



ASSOCIATE PARLIAMENTARY FOOD & HEALTH FORUM



Reviews of the FSA nutrient profiling model and Ofcom restrictions on food promotion to children

5-6.30pm, Tuesday 24 February 2009

House of Lords Committee Room 4A

Minutes

Introduction

Lord Rea welcomed members and the guest speakers and introduced the subject of the meeting: the two recently concluded reviews of the Food Standard Agency's nutrient profiling model and Ofcom's restrictions on food promotion on television to children.

The FSA's Nutrient Profiling (NP) model was introduced in order to provide a rational basis for Ofcom's controls on the promotion of "less healthy" foods to children on television. An independent Review Panel has completed its review of the model and will present its recommendations for consideration by the Food Standards Agency Board on 25th March 2009. Ofcom published the results of its interim review of the new restrictions on food promotion to children on television just before Christmas and the Government has said it will take its conclusions into account as part of its review of food advertising regulations across all media.

Lord Rea introduced Claire Boville. Claire has spent more than fifteen years as a Civil Servant dealing with food safety, food quality and food law enforcement issues. She started her career at MAFF, and has worked at the Food Standards Agency (FSA) since 2000. She has led work in a number of high profile areas including implementing the FSA's strategy to reduce food poisoning, shellfish biotoxin control and dairy hygiene. She heads up the section in the FSA's Nutrition Division which deals with nutrition labelling, front of pack signposting on foods, nutrient profiling, the promotion of food to children and dietetic foods.

Claire Boville, Head of Nutrition Labelling, Promotions & Dietetic Foods, FSA

Claire began by briefly recalling the history of the development of the Nutrient Profiling (NP) model and why it was needed. She reminded members that in 2000 the FSA national diet and nutrition survey (NDNS) had shown that children were eating too much food high in saturated fat, salt and sugar and not enough fruit and vegetables. In 2003, the FSA commissioned Professor Hastings to conduct a review of the research into the effect of food promotion to children. The Hastings *Review of Research on the Effects of Food Promotion to Children* found that children's food promotion is dominated by TV advertising. It concluded that "food promotion can have and is having an effect on children, particularly in the areas of food preferences, purchase behaviour and consumption" and that "these effects are significant, independent of other influences and operate at both a brand and category level". This report provided the catalyst which shifted the debate into one on what action is needed and, specifically, to how the power of commercial marketing can be used to bring about improvements in children's eating habits.

As a result of this evidence the Government made a commitment to take action across all media to restrict further advertising and promotion to children of foods and drinks high in saturated fat, salt

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Vice-Chairmen: Dr Ian Gibson MP
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or sugar (*Choosing Health*, DH 2004). The Government also committed itself in this document to ensuring that measures to protect children's health are rigorously implemented, and soundly based on evidence of impact. In *Healthy Weight, Healthy Lives* (2008) the Government reiterated its commitment to rebalance marketing, promotion, advertising and point of sale placement to reduce the exposure of "less healthy" foods to children and to increase the exposure of healthier options.

Work on the FSA's NP model began in 2004, to differentiate "healthy" from "less healthy" foods. Technical work on the model continued until 2005, when the model was agreed by the Agency Board and offered to Ofcom as the basis for its proposed controls on food promotion to children on television. Ofcom subsequently announced its intention to use the FSA's NP model as the basis for its controls and in 2006 it consulted on its proposed controls, which were then introduced in phases between 2007 and January 2009 (see slide 9).

When the FSA finalised its NP model it also made a commitment to review its effectiveness one year from the date of use, to ensure that it was "fit for purpose". Ofcom pledged to review the impact of its new regulatory controls on food promotion to children on television to see whether they were helping to change the balance of TV advertising to children and the Department of Health committed to monitor changes in food advertising and promotion to children from 2003 to 2007 across all media.

The FSA's review was carried out by an independent Review Panel, chaired by Professor Mike Kelly. Three of the Panel members were involved in the original work to develop the model: Professor Judy Buttriss (BNF), Dr Susan Jebb (MRC) and Professor Annie Anderson (SACN). The other three Panel members: Professor Janet Cade (University of Leeds), Alison Nelson (BDA), Dr Siân Robinson (MRC) had not been involved previously and were selected for their expertise in nutrition and dietetics. The Review Panel's objective was to look at the issue afresh and assess the effectiveness of the NP model in differentiating foods on the basis of their nutrient composition in the context of Ofcom's UK broadcasting controls, which seek to improve the balance of foods being advertised to children.

