



Content and Scheduling Rules for HFSS Food and Drink Advertising

Practical Guidance

1. Background

New content and scheduling rules were introduced in January 2007 which had an impact on advertising deemed to be High in Fat, Sugar and Salt (HFSS) as determined through application of a nutrient profiling mechanism devised by the Food Standards Agency (FSA). There are several stages for the full application. The purpose of this note is to act as a practical guide to how Clearcast will handle food advertising scripts and commercials in the light of the new rules.

2. New Clearcast Procedures

- a. With effect from the beginning of January 2007, any script supplied to Clearcast accompanied by a Nutrition Profile Certificate will be cleared according to the new content rules.
 - i. It will be given a clearance code depending on whether it is an HFSS food (FNH) or not (FNL).
 - ii. Food and drink commercials that have not been assessed under the new rules will be cleared with the code FO (Grace period project, HFSS status unknown).
- b. With effect from the day Ofcom has made its final statement (end of January 2007), no new script will be assessed unless accompanied by a Nutrition Profile Certificate.
- c. With effect from the day Ofcom has made its final statement, continuations of projects already in progress submitted without a Nutrition Profile Certificate will be given an FO code.
- d. With effect from 1 April 2007, stations will apply the new scheduling rules to any material with no code, FO or FNH Code. Stations will presume an earlier cleared food commercial is HFSS unless the advertiser has taken action in good time to advise Clearcast otherwise and provide an appropriate certificate.
- e. With effect from 1 July 2007, stations will not broadcast any food or drink advertisement unless it has either an FNH or an FNL Code.
- f. Code meanings are:
 - FH**; cleared under new content rules and is an HFSS product
 - FL**; cleared under new content rules and is not an HFSS product
 - FO**; cleared as a grace period project. HFSS status unknown

3. Nutrient Profile Certificate

The Nutrient Profile Certificate will be required with any new script or commercial as of 1 February 2007.

The certificate can be found on help.clearcast.co.uk

4. New Content Rules

7.2 Food And Soft Drink Advertising And Children

Notes:

1. The rules in 7.2 must be read in conjunction with the other rules in this Code, especially section 8.3, „Food and Dietary Supplements“. References to food apply also, where relevant, to beverages.

2. These definitions apply in rule 7.2:

- „Children“ refers to persons below the age of 16.
- Licensed Characters - those characters that are borrowed equities and have no historical association with the product.
- Equity Brand Characters – those characters that have been created by the advertiser and have no separate identity outside their associated product or brand.
- HFSS products – those food or drink products that are assessed as high in fat, salt or sugar in accordance with the nutrient profiling scheme published by the Food Standards Agency (FSA) on 6 December 2005. Full details of the FSA’s nutrient profiling scheme are available on the FSA website at:
<http://www.food.gov.uk/healthiereating/advertisingtochildren/nutlab/nutprofmod>

7.2.1 Diet and lifestyle.

Advertisements must avoid anything likely to encourage poor nutritional habits or an unhealthy lifestyle in children.

Notes:

(1) This rule does not preclude responsible advertising for any products including those that should be eaten only in moderation.

(2) In particular, advertisements should not encourage excessive consumption of any food or drink, frequent eating between meals or eating immediately before going to bed.

(3) It is important to avoid encouraging or condoning attitudes associated with poor diets, for example, a dislike of green vegetables.

(4) Portion sizes or quantities of food shown should be responsible and relevant to the scene depicted, especially if children are involved. No advertisement should suggest that a portion intended for more than one person is to be consumed by a single individual or an adult’s portion, by a small child.

(5) Advertisements for food should not suggest that an inactive or sedentary lifestyle is preferable to physical activity.

7.2.2 Pressure to purchase

Note: Please see also 7.3 [Revised numbering] (Pressure to purchase)

(a) Although children may be expected to exercise some preference over the food they eat or drink, advertisements must be prepared with a due sense of responsibility and should not directly advise or ask children to buy or to ask their parents or other adults to make enquiries or purchases

Notes:

(1) This extends to behaviour shown: for example, a child should not be shown asking for a product or putting it into the parent's trolley in the supermarket.

(2) Phrases such as "Ask Mummy to buy you" are not acceptable.

(b) Nothing in an advertisement may seem to encourage children to pester or make a nuisance of themselves.

(c) Advertisements must not imply that children will be inferior to others, disloyal or will have let someone down, if they or their family do not buy, consume or use a product or service.

(d) Advertisements must neither try to sell to children by appealing to emotions such as pity, fear, loyalty or self-confidence nor suggest that having the advertised product somehow confers superiority, for example making a child more confident, clever, popular, or successful.

(e) Advertisements addressed to children should avoid „high pressure“ and „hard sell“ techniques, i.e. urging children to buy or persuade others to buy. Neither the words used nor the tone of the advertisement should suggest that young viewers are being bullied, cajoled or otherwise put under pressure to acquire the advertised item.

(f) If an advertisement for a children's product contains a price, the price must not be minimised by the use of words such as "only" or "just".

