

**Consultation to the UK Nutrient Profiling Model 2018 review:  
Individual responses K-P**

## **Table of Contents**

27. Karen Tonks Consultancy Limited.....	3
28. Lucozade Ribena Suntory .....	6
29. Nestle UK.....	10
30. Obesity Action Scotland .....	22
31. Obesity Health Alliance .....	27
32. Pepsico UK .....	31
33. Porter Nutrition.....	41
34. Provision Trade Federation .....	42

## 27. Karen Tonks Consultancy Limited

**The practicality of the proposal to include ‘free sugars’ as one of the elements in the matrix that would establish whether a product can be advertised is a concern.**

The recent published definition for free sugar<sup>1</sup> has provided some clarity. There is no scientific methodology to calculate free sugar – it is an estimate based on assumptions and in some cases subjective interpretations of ingredients lists and product manufacturing processes. Assumptions are acceptable for modelling i.e. as within the National Diet and Nutrition Survey for which the definition was developed but it is too general to establish specific product values.

Clarity on the categorisation of products is important to avoid misleading the consumer but also to enable the industry to move forward on product development in a way that helps reduce free sugars intake whilst supporting 5 a day and high dietary fibre intake and avoiding any unintended consequences.

SACN<sup>2</sup> has considered a detailed definition of free sugars which formed the basis of the PHE paper and stated that foods subject to blending, pulping or macerating which breaks down the cellular structure should also be considered as containing free sugars. This ‘processing’ covers both industrial and home preparation of foods and drinks. There is very little evidence to show what sort of processing will break down cell walls – juices especially from concentrates will obviously be 100% free sugar but there is then variability depending on how harsh any process is and whether it includes filtration.

PHE recognised that “...processed fruit, where the cellular structure is broken down on processing to a greater or lesser extent, would also include a proportion of free sugars. The degree to which this happens is likely to be highly variable depending on the type and length of processing and there is no evidence on which to set free sugar contents for different types of processed fruit.”<sup>3</sup>

Public Health England’s final definition of free sugars<sup>4</sup> acknowledges the “limited understanding of the extent to which the cellular structure of different types of processed foods containing naturally occurring sugars is broken down and the differences in the physiological response to sugar consumed in different forms.”

It is accepted that the definition of free sugars was not within the scope of the review of the Nutrient Profiling Model, however in Appendix L<sup>5</sup> the paper seeks to interpret that definition by providing a decision tree. It specifically asks the question “Does the product contain any fruit and vegetable purees, juices or pastes where the cellular structure is broken down?” but

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<sup>1</sup> [Swan, G., Powell, N., Knowles, B., Bush, M., & Levy, L. \(2018\). A definition of free sugars for the UK. Public Health Nutrition, 1-3. doi:10.1017/S136898001800085X](#)

<sup>2</sup> SACN 48th MEETING 30th June 2016, Skipton House, London

<sup>3</sup> SACN/16/09 Paper for discussion: Working definition of free sugars for use in NDNS

<sup>4</sup> [Swan, G., Powell, N., Knowles, B., Bush, M., & Levy, L. \(2018\). A definition of free sugars for the UK. Public Health Nutrition, 1-3. doi:10.1017/S136898001800085X](#)

<sup>5</sup> <https://www.gov.uk/government/consultations/consultation-on-the-uk-nutrient-profiling-model-2018-review>

provides limited guidance on what that means. It is also not obvious at what point the decision tree is to be applied – mixing bowl in line with the ingredients list of final product in line with the nutrition information?

I am also unclear why a correlation could not be developed between free sugar and total sugar, so the outcomes reflect the SACN recommendation but the matrix would include all elements for which the food industry would have data available and which is available on product labels.

The Sugar Reduction programme<sup>6</sup> also focuses on total sugar, noting that free sugars are “currently not easy to measure and are not declared on the nutrition panel of food labels” and recommends “shifting consumer purchasing towards lower/no added sugar products” however the nutrient profiling model as it stands would not support that action as improved products would be limited in marketing opportunities.

The potential for inconsistency will mean that enforcers will struggle to understand whether the value submitted is or not acceptable and would create a high level of queries which can also be played out in the media.

The clear definition of the products and the interpretation of the sugar content are important to motivate that continued development.

**As this is the first comprehensive review of the original advertising developed in 2004/5. It is unclear why the protein cap and the Food Standards Board recommendation in 2007 were not reviewed<sup>7</sup>.**

**The model fails to produce higher fibre options and severely restricts product such as breakfast cereals as a result.**

Is there not a further option available i.e. increasing the maximum points for fibre to 10 together with an increase in the number of points for fruit and vegetables to 10 which could possibly allow the advertising of a few more breakfast cereals and the lower sugar variants of fruit juices and 100% fruit products. This would enable a clearer differentiation of products and more motivation to improve products as the original profiling model did.

