



House of Commons
Health Committee

Childhood obesity: follow-up

Seventh Report of Session 2016–17

*Report, together with formal minutes
relating to the report*

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Health Committee

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Summary

We looked at childhood obesity in the autumn of 2015, anticipating the publication of the Government's childhood obesity plan. We concluded that the scale and consequences of childhood obesity demand bold and urgent action, and that if the Government fails to act, the problem will become far worse. We judged the evidence to be sufficiently strong to justify introducing all the policies we recommended, and we urged the Government to take action to implement them.

The Government's plan was published in August 2016. Campaigners and other commentators on childhood obesity were largely underwhelmed by its contents.

For our part, although we welcome the measures the Government has included in the childhood obesity plan, we are extremely disappointed that several key areas for action that could have made the strategy more effective have not been included. The Government has stated that it will "look to further levers" if the plan does not achieve the necessary impact. We call on Ministers to set clear targets for reducing overall levels of childhood obesity as well as goals for reducing the unacceptable and widening levels of inequality.

We welcome the introduction of a tiered levy on the manufacturers of sugary drinks and the progress already being made in the reformulation of soft drinks as a result. We strongly recommend that manufacturers pass on the differential cost between products with high and low or no-sugar as a result of the levy in order to help maximise the 'nudge' to healthier choices. Consumers of sugar-free products should not be forced to subsidise higher-sugar drinks, which would in effect be the case if manufacturers do not pass on the price differential between these products arising from the levy. We recommend that the Government should develop and be prepared to implement measures to ensure that this price differential is clear in the price paid by consumers for high-sugar drinks. We also urge the Government to extend the levy to milk-based drinks which have extra sugar added.

We welcome the Government's positive response to our recommendation that the proceeds of the soft drinks industry levy should be directed towards measures to improve children's health including through increasing access to school sports and to breakfast clubs. We intend to follow up how the income from the levy is distributed, including the ways in which this can help to reduce the inequalities arising from childhood obesity.

Public Health England is leading a voluntary reformulation programme to challenge all sectors of the food and drinks industry to reduce overall sugar content across a range of the products which contribute to children's sugar intakes. We urge the Government to set out the policy proposals which it is prepared to implement if the voluntary reformulation programme does not go as far or as fast as necessary to tackle childhood obesity.

Likewise we encourage Public Health England to go further in setting out their plans for reducing portion sizing. We recommend that the Government draw up measures to implement our earlier recommendation of a cap on portion sizes, linked to the calorie content of certain foods and drinks, to be introduced if swift progress on portion sizing is not achieved by voluntary means.

Given the amount of our food and drink that is purchased on discounts and promotions, we urge the Government to follow the evidence-based advice from their chief public health advisers and to regulate to further reduce the impact of deep discounting and price promotions on the sales of unhealthy food and drink. Industry representatives themselves told us this is necessary to prevent policies to reduce discounting from being undermined. Retailers who act responsibly on discounting and promotions should not be put at a competitive disadvantage to those who do not.

In December 2016, the Committee of Advertising Practice (CAP) announced new rules banning the advertising of high fat, salt and sugar (HFSS) food and drink products in children's media. We welcome the changes introduced by the CAP, but we consider that the advertising regulators have not sufficiently addressed the scale of the challenge. They could—and should—go further. We urge a re-examination of the case for further restrictions on advertising of HFSS food and drink in the light of the most recent research not only on the effect of such advertising, but on the scale and consequences of childhood obesity.

The out-of-home sector (restaurants, takeaways, etc) is also important to efforts to reduce childhood obesity because it now accounts for a large proportion of the food we eat. We repeat our call for change to planning legislation to make it easier for local authorities to limit the proliferation of unhealthy food outlets in their areas. We continue to urge that health should be included as a material planning consideration. We also call on the Government to provide evidence of progress with other measures to reduce the impact of the out-of-home sector on childhood obesity.

We welcome the Government's promise to collect and publish regularly all the data on progress with the measures contained in the childhood obesity plan. We look forward to reviewing progress next year when the initial report is available. We hope to see clear evidence of progress, including in reducing the health inequality of childhood obesity, and clear plans for further action if progress is unsatisfactory.

1 Introduction

1. We conducted a brief inquiry into childhood obesity in September and October 2015. Our report, *Childhood obesity—brave and bold action*, was published in November 2015.¹ We began as follows:

The scale and consequences of childhood obesity demand bold and urgent action. We believe that if the Government fails to act, the problem will become far worse. We urge the Prime Minister to make a positive and lasting difference to children’s health and life chances through his childhood obesity strategy.²

2. Our report went on to make recommendations in a number of areas:

- Strong controls on price promotions of unhealthy food and drink
- Tougher controls on marketing and advertising of unhealthy food and drink
- A centrally led reformulation programme to reduce sugar in food and drink
- A sugary drinks tax on full sugar soft drinks, in order to help change behaviour, with all proceeds targeted to help those children at greatest risk of obesity
- Labelling of single portions of products with added sugar to show sugar content in teaspoons
- Improved education and information about diet
- Universal school food standards
- Greater powers for local authorities to tackle the environment leading to obesity
- Early intervention to offer help to families of children affected by obesity and further research into the most effective interventions.

Our recommendations endorsed and built on the action proposed in Public Health England’s review *Sugar Reduction—the evidence for action*.³

3. The title of our report reflected the evidence which we heard about the necessity of bold action to tackle a significant problem:

24. We believe that a full package of bold measures is required, and share Jamie Oliver’s view that:

“This opportunity is very important. Being gentle and polite is not the way to have a progressive obesity strategy. We need to be big, bold and brave.”

25. [...]

“We have to wake up to the scale of the challenge. It is huge. We have to have a proportionate response. That means far bigger, bolder steps... Frankly, I

1 First Report of 2015–16, [Childhood obesity—brave and bold action](#), HC 465.

2 HC (2015–16) 465, para 1.

3 Public Health England, [Sugar Reduction – the evidence for action](#), October 2015.

do not think we have the luxury of being able to pick and choose and say “Well, we prefer not to do something on that. I don’t think we will look at it now”. Wake up. We have to focus on all of these and we have to take action across a whole breadth of areas. It is far too casual to think we can just park this on the sidelines as something we are not going to look at right now.” [Professor Susan Jebb OBE, a nutrition scientist, Professor of Diet and Population Health at the University of Oxford and since 2010 the independent Chair of the Public Health Responsibility Deal Food Network⁴]

[...]

27. In our view, the evidence is sufficiently strong to justify introducing all the policies we recommend. Rather than wait for further evidence to follow from international experience, we urge the Government to be bold in implementing policy, with the assurance of rigorous evaluation and sunset clauses if found to be ineffective.

4. The Government’s childhood obesity plan, which had originally been expected in autumn 2015, was eventually published on 16 August 2016.⁵ Campaigners on childhood obesity were largely underwhelmed by its contents. The following quotes are taken from written submissions sent to us following the announcement of our intention to follow up our earlier work with a further evidence session examining the content of the published plan:

The plan is a good start; however urgent, stronger and more decisive action is needed from government to tackle the obesity epidemic. (*Association of Directors of Public Health*)

While there are measures in the government obesity action plan which the BMA is strongly supportive of we are also extremely disappointed with the scope of the strategy, in particular the absence of measures to curb marketing and promotional activities. (*BMA*)

While individual measures and programmes like the soft drinks industry levy and the sugar reduction programme are important steps, the Government’s Plan falls short of a comprehensive strategy. In particular the absence of measures to reduce children’s exposure to junk food marketing is a missed opportunity. Without such measures achieving a significant reduction in childhood obesity has been made more difficult. (*Cancer Research UK*)

The RCPCH was disappointed to see the Childhood Obesity Plan predominately focus on personal responsibility. Reliance on personal responsibility is not enough as infants and children do not have freedom of choice, and are vulnerable to the actions of adults. The most striking benefits to public wellbeing have come from public health, not medical interventions. We would therefore like to see the Plan built upon to include additional interventions in a number of areas. (*Royal College of Paediatrics and Child Health*)

4 See <https://responsibilitydeal.dh.gov.uk/category/food-network/page/2/> [accessed 27 February 2017]

5 HM Government, *Childhood Obesity: A Plan for Action*, August 2016.

The Trust welcomed ‘first steps’ in the government’s plan for action, but we were disappointed that it didn’t go even further. Being overweight is not a choice a child makes. The way children eat is the product of what they learn at home, in childcare, at school and in what they see in the wider world around them. As such, we anticipated from government the promised ‘game-changing’ strategy which would bring together efforts across all government departments, local authorities, communities, healthcare, industry, schools, nurseries and parents to get children eating better—because the costs of failing to act, for children’s health and our NHS, are simply too great. (*Children’s Food Trust*)

I’m really pleased that the Health Select Committee will be holding a follow-up session on childhood obesity. It’s badly needed, after the government ripped out so much meaningful substance from the much-anticipated strategy document that I was involved in last year. Given the epidemic of diet-related diseases in the UK and the vulnerability of children in the poorest communities, I was deeply depressed by the watered-down strategy. It offends me as a parent, taxpayer and public servant that—even though Theresa May had all the statistics on child ill health—this vital strategy was published to receive as little attention from the press as possible. It is shocking that this incredibly important piece of work was released at midnight, in August, with no minister to communicate and represent it—or even answer any criticism. (*Jamie Oliver*)⁶

5. Even the retailers’ representative and the manufacturer from whom we heard oral evidence were similarly underwhelmed:

[...] when the obesity strategy came out I was surprised to discover that the only concrete measure was the soft drinks industry levy, which I do not think in itself is going to have any meaningful impact on obesity rates for either children or adults.⁷ (*Jon Woods, General Manager of Coca-Cola Great Britain and Ireland*)

[...] we were a little disappointed that that level of regulation was not expanded to areas of product improvement as we had been calling for. We are a little concerned that the plan does not specify how we are to achieve the level playing field that we believe is so important.⁸ (*Andrea Martinez-Inchausti, deputy director for food and sustainability at the British Retail Consortium*)

6 All written evidence is available on the Committee’s inquiry page, <http://www.parliament.uk/business/committees/committees-a-z/commons-select/health-committee/inquiries/parliament-2015/childhood-obesity-16-17/publications/>.

