

FRC Food Policy Discussion Paper

**Shaping the debate:
has corporate
lobbying impacted
UK laws on promoting
products high in fat,
salt and sugar?**



**Food Research
Collaboration**

an initiative of

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Shaping an effective food system

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Introduction

This paper seeks to scrutinise the extent of corporate lobbying at the Department of Health and Social Care (DHSC) and the Department for Digital, Culture, Media and Sport (DCMS). It follows our previous research on lobbying activities by the food industry at the [United Nations climate change conference in Glasgow](#) and at the [Department for Business, Energy and Industrial Strategy \(BEIS\)](#); the [Department for Environment, Food and Rural Affairs \(DEFRA\)](#); and the [Department for International Trade \(DIT\)](#).

Examining whether and to what extent the Department of Health and Social Care and the Department for Digital, Culture, Media and Sport have been subject to corporate lobbying is particularly relevant. In 2020, the government announced its intention to tackle obesity in the UK by “*empowering everyone with the right information to make healthier choices*”, and by legislating to end promotion of foods high in fat, sugar or salt (HFSS) in three ways: restricting placement of HFSS foods in prominent locations within retail outlets such as store entrances, checkouts, and aisle ends; restricting ‘volume promotions’ such as buy-one-get-one-free; and banning the advertising of HFSS products being shown on TV and online before 9pm.¹

Placement restrictions limiting the location of unhealthy foods in shops came into force in October 2022. The other two legislative actions, however, were delayed. The restrictions on volume promotions that were due to be enforced from October 2022 have been delayed until October 2023, and the advertising restrictions have been delayed until January 2024, owing to “*a delay to the Health and Care Bill receiving Royal Assent, as well as a growing recognition that the industry needs more time to prepare*”.² Given the recent political upheaval in the UK, as of October 2022

it remains uncertain whether these legislative changes will take place or if they will be delayed further, or even watered down or cancelled altogether.

The delays, and the uncertainty surrounding what were hailed as important measures to combat obesity, are concerning and merit further analysis. The former Prime Minister, Boris Johnson, had said: “*Losing weight is hard but with some small changes we can all feel fitter and healthier. If we all do our bit, we can reduce our health risks and protect ourselves against coronavirus – as well as taking pressure off the (National Health Service)*”.³ This makes scrutiny of the processes behind these policy activities, and the possible role of lobbying, even more timely.

Analysis by the Obesity Health Alliance calculated that HFSS industry advertising far outweighs the amount the government is able to spend on healthy eating campaigns: in 2016 the top spending crisp, confectionery and sugary drinks brands spent over £143 million in advertising their products, whereas the UK government spent just £5.2 million on its Change4Life healthy eating campaign.⁴

As far back as 2004, Tim Lang and Michael Heasman highlighted the immense influence that food lobbies have on policymaking in their book *Food Wars*: “*Huge sums are expended by food companies to ensure that their interests are protected and promoted when new regulations or responses to health or environmental matters are being considered*”.⁵ In order to shine some light on contemporary activities by the food industry, we have conducted a thorough investigation of lobbying specifically relating to food advertising policies and HFSS products.



What we have done

As in our previous research into industry interactions with policymakers, we were able to examine publicly available data on meetings held by relevant ministers, civil servants and political special advisers, as these are released on a quarterly basis via the official government online portal gov.uk. We focused on interactions that took place between July 2020 and July 2021.

We acknowledge that examining one year of lobbying activity may be a limitation, and that both the machinery of government and lobbying

processes take place over the long term. We opted to examine lobbying between July 2020 and July 2021⁶ as this period encompasses the launch of the UK government’s strategy to tackle obesity, a policy that explicitly sought to “*end the promotion of foods high in fat, sugar or salt (HFSS) by restricting volume promotions such as buy one get one free, and the placement of these foods in prominent locations intended to encourage purchasing, both online and in physical stores in England (as well as) banning the advertising of HFSS products being shown on TV and online before 9pm*”.⁷



2020-2021 lobbying in detail

Our initial analysis showed that there were no recorded meetings on HFSS products and advertising restrictions between lobby groups and senior civil servants, or between lobby groups and special advisers.

The meetings highlighted and analysed below are solely between lobby groups (consisting of businesses, charities and non-governmental organisations) and government ministers.