“A clear consequence of using nutrient profiling as a means of assessing eligibility for marketing is that the profiling scheme becomes a driver for product reformulation.”<sup>8</sup>

**A key performance measure should be a comparison of the proposed model with the foods recommended for a children’s diet eg with reference to the Eat Well guide.**

The view of Dietitians and Health Care Professionals in this respect is vital. The original model was assessed using a survey of nutrition professionals<sup>9</sup> however this validation step has not been repeated and it is unclear why?

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<sup>6</sup> <https://www.gov.uk/government/publications/sugar-reduction-achieving-the-20>

<sup>7</sup> [The Independent Review Panel report to the Board of the UK Food Standards Agency \(25th March 2009\)](#)

<sup>8</sup> [The UK Ofcom Nutrient Profiling Model - Defining ‘healthy’ and ‘unhealthy’ foods and drinks for TV advertising to children Mike Rayner, Peter Scarborough, British Heart Foundation Health Promotion Research Group, Department of Public Health, University of Oxford Tim Lobstein, International Obesity Task Force, London October 2009](#)

An indication of how the profiling aligns with the traffic light labelling should also be considered

**The scope of the Nutrient Profiling Model review excluded consideration of “the use of NPM for any other use beyond that related to restricting advertising of foods and drinks high in fat (saturated), sugars and salt to children”. However it is clear that the model is used more widely by NGOs and organisations who want shorthand for “healthy vs “unhealthy” food.**

Products that don't pass the model are often referred to as “junk” foods not just by the media<sup>10</sup> and campaigners<sup>11,12</sup> but by government too<sup>13,14</sup>.

The fact that some anomalous products fail the model is therefore much more significant and the model therefore needs to be seen in a wider context – as part of the bigger picture for reducing obesity as discussed by PHE<sup>15</sup> last year.

Many of these initiatives require an assessment of the nutritional quality of products. Nutrient profiling models could clearly support a wide range of public health initiatives currently that means using the “Traffic Light” criteria or the Nutrient Profiling Model.

In future it is possible that the UK will look to apply profiling to the use of health claims enacting Article 4 of the Nutrition and Health Claims Regulation<sup>16</sup> post-Brexit.

Two of the experts involved in the recent review have also suggested that “Nutrient profiling provides a method for categorising foods for taxation or subsidy”<sup>17</sup>.

The Mayor of London is also consulting industry and other stakeholders on “a ban on advertising of food and drink that is not healthy across the TfL estate. This ban would include ‘brand only’ advertising by the food and drink sector such as advertising using only a name or logo, as often used in directional advertising at stations and on bus stops”<sup>18</sup>. Their definition of “Healthy” would be based on the Nutrient Profiling Model.

The scope is therefore potentially much wider than the review has allowed for and the consequences of this should be considered.

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<sup>9</sup> [Testing nutrient profile models using data from a survey of nutrition professionals](#)

<sup>10</sup> [Children 'bombarded by junk food' ads on family shows - BBC](#)

<sup>11</sup> [We've #AdEnough of junk food marketing](#)

<sup>12</sup> [A Comprehensive Strategy to Tackle Childhood Obesity - Cross-Party Letter](#)

<sup>13</sup> [The effect of junk food advertising on obesity in children - House of Commons Library - January 2018](#)

<sup>14</sup> [Scottish Government draft obesity strategy: A Healthier Future – Action and Ambitions on Diet, Activity and Healthy Weight](#)

<sup>15</sup> <https://www.gov.uk/government/publications/health-matters-obesity-and-the-food-environment/health-matters-obesity-and-the-food-environment--2>

<sup>16</sup> [https://ec.europa.eu/food/safety/labelling\\_nutrition/claims\\_en](https://ec.europa.eu/food/safety/labelling_nutrition/claims_en)

<sup>17</sup> [The UK Ofcom Nutrient Profiling Model - Defining 'healthy' and 'unhealthy' foods and drinks for TV advertising to children Mike Rayner, Peter Scarborough, British Heart Foundation Health Promotion Research Group, Department of Public Health, University of Oxford Tim Lobstein, International Obesity Task Force, London October 2009](#)

<sup>18</sup> <https://www.london.gov.uk/what-we-do/business-and-economy/food/have-your-say-draft-london-food-strategy>

## 28. Lucozade Ribena Suntory

### 1. ABOUT LUCOZADE RIBENA SUNTORY

Lucozade Ribena Suntory (LRS) was formed in 2014 and is part of Suntory Beverage & Food, a core part of Japan's global Suntory Group. We are the third largest branded soft drinks supplier in the UK, and our much-loved brands – including Lucozade Energy, Lucozade Sport, Ribena and Orangina – account for 7% of the UK market<sup>19</sup>.

