

Food Standards Agency

Action Plan on Food Promotions and Children's Diets

Response to consultation from

Sustain: The alliance for better food and farming

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FSA Action Plan on Food Promotions and Children's Diets

Consultation response from Sustain: The Alliance for Better Food and Farming

About Sustain

Sustain: The alliance for better food and farming represents around 100 public interest organisations working at international, national, regional and local levels. Sustain advocates food and agriculture policies and practices that enhance the health and welfare of people and animals, improve the working and living environment, promote equity and enrich society and culture. Sustain is a registered charity and does not accept funding from any source which may compromise, or appear to compromise, the alliance's principles.

Sustain has worked over many years to improve food labelling and marketing so that it encourages healthy eating, particularly among children and other vulnerable groups. We seek to achieve this by improving regulations and their enforcement, raising awareness about food labelling and marketing practices, monitoring promotional trends and promoting healthier foods.

Status of and support for this submission

We are pleased to submit this response to the Food Standard Agency's (FSA) Action Plan on Food Promotions and Children's Diets (referred to below as 'the Action Plan').

The comments relating to the promotion of foods to children and the food environments within schools are presented on behalf of the coalition of 115 national organisations which currently support the Children's Food Bill.¹ A list of these organisations is presented as Appendix I.

The comments relating to food labelling and health claims are based upon previous submissions made by Sustain to the FSA, which have been developed over a long period together with Sustain's membership.

Support for the Action Plan's aims

We are sure that all those without commercial interests will support the FSA's aim to reduce the proportion of children's diets which are made up of foods, snacks or meals that are high in fat, sugar or salt, in favour of healthier options. Notwithstanding our comments below about the ineffectiveness of voluntary guidance, we particularly welcome the FSA's proposals to publish nutritional criteria for children's food.

Many working in public health, including a wide range of Sustain's member organisations, would include additional factors in the development of criteria for unhealthy foods. The Children's Food Bill (see below) will require the FSA to assess the impact of food additives, contaminants in food, and food production techniques such as GM and food irradiation on children's health. We maintain that when it comes to children's health, the 'precautionary principle' should come into full effect and a holistic approach should be taken.

¹ See www.childrensfoodbill.org.uk

Effective statutory controls versus weak voluntary guidance and advice

In March 2004, Sustain submitted a report, '*Children's Food and Health*', to the FSA and the Government, which details the overwhelming case for urgent legislation to protect children from unhealthy food advertising and promotions. A copy of this report is presented as Appendix II and we request that its content and recommendations are considered in detail as part of this response.

As the report was first presented in March, it does not cover the many of the positive recommendations arising from the recent House of Commons Health Select Committee Obesity Inquiry², which also noted the intense, relentless and exploitative nature of unhealthy food advertising to children. *Children's Food and Health* does, however, highlight the ineffective nature of voluntary approaches and recognises that statutory controls are required to end commercial activities which promote unhealthy foods to children. The call for legislation to protect children from advertising and promotions which promote foods that contribute to an unhealthy diet is supported by our coalition of 115 national organisations (Appendix I). Public support is also very strong. For example, in a BBC survey of 9,000 people conducted in March this year, 81% strongly supported a ban on fast food and confectionery advertising on television when children are watching.³

A number of proposals in the Action Plan (for instance use of repeat purchase promotions (Option 6d) and use of celebrities, characters and cartoons (Option 6g) state that they will "ensure" that these types of activities are "not used" to encourage the consumption of inappropriate foods. But, as these proposals only "encourage" the industry to behave in a responsible fashion, it is inappropriate to claim that they will "ensure" the desired outcomes. Calls for voluntary restrictions of this nature cannot "ensure" industry compliance and this level of confidence should be reserved for mandatory regulations.

The comment in the FSA Promotional Activity and Children's Diets paper, discussed at the Board meeting on 11 March 2004⁴, that "industry's approach to responsible food promotion is crucial", is testament to the fallibility of the voluntary status of the Action Plan. Since the FSA's announcement in November 2000 that it would develop and implement a voluntary code of practice on the promotion of food to children⁵, the food and advertising industries have continued to deny that their promotional activities are in anyway problematical.