July 2020 to September 2020

Department of Health and Social Care

- The Minister of State for Patient Safety, Suicide Prevention and Mental Health Nadine Dorries met with **Wera Hobhouse** MP and the eating disorder charity **Beat** “to discuss obesity strategy”.
- The Parliamentary Under Secretary of State (Minister for Vaccines and Public Health) Jo Churchill met with the chef and campaigner **Jamie Oliver** and the NGOs **the Obesity Health Alliance** and **the Food Foundation** “to discuss the government’s obesity strategy”.

Department for Digital, Culture, Media and Sport

- Our analysis found that **no relevant meetings** were held by the department in this period.

October 2020 to December 2020

Department of Health and Social Care

- Our analysis found that **no relevant meetings** were held by the department in this period.

Department for Digital, Culture, Media and Sport

- The Minister of State for Media and Data John Whittingdale met with Dame Carolyn McCall, the Chief Executive of **ITV** on three separate occasions to discuss “*High in Fat, Sugar and Salt (HFSS) Advertising*” as well as other issues.
- John Whittingdale also met with Alex Mahon, the Chief Executive of **Channel 4**, to discuss HFSS advertising.
- On December 16, John Whittingdale hosted a ‘broadcasting roundtable’ to discuss the HFSS consultation. The participants of the roundtable included senior representatives from the **BBC, ITV, Channel 4, S4C, Viacom, ITN, the Local TV Network, RadioCentre, Global, Bauer Media, Wireless, Sky** and **Ofcom**.
- On November 12 and November 13, the Minister of State for Digital and Culture Caroline Dinenage held meetings with **the Advertising Association; the Interactive Advertising Bureau; the Incorporated Society of British Advertisers; the Institute of Practitioners in Advertising** and **the Advertising Standards Authority** “to discuss *High Fat, Salt and Sugar Advertising*”.
- On December 9, Caroline Dinenage held a further meeting with representatives from **the Interactive Advertising Bureau; the Incorporated Society of British Advertisers; the Ad Association; and the Institute of Practitioners in Advertising** “to discuss the government’s consultation on a restriction of online HFSS advertising”.
- On December 16, Caroline Dinenage met with representatives from both the advertising industry and the food and retail industries. As well as **the Interactive Advertising Bureau; the Incorporated Society of British Advertisers; the Advertising Association, and the Institute of Practitioners in Advertising**, the meeting included attendees from **Just Eat; Mars; McDonalds; Mondelez; Pepsi; Red Bull; Sainsbury’s; Unilever; General Mills; Ferrero; Coca-Cola** and **Asda**.
- Caroline Dinenage also held a meeting on HFSS advertising restrictions with **Google**.

January 2021 to March 2021

Department of Health and Social Care

- On January 26, Jo Churchill met with the confectionery group **Ferrero** to discuss the Government’s obesity strategy.
- On March 22, Jo Churchill met with **Henry Dimbleby** (*inter alia* co-founder of Leon Restaurants and the Sustainable Restaurant Association, non-executive board member of the Department for Environment, Food and Rural Affairs, and author of the government-commissioned independent review of the food system), also to discuss the government’s obesity strategy.

Department for Digital, Culture, Media and Sport

- John Whittingdale held several meetings to discuss HFSS advertising restrictions. Two meetings were held with **ITV’s** Chief Executive Dame Carolyn McCall, as well as individual meetings with Ronan Harris (**Google’s** Managing Director for the UK and Ireland), Alex Mahon (Chief Executive of **Channel 4**) and Dana Strong (Chief Executive of **Sky Group**).
- John Whittingdale also hosted a roundtable with the **Commercial On-Demand and Broadcasting Association** (COBA), and representatives from **Discovery, Walt Disney, Sky** and **BT Sport**.

April 2021 to June 2021

Department of Health and Social Care

- In May, Jo Churchill met with the **British Retail Consortium**, the trade association representing interests of UK retail businesses, “to discuss *Government’s healthy weight strategy*”.
- In June, Jo Churchill met twice with Henry Dimbleby, also “to discuss *Government’s healthy weight strategy*”.

Department for Digital, Culture, Media and Sport

- In June, John Whittingdale met with media group **ViacomCBS** for a “regular catch-up discussing HFSS”.