Our business is driven by our “Yatte Minahare” (Go for it!) spirit and our role is to have a positive impact on the lives of our consumers, providing them with a responsible choice of great tasting drinks and inspiring them to lead more active lifestyles.

#### Health and Wellbeing

**2017 was the biggest year in the history of LRS and our brands as we put into action an industry-leading reformulation and Health & Wellbeing plan.** From March 2018, all existing and new drinks with added sugar contain less than 5g of total sugar per 100ml (approximately a teaspoon) – and zero and reduced calorie alternatives are available for each brand. In total, we will have reduced the average sugar content of our portfolio by 50% - removing 25,500 tonnes of sugar and 98.1bn calories - but still delivering great tasting drinks.

Alongside changes to our drinks, we are investing £30 million over three years to help get the nation moving more. We are seeking to inspire 1 million people to move more with our ‘Made to Move’ campaign, fronted by unified world heavyweight champion Anthony Joshua OBE.

LRS has also partnered with Active Communities Network (ACN) to launch ‘B Active’ programmes across five different regions in the UK<sup>20</sup>. The programmes have been designed to help increase physical activity as well as improve the lifestyles and prospects of young people aged 16-24. It includes a youth-led activity programme running five days a week, 50 weeks of the year and, in a collaboration with the Open College Network and 1st4Sport, ACN will offer volunteers a range of qualifications (including: enterprise, diversity & inclusion and developing community activities for youth at risk).

#### Our Responsible Marketing Code

**We are committed to marketing our drinks responsibly and playing our part in helping consumers of all ages make informed choices.** Our unique responsible code of marketing<sup>21</sup> was created to shape the company's marketing behaviours, and goes above and beyond the UK industry standards. In particular:

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<sup>19</sup> EXT IRI Marketplace, GB, latest 52-week data ending 1st April 2018

<sup>20</sup> <http://www.activecommunities.org.uk/b-active/>

<sup>21</sup> [https://www.lrsuntory.com/dyn/\\_assets/\\_pdfs/lrsresponsiblemarketingcodeuk.pdf](https://www.lrsuntory.com/dyn/_assets/_pdfs/lrsresponsiblemarketingcodeuk.pdf)

- We do not advertise any products or target marketing communications to any children under 12 years of age. We will not sponsor events or celebrities that are likely to be of particular appeal to children under 12.
- We do not directly market HFSS products to those under the age of 16. Any sponsorship which appeals to 12-16 year olds must encourage physical activity and promote a balanced and healthy lifestyle.
- These rules apply online and offline, to television and all other forms of communication. They go further than those operated under UK legislation and the Committee of Advertising Practice.

In addition to compliance with local laws and regulations, we require all our employees, partners and agencies to adhere to this code.

## 2. REVIEW OF THE UK NUTRIENT PROFILING MODEL

### Overview

We welcome the opportunity to be able to respond to Public Health England's (PHE) consultation on the 2018 review of the UK Nutrient Profiling Model (NPM). The NPM is an important tool seeking to identify foods and drinks that are high in fat, sugar or salt (HFSS) to inform advertising restrictions to children. LRS does not directly advertise to anyone under 16 years of age, regardless of the fact that our industry-leading reformulation work means the majority of our drinks are currently designated non-HFSS. However, the proposed changes, which will reclassify our recently reformulated reduced sugar drinks as HFSS, will potentially have some unforeseen impacts on us.

The NPM is increasingly being used beyond scope, including the Government's potential plans to introduce a TV watershed and sales restrictions as part of the Childhood Obesity Plan 2 (COP2). As such, the revised NPM will potentially limit our ability to promote healthier, natural, low calorie and functional drinks to adults. We believe this has the potential to be counterproductive in ours and Government's shared ambition of helping consumers choose lower and no sugar brands.

