

Report to the Tyne and Wear Trading Standards Joint Committee

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An update on the proposed Food (Promotion and Placement) (England) Regulations 2021

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Purpose of the report

To provide Committee with an update on the proposed Food (Promotion and Placement) (England) Regulations 2021 (the regulations).

Food (Promotion and Placement) (England) Regulations 2021

1. The regulations provide for restrictions on the promotions and placement in retail stores and their online equivalents of certain foods and drinks that are high in fat, salt, or sugar (HFSS) or 'less healthy'.
2. The Government consulted in 2019 on restricting the promotion of HFSS products by volume price (for example, multibuy offers such as 'buy one get one free') and location, both online and in store. The Government then consulted on technical enforcement of the restrictions in 2020.
3. Following these consultations, the Government introduced legislation to restrict the promotion of HFSS products by volume price (for example, 'buy one get one free') and location, both online and in store in England. (HFSS is otherwise known as 'less healthy food and drink') These regulations were planned to come into full force on 1 October 2022.
4. Government believes that evidence shows that food retail price promotions are widespread and effective at influencing food preferences and purchases (particularly for children). Previous reports recommended that reducing and rebalancing promotions towards healthier food and drink is essential to help reduce children's sugar and calorie intakes and help tackle obesity.
5. Furthermore, the shopping environment plays an important part in the way products are marketed to us, with simple factors such as the location of products within stores significantly affecting what we buy. The current retail promotional environment:
 - does not always align with government healthy eating guidelines
 - makes it harder for families to make healthier choices when shopping
6. The Government believes that compliance by industry with the promotion and placement regulations can significantly improve our food environment by ensuring healthier food is more easily accessible and more visible in shops, ultimately supporting people to lead healthier lives.

7. The regulations aim to restrict promotions of HFSS or 'less healthy' products by:
 - volume price – for example, multibuy offers
 - key locations (store entrances, aisle ends and checkouts) when retail stores are over 185.8 square metres (m²) (or 2,000 square feet (sq. ft)) and the equivalent key locations online
8. These restrictions apply to medium and large businesses (with 50 employees or more). Failure to comply with regulations may result in a business being issued with an improvement notice and subsequently a fixed monetary penalty if compliance is not achieved as required.

Enforcement of the regulations

9. The regulations may be enforced by trading standards or environmental health officers depending on local arrangements. Officers will be authorised to carry out their functions to enforce these regulations.
10. Enforcement authorities will check:
 - whether a store is part of a medium or large business (where the total number of employees operating under that business name is 50 or more) – if not, the business is out of scope of the regulations
 - whether a store is a specialist store selling one type of product (exempt from location restrictions)
 - whether a store size is less than 185.8m² (2,000 square feet) (exempt from location restrictions)
 - the presence of any products that are part of the food in scope categories in a restricted volume price or location promotion, in store and online
 - if there are products in these categories on volume price or location promotions, to ascertain from the retailer how they have ensured that these are not HFSS or 'less healthy'.

Latest Position

11. On the 14 May 2022 the Government announced that the full implementation of the regulations will be delayed in light of unprecedented global economic situation and in order to give industry more time to prepare for the restrictions on advertising
 - Rules limiting the location of unhealthy foods in shops will go ahead as planned in October 2022.
 - Rules banning multibuy deals on foods and drinks high in fat, salt, or sugar (HFSS) – including buy one get one free (BOGOF), '3 for 2', and restrictions on free refills for soft drinks – will be delayed for a year.
 - Restrictions on the placement of less healthy products – a key part of the government's commitment to reduce obesity – will still come into force in October 2022 as planned. These will mean less healthy products are no longer promoted in key locations, such as checkouts, store entrances, aisle ends and their online equivalents.

Recommendation

12. The Committee is asked to note the information. Further information can be sought at: <https://www.gov.uk/government/publications/restricting-promotions-of-products-high-in-fat-sugar-or-salt-by-location-and-by-volume-price/restricting-promotions-of-products-high-in-fat-sugar-or-salt-by-location-and-by-volume-price-implementation-guidance>

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