Indeed, the bodies representing these industries (the Food and Drink Federation and the Advertising Association) consistently refuse publicly to accept the central finding of the FSA's systematic review of research on the effects of food promotion to children: that food promotions affect children's food behaviour, preferences and consumption at a category level.⁶

² House of Commons Health Committee, '*Obesity: Third Report of Session 2003-04*', Volume 1, May 2004

³ See BBC News report, 24 March 2004: <http://news.bbc.co.uk/1/hi/health/3561483.stm>

⁴ Board Paper FSA 04/03/02, Agenda Item 2, 11 March 2004

⁵ Food Standards Agency, Food Labelling Forum, Summary Report, November 2000

⁶ Food Standards Agency, *Review of Research on the Effects of Food Promotion to Children*, September 2003

The Children's Food Bill

For these reasons, most consumer and public interest organisations have no confidence that children's health will be safeguarded by industry acting on a voluntary basis. The Children's Food Bill therefore seeks to introduce a range of positive statutory controls which will improve children's diets and their current and future health. These include:

- protecting children from the marketing of unhealthy food and drink products
- mandatory nutrient and compositional standards for school meals
- a ban on the sale of unhealthy food and drink products from school vending machines
- compulsory food education and related practical skills in the national curriculum
- a duty on the government to promote healthy foods, such as fruit and vegetables, to children

In addition to the 115 supporting national organisations, cross-party political support for the Bill is demonstrated by the 144 MPs (as at 18 June 2004) who have already signed the Children's Food Bill Early Day Motion – EDM 1256.⁷

The Children's Food Bill provides a multi-faceted approach to addressing the growing crisis in children's diet-related health, as recommended in the House of Commons Health Committee's Obesity report. It will result in legislation, thus 'ensuring' that its protective provisions have full compliance, in contrast to the weaknesses of voluntary approaches.

Costs to industry versus benefits to children's health

The FSA's Partial Regulatory Impact Assessment (RIA), repeatedly refers to costs to industry resulting from a loss of sales or advertising revenue. We trust that the FSA will place at the forefront of its decision-making process the interests of consumers. After all, reducing sales of unhealthy foods consumed by children is the desired outcome of the proposals, without which the Action Plan will not succeed.

The notes accompanying some of the Action Plan's proposals (for instance reducing amounts of fat, sugar and salt in children's foods (Option 6a) and the label signposting of foods (Option 6b)) also acknowledge that costs may be more significant if some industry competitors choose not to follow the FSA's guidance. Together with the diversity and highly competitive nature of the food industry, this recognition again highlights the weakness of approaches which rely on "encouraging uptake of best practice advice".

In relation to reducing the amounts of fat, sugar and salt, the Action Plan suggests that such disparity in costs would not be applicable "if the market moves multilaterally". However, we maintain that it is not realistic to propose that the whole food industry will, or is able to, voluntarily act together to address the multitude of unhealthy food products designed for children.

Proposals to improve children's diet and future health should not be compromised by consideration of costs to those industries which are responsible for the development, provision and selective promotion of unhealthy children's foods. The FSA should also bear in mind that

⁷ For more information, see: <http://edm.ais.co.uk/weblink/html/motion.html/ref=1256>.

other industries will benefit from expenditure displaced from the reduced purchases of unhealthy foods.

Food and drink in schools and publicly funded premises

Vending machines

We support the proposals to ensure that school vending machines offer healthier options and that schools should not accept machines with branding associated with unhealthy foods (Option 2a). However, in specifying legislation which will prevent the sale of unhealthy foods from school vending machines, the Children's Food Bill adopts a more robust position.

Decisions about school vending machines are currently made by the governors within each school. The voluntary nature of the proposed FSA guidelines for schools mean that a school may still decide to allow vending machines selling unhealthy foods and drinks. As the Action Plan seeks to improve all children's diets, there is no logical reason as to why this decision should be made on a local basis.