Whilst PHE may feel it is not within its remit to reflect the wider policy implications of the proposed changes, we believe it is important they are considered before the finalisation of the NPM. As such, **we are calling for PHE to urgently revisit these proposals to consider the potential impact they may have, as well as how the NPM could better support Government and industry's overall policy objective of tackling obesity.**

### Proposed changes and potential impact

Under the proposed model, the cut off values for non-HFSS status will change from  $\leq 4.5\text{g}$  of total sugars to  $\leq 0.9\text{g}$  of free sugars. As reflected in the peer review and Expert Group responses (Annex B), the results of the modifications will "predominantly affect drinks rather

than foods. In particular... beverages"<sup>22</sup>. We agree with this statement and are concerned the new model will:

### **1. Be used beyond scope, potentially impacting ability to advertise and placing sales restrictions on healthier products**

PHE have been clear that their review "excludes consideration of the use of NPM for any other use beyond that related to restricting advertising of foods and drinks high in fat (saturated), sugars and salt to children"<sup>23</sup>. However, **NPM is already being used beyond scope**. NHS England, for instance, uses the current model within CQUIN 2016/17 to ban HFSS advertisements, price promotions, and placement of products at checkouts within hospitals.

The Government is expected to announce new sales and advertising restrictions on HFSS food and drink as part of the forthcoming COP2, including a 9pm TV watershed. Combined with the proposed  $\leq 0.9g$  model, this potential new policy will **limit manufacturers ability to sell and advertise low sugar and healthier drinks ( $\leq 4.5g$ )** they have developed and invested in as a result of the Soft Drinks Industry Levy and longer-term reformulation work. This directly conflicts with Government's aim to use SDIL to encourage producers to help consumers choose lower and no sugar brands<sup>24</sup>.

### **2. Conflict with wider scientific advice and create regulatory divergence from the EU**

PHE's decision to review NPM follows changing dietary advice arising from the Scientific Advisory Committee on Nutrition (SACN) Carbohydrates and Health Report, published in July 2015. The evidence used was theoretical and **SACN themselves recognise that the estimated figure of the intake of free sugars the NPM has been based on "should be treated with some caution"**<sup>25</sup>.

The European Food Standard Authority is, separately, providing scientific advice on the daily intake of added sugar in food by early 2020. We would recommend that **PHE should consider waiting for EFSA's advice to verify SACN's conclusions** before adjusting the model.

### **3. Disincentivise reformulation and limit new product development**

Our industry-leading Health & Wellbeing plan, which reduced sugar by 50% on average across our core range<sup>26</sup>, focussed on delivering a portfolio of non-HFSS drinks. However, **the science does not currently exist in most cases to reformulate products to such a low level of  $\leq 0.9g$  of free sugars while retaining the same great sensory properties the brand is renowned for.**

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<sup>22</sup> Consultation on the UK Nutrient Profiling Model 2018 review, Annex B – Summary of peer reviewer comments and Nutrient Profiling Model expert group responses, May 2018, p. 9

<sup>23</sup> Consultation on the UK Nutrient Profiling Model 2018 review Annex A – The 2018 review of the UK Nutrient Profiling Model, May 2018, p.18

<sup>24</sup> <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-06-03/39247/>

<sup>25</sup> <https://www.gov.uk/government/publications/sacn-carbohydrates-and-health-report>, Carbohydrates and Health, SACN, 2015, p.183

<sup>26</sup> Regular Lucozade Energy, Ribena and Orangina



This low level also **reduces the incentive to innovate new, healthier, naturally sweet products**. Last year we launched True Nopal Cactus Water, a natural drink with no added sugar and half the number of calories seen in leading coconut waters<sup>27</sup>. Under the new NPM, True Nopal Cactus Water will be designated as an HFSS (1.8g sugars per 100ml). It will not be possible for us to reformulate out the naturally occurring sugars.

#### **4. Create consumer confusion and undermine confidence in nutrition information**

PHE's proposed **model does not align with other definitions being used by regulators**, potentially creating confusion for consumers and undermining confidence in nutrition information. For instance, Lucozade Sport Low Cal Orange (1g sugar per 100ml) will be designated high in fat, sugar or salt under the new model yet can also be labelled low in sugars<sup>28</sup> and low in energy<sup>29</sup> under current EU law, as well as being green on current Front of Pack Labelling<sup>30</sup>.

We understand that UK labelling may change following Brexit. However, Government needs to remain mindful that **divergence will create significant cost and complexity for UK food and drink manufacturers** given the need to create different Stock Keeping Units (SKUs) for different markets, and potentially **impact supply and consumer choice**.