7 Q2

8 Q2

6. The respected commentator David Buck, Senior Fellow in Public Health and Inequalities at the King's Fund, published the following analysis of the Government's response to our recommendations:

Health Select Committee recommendation	Childhood obesity plan	RAG rating
Strong controls on price promotions of unhealthy food and drinks	No mention of price promotions	Red
Tougher controls on marketing and advertising of unhealthy food and drink	No mention of marketing and advertising	Red
A centrally led reformulation programme to reduce sugar in food and drink	Targets in nine categories of food contributing most to children's sugar intake, but action is voluntary until 2020 and no mention of penalties or sanctions	Yellow
A sugary drinks tax on full sugar soft drinks, with all proceeds targeted to help those children at greatest risk of obesity	Benefit of the doubt but devil is in the detail - proceeds to go to school sports and unclear whether targeted on those at greatest risk	Green
Labelling of single portions of products with added sugar to show sugar content in teaspoons	Labelling mentioned, in context of Brexit and greater flexibility, but no details or commitments	Red
Improved education and information about diet	No mention of education and information about diet	Red
Strongest powers for local authorities to tackle the environment leading to obesity	No mention of stronger powers for local authorities	Red
Early intervention to offer help to families affected by obesity	'Recommitting' to Healthy Start voucher scheme; income from sugar levy to schools including an incentive premium	Yellow

7. David Buck commented as follows:

The childhood obesity plan (no longer a strategy) [...] dutifully sets out the scale of the challenge, including the cost of obesity to the NHS (£5.1 billion every year) and recognises inequalities in obesity. But it essentially stops there, failing to mention its estimated cost to the economy of £27 billion, due, for example, to its effect on productivity, earnings and welfare payments. This is a telling omission, and indicative of the extreme narrowness with which those in the upper tiers of government appear to understand obesity, its causes, effects and therefore its solutions. It is also particularly ironic given that the impact on the food and drink industry—and therefore on jobs and the economy—was reportedly one of the reasons we have ended up so far from a game-changing strategy.⁹

9 David Buck, "[The childhood obesity plan – brave and bold action?](#)", King's Fund, 26 August 2016 [accessed 21 March 2017]

8. That comment alludes to a point also referenced by a number of written submissions to our follow-up inquiry: the difference between the final plan and an earlier draft version of the plan which was leaked. Channel 4's *Dispatches* programme undertook a comparison between the draft and final versions of the plan, reporting:

- The cornerstone of the draft plan was to cut childhood obesity by half within the next ten years, which it said would mean 800,000 fewer obese children by 2026. This pledge was abandoned, the published plan simply promises to 'significantly reduce' childhood obesity within the next ten years
- The plan to force restaurants, cafés and takeaways to put calorie information on menus was also scrapped.
- Supermarkets–The draft plan set out to tackle the promotion of unhealthy food by challenging retailers to take action by “removing unhealthy food and drink... in prominent locations such as check-outs and end of aisles.” This was cut from the version published by the Government.
- Proposals to limit the way supermarkets promote unhealthy food with buy-one-get-one-free offers, price cuts or selling cheap multipacks have been removed. The draft plan initially stated, “40% of the food and drink we buy to eat at home is bought on price promotion ... double that of other European countries... We challenge individual retailers to take action by... ending the promotion of unhealthy foods.”
- Advertising of junk food–The draft strategy aimed to: “put in place... measures to further reduce families’ exposure to adverts for unhealthy food... This will mean that fewer of the shows watched by many of our children - including for example some popular Saturday night entertainment–will contain adverts for unhealthy food.” This entire section has been removed.
- Exercise was a key topic in the published strategy. It said: “Every primary school child should get at least 60 minutes of moderate to vigorous physical activity a day”. But the following qualifying paragraph - *Dispatches* discovered in the draft plan - was removed: ‘We must recognise that increasing the amount of exercise children undertake will not in itself solve childhood obesity. The number of calories we can burn through physical activity is dwarfed by the amount we can easily consume through food’.¹⁰

9. The Government’s response to our report said

The causes of obesity are complex, caused by a number of dietary, lifestyle, environmental and genetic factors, and tackling it will require a comprehensive and broad approach involving many Government Departments. As such, the Government considered a wide range of options for tackling childhood obesity, and the contribution that we, alongside industry, families and communities can make.

10 Channel 4, “[The Secret Plan to Save Fat Britain: Channel 4 Dispatches](#)”, 31 October 2016 [accessed 21 March 2017]

Childhood Obesity: A Plan for Action presents a bold package of policy proposals, informed by the available evidence.¹¹

10. Giving evidence to us on 7 February 2017, the Minister for Public Health, Nicola Blackwood, defended the Government’s plan, describing it as “world-leading”:

No country elsewhere has introduced a reformulation plan as we have; no other country has introduced a producer-led tax like we have. That is why Ireland and Portugal have copied us. No other country took the innovative step to link reformulation to a sugar drinks industry levy and physical activity and work in schools as we have. This is genuinely a world-leading programme [...]¹²

11. Nevertheless, she accepted that the plan did not go as far as the original recommendations:

[...] my understanding was that four key measures were prioritised by Public Health England for impacting obesity in young people in particular. One was reformulation; one was the sugar drinks industry levy; one was advertising; and one was promotions. Two out of four is not bad.¹³

12. Duncan Selbie, Chief Executive of the Government’s main public health advisers Public Health England, took a similar view:

The evidence remains as it was, but we have the plan we have; we took the deal we could get, and we are getting on with it. The most important line in that plan is that it is not the end of the argument. [...]

There was a whole lot of other things we wanted, but there are four rules in public health: you never quite get what you hope for; it always takes longer than you ever expected; it is harder to do than you ever imagined; and it only gets tougher. You take the deal you can get and you keep having the argument. I am not here to renegotiate the child obesity plan; right now I want to implement it.¹⁴

13. Mr Selbie’s reference to “the most important line in the plan” echoed earlier comments from the Minister:

[...] we put in the plan that this is the beginning of a conversation; it is not the end of the steps we will take. We also put in the plan that, if we do not achieve the impact we want with the measures and steps, we will look to further levers. [...] We have been perfectly clear that this is not the end of the story.¹⁵

11 Department of Health, [*Government Response to the House of Commons Health Select Committee report on Childhood obesity – brave and bold action, First Report of Session 2015–16*](#), Cm 9330, October 2016, p 8.

12 Q74

13 Q75

14 Q78

15 Qq 74, 75

14. **We welcome the measures the Government has included in the childhood obesity plan, but are extremely disappointed that several key areas for action that could have made the strategy more effective were removed. Vague statements about looking “to further levers” if the current plan does not work are not adequate to the seriousness and urgency of this major public health challenge. We call on the Government to set clear goals for reducing overall levels of childhood obesity as well as goals for reducing the unacceptable and widening levels of inequality.**

15. In the remainder of this report, we comment on areas of the obesity plan where we particularly welcome the action that has been promised, as well as areas where we urge the Government to strengthen the plan with further action.

2 The soft drinks industry levy

Committee recommendation

16. In *Childhood Obesity—brave and bold action*, we considered evidence to support the introduction of a tax on sugary drinks to address the problem of childhood obesity. We concluded:

The Scientific Advisory Committee on Nutrition has recommended that consumption of sugar sweetened drinks should be minimised. This is particularly important for children, as 29% of sugar intake of 11–18 year olds comes from sugar sweetened drinks, larger than any other population group. **We therefore support Public Health England’s recommendation for a tax on full sugar soft drinks, and recommend that it be introduced at a rate of 20% to maximise its impact on purchasing and help to change behaviour.**¹⁶

Budget 2016 announcement of the levy

17. In the 2016 Budget, the then Chancellor, George Osborne, announced plans for the introduction of a new soft drinks industry levy:

Budget 2016 announces a new soft drinks industry levy targeted at producers and importers of soft drinks that contain added sugar. The levy will be designed to encourage companies to reformulate by reducing the amount of added sugar in the drinks they sell, moving consumers towards lower sugar alternatives, and reducing portion sizes. Under this levy, if producers change their behaviour, they will pay less tax.¹⁷

18. A consultation on the proposed legislation was published in August 2016¹⁸ and provisions for the levy were included in the draft Finance Bill, published later in December 2016. The levy will come into force in April 2018, two years after it was first announced. The delay is intended to give the affected companies time to reformulate their products to reduce added sugar content.