The RIA refers to research which links the consumption of sugar-sweetened carbonated drinks to tooth erosion (*British Dental Journal*) and obesity (*The Lancet*). More recent research published in the British Medical Journal in April this year describes a school programme to discourage children from drinking carbonated drinks, resulting in a significant reduction in the number of overweight and obese children.⁸

School meals

Analysis of the unacceptably poor standards of school meals⁹ demonstrates the ineffectiveness of the current food group based regulations.^{10, 11} Whereas we are generally supportive of the FSA's intention for schools to provide and promote healthy options at school mealtimes (Option 2b), we believe that strict compulsory nutrient and compositional standards should exist for all school meals. This is a requirement of the Children's Food Bill.

Food labelling and health and nutrition claims

We unreservedly support the FSA's position that Government departments and agencies should not endorse promotional campaigns that encourage children to consume unhealthy foods (Option 3a).

We also fully support the FSA's work to introduce EU rules to bring about full and mandatory food labelling which provides meaningful information to consumers at the point of purchase (Option 3b). We believe that the interests of the consumer will be best served by the introduction of high/medium/low descriptors for fat, saturated fat, non-milk extrinsic sugar and salt, as proposed. This format has been well received in FSA consumer testing¹² and has been

⁸ James J et al, 'Preventing childhood obesity by reducing consumption of carbonated drinks', *BMJ*, 23 April 2004

⁹ Soil Association, *Food for Life: healthy, local, organic school meals*, 2003

¹⁰ Education (Nutritional Standards for School Lunches) (England) Regulations 2000

¹¹ Education (Nutritional Standards for School Lunches) (Wales) Regulations 2001

¹² Food Standards Agency, *Nutritional Labelling Qualitative Research: Final Report*, November 2001

used very successfully by the Co-op over many years.¹³ It is clearly in the best interests of consumer protection that rules be introduced to prohibit the use of inappropriate nutrition and health claims (Option 3c).

Contrary to the rosy picture often painted by the food industry, Food Commission reports¹⁴ demonstrate widespread non-compliance with the FSA's voluntary guidance on nutritional labelling and use of nutrition and health claims. This highlights the food industry's lack of interest in voluntary approaches. Indeed, recent correspondence from the British Soft Drinks Association published in the Guardian newspaper¹⁵, indicates that sectors of the food industry will resist uptake of the labelling best practice advice presented in Option 6(b).

TV advertising of food to children

We welcome the FSA's recognition that there is a major imbalance in the types of foods which are promoted to children and the recommendation to Government and Ofcom that action on TV advertising of food to children is justified (Option 3d).

The *Children's Food and Health* report (Appendix 2) explains the shared position of our coalition of national supporting organisations that children should be protected by statutory controls from advertising and promotions which present unhealthy foods and positive and desirable choices. This position has also been formally adopted by the British Medical Association's Public Health Committee, which at its annual conference this month passed a resolution calling for a ban on 'junk' food ads before the watershed, and a total ban on such adverts on children's TV.¹⁶

We agree that Ofcom should review the arrangements for regulation of sponsorship of programmes which are likely to attract a large child audience (Option 3e). The sponsorship of such programmes is another common and powerful method of promoting unhealthy foods to a young audience. To give a sufficient level of protection, regulation should mean statutory controls preventing such targeting.

Role for responsible broadcasting and character licensing

We join the FSA in calling upon broadcasters to promote healthy foods to children and to follow the example of the BBC Worldwide initiative to introduce nutritional criteria for using characters from its children's programmes (Options 4a and 4b). We also agree that character and cartoon licensors should use their influence to encourage healthier eating in children (Option 7a) and in particular, we support the Food Commission's efforts to engender such responsible behaviour.

However, the Action Plan does not detail a precise mechanism to enforce such an approach and relies instead upon voluntary industry action. The definition of marketing within the Children's Food Bill encompasses character licensing and introduction of the Bill would therefore prevent the use of children's characters and cartoons in the marketing of unhealthy foods to children.

¹³ The Co-operative Group, *The Lie of the Label II: Why dishonest labelling is past its sell-by date*, August 2002

¹⁴ See issues of the Food Magazine *passim*

¹⁵ 'Taking the fizz out of fast food': Letter from British Soft Drinks Association, The Guardian, 28 May 2004

¹⁶ 'Call for ban on junk food advertising before the watershed', BMA Press Release, 7 June 2004

New media in food advertising to children

The recommendation that the Advertising Standards Authority (ASA) should keep the arrangements for regulation of food advertising to children using new media “under review” is very weak (Option 5a). It is not clear why this option is less robust than Option 3d which describes the justification for action on TV advertising of food to children. This is peculiar given the Action Plan’s acknowledgement that food companies’ dedicated websites represent substantial investment and attract tens of thousands of children each month.