Note:

Products and prices should not be presented in a way that suggests children or their families can easily afford them.

7.2.3 Promotional offers

Promotional offers should be used with a due sense of responsibility and promotional offers for HFSS food and drink must not be targeted directly at pre-school or primary school children.

(a) Advertisements featuring promotional offers linked to food products of interest to children must avoid creating a sense of urgency or encouraging the purchase of excessive quantities for irresponsible consumption.

(b) Advertisements should not seem to encourage children to eat or drink a product only to take advantage of a promotional offer: the product should be offered on its merits, with the offer as an added incentive. Advertisements featuring a promotional offer should ensure a significant presence for the product.

(c) Advertisements for collection-based promotions must not seem to urge children or their parents to buy excessive quantities of food. They should not directly encourage children only to collect promotional items or emphasise the number of items to be collected. If promotional offers can also be bought, that should be made clear. Closing dates for collection-based promotions should enable the whole set to be collected without having to buy excessive or irresponsible quantities of the product in a short time. There should be no suggestion of "Hurry and buy".

(d) If they feature large pack sizes or promotional offers, e.g. "3 for the price of 2", advertisements should not encourage children to eat more than they otherwise would.

(e) The notion of excessive or irresponsible consumption relates to the frequency of consumption as well as the amount consumed.

7.2.4 Use of characters and celebrities

Celebrities and licensed characters popular with children must be used with a due sense of responsibility. They may not be used in advertisements for HFSS products targeted directly at pre-school or primary school children.

Notes:

(1) Advertisements must not, for example, suggest that consuming the advertised product will enable children to resemble an admired figure or role-model or that by not doing so children will fail in loyalty or let someone down.

(2) This prohibition does not apply to advertiser-created equity brand characters (puppets, persons or characters), which may be used by advertisers to sell the products they were designed to sell.

(3) Persons such as professional actors or announcers who are not identified with characters in programmes appealing to children may be used as presenters.

(4) Celebrities and characters well-known to children may present factual and relevant generic statements about nutrition, safety, education, etc.

8.3 Food and Dietary Supplements

Notes:

(1) The rules in 8.3 must be read in conjunction with the relevant legislation including the Food Labelling Regulations 1996 (as amended) and especially Schedule 6. They apply to all advertising for food products. If an advertisement is targeted at children, Section 7 of this Code also applies.

(2) Public health policy increasingly emphasises good dietary behaviour and an active lifestyle as a means of promoting health. Commercial product advertising cannot reasonably be expected to perform the same role as education and public information in promoting a varied and balanced diet but should not undermine progress towards national dietary improvement by misleading or confusing consumers or by setting bad examples, particularly to children. Advertisements for food should not suggest that an inactive or sedentary lifestyle is preferable to physical activity.

8.3.1 Accuracy in food advertising

(a) Nutrition claims (e.g. “full of the goodness of vitamin C”) or health claims (e.g. “aids a healthy digestion”) must be supported by sound scientific evidence. Advertising must not give a misleading impression of the nutritional or health benefits of the product as a whole and factual nutrition statements should not imply a nutritional or health claim that cannot be supported. Ambiguous wording that could be understood as a nutritional claim must be avoided. For example, “goodness” should not be used as a synonym for “wholesomeness” and, if a claim relates to taste, that should be made clear, e.g. “It tastes good”, not “It is good”. The scientific meaning of the word “energy”, i.e. calorific value, should not be confused with its colloquial meaning of physical vigour

(b) Nutritional claims and health claims should relate to benefits that are significant and relevant to groups likely to be strongly interested in the advertisement. Claims should be presented clearly and without exaggeration

(c) No nutritional or health claim for a HFSS food or drink product may be targeted directly at pre-school or primary school children

(d) The fact that a food product is a good source of certain nutrients does not justify generalised claims of a wider nutritional benefit

Notes:

(1) Claims of nutritional or health benefits should be considered in the context of a balanced diet or lifestyle or both.

(2) A wide range of guidelines that offers best-practice advice for nutritional claims and healthy eating is available. For example, DEFRA Guidelines for the Use of Certain Nutrition Claims in Food Labelling and Advertising include a recommendation to avoid “% fat free” claims (issued November 1999). Appropriate consideration and uniform application of such guidelines is needed from the relevant pre-clearance and adjudicatory bodies.

(3) Licensees may also find the Joint Health Claims Initiative Code of Practice useful.

8.3.2 Excessive consumption

Advertisements must not encourage or condone excessive consumption of any food

Notes:

(1) Interpretation of this rule should be by reference to generally accepted nutritional advice. It would clearly not be inconsistent with shots of someone enjoying a chocolate bar; it would, however, preclude someone being shown eating whole boxes of chocolates in one sitting.

(2) Portion sizes or quantities of food shown should be suitable for the occasion and the people portrayed, especially if children are involved. Advertisements should not suggest that a portion intended for more than one person is to be consumed by a single individual or an adult’s portion, by a small child.