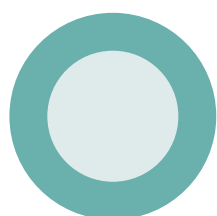
July 2021**Department of Health and Social Care**

- On July 20, Jo Churchill met with representatives from **UK Hospitality, the British Retail Consortium, the Association of Convenience Stores, the British Soft Drinks Association, the Food and Drink Federation, Tesco, Deliveroo, JustEat, UberEats, the Nationwide Caterers Association** and **the British Takeaway Campaign** “to discuss advertising restrictions policy”.
- On July 21, Jo Churchill met with representatives from the **Interactive Advertising Bureau, the Incorporated Society of British Advertisers, the Institute of Practitioners in Advertising, the Advertising Association, Group M, Publicis UK, Karmarama, Omnicom, Interpublic** and **WPP**, also “to discuss advertising restrictions policy”.

Department for Digital, Culture, Media and Sport

- On July 6 and 7, John Whittingdale met with the **Commercial On-Demand and Broadcasting Association (COBA)**, as well as representatives from the broadcasters **A&E, Sky, Channel 4, ViacomCBS** and **ITV** “to discuss High Fat, Salt and Sugar advertising restrictions and the impact on broadcasters”.
- On July 20, Caroline Dinenage met with **UK Hospitality, UberEats, JustEat, Deliveroo, the Scottish Retail Consortium, the British Soft Drinks Association, ACS, the National Federation of Fish Friers** and **the Food and Drink Federation** in order to “hear feedback on the Government’s High Fat, Sugar and Salt (HFSS) consultation response”.
- On July 21, Caroline Dinenage met with the **Interactive Advertising Bureau, the Incorporated Society of British Advertisers, the Institute of Practitioners in Advertising, the Advertising Association, Group M, Publicis, Karmarama, Omnicom, Interpublic** and **WPP** also “to hear feedback on the Government’s High Fat, Sugar and Salt (HFSS) consultation response”.

Note: It is unclear from the transparency data whether the meetings on July 20 and July 21 were held jointly with both departments or held separately.



Analysis: what we discovered

Media department takes the lead – the Health department is sidelined?

Analysing this lobbying data, it is striking to notice that although the policy to prevent obesity by restricting the promotion and advertising of HFSS products was initiated by the Department of Health and Social Care, ministers in that same department held very few meetings with businesses on these issues. Instead, the Department for Digital, Culture, Media and Sport appears to have taken a leading role in shaping a policy that is directly related to food and health.

There are two possible explanations.

The first is that this may have been a government-led decision. In other words, it could have been a deliberate choice within government to make the media department the lead on this policy issue. Is it possible that, given the pressures the health department was faced with in dealing with the Covid pandemic, the media department was seen as having more capacity to lead on HFSS restrictions?

The second possibility is that business and industry stakeholders may have actively decided to focus their lobbying efforts on the media department rather than on the health department. Could this be because the media department knows less

about food and health, and would be less likely to recommend heavy-handed policies that would benefit public health but negatively impact the bottom line of advertising and media interests?

Heavy lobbying by advertising and media industries – relatively little lobbying by the food industry

We were somewhat surprised that food businesses themselves were not more heavily involved in meeting with and lobbying ministers. Instead, the data that we analysed indicates that most of the lobbying meetings on HFSS products were led by media and advertising interests. This would suggest that the media and advertising sectors are well aware that HFSS products (and adverts promoting HFSS products) are particularly lucrative, and sought to lobby policymakers in order to preemptively prevent or minimise the economic harm that would result from a 9pm TV watershed and online advertising ban.

The data also indicates that the media and advertising industry forged links with the food industry. Joint meetings between ministers and representatives from these sectors occurred as early as December 2020. This would suggest that there was a level of cooperation or message alignment between the media, advertising and food sectors, which is a relatively widespread practice. The political economist of food Johan Swinnen has noted that sectors joining forces to form temporary or long-lasting political and lobbying coalitions is a common tactic in influencing food policy.⁸

Comparing political ambition with political reality

As we highlighted in a previous paper, disclosure of lobbying in the UK is only semi-transparent, meaning that it is difficult to connect the dots between meeting declarations and legislation. Moreover, British lobbying disclosure only shines a light on interactions between businesses, charities and NGOs and the very highest levels of political power.