The Action Plan claims that its recommendation to keep the use of new media “under review” will “ensure that in so far as they are used for foods aimed at children, these promotional tools are used to encourage consumption of healthier choices”. This statement is flawed for two fundamental reasons, outlined below:

1. The ASA is an industry funded body, which is therefore not independent of commercial interests. Indeed, the Health Committee’s Obesity Inquiry points to the industry self-regulatory nature of the ASA and states that it was “disturbed” at its “ineffectiveness”. It is difficult to imagine how this industry body can adopt a robust approach to the regulation of food advertising to children. That this is a genuine concern is demonstrated by the ASA’s inaction following the Government’s 1994 Nutrition Task Force which asked both the ITC and the ASA to consider a review of their codes of practice in light of concerns about children and food advertising. Although the ITC undertook a public consultation and review process that resulted in changes to its code (e.g. the provision of the clause stating that advertising should not undermine progress towards national dietary improvement), the ASA - in a closed industry process - decided that such a review was unnecessary.
2. The FSA’s Action Plan (see Option 5a and corresponding notes) gives the impression that the ASA regulates the content of companies’ websites. This is not the case. Sustain has repeatedly criticised the ASA for not accepting complaints relating to promotions appearing on the internet. The ASA even refuses to consider complaints in relation to internet promotions which have been advertised in print media and which invite consumers to visit a specific company site.

In correspondence with Sustain in May this year, Christopher Graham, ASA Director General, categorically states, “The ASA’s remit on the Internet extends only to advertisements in paid-for space. Corporate websites are therefore outside the ASA’s competency, claims made on such websites being considered to be editorial”.¹⁷

In spite of the fact that company websites have the capacity to engage and influence children, they remain totally unregulated. We recommend that the FSA revises option 5(a) to call upon the Government to introduce appropriate regulation to protect children.

The role of the food industry

Whilst we strongly support the FSA’s aim to reduce the amounts of fat, sugar and salt in foods aimed at children (Option 6a), we question the ability and resolve of industry to respond multilaterally to corresponding best practice advice. A better approach would be to call for mandatory criteria similar to those which will result from the Children’s Food Bill. That way

¹⁷ Unpublished letter from Director General ASA to Sustain, dated 17 May 2004

compliance will not be optional and a ‘level playing field’ will exist across the food industry. We recommend that on a precautionary basis, the FSA also sets goals for reducing additive and contaminant levels in children’s food and for food processing methods.

The recommendation to signpost unhealthy and healthy food choices on children’s menus is welcomed (Option 6c), but as compliance is voluntary, universal uptake is most unlikely. Similarly, with the recommendation that the food industry should use new media to promote healthier foods (Option 6e), sadly, they are unlikely to do so simply because of encouragement from the FSA.

The Action Plan’s recommendations to:

- use repeat promotions only for healthier foods (Option 6d)
- use sponsorship only for brands associated with healthier foods (Option 6f)
- use celebrities, characters and cartoons to encourage healthier rather than unhealthy foods (Option 6g)
- use in-store promotional techniques to promote healthier products (Option 6h) and
- remove unhealthy foods from checkouts and replace with healthier options (Option 6h)

are all commonsense, but to ensure compliance, should be mandatory. It is highly unlikely, for instance, that manufacturers of unhealthy foods will multilaterally refrain from highly profitable ‘free gift’ type promotions.

Clearly, celebrities should use their influence to encourage children to eat healthier foods (Option 7a) and it would be good practice for organisers of events to accept only sponsorship for brands associated with healthier foods (Option 8a). However, whilst the food industry is prepared to offer lucrative contracts to secure the services of ‘superstar’ personalities (for instance, Pepsi’s David Beckham and Britney Spears promotions¹⁸) and whilst companies vigorously defend their right to be involved in school fundraising activities (for instance Krispy Kreme donuts current school initiative¹⁹), it is difficult to see how a reduction in these sorts of promotions can come about on a voluntary basis.