The Review Panel started its work in 2007 and completed its review at the end of 2008. The review process included six stages of stakeholder engagement (slide 7) Stakeholders were invited to submit evidence that they felt should be taken into account by the Panel and a 12 week consultation was carried out on the draft recommendations reached by the Panel after an academic workshop meeting.

Stakeholders raised 10 issues for the Review Panel to consider: the base of the model (portion size versus 100g); foods consumed in small and large portions; food categories (breakfast cereals, cheese, dried fruit, dry products); the appropriateness of balancing nutrients; brand advertising; total sugars versus non-milk extrinsic sugars; the impact of the model on recipe and menu advertising; the protein cap; the dried fruit multiplier; foods for particular nutritional uses,. The Panel considered each of these issues carefully and looked at a number of databases to see whether any modifications to the model were needed. The Panel felt four of the issues required further investigation: the basis of the NP model (100g); the inclusion of specific food categories (which might be more leniently treated); the possibility that adverts featuring recipes were being unfairly dealt with; and the protein cap.

An academic workshop was held so that the Review Panel could take into account the views of national, European and international experts. The academic workshop concluded that the NP model was working appropriately and there was no need to use a per portion (as opposed to per 100g) approach, not least because portions are not standardised and they vary according to a child's age. The issue of whether specific thresholds should be included for particular foods (categories) was considered but rejected because the academics could see no justification for using different criteria for certain foods, such as breakfast cereals, cheese or foods sold in small portions. The application of the model to adverts containing recipes and serving suggestions was recognised as a complex area and they advised that further consideration should be given to the guidance and the application of the guidance by the FSA, Ofcom and the Broadcasting Committee

of Advertising Practice (BCAP). The workshop considered the protein cap and concluded that removal of protein cap would have minimal impact on the classification of foods, although it would permit more breakfast cereals to be advertised to children on TV, may encourage further reformulation and simplify use of the model. The workshop advised that this issue should be considered further to assess the impact of removal of the protein cap on the classification of foods from a wider set of databases, and seek advice on whether it would encourage manufacturers to add protein to foods in order to pass the model. The Review Panel agreed with these views and commissioned further testing on a wider range of foods (see slide 14). These tests found that less than 3% of foods would be reclassified from “less healthy” to “healthier” if the protein cap was removed. These foods included 18 breakfast cereals, 5 crisps and 2 savoury snacks (rice cakes and breadsticks). The Review Panel also sought expert advice on the likelihood that manufacturers would add protein to foods to improve scores and were advised this was unlikely.

The Review Panel's draft recommendations were that the NP model is a scientifically robust tool which effectively categorises foods on the basis of their nutrient composition, in the context of Ofcom's broadcast advertising controls. Having considered the rationale underpinning the protein cap and the limited impact that removing it from the NP model would have on the classification of foods, the Review Panel proposed that the protein cap of the NP model be removed, to encourage further reformulation. The Review Panel recommended that no other technical amendments be made to the NP model. The Review Panel consulted on its draft recommendations between July and September 2008. Following the end of the consultation period, the Review Panel commissioned further work to update its databases and re-test the effect of removing the protein cap. In November 2008 it sought SACN's views on its draft recommendations and in December it finalised its recommendations. The outcome of the review will be considered by the FSA Board on 25 March 2009 and will inform the Board's advice to Ministers and Ofcom. The main issue that will be considered by the Board relates to the protein cap.

Lord Rea thanked Claire for her presentation and introduced Peter Bourton, Head of Commercial Policy for Ofcom. Peter has had a varied career, being responsible for broadcasting policy in the Hong Kong Government; leading policy development on the regulation of Railtrack; and helping to prepare legislation to establish the UK's merged communications regulator, the Office of Communications (Ofcom). In 2008, he became Head of Commercial Policy at Ofcom.

Peter Bourton, Head of Commercial Policy, Ofcom

Ofcom was set up by Parliament as an independent corporation within the public service with a series of duties within the communications market. Their primary duty is to ensure consumers and customers' interests are furthered by the way in which Ofcom fulfils its functions. Ofcom considers the issue of food promotion to children on television through that prism.

