evidence.

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1. **Do you think that any of the proposals in this consultation would help achieve any of the following aims:**

* **Eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010**
* **Advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it?**
* **Fostering good relations between persons who share a relevant protected characteristic and persons who do not share it?**
* Yes
* No

If yes, please explain which aims it would help achieve and how.

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1. **If you answered no to the previous question, could the proposals be changed so that they are more effective?**

* Yes
* No

If yes, please explain what changes would be needed.

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1. **Do you think that the proposed policy to restrict promotions of HFSS products by location and by price would be likely to have an impact on people from lower socio-economic backgrounds?**

* Yes
* No

If yes, please explain your answer and provide relevant evidence.

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Further points

1. **Is there anything else that you would like to tell us or any more information that you would like to provide for this consultation?**

Please provide any further information below.

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