(3) If they feature large pack sizes or promotional offers, e.g. “3 for the price of 2”, advertisements should not encourage people to eat more than they otherwise would.

(4) The notion of excessive consumption relates to the frequency of consumption as well as the amount consumed.

8.3.3 Comparisons and good dietary practice

Advertisements must not disparage good dietary practice. Comparisons between products must not discourage the selection of options such as fresh fruit and vegetables, which accepted dietary opinion recommends should form a greater part of the average diet

Notes:

(1) Advertisements should not seem to contradict or ignore good dietary practice.

(2) To reflect generally accepted good dietary practice, a reasonable variety of other foods should be shown if the advertised product is presented as part of a meal.

(3) Food products not intended as substitutes for meals should not be presented as such.

8.3.4 Oral health

Advertisements must not encourage or condone damaging oral health care practices

Note:

For instance, advertisements must not encourage frequent consumption throughout the day, particularly of potentially cariogenic products such as those containing sugar. This rule has children’s dental health particularly in mind.

8.3.5 Dietary supplements

(a) Advertisements must not suggest that it is necessary or therapeutic for the average person to augment their diet or that dietary supplements can enhance normal good physical or mental condition

(b) Advertisements must clearly establish those groups of people likely to benefit from a particular form of supplement

Note to 8.3.5(b):

Only certain groups are likely to benefit from particular vitamin or mineral supplements. They might include people on a restricted dietary regimen, those eating unsupplemented, low-energy diets, women of child-bearing age (particularly if they are planning to have a baby, are pregnant or lactating), growing children and some individuals over 50.

5. New Scheduling Rules

BCAP Rules on the Particular Separation of Advertisements and Programmes

Specific Separation Requirements 4.2

GENERAL NOTES:

(i) The term „adjacent“ where used in these rules refers to a break immediately before or after the programme in question.

(ii) The term „children“s programmes“ means programmes made for children below the age of 16.

(iii) Channels devoted to children“s programmes, or whose programmes are or are likely to be of particular appeal to children, will be unlikely to be able to carry at any time advertising of the kind restricted under 4.2.1 and 4.2.2 below. Such channels should also take particular note of 4.2.3 and 4.2.4. Thus, for instance, dedicated children“s channel“s may not carry any advertising products or services restricted under 4.2.1(b) below, namely: lotteries, pools and food or drinks assessed as high in fat, salt or sugar.

(iv) For the avoidance of doubt, any given timing, programme category or age band restriction subsumes any other less severe restriction. Thus, a „post 9pm“ subsumes both a „post 7.30 pm“ as well as the restriction on scheduling in or adjacent to children“s programmes or programmes likely to have a significant child audience. Similarly, a prohibition on transmission in „children“s programmes“, includes e.g. programmes made for pre-school children. Particular care needs to be exercised where a programme for, or likely to be of interest to, children is transmitted late in the evening or in the small hours, as for example at Christmas. Where such a programme is transmitted after 9pm, no advertisement carrying a timing restriction may be transmitted in or around that programme.

Children and young people 4.2.1

(a) The following may not be advertised in or adjacent to children“s programmes or programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 18:

(i) alcoholic drinks containing 1.2 per cent alcohol or more by volume;

(See also 4.2.5 below)

(See note (iii) below on identification of programmes of particular appeal)

(ii) bingo;

(iii) religious matter subject to the rules on Religious Advertising in the BCAP Television Advertising Standards Code;

(iv) slimming products, treatments or establishments.

(b) The following may not be advertised in or adjacent to children's programmes or programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 16:

(i) lotteries;

(ii) pools.

(iii) foods or drinks that are assessed as high in fat, salt or sugar in accordance with the nutrient profiling scheme published by the Food Standards Agency (FSA) on 6 December 2005.

(c) The following may not be advertised in or adjacent to children's programmes or programmes which are of particular appeal to children under 10:

(i) female sanitary protection products.

(d) The following may not be advertised in or adjacent to children's programmes:

(i) drinks containing less than 1.2 per cent alcohol by volume when presented as low or no-alcohol versions of an alcoholic drink;

(ii) liqueur chocolates;

(iii) matches;

(iv) medicines, vitamins and other dietary supplements;

(v) trailers for films or videos carrying an 18- or 15- certificate;

NOTES:

(i) Full details of the FSA's nutrient profiling scheme are available on the FSA website at: <http://www.food.gov.uk/healthiereating/advertisingtochildren/nutlab/nutprofmod>

(ii) The restrictions above include sponsorship of the programme.

(iii) Particular appeal – See BCAP Advertising Guidance Note 5 - Audience indexing: identification of programmes likely to appeal to children and young people.

(iv) Depending on content and, in particular, on the extent and nature of any portrayal of violence or sexual activity, an alternative timing restriction such as post 7.30pm, post 9pm or even later may often be appropriate for material in category (d)(v), particularly that which is 18 rated.

(v) Again subject to content, this does not preclude the scheduling in or adjacent to children's programmes of advertisements containing brief extracts from films where these are used in connection with promotional offers derived from films for other types of product or service.