Ofcom introduced rules to prohibit the promotion on television of HFSS foods to children in series of steps from 2007 to 2009 (see slide 3). The reason for phasing in the introduction of the controls was to mitigate the impact on advertising income and the knock-on effect that would have on children's television.

From April 2007, new rules came into effect restricting the scheduling of TV adverts for products that are high in fat or salt or sugar (HFSS), according to the nutrient profiling (NP) model developed by the FSA; and the techniques that could be used to advertise all food and drink products (such as film-based cartoon characters and other celebrities, references to free gifts and health claims). The scheduling rules prohibit HFSS advertisements from appearing in and around children's programmes and in and around programmes for which the child audience is disproportionately high.

At the request of the Government, Ofcom brought forward to the summer of 2008 the review it was planning to undertake to see if the new rules were having the expected effects in terms of reducing the advertising of HFSS foods seen by children. Ofcom also wanted to ensure that broadcasters were complying with both scheduling and content rules and to consider the impact of the new rules

on broadcasters' revenues. In undertaking the review Ofcom had regard to the different quality of the data available to it in 2005 (before the NP model was produced and when there was no agreed definition of HFSS foods) and in 2007/8. Ofcom there developed proxies for measuring change, which was not a perfect solution but it could not see any practical alternative.

Television advertising changes all the time and quickly, for example, because of the growth in the number of channels and the advent of satellite, digital and cable television in the UK. All these factors have an influence on viewing habits and how much advertising children see. The review found that children are watching broadly the same amount of television but they are spending more time watching the new digital channels. Children are also watching the same proportion of children's and adult programmes.

Ofcom assessed the level of advertising of food and drink and found that there had been overall growth because there were more channels. However, as a proportion of all advertising, television advertising of food and drink remains broadly the same. At the same time, there has been a shift of food advertising from children's airtime into adult airtime.

Children saw considerably less HFSS advertising in 2007/08 than in 2005. Based on the 2007/8 proxy, overall HFSS child impacts fell by an estimated 34% overall. For younger children (4 – 9) the drop was greater (39%); for older children (10 – 15) the drop was smaller (28%). HFSS adverts seen by children fell in all parts of the day, including the 6-9pm slot. HFSS impacts fell by 63% in children's airtime, by 20% in adult's airtime and by 29% between 6pm and 9pm.

Ofcom also looked to see if there had been changes in the use of techniques by advertisers that are used to appeal particularly to children, such as the use of licensed characters. They found there was less use of licensed characters, less use of brand equity partners and other animations (such as animated trees). There was less advertising of free gifts and health claims, but more use of celebrities. These changes covered both HFSS and non-HFSS foods. A lot of the advertising of foods using celebrities was done to appeal to adults.

Ofcom does not have separate data on brand advertising, but this was included in their assessment of the overall data. It did not appear to Ofcom that brand advertising (for example by McDonalds) had been used to circumvent the restrictions on advertising HFSS products.

ASA carried out a survey in 2007/08, looking at a wide range of adverts and they found a compliance rate of 99% with the content rules on television advertisements. As regards the content rules on sponsorships, Ofcom had recently concluded that a sponsorship by Domino's of *The Simpsons* had breached the rules. However, there was no evidence of widespread problems.

As part of the review, Ofcom also looked at the impact of the new restrictions on broadcasters because of its wider duty to secure a wide range of services for children and adults. Ofcom has found that the new restrictions on food advertising are not the most significant factor affecting changes in television content. Falls in revenue from food advertising have been made up by increases in advertising from other areas. Food advertising on digital channels has increased from a low base.

The final phase of the introduction of restrictions on food promotion to children on television only came into effect in January 2009, so it is too early to say what impact they will have. Ofcom awaits with interest the outcome of the review of the FSA's NP model and will take their conclusions – as well as the data for the whole of 2009 – into account when they carry out a further, comprehensive review of the impact of the new restrictions on food promotion in 2010.

Questions

Baroness Gibson of Market Rasen asked the speakers to comment on the use of celebrities in food adverts, the effect they have on sales and the scope for using them to promote healthy foods.

Peter said that Ofcom cannot impose positive obligations on broadcasters or advertisers and are restricted to ensuring compliance with the rules.