19. The levy has been usefully summarised in a recent House of Commons Library briefing as follows:

- The levy will apply from April 2018 to producers and importers of soft drinks;
- A lower tax rate will apply to drinks with a total sugar content of 5 grams or more per 100ml; a higher rate will apply to drinks with a sugar content of 8 grams or more per 100ml;
- The 100ml applies to the ‘prepared drink.’ This will mean that any drink that requires dilution will be assessed at the diluted level (as indicated by information on the packaging of the product).

16 [Childhood obesity—brave and bold action](#), para 87.

17 HM Treasury, [Budget 2016](#), Mar 2016, paras 1.93–94.

18 HMRC, [Soft Drink Industry Levy: Summary of Responses](#), December 2016

- Fruit juice, vegetable juice and milk are not considered an added sugar ingredient. The Bill gives HMRC powers to prescribe what is meant by fruit/vegetable juice.
- The levy will not apply to drinks where no sugar has been added, to milk based, or milk substitute based drinks.
- There are a number of exemptions to the provisions within the Bill. This includes baby formula and products used to treat dietary conditions;
- HMRC have powers under the draft Bill to make regulations specifying further criteria for exempt soft drinks.
- Drinks containing up to 1.2% ABV alcohol are included in the levy but provision will be made to exclude some of these drinks from the levy.
- Small producers will be excluded from the levy. The small producer threshold has been set at one million litres of product;
- Producers will be able to claim credit from HMRC in respect of exported soft drinks;
- The Commissioners of Revenue and Customs may make regulations in regards of the payment, collection and recovery of the levy.¹⁹

20. In his 2017 Budget statement, the Chancellor of the Exchequer confirmed that the rates of the levy would be as follows:

Mid sugar drinks (5-8g of sugar per 100ml): 18p per litre

High sugar drinks (>8g of sugar per 100ml): 24p per litre.²⁰

21. Income from the levy was originally projected to be £520million in 2018/19, £500million in 2019/20 and £455million in 2020/21.²¹ The declining rate over time takes account of the behavioural response of both industry and consumers to the levy, as the OBR explains:

The costing accounts for a behavioural response whereby producers reformulate their product mix by lowering sugar content, promoting lower sugar alternatives, and reducing portion sizes. It also accounts for the behavioural responses resulting from any change to the associated prices.²²

Effect of the levy

22. The soft drinks industry levy—the Government’s version of the “sugar tax” which we recommended and for which so many organisations have been campaigning²³—has already started to have an effect, even before its actual introduction. A number of soft drinks companies and retailers have announced, in advance of legislation, that they will

19 *The Soft Drinks Industry Levy*, [Briefing Paper 7876](#), House of Commons Library, 25 January 2017.

20 HC Deb, 8 March 2017, [col 815](#).

21 HMRC, [Soft Drinks Industry Levy Policy Paper](#), 5 December 2016.

22 *Ibid*

23 [Childhood obesity—brave and bold action](#), para 72.

be reformulating their products. Examples include Tesco,²⁴ Lucozade Ribena Suntory²⁵ and Britvic.²⁶ As a consequence, in his Budget 2017 statement, the Chancellor noted that the expected yield from the tax was reduced from the original projections.²⁷ It is now expected to raise £385m in 2018/19, £390million in 2019/20 and £385million in 2020/21.²⁸

23. As significant as the effect on reformulation is the effect which the announcement of the levy is having on the implementation of the rest of the childhood obesity plan. Emma Reed, the deputy director responsible for delivering the childhood obesity plan at the Department of Health, told us

The other benefit I want to mention about the sugar levy is the way it has shifted the paradigm and the conversation about sugar. I am absolutely certain that the work that PHE is leading on reformulation has started in a different place as a result of the sugar levy, and that is certainly the case when it comes to thinking about the broad implementation of the childhood obesity plan—its reach. Shifting the conversation and ensuring that consumers know more about the issue of sugar has been quite seismic.²⁹

24. Her comments were confirmed by Dr Alison Tedstone, Chief Nutritionist at PHE:

One thing that is totally different for this reformulation agenda from anything we ever had with salt is that the levy has totally changed the conversations. I was in a lot of meetings on the salt work, and there was always this narrative going on: “Well, what are you going to do to us if we don’t do it?” We would always mumble something, because actually nobody had ever done anything internationally. Now we do not have to mumble anything, because the narrative has completely changed. Of the 100 companies we have met, two asked us what we were going to do.³⁰

25. This ‘halo effect’—the high-profile nature of the levy acting independently of its effect on prices to raise awareness of, and prompt action to counter, the dangers of high sugar consumption—is an important benefit of its introduction.

26. The impact of the levy could be lessened, however, if its effect on the cost of high-added sugar drinks is not fully passed on to the consumer. Manufacturers could decide to absorb the whole cost themselves, either to protect their sales or, more cynically, to undermine the rationale for the introduction of the levy and limit its impact. Alternatively, manufacturers could reduce the pre-tax price of high sugar drinks, whilst simultaneously choosing to marginally increase the price of other drinks not subject to the levy (for example diet drinks, fruit juice and bottled water). Prices across the company’s portfolio would increase, in order to limit the overall effect on profits, with consumers of healthier

24 Tesco, *Tesco reduces sugar content in all own brand soft drinks*, November 2016 [accessed 21 March 2017]

25 *“Lucozade promises ‘game-changing’ reformulation with less sugar”*, The Times, November 2016

26 *“Britvic to change recipes for more of its drinks to avoid sugar tax”*, The Guardian, 19 May 2016

27 HC Deb, 8 March 2017, [col 815](#).

28 HM Treasury, *Spring Budget 2017*, 8 March 2017, page 28.

29 Q126

30 Q143

beverages cross-subsidising high sugar drinks.³¹ There is evidence of this “umbrella pricing” having occurred in the US after the introduction of a sugar tax in Berkeley, California.³²

27. We were encouraged by the commitment by Coca Cola’s representative, made in response to our questioning, “to pass [the cost of the levy] on as it should be”—albeit that it was a difficult commitment to extract.³³ However, we are concerned that other manufacturers may not be willing to follow suit. We pressed the Government representatives who appeared before us on whether the Government would take steps to ensure that the price differential between high- and low- or no-sugar drinks would be passed on at the point of sale:

Q120 Chair: One point that emerged very powerfully from the previous panel and we have heard in evidence is the concern that price differentials might not be passed on at the point of sale and it will have a much greater impact if that happened. Is there anything the Treasury can do? Minister, perhaps you can comment on what the Government might do to encourage that price differential to be passed on at the point of sale so there is an incentive for people to choose a lower-sugar product.

Mike Cunningham [*Deputy Director, VAT & Excise, Business & International Tax Group, HM Treasury*]: In general terms, the key here, certainly from the tax perspective, is not for us to be worrying so much about the price but the actual product reformulation. That was very much the intention here. Our focus was all on getting producers to do things differently, and therefore the levy is designed to do that.

[...]

Nicola Blackwood: Both the soft drinks industry levy and the reformulation programme are designed primarily to be producer-led measures so that the sugar is taken out at the point of supply. I understand the point you are making; I do not miss it. It would be enhanced if there was also a price differential, but the policies have been designed specifically to impact at point of supply rather than point of price.³⁴

28. We acknowledge that the soft drinks industry levy has been designed primarily to drive reformulation to reduce sugar content in soft drinks, and we welcome the success which it has already achieved in doing so. We are nonetheless concerned by the prospect of manufacturers and retailers undermining the effectiveness of the levy by failing to pass on a price differential between high- and low- or no-sugar drinks—and by the fact that the Government does not appear to have a plan to counter that eventuality. We want the benefit of the levy to be maximised in every possible way to encourage a reduction in

31 See Q10, Q35.

32 Jennifer Falbe, Nadia Rojas, Anna H. Grummon, Kristine A. Madsen, “[Higher retail prices of sugar-sweetened beverages 3 months after implementation of an excise tax in Berkeley, California](#)”, *American Journal of Public Health*, 105 (2015).

33 Qq 39–48

34 Q125

sugar consumption. We are also concerned that consumers of low sugar drinks could, in effect, be forced to subsidise high sugar products if a price differential is not passed on at point of sale.