The anticorruption watchdog Transparency International has already identified this discrepancy whereby lobbying of lower ranking officials can go by unnoticed, commenting: *“Disclosure of lobbying meetings is only required in the UK for official ministerial meetings and those with Permanent Secretaries. Yet a great deal of policy-making and lobbying takes place elsewhere... Lobbying of parliamentarians, all but the most senior civil servants, local government officials and elected members, and the vast number of public agencies can take place with no public record of the lobbying meetings, the issues that have been lobbied on, or the amount of money that has been spent on lobbying”*⁹

One way to assess whether lobby groups may have influenced or swayed policy is to compare the political ambition outlined in [the initial DHSC policy paper published in July 2020](#) with the political reality spelled out in [the final implementation guidance published in September 2022](#).

For example, the 2020 policy paper specifically recognises that *“on average the portions of food or drink that people eat out or eat as takeaway meals contain twice as many calories as their equivalent bought in a shop”* and set out the government’s ambition to *“legislate to end promotion of HFSS products by volume (for example, buy one get one free) and location both online and in store”*. However, the 2022 implementation guidance document states that *“the out of home sector does not need to comply with location and volume price regulations”* and that this exemption *“applies to all foods, including prepacked foods”* in venues such as coffee shops, cafes, bakery stores, hotel restaurants, pub restaurants, chain restaurants or branded casual dining restaurants. The political ambition set out in the initial policy paper would therefore seem to be weakened by the political reality set out in the implementation guidance.

It is also revealing to examine the specific foods that are covered (and not covered) by the legislation. While the 2020 policy paper broadly refers to the government’s ambition *“to ban HFSS*

products being shown on TV and online before 9pm”, the guidance published in 2022 reveals numerous loopholes. For instance, it appears that any food that is “non-prepacked” can be exempt from restrictions. Examples of specific products that are not within scope of the legislation and labelled as ‘key exclusions’ in the guidance include fruit juices, infant formula, flavoured nuts, meat jerky, cake decorations such as icing and sauces, whipped cream and flavoured or sweetened creams, condensed caramel, tinned or canned fruit, garlic breads and ‘loaded’ varieties, potato salads, retail meal kits, breaded ham or charcuterie products, savoury pies and sandwiches.

Given these differences between ambition and reality, the large number of interactions between ministers and private sector representatives – and the comparatively low number of interactions with charities and NGOs – over the studied period of time, it is reasonable to conclude that businesses were able to successfully put pressure on the government to apply only light-touch regulation. The resulting loopholes that allow for continued advertising of some HFSS products have the effect of undermining the government’s originally stated goal to make healthy options the easier choice for consumers.



Conclusion

Our examination of official government data shows that the government was subject to intensive lobbying from the business sectors that – in financial terms – had the most to lose when faced with potential restrictions on advertising, namely media groups, advertising companies and the food and drink industry. Although there are no detailed records on what concerns these business sectors raised when they met with government representatives (a concern that the FRC has raised in a previous paper) it is obvious and understandable that they would, in Lang and Heasman’s terms, have sought to ensure “*that their interests are protected and promoted*”.

We should still be encouraged by the results, even if they are imperfect. Our analysis shows that while ministers at the Department for Digital, Culture, Media and Sport were heavily lobbied, their counterparts at the Department of Health and Social Care were relatively unencumbered. The policy proposal was made into law *despite*

coordinated industry lobbying efforts, albeit with important loopholes. The passage into law of advertising restrictions on most HFSS products demonstrates that legislation on food and to protect public health can still be passed. However, it should be added that the delays or procrastination in implementation noted above may also be an objective of lobby efforts.

Lobbying is and will remain an important component in democratic debate. In a democratic capitalist system like the UK, it is normal that businesses will seek to promote and defend their interests. These activities, though, should be transparent and well-regulated. In order to enhance transparency and ensure that there is public trust in policymaking, we continue to encourage reforms to UK lobbying. This can be done by providing sufficient detail of lobbying interactions, adopting stringent disclosure practices, and accurate descriptions of lobbying meetings.



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