Other areas for action

The campaign for the Children’s Food Bill calls for statutory measures to prevent **all** forms of marketing of unhealthy foods to children. This is very important because experience from the tobacco advertising ban demonstrates that industry will exploit other accessible and available marketing routes.

The FSA Action Plan is not comprehensive in this respect. For instance, it does not consider advertising and promotions in children’s comics and magazines, radio promotions, cinema advertisements, use of food branding on non-food products and the use of branded educational and learning materials in schools. We believe it should do so.

¹⁸ See: www.pepsi.co.uk/football/ and www.pepsi.co.uk/music/

¹⁹ ‘Addictive Krispy Kremes sold to schools at half price’, Sunday Telegraph, 30 May 2004

Appendix I: Children's Food Bill Supporters

Sustain: The alliance for better food and farming

Support confirmed (as at 18 June 2004) in writing from:

www.childrensfoodbill.org.uk

Action Against Allergy
Allergy Alliance
Alliance for Childhood
Arid Lands Initiative
Association for the Study of Obesity
Autism Unravalled
Baby Milk Action
Biodynamic Agricultural Association
Blood Pressure Association
British Allergy Foundation
British Association for Community Child Health
British Association for the Study of Community Dentistry
British Cardiac Society
British Dental Association
British Dental Health Foundation
British Dental Hygienists' Association
British Dietetic Association
British Heart Foundation
British Heart Foundation Health Promotion Research Group
British Hypertension Society
British Institute for Allergy & Environmental Therapy
Cancer Research UK
Centre for Food Policy
Chartered Institute of Environmental Health
Child Growth Foundation
Child Poverty Action Group
Children's Society
Coeliac UK
Co-operative Group (CWS) Ltd
Community Health UK
Community Nutrition Group
Community Practitioners' and Health Visitors' Association
Compassion in World Farming (CIWF)
Consensus Action on Salt and Health (CASH)
Coronary Artery Disease Research Association
Coronary Prevention Group
Day Care Trust
Diabetes UK
Digestive Disorders Foundation
Eating Disorders Association
Ecological Foundation
Elm Farm Research Centre
Faculty of Public Health
Family Welfare Association
Farmers' Link
FARM
Federation of City Farms and Community Gardens
Food Additives Campaign Team
Food and Chemical Allergy Association
Food Commission
Food and Health Research
Food Matters
Foundation for Local Food Initiatives
Foundations UK
Friends of the Earth
General Consumer Council for Northern Ireland
Gingerbread
Guild of Food Writers
Hands Up For
Haemolytic Uraemic Syndrome Help (HUSH)
Health Education Trust
Heart UK
Human Scale Education
Hyperactive Children's Support Group
International Society for Food Ecology and Culture
Land Heritage
Latex Allergy Support Group
Magic Breakfast
Maternity Alliance
McCarrison Society for Nutrition and Health
Migraine Action Association
National Children's Bureau
National Council of Women
National Consumer Council
National Consumer Federation
National Family and Parenting Institute
National Federation of Women's Institutes
National Heart Forum
National Obesity Forum
National Oral Health Promotion Group
National Union of Teachers
The National Youth Agency
Netmums
New Economics Foundation
Northern Ireland Chest, Heart and Stroke Association
Organix Brands
Parent Organisation Ltd
Permaculture Association
Positive Parenting
Realfood
Royal College of General Practitioners
Royal College of Physicians
Royal College of Surgeons
Royal Institute of Public Health
Royal Society for the Promotion of Health
Scottish Consumer Council
Scottish Heart and Arterial Disease Risk Prevention
Small and Family Farms Alliance
Social Equity in Environmental Decisions (SEEDS)
Society of Health Education and Promotion Specialists
Soil Association
Soroptimist International of Great Britain
Stroke Association
TOAST (The Obesity Awareness & Solutions Trust)
UK Public Health Association
UNISON
Vega Research
Vegetarian and Vegan Foundation
Viva! (Vegetarians International Voice for Animals)
Weight Concern
Welsh Consumer Council
Welsh Food Alliance
World Wide Opportunities on Organic Farms
World Cancer Research Fund
Young Minds

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