29. **We commend the Government for introducing a levy on the manufacturers of sugary drinks and welcome the progress already being made in reformulation as a result. We recommend that the Government’s monitoring of the effectiveness of the levy should include monitoring of whether the levy is being passed on to include a price differential between high- and low- or no-sugar drinks at the point of sale. Failure to do so would leave consumers of sugar-free products subsidising higher sugar drinks and would also reduce the effectiveness of the levy in helping to change choices. We recommend that the Government should develop and if necessary implement measures to ensure that that differential is clear in the price paid by consumers.**

Milk-based soft drinks

30. The draft bill by which the levy is proposed to be implemented excludes milk-based drinks, even when they contain added sugar.³⁵ We questioned the Treasury official who appeared before us, Mike Cunningham, on the reasons for that exclusion. He replied

We designed it to be clear, simple and transparent. We had to make choices about what products would be in, so we targeted fizzy drinks. Fruit juices, for instance, are not in, because of the benefits of fruit juice. [...] There is a whole difficulty with looking at milk drinks, not least because there are good milk drinks, and obviously the kind that you are talking about with the high sugar content. It is a different challenge to tackle that kind of product. [...] In the first instance, we have gone for soft drinks—sugary drinks—because they are very easy to target; it is very easy to do that. With milk, it is much harder. The narrative on milk is a different one in any case, in the sense that milk is one of the things that we also promote as a good thing for children to have.³⁶

31. Mr Cunningham added that the exclusion of milk-based drinks from the levy “does not mean that at some point we could not come back to it and look at it”,³⁷ but confirmed that the Treasury was not doing so at the moment.³⁸ The Minister noted that although they were excluded from the levy, milk-based drinks were included in the reformulation programme being led by Public Health England.³⁹

32. We are unconvinced by the rationale for excluding milk-based drinks from the soft drinks industry levy. The suggestion that milk-based drinks have been excluded because “milk is one of the things that we also promote as a good thing for children to have” is particularly unconvincing: as we pointed out in questioning, milk is better for children without sugar added to it.⁴⁰ While it is welcome that milk-based drinks will be included in the wider reformulation programme, their exclusion from the levy appears to be a missed

35 [Draft Finance Bill 2017](#) [accessed 13 March 2017], clause 56(1)(a)

36 Qq 127–129

37 Q131

38 Q132

39 Q133. See also [Childhood Obesity: A Plan for Action](#), pp. 4–5, and Chapter 3 below.

40 Q130

opportunity to drive progress much faster than it might otherwise take place. **We urge the Government to extend the soft drinks industry levy to milk-based drinks which have extra sugar added.**

Use of the revenue from the levy

33. The Government's childhood obesity plan says

In England, the revenue from the levy will be invested in programmes to reduce obesity and encourage physical activity and balanced diets for school age children. This includes doubling the Primary PE and Sport Premium and putting a further £10 million a year into school healthy breakfast clubs to give more children a healthier start to their day.⁴¹

Revenue from the levy will be distributed to the devolved administrations in accordance with the Barnett formula.⁴²

34. Concerning use of the revenue from the levy in England, the childhood obesity plan adds

Given the considerable new funding that the soft drinks industry levy will make available for school sports, the Government is keen that schools are supported as much as possible in how they spend the available funds for maximum impact. During inspections, Ofsted assess how effectively leaders use the Primary PE and Sport Premium and measure its impact on outcomes for pupils, and how effectively governors hold them to account for this. Physical activity will be a key part of the new healthy schools rating scheme, and so schools will have an opportunity to demonstrate what they are doing to make their pupils more physically active.

Schools will continue to have the freedom to consider spending the Primary PE and Sport Premium on specific interventions but to help schools understand what help is available, PHE will be developing advice to schools for the academic year 2017/18. This will set out how schools can work with the school nurses, health centres, healthy weight teams in local authorities and other resources, to help children develop a healthier lifestyle.

35. Further correspondence from the Minister for Public Health sets out the detail of the Government's plans for the use of the levy:

- £160 million per year for primary schools for the primary PE and sports premium from September 2017;⁴³
- £10 million per year to expand breakfast clubs in up to 1,600 schools from September 2017, providing more children with a healthy start to their school day (£6m in Year 1, £10m in Year 2 and £10m in Year 3);⁴⁴

41 [Childhood Obesity: A Plan for Action](#), p.4

42 [Childhood Obesity: A Plan for Action](#), p.4

43 Minister for Public Health and Innovation ([CHO016](#))

44 Minister for Public Health and Innovation ([CHO016](#))

- £415 million through a new Healthy Pupils Capital Programme, to help pupils benefit from healthier, more active lifestyles. Primary, secondary and sixth form colleges will be able to use the funding to pay for facilities to support PE, after school activities and healthy eating. The money will be available to schools in the 2018/19 financial year: further details on the allocation formula, spending guidance and bidding criteria will be provided by the Department for Education in the summer.⁴⁵

36. Our 2015 report concluded

90. There has been much debate about whether a tax on sugar sweetened drinks would be regressive, in disproportionately affecting low income families. We do not believe this needs to be the case because zero sugar alternatives are available which would be unaffected. **There is compelling evidence of the disproportionate harm to disadvantaged children from high sugar products which can no longer be ignored. Nonetheless, given the concerns that the income raised by a tax could come disproportionately from lower income families, there is a strong case that those families should also derive the most benefit. A sugary drinks tax should act as a child health levy, with all proceeds directed to measures to improve children's health. Those measures should be especially targeted to help the children who are at the greatest risk of harm from obesity.**

37. We note that the funding promised for schools as a result of the imposition of the soft drinks industry levy is being directed by 'soft hypothecation'—that is, an assumption has been made about how much the levy will bring in, and that amount has been committed to the programmes described above, whether or not the levy actually raises the amount predicted.⁴⁶ In his Budget statement the Chancellor confirmed that, notwithstanding the reduced revenue expected from the levy as a result of the progress on reformulation already made by producers, the Government "will nonetheless fund the Department for Education with the full £1 billion that we originally expected from the levy this Parliament, to invest in school sports and healthy living programmes."⁴⁷

38. **We commend the Government for responding positively to our recommendation (and that of others who called for a sugar tax⁴⁸) that the proceeds of the soft drinks industry levy should be directed towards measures to improve children's health. It is particularly welcome that some of the proceeds will be directed to breakfast clubs, whose greatest benefit is to children from lower income families. We intend to follow up how the income from the levy is distributed in order to help reduce the inequalities arising from childhood obesity.**

45 Minister for Public Health and Innovation ([CHO017](#))

46 Q134, Q139.

47 HC Deb, 8 March 2017, [col 815](#).

48 [Childhood obesity—brave and bold action](#), para 83.

3 Reformulation

39. We have already described the positive effect of the soft drinks industry levy not only on the reformulation of soft drinks, but on the conversations which Public Health England have been having with other food and drink manufacturers about reducing the sugar content of their products. The childhood obesity plan says “All sectors of the food and drinks industry will be challenged to reduce overall sugar across a range of products that contribute to children’s sugar intakes by at least 20% by 2020, including a 5% reduction in year one.”⁴⁹ This is a positive response to our endorsement of PHE’s own recommendation of “a broad, structured and transparently monitored programme of gradual sugar reduction in everyday food and drink products.”⁵⁰

40. PHE is now tasked with delivering, and reporting on, that voluntary reformulation programme. The childhood obesity plan goes on to promise that

PHE will provide an assessment at 18 and 36 months (September 2018 and March 2020) on the approach adopted by industry. Government will use this information to determine whether sufficient progress is being made and whether alternative levers need to be used by the Government to reduce sugar and calories in food and drink consumed by children. If there has not been sufficient progress by 2020 we will use other levers to achieve the same aims.

41. We were encouraged to hear that the reformulation programme has already achieved a number of successes, including reformulation of Petit Filous yoghurts, Nestlé chocolate, and Kellogg’s breakfast cereal. We look forward to hearing of substantial further progress when PHE reports in March 2018.⁵¹

42. Whilst we hope that there will be further progress by that date, the evidence we heard from Prof Paul Dobson, professor of business strategy and public policy and head of Norwich Business School at the University of East Anglia, leads us to conclude that the Government should nevertheless be prepared to take further measures to back up the threat of action contained in the plan. Prof Dobson told us

To make a threat credible, you have to show what the stick is. To make vague suggestions that there could be further action is not enough. Give the industry a clear timeline by which you want it to reformulate and then work on that basis and say what will happen. [...] It is the lack of a clear timeline and consequences if you do not work to it that troubles me.⁵²

43. Duncan Selbie of PHE disagreed with Prof Dobson’s view, pointing out that “we have committed to 20% over what will actually be four years—20% over four years, 5% in the first year [...] We can set out right now what we expect to do and by when.”⁵³ Nevertheless, Prof Dobson’s point about consequences stands. The Minister emphasised that the Government is “prepared to go further if necessary”, but resisted our invitation to specify what measures might be taken if industry does not respond as quickly or as

49 [Childhood Obesity: A Plan for Action](#), p.4

50 [Childhood obesity—brave and bold action](#), para 64.

