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8 January 2010

British Heart Foundation response to DCMS Consultation on Product Placement

Introduction

The British Heart Foundation (BHF) is the nation's heart charity, fighting to eradicate early death from heart and circulatory disease – which is the UK's biggest killer and caused 53,000 premature deaths in 2006¹. Our vision is of a world in which no-one dies prematurely of heart disease.

A balanced diet is an important part of the fight against heart disease and the BHF has long campaigned for a supportive environment which makes healthier choices, easy choices. Research from Ofcom, the Food Standards Agency and others confirms that advertising has an impact on children's food choices and it is therefore crucial that children are protected from unhealthy food marketing. This underpins the current restrictions on marketing of foods high in fat, sugar and salt (HFSS).

We responded to the previous consultation on product placement in October 2008 and emphasised that product placement is a form of advertising and should therefore be prohibited. This would ensure that children are not exposed to marketing of HFSS foods. On the basis of the submissions received, including the submission from the BHF, the DCMS confirmed that product placement would not be allowed on UK television in March 2009.

We are therefore deeply concerned that this debate has been re-opened by remarks made by the Culture Secretary at the Royal Television Society in September 2009 and the subsequent launch of this consultation. It is clear from the questions posed in the consultation document that there is no new evidence that has come to the DCMS's attention since the decision was taken to continue to prohibit product placement in March 2009. This therefore seems, at best, policy making without an evidence base and, at worst, policy making driven by political and commercial interests.

Furthermore, we are concerned that the timescale for responding to this consultation has been curtailed to just eight weeks, including over the Christmas and New Year period. This is likely to adversely affect the ability of relevant organisations and individuals to respond and is in breach of both the Better Regulation Executive Consultation Code² and the Compact on relations between Government and the Third Sector³.

¹ www.heartstats.org

² <http://www.berr.gov.uk/files/file47158.pdf>

³ <http://www.thecompact.org.uk/files/140472/FileName/TheCompact.pdf>

As stated in our previous submission, the BHF does not believe that there is a case for allowing product placement of goods which are harmful to health on UK television. We believe that the DCMS should abide by the decision communicated in March 2009 and continue to prohibit product placement on UK television.

The consultation recognises that children could be adversely affected by any relaxation of the restrictions but the proposals to exclude children's programming do not go far enough.

- The only way to protect children from this stealthy form of marketing is to continue to prohibit product placement on UK television.

If the Government does proceed with lifting this restriction, there should be:

- a complete prohibition of HFSS food and drink product placement; and
- a ban on product placement before the 9pm watershed to ensure that children are genuinely protected.

Our views are shared by parents and BHF campaigners. To date, over 85 BHF campaigners have submitted a response calling for the current prohibition on product placement to continue as this is the only effective way to safeguard children's health.

We have restricted our response to those parts of the consultation that are of most relevance to our vision of a world in which no-one dies prematurely of heart disease.

What, if any, viewer and other safeguards should there be additional to those required by the AVMS directive?

The directive includes an explicit exemption from product placement for children's programming but this does not go far enough. We know from the current restrictions on marketing of foods high in sugar, fat and salt that children can and do watch a range of programmes where such marketing is allowed. According to Ofcom, 71% of children's viewing is outside dedicated children's programming⁴.

The ideal way to provide a genuine safeguard for children is to continue to prohibit product placement on UK television. At the very least, product placement must not be permitted before the 9pm watershed as this is when children are likely to be watching.

How should those additional safeguards be imposed - by law, or by means of the Ofcom code?

Additional safeguards should be immediately implemented through the Ofcom Code, followed by changes in the law.

Commercial advantages of product placement

The BHF is deeply concerned that the DCMS is asking questions about the extent of financial benefits of introducing product placement in a consultation document which is inviting views on whether the restrictions should be lifted. The Government should not be proposing any new policy unless there is a clear economic and policy rationale to do so. The inclusion of these questions signal that this rationale is absent, thereby undermining the

⁴http://www.ofcom.org.uk/research/tv/reports/food_ads/report.pdf

case for any change to the status quo.

If product placement is allowed in programmes made by or for UK television, should any of the programme genres permitted by the AVMS Directive be excluded?

The BHF believes that any programme aired before 9pm should be excluded from any decision to allow product placement on UK television. This is the only effective way to ensure that this type of marketing takes place at times when children are not likely to be watching.

Are there definable types of 'films and series' in which product placement either should or should not be permitted?

The BHF believes that any film or programme aired before 9pm should be excluded from any decision to allow product placement on UK television. This is the only effective way to ensure that this type of marketing takes place at times when children are not likely to be watching.