Roger Williams MP raised the issue of whether the healthiness of foods should be assessed per portion or per 100g and suggested that most consumers find it difficult to envisage 100g, whereas they can assess a normal portion. He also asked whether Ofcom had assessed, not just the quantity and quality of food advertising, but whether changes in food advertising had had any effect on children's behaviour. **Claire** said that the NP model had been devised as a "backroom tool" to provide a rational basis for Ofcom's restrictions. It was not devised and should not be used for any other purpose. Whether the NP model should be based on a per 100g or per portion basis was a key issue for stakeholders and of the review. Different foods score better using a different basis, but the Review Panel concluded that for the intended purpose of the model, it was better to use a per 100g approach. **Peter** emphasised that television advertising is only one factor affecting children's behaviour and only a modest factor. Looking at changes in children's behaviour was beyond Ofcom's remit. He suggested, however, that it is too early to judge whether children's behaviour will be affected by the new restrictions.

Baroness Jones said that childhood obesity was still rising, so it would appear that Ofcom's restrictions on the promotion of HFSS foods to children on television have not been successful and she suggested that further restrictions should be considered. **Peter** said television advertising was only one factor and the FSA and the Government were working in a variety of areas to address child obesity. He also suggested it was too early to judge the effectiveness of the new restrictions. He suggested that it was likely that no one factor would have a significant impact on behaviour. The Government has the power to ban food advertising, but to be effective it would have to cover other media and that could be considered a draconian step.

Colin Walker of Which said that the focal point of the presentation had been food promotion to children on television, but Which are concerned about the use of other media and would like to see the NP model used as a basis for controls across all media. He suggested this would act as a powerful incentive to reformulate food and ensure a level playing field.

Lindsey Bagley of the IFST suggested that the issue of food promotion on television to children had to be viewed in a wider context: the consumption of unhealthy foods contributed to child obesity, but so did lack of exercise. Colin Walker agreed and said promoting exercise and providing better information about food are both important, but the advertising of HFSS foods should not be allowed to undermine a healthy diet. **Peter** said that Ofcom has some evidence that advertisers are using celebrities to promote "healthy" foods.

Lord Rea asked whether if overall advertising of HFSS foods to children had gone down twice as much during children's airtime, as adults' airtime, more steps should be taken to reduce the amount of HFSS advertising between 6pm and 9pm. **Peter** said the reduction in HFSS advertising seen by children reflected the absolute prohibition on HFSS advertising to children gradually introduced. There were no restrictions on HFSS advertising in the 6-9p slot, so the reduction in HFSS advertising at that time reflected voluntary restraint on the part of the food industry. If HFSS advertising was additionally banned in that slot, it would effectively be banned completely and that would have a significant impact on broadcasters' income.

Baroness Jones suggested that if the food industry could not promote HFSS foods, they would promote healthy foods instead. **Peter** agreed a degree of substitution was likely but thought that broadcasters' overall income from food advertising would fall.

Lord Rea asked whether the increase in food advertising on digital television had replaced the fall in HFSS advertising on terrestrial television. **Peter** said Ofcom would be better placed to make that assessment in 2010. Ofcom had no evidence that the food industry was using digital television to circumvent the new restrictions. Children see more HFSS advertising on digital channels now because they watch those channels more.

Ailbhe Fallon of Fallon Curie Consulting asked how Ofcom would measure the success of the new controls and respond to questions about the desirability of additional restrictions if they were not relating changes in food advertising to changes in children's behaviour. **Peter** said there were a number of factors affecting children's behaviour and reiterated that one initiative was unlikely to have a significant impact.

Peter confirmed that within food advertising there was now a higher proportion of advertising of non-HFSS foods. **Lord Rea** commented that this could be in response to consumer pressure or because the food industry feared the threat of legislation.

Baroness Jones said the School Food Trust has a measurable remit – to improve the quality of school food and to increase the take-up of school meals and if they failed to achieve their targets it would affect the Trust's funding. **Ailbhe Fallon** acknowledged these clear objectives and said it was because she was concerned that some of the other initiatives being taken – such as the introduction of restrictions on food promotion to children - seem to have “woolly” objectives that she had asked her question, because outcomes are very important.

Conclusion

Lord Rea thanked the speakers for their presentations and announced that the next FSA meeting will take place on Tuesday 28 April when we will be discussing nutrition labelling on food and the merits of the “Guideline Daily Amounts” and “traffic-light” labelling schemes. A notice with full details will be sent to all members next month.

CLC, February 2009