51 Q143

52 Q59, Q61

53 Q140

comprehensively as is necessary if serious inroads are to be made into the problem of childhood obesity.⁵⁴ **We urge the Government to set out the policy proposals which it is prepared to implement if the voluntary reformulation programme does not go as far or as fast as necessary to tackle childhood obesity.**

44. Prof Dobson also reminded us of the importance of another significant contributor to obesity: portion sizes. He told us

There is plenty of evidence to suggest that portion sizes and the way consumers view them as the norm dictate how much they eat. We know that over time what is perceived as the norm has increased. Therefore, portion sizes in particular, along with snacking, seem to be a major driver in encouraging overeating.⁵⁵

45. In *Childhood obesity—brave and bold action*, we concluded **“We agree with Public Health England that a cap on portion sizes for relevant foods and drinks in both the retail and entertainment sectors is a clear way of reducing both sugar and calorie intake, and we recommend that caps on portion sizes linked to the calorie content of certain foods and drinks should be introduced.”**⁵⁶

46. The childhood obesity plan notes that reductions in portion size are one means by which the target of a reduction in overall sugar across a range of products that contribute to children’s sugar intakes of at least 20% by 2020 may be achieved,⁵⁷ adding

PHE will advise Government on setting sugar targets per 100g of product and calorie caps for specific single serving products. The 4-year, category-specific targets for the nine initial categories will be published in March 2017. Progress will be measured on the basis of reductions in the sales weighted average sugar content per 100 grams of food and drink, reductions in portion size so that these contain less sugar, or a clear sales shift towards lower sugar alternatives.⁵⁸

47. Portion sizing may be more difficult to make progress on than reformulation. Andrea Martinez-Inchausti of the British Retail Consortium, giving evidence to us, asked

[...] how do we make sure that we are moving in the right direction on portion sizes? It is a little more difficult to understand what that measure would look like. At the moment, there are talks about volume of sugar, but I do not think that will necessarily specify it or correlate directly with portion sizing. At the moment, we are all thinking about what measurement for that element might be, but the sales weighted average approach that Public Health England has suggested should go a long way in identifying, measuring and indicating that progress is being achieved.⁵⁹

54 Q144

55 Q3

56 [Childhood obesity—brave and bold action](#), para 71

57 [Childhood Obesity: A Plan for Action](#), p 4

58 [Childhood Obesity: A Plan for Action](#), p 5

59 Q64

48. Jon Woods of Coca Cola suggested that, so far, the measures in the childhood obesity plan had had less effect on portion sizes than on reformulation:

The report [...] of the McKinsey Global Institute⁶⁰ [...] said there were two main things that manufacturers could do: one was the reformulation of products and the other was portion sizes, to which Paul has already referred.

The soft drinks industry is already very rapidly reformulating products without a levy, because ultimately it is competing in a marketplace to provide drinks that people want to buy. Increasingly, they want to buy lower-sugar, lower-calorie drinks. We are competing and the market is encouraging us to change recipes and reduce sugar content. I am sure that will continue.

[...]

Portion control is the other big thing. From McKinsey's work, that seems to be top of mind for what manufacturers can do. I think [the levy] will have less impact on portion control than reformulation.⁶¹

49. We encourage Public Health England to go further with the introduction of means to measure progress in reducing portion sizing, and we look forward to reviewing progress when we return to this subject following publication of the first set of monitoring data in March 2018. In the meantime, we recommend that the Government draw up measures to implement our earlier recommendation of a cap on portion sizes, linked to the calorie content of certain foods and drinks, to be introduced if swift progress on portion sizing is not achieved by voluntary means.

60 McKinsey Global Institute, [Overcoming obesity: An initial economic analysis](#), November 2014

61 Q33

4 Discounting and price promotions

50. Our earlier report considered the evidence presented by Public Health England and concluded that it justified action both on price promotions and on the promotion of food in the retail environment, such as on end-of-aisle displays:

40. Price promotions on foods in the UK have reached record levels—some 40% of the food UK consumers buy is now on promotion, double that of other European countries. Public Health England has presented clear evidence that price promotions lead to customers buying more of particular types of products, rather than simply switching brands, and that promotions are skewed in favour of higher sugar foods and drinks. While promotions may be presented as offering value for money for consumers, they actually lead to consumers spending more money, rather than less.

41. **We endorse Public Health England’s recommendation that measures should be taken to reduce and rebalance the number and type of promotions in all retail outlets, including restaurants, cafes and takeaways. In our view this should not be limited to products which are high in sugar, but also those high in salt and fat. Voluntary controls are unlikely to work in this area and the Government should introduce mandatory controls. Measures should be designed to reduce the overall number of promotions of unhealthy foods and drinks. They should be as comprehensive as possible, and should be carefully designed to take account of possible unintended consequences, including the introduction of compensatory promotional activity of other unhealthy foods and drinks.**

[...]

44. Research suggests that the placement of foods in store may have a substantial impact on purchasing of unhealthy foods. We commend the progress which has been made in removing unhealthy food from checkouts in supermarkets, but new ways of promoting unhealthy foods in store are emerging, including high sugar foods being heavily marketed at the checkouts of clothing retailers and newsagents. **We endorse Public Health England’s case for removing confectionery or other less healthy foods from the ends of aisles and checkouts. We recommend an outright ban on these practices and call on retailers to end the promotion of high calorie discounted products as impulse buys at the point of non-food sales.**

51. The Government response to our, and Public Health England’s, recommendations in both of these areas was essentially to reject them:

The Government recognises that it is an established part of market practice for retailers, and sometimes producers, to encourage consumers to switch to their stores and products on the basis of the deals they offer. This practice is a welcome part of competitive markets, and can help deliver better deals for consumers. Many supermarkets offer promotional deals on fruit, vegetables and healthy products and these are welcome and to be encouraged.

That said, industry know their consumers want a healthier food and drink offer. While a lot of forward-thinking businesses are already making changes our action will accelerate this shift in the market.

Childhood Obesity: A Plan for Action focusses on other measures that will have a strong impact on childhood obesity.⁶²

52. The evidence we heard at our most recent session from Prof Paul Dobson, a leading international authority on pricing strategy, retail competition, and supply-chain relations, reinforced the influence of price promotions on people's purchasing, and therefore eating, choices.⁶³ He told us, for example,

One of the issues is about quantity discounts. You have to ask yourself: why is it mostly unhealthy foods that get this? This is because of the nature of the dilemma in the consumer's mind. They want a bargain and so they are tempted to go large, but the angel on their shoulder is also suggesting they restrain how much they purchase and then consume. They face a tension. It is because of that tension that you get incredibly different unit prices. To give just one example, if you went to a very well-known large retailer today and purchased a very familiar brand of carbonated drink, you would see a fourfold difference in the unit price between a small size and a large size or multi-buy. That kind of incentive, even for an unhealthy product, will drive bargain-hunters to purchase that; it is the extremity of that.

With healthier foods, you tend not to see such generous multi-buys for two reasons. One is that often the products are perishable. We all know about the problems of not consuming fresh fruits and vegetables quickly enough; they will perish and end up being thrown away. That limits them to some extent, but equally there is not that kind of tension in somebody's mind about the difference between wanting the bargain and knowing that it could be harmful. You will always have that tension with unhealthy products.

A further aspect of unhealthy products is that they tend to have what we call expandable demand. That is why the products that have the largest proportion of sales driven by price promotions are often quite unhealthy ones. They are expandable, and consumers will grab the bargains while they are there. Therefore, price promotion lies at the heart of the problem in the retail environment.⁶⁴

62 [Government Response to the House of Commons Health Select Committee report on Childhood obesity – brave and bold action, First Report of Session 2015–16](#), p 9

63 Q5, Q8, Q9, Q11, Q67

64 Q8

53. There is some evidence of an improvement in retailers' practices relating to price promotions. The representatives of Public Health England told us that the proportion of food and drink sold on promotion had dropped from 40% to 37%,⁶⁵ and the British Retail Consortium's representative, Andrea Martinez-Inchausti, claimed that the most recent figures showed that at the end of 2016 it was just 27%.⁶⁶ Ms Martinez-Inchausti added

Every single retailer in this country has an internal policy that makes it balance the quantity of products, both high fat, sugar and salt, if you want to describe them as such, or otherwise, that it advertises. Therefore, every retailer has made a commitment to promote healthier products. That was incredibly obvious over Christmas when there was a price war over vegetables to be used in the Christmas dinner. It was one of the first times when there was a real price war over carrots, for example, and that was certainly very well received by customers.

I think the perception for customers and their acceptability of what they would like to see is changing a little bit and with that the manner and type of products that are being promoted and how they are being promoted, but all our members are looking at different ways of positively promoting and providing information on healthier products to attract customers.⁶⁷

54. However, Ms Martinez-Inchausti also told us—echoing the comments of her colleague from the BRC Andrew Opie in evidence to our original inquiry⁶⁸—“for the purpose of achieving that level playing field and getting everybody to the same point, there needs to be intervention.”⁶⁹ Prof Dobson agreed:

The aspect of a level playing field is important whenever you look at agreements with the industry. One of the problems with the responsibility deal^[70] is that it was bilateral. As part of the deal, it was agreed with the manufacturer or individual retailer what would happen. The incentive to come forward with such an offer, say to reduce the amount of sugar in products or price them in a particular way, will come about only if it is in your individual interest to do that anyway because of that collective problem.

Therefore, anything that helps co-ordinate action [...] which leads to a benefit, whether it be a reformulation or change in the pricing structure, is to be welcomed.⁷¹

65 Q86, Q88

66 Q6, Q8

67 Q8

68 [HC \(2015–16\) 465](#), Q54

69 Q7

70 The Public Health Responsibility Deal “aims to tap into the potential for businesses and other influential organisations to make a significant contribution to improving public health”. Organisations signing up to the Responsibility Deal commit to taking action voluntarily to improve public health through their responsibilities as employers, through their commercial actions and through their community activities. For more information, see Department of Health, [Public Health Responsibility Deal](#) [accessed 21 March 2017].