Is there any reason to restrict product placement in particular types of sports programming?

The BHF believes that any sports programming aired before 9pm should be excluded from any decision to allow product placement on UK television. This is the only effective way to ensure that this type of marketing takes place at times when children are not likely to be watching.

Is there any reason to restrict product placement in particular types of 'light entertainment' programming?

The BHF believes that any light entertainment programming aired before 9pm should be excluded from any decision to allow product placement on UK television. This is the only effective way to ensure that this type of marketing takes place at times when children are not likely to be watching.

Children and children's programming

The consultation document appears to accept that there may be a need to restrict or prohibit product placement in programmes with a disproportionately high child audience, It is therefore disappointing that there is no methodology suggested for how such programmes would be identified.

If there is a change to the law on product placement in UK programmes, it is vital that restrictions go further than the current restrictions on spot advertising for HFSS foods. Work by the BHF and others has confirmed that these restrictions do not go far enough and allow HFSS food manufacturers to continue to advertise when children are likely to be watching. Consumer group Which? found that none of the top 5 programmes watched by children in June 2008 are covered by the restrictions on spot advertising⁵.

A ban on product placement on UK television before the 9pm watershed is the only effective

⁵ <http://www.which.co.uk/advice/how-tv-food-advertising-restrictions-work/index.jsp>

way to ensure that this type of marketing takes place at times when children are not likely to be watching.

Should television placement of smoking accessories such as cigarette papers and pipes be prohibited?

Yes. The BHF believe that restrictions on advertising, promotion and marketing of tobacco products should extend to all related accessories and paraphernalia including cigarette papers. In a recent consultation response to the Department of Health, we have called for the forthcoming restrictions on tobacco displays at the point of sale to be extended to these products as part of a comprehensive tobacco control strategy to protect children from the harmful effects of smoking and to support adult smokers who want to quit. It would therefore be an anomaly in government policy to allow these products to be marketed via product placement on UK television.

Outright prohibition

The BHF believes that there should be outright prohibition of product placement of HFSS foods.

Given the poor diet and rising obesity rates among the UK's children, and the impact of marketing on their food choices, it is of paramount importance that children are not exposed to *any* additional marketing for HFSS food or drink products. Only a complete prohibition of placement of all such food and drink products will ensure this. As explained above, an exclusion of product placement during children's programming will be inadequate. If placement of food and drink products are not subject to outright prohibition, children will be exposed to more marketing for HFSS foods than currently (with no product placement).

Monitoring effects on health

If there are to be changes to the laws on product placement on UK television, the BHF believes that there should be a comprehensive baseline of the impact of product placement on consumer choices and public health before any such changes are introduced. This is the only way to monitor what the subsequent impact will be. The consultation document suggests that monitoring could be funded through a levy on product placements but companies wishing to make use of any changes to product placement laws should be expected to financially contribute to establishing a baseline as well as monitoring any subsequent effects on health.

As noted above, there is currently an evidence base for the impact of unhealthy food marketing on children's food choices. This may have consequences for future health. In particular, the 2003 Hastings Review found that food promotion affects preferences not only at brand level (e.g. persuading people to choose one burger restaurant over another) but also at category level (e.g. persuading people to eat more burgers instead of fruit)⁶. This should be used to help inform any future monitoring.

Should notifications to viewers mention the product(s) which have been placed?

⁶ Hastings et al (2003) Review prepared for the Food Standards Agency, Centre for Social Marketing, the University of Strathclyde

The BHF agrees that viewers should be notified that the programmes they are watching contain product placement, if there is a change in the law. However, requiring a notification of the particular products is, in and of itself, another form of marketing which could add to our concerns about the potential impact of allowing this form of marketing on public health.

Placement of 'look-alike' products

The BHF is concerned that the consultation document proposes placement of fake rather than real cigarettes. It is unclear which commercial interests would be served by fake products and this seems to miss the point about the harmful effects of tobacco advertising on children and on adult smokers who wish to quit. A total ban on tobacco advertising and sponsorship is a core measure advocated within the World Health Organisation Framework Convention on Tobacco Control⁷.

Conclusion

The BHF believes that this consultation is unnecessary as a clear decision on this issue was communicated by the Government in March 2009. There is no indication in the consultation document that new evidence or circumstances have come to light which would justify re-examination of this issue. We therefore believe the UK position on product placement should remain as it is.

If you have any queries about this response, or would like any further information, please contact Mubeen Bhutta, Policy Manager on 020 7554 0158 or email bhuttam@bhf.org.uk

Yours sincerely

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⁷ <http://www.who.int/fctc/en/>