71 Q10

55. Duncan Selbie and Alison Tedstone of Public Health England acknowledged the continued importance of price promotions as an influence on consumers' food choices.⁷² Whilst it was clear that they, as the representatives of the Government's chief public health advisory body, were disappointed that the childhood obesity plan did not contain any measures to address the issue directly,⁷³ nevertheless they offered some grounds for optimism. Those grounds are twofold. First, both Mr Selbie and Dr Tedstone acknowledged that industry itself, driven by customer feedback and competition from retailers such as Aldi and Lidl, is already going in the right direction, moving away from "multibuy" deals which encourage people to increase consumption, and towards competing on a single price.⁷⁴ Second, we were told that data being collected as part of the efforts to monitor and encourage reformulation to reduce sugar content would also enable monitoring of price promotions, so that, as Dr Tedstone said, "if there is over-promotion of high-sugar products, we will pick it up through the monitoring programme we are setting up for the reformulation agenda."⁷⁵ The Minister reinforced the point, telling us that "there will be two opportunities for us to hold industry to account in a way we were not able to do before."⁷⁶

56. We are extremely disappointed that the Government has not regulated to provide the "level playing field" on discounting and price promotions which industry representatives themselves have told us is necessary for the greatest progress. We urge the Government to follow the evidence-based advice from their chief public health advisers and to regulate to further reduce the impact of deep discounting and price promotions on sales of unhealthy food. We welcome the action which some retailers have been taking, in response to customer demand, to rebalance their promotions away from unhealthy food and drink. We look forward to seeing the results of the monitoring of price promotions which Public Health England will be undertaking. Retailers who act responsibly on discounting and promotions should not be put at a competitive disadvantage to those who do not.

72 Q86

73 Q87

74 Q87, Q88, Q89

75 Q88

76 Q90

5 Advertising

Our recommendations

57. Public Health England’s evidence review recommended the following tightening of controls on advertising and marketing to children:

Reducing exposure to marketing by setting broader and deeper controls on advertising of high sugar foods and drinks to children. This could be achieved through a range of specific actions including:

- extending current restrictions to apply across the full range of programmes that children are likely to watch as opposed to limiting this to just children’s specific programming
- extending current restrictions on advertising to apply across all other forms of broadcast media, social media and advertising (including in cinemas, on posters, in print, online and advergames)
- limiting the techniques that can be used to engage with children, including plugging the ‘loopholes’ that currently exist around the use of unlicensed but commonly recognised cartoon characters and celebrity endorsement within children’s advertising
- tightening the current nutrient profiling model that governs what can be advertised
- consider limiting brand advertising of well recognised less healthy products including through restrictions on sponsorship on e.g. sporting events.

Our report endorsed Public Health England’s proposals.⁷⁷

58. The Government’s response to our report said

The Government recognises that advertising of less healthy products leads to their increased consumption and we know marketing in all forms affects food preference and choice. Although evidence regarding the extent of increased consumption by children as a result of advertising and the knock-on effect on obesity levels is mixed. We have noted Public Health England’s assessment of evidence on the impact of marketing to children as set out in its report *Sugar Reduction: The evidence for action*.

Current restrictions on advertising in the UK are amongst the toughest in the world. There is a total ban on the advertising of high in fat, sugars and salt (HFSS) food during children’s television programmes on dedicated children’s broadcast channels and in programmes “of particular appeal” to children under the age of 16. The ban also contains restrictions on advertising content, for example promotional offers may not be used in HFSS food TV adverts targeted at pre-school or primary school aged children.

77 [Childhood obesity—brave and bold action](#), paras 53–55.

In addition, we welcome the Committees of Advertising Practice (CAP) review of non-broadcast advertising to introduce new rules on advertising to children.

However, as already noted above, the childhood obesity plan itself contains no reference to advertising.⁷⁸

Action by the Committees on Advertising Practice

59. On 8 December 2016, following a public consultation, the Committee of Advertising Practice⁷⁹ announced new rules banning the advertising of high fat, salt and sugar (HFSS) food and drink products in children’s media. The rules, which will come into effect on 1 July 2017, will apply across all non-broadcast media including in print, cinema and online and in social media. In summary, when these new rules come into effect:

- Ads that directly or indirectly promote an HFSS product will not be permitted to appear in children’s media;
- Ads for HFSS products will not be permitted to appear in other media where children make up over 25% of the audience; and
- Ads for HFSS products will not be allowed to use promotions, licensed characters and celebrities popular with children.⁸⁰

Childhood obesity plan: updating the nutrient profile model

60. Meanwhile, the Government’s childhood obesity plan announced that Public Health England would work with academics, industry, health non-governmental organisations (NGOs) and other stakeholders to review the nutrient profile model to ensure it reflects the latest government dietary guidelines.

Response from stakeholders

61. Of the five possible actions which Public Health England proposed (see para 53 above), and which we endorsed, only three have thus been implemented. Amongst those sending in written submissions ahead of this follow-up session, the Association of Directors of Public Health,⁸¹ the British Medical Association,⁸² Cancer Research UK,⁸³ the Royal College of Paediatrics and Child Health,⁸⁴ the Children’s Food Trust⁸⁵ and the

78 Para 8, fifth bullet point.

79 The [Committees of Advertising Practice](#) (CAP) write and maintain the UK Advertising Codes, which are administered by the Advertising Standards Authority. They also offer the industry authoritative advice and guidance on how to create campaigns that comply with the rules. There are two Committees: the [Committee of Advertising Practice](#), which writes the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code), and the [Broadcast Committee of Advertising Practice](#), which writes the UK Code of Broadcast Advertising.

80 Committees on Advertising Practice, “[New rules ban the advertising of high fat, salt and sugar food and drink products in children’s media](#)”, 8 December 2016

81 [CHO003](#)

82 [CHO005](#)

83 [CHO006](#)

84 [CHO001](#)

85 [CHO002](#)

Children’s Food Campaign⁸⁶ all express disappointment that further action has not been taken on advertising and marketing of unhealthy food and drink. The Children’s Food Trust’s submission summarises the concern:

Whilst we note the recent—very welcome—moves by the Committee for Advertising Practice to bring rules for print, online and cinema advertising of foods high in fat, sugar and salt into line with those for TV, the requirements still fall short of what we and many other campaigners had called for to protect children’s health.

Advertising of junk food will still be allowed at the cinema, online, in print or at events if less than one quarter of the media’s audience is judged to be under the age of 16. Children are often exposed to junk food ads during early-evening family TV because programmes aren’t counted as ‘children’s TV’ and we feel the Committee on Advertising Practice has missed an opportunity to lead the way on closing this sort of loophole.

We’re also concerned that advertisers will still be allowed to use characters and celebrities popular with children to promote products which while not high in fat, sugar or salt, may still not support a healthy diet for children, and that it appears child-friendly characters created specially for brands will still be allowed in the advertising of junk foods.⁸⁷

62. A number of submissions called for implementation of our, and Public Health England’s, recommendation to restrict all advertising of high fat, salt and sugar (HFSS) foods and drinks to after the 9pm watershed. The Royal College of Paediatrics and Child Health told us that “previous research by Ofcom showed that [a ban on the advertising of HFSS food and drink before the 9pm watershed] would reduce the amount of HFSS adverts seen by children by 82 per cent compared to just 37 per cent for the current regulations.”⁸⁸

Evidence from the Committees on Advertising Practice

63. We invited a representative of the Committees on Advertising Practice to give evidence to us on the measures which it had—and those which it had not—taken to curb advertising of unhealthy food and drink to children. Our questioning focussed particularly on the point that while the existing and new restrictions would apply to media where children make up over 25% of the audience, they do not (and will not) apply in cases where the media concerned reach a very large absolute number of children, but where overall audience numbers mean that the proportion of the audience which they represent is below 25%. The most obvious example is Saturday night early-evening television programming.

64. Shahriar Coupal, Director of the Committees of Advertising Practice, relied on three main arguments in defending the Committees’ decision not to implement Public Health England’s proposals:

- the public health benefits were uncertain;
- the cost of extra regulation was too great; and

86 [CHO010](#)

87 [CHO002](#)

88 [CHO001](#)

- further restrictions such as the 9pm watershed were “blunt instruments” which would represent an unwarranted restriction on programming watched by adults and on commercial free speech.

To back up these arguments, he referred mainly to research on TV advertising of products high in fat, salt and sugar conducted by Ofcom between 2004 and 2007.⁸⁹

65. On the public health benefits, he said

Ofcom found from its research that there was only a modest direct influence on children’s food preferences arising from TV advertising. Therefore, if one were to eliminate all HFSS advertising from the schedule, one would be eliminating only a modest direct influence on their preferences. Clearly, it was unwarranted to have such a level of restriction, and that was why it concluded overall that a certain restriction on children’s programming was appropriate.⁹⁰

Later, he expanded a little on that point:

The evidence suggests that [advertising] has a modest impact on children’s food preferences and some link with children’s diets, but it falls well short of establishing a link with obesity. The calculation that seeing ads equals obesity is simply not proven. The multiple and complex factors that cause obesity—parental policy, schools policies, public understanding of nutrition and so on—are perhaps much more in the dock than advertising.⁹¹

66. On the cost of regulation, he said

Ofcom calculated that a 9 pm restriction would lead to a loss of broadcast revenue to the tune of £211 million net. Clearly, that has consequences for UK original programming, including children’s programming [...] Restrictions beyond those [Ofcom] proposed around children’s programmes would not be merited on the basis that public health outcomes from further restrictions were uncertain and the loss of revenue to broadcasters was too great, with a potential reduction in UK-originated programming, including children’s programming.⁹²

67. Responding to questioning about the proposal to restrict HFSS advertising to after the 9pm watershed, he argued

Ofcom was [...] concerned about the blunt instrument of a 9 pm watershed. As you may know, Ofcom licenses 1,200 channels, the vast majority of which do not have any child audience, or a negligible child audience, and to impose a 9 pm restriction on those would be simply unwarranted. [...] Ofcom was very concerned that any regulation should not have any unwarranted intrusion into adult viewing time. That would also be our concern in relation to non-broadcast advertising.⁹³

89 Qq 12–30.

90 Q14

91 Q30

92 Q13, Q29

93 Q13, Q23

Advertising: conclusion

68. We welcome the steps which the Committee on Advertising Practice (CAP) has introduced following its consultation to restrict advertising of HFSS food and drink in non-broadcast media, but we consider that the advertising regulators could—and should—go further. The research on which Mr Coupal relied to defend the regulators' failure to take firmer action to restrict the advertising of junk food dates back to 2007. Since then, our understanding of the scale and the urgency of the problem of childhood obesity has improved hugely. Notwithstanding the CAP's welcome recent recognition of the necessity of extending to non-broadcast media the restrictions which currently apply to broadcast media, it appears that the advertising regulators have not sufficiently woken up to the nature of the challenge we face. We are particularly unconvinced by the argument that restrictions which would affect audiences which contain large numbers of children, but where overall audience numbers mean that the proportion of the audience which they represent is below 25%, would represent an unwarranted intrusion into adult viewing time. As we pointed out in questioning, it would be no bad thing in tackling obesity if adults were exposed to less advertising of unhealthy food.⁹⁴ More importantly, though, the scale and consequences of childhood obesity require brave and bold action.

69. **Whilst we welcome the changes introduced by the Committee on Advertising Practice, we urge a re-examination of the case for further restrictions on advertising of high fat, salt and sugar food and drink in the light of the most recent research not only on the effect of such advertising, but on the scale and consequences of childhood obesity. We intend to return to this subject following publication of the first set of monitoring data in March 2018.**

6 The out-of-home sector

70. The out-of-home sector (restaurants, takeaways, etc) is particularly important because it now accounts for a large proportion of the food we eat. *Sugar reduction—the evidence for action* reported that around 18% of meals were eaten out of the home during the year ending March 2015, a 5% increase on the previous year, with 75% of people reporting eating out or buying takeaway food in 2014 (compared to 68% in 2010).⁹⁵

Planning powers for local authorities

71. Our earlier report concluded

116. We have been told that while local authorities are well placed to influence local environments in an attempt to tackle childhood obesity, funding constraints threaten their ability to do this effectively. **A simple way to boost local authorities' effectiveness in this area would be change planning legislation to simplify the processes for limiting the proliferation of unhealthy food outlets in local areas, which we have heard can be time-consuming and difficult. We recommend that this change should be made. In particular, health should be included as a material planning consideration.**

72. The Government rejected this recommendation, arguing

Local authorities already have a range of planning powers to create healthier environments in their local area, both through their local plan and in taking individual planning decisions. The National Planning Policy Framework makes clear that health objectives should be taken into account by local planning authorities when developing planning policy. The Planning Practice Guidance on health and wellbeing states that promoting access to healthy food is one of the issues that could be considered when planning healthy communities. A number of local planning authorities have been proactive in addressing the issue of hot food takeaways.⁹⁶

73. However, in a submission to us ahead of our most recent oral evidence session the Association of Directors of Public Health repeated the call for health to be made a material planning consideration, amongst other measures to help local authorities address the contribution of the out-of-home sector to childhood obesity:

Action is needed to help local authorities tackle the proliferation of fast-food takeaways, particularly in areas where children often frequent such as around schools. Health needs to be included as a material planning consideration and should be a condition for licensing of all types of business.⁹⁷

95 [Sugar Reduction – the evidence for action](#), p 28

96 [Government Response to the House of Commons Health Select Committee report on Childhood obesity – brave and bold action, First Report of Session 2015–16](#), p 17

97 [CHO003](#)

74. Duncan Selbie, Chief Executive of Public Health England, agreed that there is more which could be done to assist local government:

There is a whole lot of current and future opportunity for local government to be even more engaged about the planning decisions that they are making. There is a lot going on with DCLG about revisions to the national planning guidance, which will hopefully help that along. It is not that there is no progress, but there is much more that can be done and it speaks to the question about inequalities around the nation. We need to give further help, particularly at local government level, about permissive power on planning.⁹⁸

75. We repeat our call for change to planning legislation to make it easier for local authorities to limit the proliferation of unhealthy food outlets in their areas. Health should be included as a material planning consideration.

Other measures

76. Other measures will also be necessary if we are to further reduce the impact on childhood obesity of the out-of-home sector. The Minister told us

Out of home is a challenging sector because of its diversity, and that was recognised right from the beginning of the introduction of the childhood obesity plan. It is encouraging that even there we have seen some progress since the introduction of the childhood obesity strategy. In particular, Subway has committed to reformulating some of its products, and we are in conversation with some other industry partners. That is one of the most encouraging parts of the progress that we have made so far, as that was one of the areas we were most worried about. That is not to underestimate the challenge we face, as we have discussed already, which is why what will be most important is gathering the data—transparently gathering the data—and holding the different sectors of the industry very clearly and carefully to account as we go forward and, if we feel that we are not making the progress we need, considering the levers we discussed.⁹⁹

77. We noted earlier in this report that we want to see evidence that the Government has some concrete policy proposals which it is prepared to implement to back up the threat of further action if the voluntary reformulation programme does not go as far or as fast as necessary to tackle childhood obesity.¹⁰⁰ That applies with particular force to the out-of-home sector: *Sugar reduction—the evidence for action* points out that the salt reduction programme saw “limited output” from that particular sector, especially in the early days of the programme.¹⁰¹ **Ahead of our next hearing on this subject, we call on the Government to provide evidence of progress in the out-of-home sector. We will be scrutinising both the levers which it has used to secure change and those which it has in reserve if progress is inadequate.**

98 Q156

99 Q155

100 Para 43

101 [Sugar Reduction – the evidence for action](#), p 28

7 Measurement of success

78. We ended our most recent evidence session by asking the Minister and representatives of Public Health England how the success of the Government's childhood obesity plan would be measured. That prompted the following exchanges:

Q157 Maggie Throup: Obviously a lot is happening, more than just what is in the plan, but one thing that seems to be missing from the plan is an explicit target for a reduction in childhood obesity. Why is it missing?

Nicola Blackwood: In all our discussions and communications about that, we have been clear that our modelling on the plan expects the plan in aggregate to lead to a reduction in childhood obesity of up to 20%, but if I am honest I do not think that will be the measure of success for the plan. The measure of success for the plan will be a change in our relationship with sugar, fats and high-calorie foods. That is what we need to achieve in the United Kingdom if we are to have healthier lifestyles. That is what we collectively need to work towards. We are working on that. That is what the plan is the first step towards, and that is why it says that this is the beginning of the conversation; it is why it says we will consider further levers and why we put in all the key phrases. We recognise that this is a long term challenge and one that we will only achieve by partnership working.

[...]

Q159 Maggie Throup: We have talked about the industry side, but what we are here for is the child. We all know the stats: one in five starts primary school obese, and one in three at secondary school. In your mind, in 2025, when this is all moving, what do you want those stats to be? That is my last question.

Nicola Blackwood: I do not think about it in terms of stats. I want a child to go to school and think about food differently. I want us to break our addiction to sugar and high calorie foods. I do not want us to have the same relationship with food in 10 years' time that we have now, and I hope that this obesity strategy is our first step in breaking our addictive relationship with high sugar, fatty, high calorie foods. I hope that we can do that.

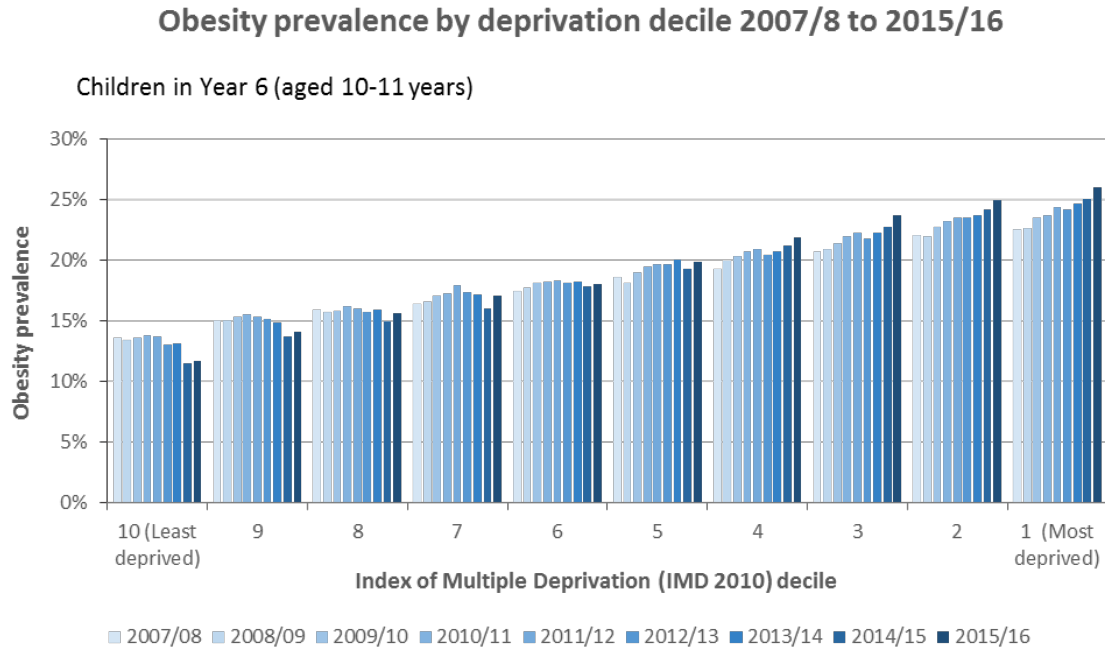
Duncan Selbie: We need to see a closing of the gap between those who are affluent and those who are not—fewer overweight children and fewer injustices because of the differences that you experience depending on your affluence.

79. In the light of the Prime Minister's comments in her first speech after assuming that office, when she put health inequalities first on her list of 'burning injustices' that need to be tackled,¹⁰² Mr Selbie's final remark has a particular resonance for us. As we said in our original report, "The health inequality which results from obesity between the richest and poorest children reinforces the need for policies that will have an impact right across society but include measures which will help the most disadvantaged young

102 Prime Minister's Office, 10 Downing Street, "[Statement from the new Prime Minister Theresa May](#)", 13 July 2016.

people.”¹⁰³ The importance of that point is illustrated starkly by the graph below, which shows the contribution of childhood obesity to health inequality—and the unacceptable and widening gap:

Obesity prevalence by deprivation decile 2007/8 to 2015/16



Source: National Child Measurement Programme 2007/08 to 2015/16 data

Child obesity: BMI ≥ 95th centile of the UK90 growth reference

80. We commend the Government for its promise to collect and publish regularly all the data on progress with the measures contained in the childhood obesity plan. We look forward to reviewing progress next year when the initial report is available. We hope to see clear evidence of progress and clear plans for further action if progress is unsatisfactory.

Conclusions and recommendations

Introduction

1. We welcome the measures the Government has included in the childhood obesity plan, but are extremely disappointed that several key areas for action that could have made the strategy more effective were removed. Vague statements about looking “to further levers” if the current plan does not work are not adequate to the seriousness and urgency of this major public health challenge. We call on the Government to set clear goals for reducing overall levels of childhood obesity as well as goals for reducing the unacceptable and widening levels of inequality. (Paragraph 14)

The soft drinks industry levy

2. We commend the Government for introducing a levy on the manufacturers of sugary drinks and welcome the progress already being made in reformulation as a result. We recommend that the Government’s monitoring of the effectiveness of the levy should include monitoring of whether the levy is being passed on to include a price differential between high- and low- or no-sugar drinks at the point of sale. Failure to do so would leave consumers of sugar-free products subsidising higher sugar drinks and would also reduce the effectiveness of the levy in helping to change choices. We recommend that the Government should develop and if necessary implement measures to ensure that that differential is clear in the price paid by consumers. (Paragraph 29)
3. We urge the Government to extend the soft drinks industry levy to milk-based drinks which have extra sugar added. (Paragraph 32)

Use of the revenue from the levy

4. We commend the Government for responding positively to our recommendation (and that of others who called for a sugar tax) that the proceeds of the soft drinks industry levy should be directed towards measures to improve children’s health. It is particularly welcome that some of the proceeds will be directed to breakfast clubs, whose greatest benefit is to children from lower income families. We intend to follow up how the income from the levy is distributed in order to help reduce the inequalities arising from childhood obesity. (Paragraph 38)

Reformulation

5. We urge the Government to set out the policy proposals which it is prepared to implement if the voluntary reformulation programme does not go as far or as fast as necessary to tackle childhood obesity. (Paragraph 43)
6. We encourage Public Health England to go further with the introduction of means to measure progress in reducing portion sizing, and we look forward to reviewing progress when we return to this subject following publication of the first set of monitoring data in March 2018. In the meantime, we recommend that the

Government draw up measures to implement our earlier recommendation of a cap on portion sizes, linked to the calorie content of certain foods and drinks, to be introduced if swift progress on portion sizing is not achieved by voluntary means. (Paragraph 49)

Discounting and price promotions

7. We are extremely disappointed that the Government has not regulated to provide the “level playing field” on discounting and price promotions which industry representatives themselves have told us is necessary for the greatest progress. We urge the Government to follow the evidence-based advice from their chief public health advisers and to regulate to further reduce the impact of deep discounting and price promotions on sales of unhealthy food. We welcome the action which some retailers have been taking, in response to customer demand, to rebalance their promotions away from unhealthy food and drink. We look forward to seeing the results of the monitoring of price promotions which Public Health England will be undertaking. Retailers who act responsibly on discounting and promotions should not be put at a competitive disadvantage to those who do not. (Paragraph 56)

Advertising

8. Whilst we welcome the changes introduced by the Committee on Advertising Practice, we urge a re-examination of the case for further restrictions on advertising of high fat, salt and sugar food and drink in the light of the most recent research not only on the effect of such advertising, but on the scale and consequences of childhood obesity. We intend to return to this subject following publication of the first set of monitoring data in March 2018. (Paragraph 69)

The out-of-home sector

9. We repeat our call for change to planning legislation to make it easier for local authorities to limit the proliferation of unhealthy food outlets in their areas. Health should be included as a material planning consideration. (Paragraph 75)
10. Ahead of our next hearing on this subject, we call on the Government to provide evidence of progress in the out-of-home sector. We will be scrutinising both the levers which it has used to secure change and those which it has in reserve if progress is inadequate. (Paragraph 77)

Measurement of success

11. We commend the Government for its promise to collect and publish regularly all the data on progress with the measures contained in the childhood obesity plan. We look forward to reviewing progress next year when the initial report is available. We hope to see clear evidence of progress and clear plans for further action if progress is unsatisfactory. (Paragraph 80)

Formal Minutes

Tuesday 21 March 2017

Members present:

Dr Sarah Wollaston, in the Chair

Heidi Alexander	Dr James Davies
Mr Ben Bradshaw	Maggie Throup
Rosie Cooper	Helen Whately

Draft Report (*Childhood obesity: follow-up*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 80 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Seventh Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Wednesday 29 March at 9.00am.]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Tuesday 7 February 2017

Question number

Professor Paul Dobson, Professor of Business Strategy and Public Policy, and Head of Norwich Business School, University of East Anglia, **Jon Woods**, General Manager, Coca-Cola, **Shahriar Coupal**, Director of the Committees of Advertising Practice, Advertising Standards Authority, and **Andrea Martinez-Inchausti**, Deputy Director of Food Policy, British Retail Consortium

[Q1–72](#)

Nicola Blackwood MP, Parliamentary Under Secretary of State for Public Health and Innovation, **Duncan Selbie**, Chief Executive, Public Health England, **Dr Alison Tedstone**, Chief Nutritionist, Public Health England, **Emma Reed**, Deputy Director responsible for delivering the Childhood Obesity Plan, Department of Health, and **Mike Cunningham**, Deputy Director, VAT & Excise, Business & International Tax Group, HM Treasury

[Q73–161](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

CHO numbers are generated by the evidence processing system and so may not be complete.

- 1 Action on Sugar ([CHO0007](#))
- 2 Association of Directors of Public Health ([CHO0003](#))
- 3 BMA ([CHO0005](#))
- 4 British Dental Association ([CHO0009](#))
- 5 British Dietetic Association ([CHO0013](#))
- 6 Cancer Research UK ([CHO0006](#))
- 7 Children's Food Campaign ([CHO0010](#))
- 8 Collaton St Mary Primary School ([CHO0014](#))
- 9 Food and Drink Federation (FDF) ([CHO0004](#))
- 10 Institute of Economic Affairs ([CHO0011](#))
- 11 Jamie Oliver ([CHO0008](#))
- 12 Royal College of Paediatrics and Child Health ([CHO0001](#))
- 13 The Children's Food Trust ([CHO0002](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website.

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2015–16

First Report	Child obesity—brave and bold action	HC 465 (Cm 9330)
Second Report	Appointment of the Chair of the Care Quality Commission	HC 195
Third Report	Appointment of the Chair of the Food Standards Agency	HC 663
Fourth Report	Primary care	HC 408 (Cm 9331)

Session 2016–17

First Report	Impact of the Spending Review on health and social care	HC 139 (Cm 9385)
Second Report	Public health post-2013	HC 140 (Cm 9378)
Third Report	Winter pressure in accident and emergency departments	HC 277
Fourth Report	Suicide prevention: interim report	HC 300
Fifth Report/ First Joint Report	Appointment of the Parliamentary and Health Service Ombudsman	HC 810
Sixth Report	Suicide prevention	HC 1087