#### **Our ask**

We would urge PHE and Government to consider the potential unintended consequences of the proposed changes and give more thought as to how the NPM can complement existing and forthcoming policy. **The new model, combined with new policy in this area, potentially undermines Government and industry's wider policy ambitions of tackling obesity.**

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<sup>27</sup> <https://www.lrsuntory.com/our-brands/true-nopal/>

<sup>28</sup> Product contains no more than 5 g of sugars per 100 g for solids or 2.5 g of sugars per 100 ml for liquids, [https://ec.europa.eu/food/safety/labelling\\_nutrition/claims/nutrition\\_claims\\_en](https://ec.europa.eu/food/safety/labelling_nutrition/claims/nutrition_claims_en)

<sup>29</sup> Product does not contain more than 40 kcal (170 kJ)/100 g for solids or more than 20 kcal (80 kJ)/100 ml for liquids (equivalent to ~5g sugars/ 100ml), [https://ec.europa.eu/food/safety/labelling\\_nutrition/claims/nutrition\\_claims\\_en](https://ec.europa.eu/food/safety/labelling_nutrition/claims/nutrition_claims_en)

<sup>30</sup> Guide to creating a front of pack (FoP) nutrition label for pre-packed products sold through retail outlets, <https://www.gov.uk/government/publications/front-of-pack-nutrition-labelling-guidance>, p.20

## 29. Nestle UK

Nestlé welcomes the opportunity to comment on the modified Nutrient Profiling model (draft 2018 NPM) following the review of the UK Nutrient Profiling Model by Public Health England (PHE).

We recognise that obesity is a serious public health concern which requires a holistic approach and we take our responsibility as a food manufacturer seriously. We were one of the key signatories of the Government's Public Health Responsibility Deal pledging support for all relevant pledges, more than any other signatory. We also are heavily engaged with the sugars reduction programme being undertaken by Public Health England as part of the Childhood Obesity Plan.

We recognise the need to review the nutrient profile model to bring it in line with current UK dietary recommendations, in particular those of sugars and fibre which have been updated following the Scientific Advisory Committee on Nutrition (SACN) Carbohydrate Review.

We have significant concerns that the modified model, due to the focus on free sugars and fibre, results in entire categories of nutrient dense foods and drinks which are healthy and key components of children's diets being identified as high in fat salt and sugar under this model. This will result in a model that is not aligned to current UK Dietary Guidelines.

Within the categories, a consequence of the proposal is that it is going to be difficult to reformulate products to 'pass' the model and therefore it will no longer be an incentive to reformulate.

We also note that increasingly the model is used more broadly than its primary purpose. This includes being used as a basis for broader definitions of healthy and non-healthy foods by NGOs, some retailers and local authorities.

We therefore strongly suggest that further modelling work is undertaken to enable the expert group to further consider the wider dietary and policy impacts of the draft 2018 nutrient profiling model.

We have set out our view on four broad areas of concern which we share with the FDF:

1. The proposed model appears to skew the results for groups of products that contribute key nutrients to children's diets and seems not aligned to the Dietary Guidelines.
  - A greater number of products high in fibre fail the proposed model, compared to the 2004/5 model.
  - The three main categories impacted by these changes (high fibre breakfast cereals, yogurts, fruit juices and smoothies) are nutrient dense and important contributors to children's micronutrient intakes but are now predominantly failing under the proposed model.

2. The model is not appropriate to be applied to products for infants and young children<sup>31</sup>.
  - Whilst these products are not advertised to children, the widening use of the model is of concern as products that fail the model are now being labelled broadly as 'junk food'.
3. Broader implications to Government policy.
  - The model forms part of the Government's overall policy response to obesity, and therefore we believe the potential for it to have negative impacts and not be aligned to other parts of the programme/ Government Health Policy needs to be considered.
4. Practical implications of a free sugars criterion for both food companies and the advertising regulator.
  - There are a number of areas where the model needs to be tested to ensure it is practical to both use and monitor the results.
  - We would welcome working with PHE on the development of a technical guidance document.
  - It should be made clear that all foods should be assessed on their nutritional composition as consumed.

## 1. Dietary Implications

We appreciate modelling work has already been undertaken by the PHE secretariat to inform the Expert Group. However, we have concerns that by looking at free sugars and fibre in isolation, the wider dietary contribution of some of the products has not been considered, resulting in a model which is skewed towards products failing based largely on free sugars content.

### 1.1 Breakfast Cereals and Fibre Intakes

According to government dietary guidelines, fibre should form an integral part of the diet, and intake is to be encouraged as data shows that fibre intakes are below the recommendations across the population. When applying the proposed model to our cereal products, a greater number of products high in fibre fail the proposed model, compared to the 2004/5 model.

Cereal Partners UK products:

Current Model: 48% products are classified as non HFSS.

Proposed Model: 4% products are classified as non HFSS.

29 products score maximum fibre points and the % values are as follows:

Current Model: 66% products scoring maximum points for fibre are classified as non HFSS.

Proposed Model: 14% products scoring maximum points for fibre are classified as non HFSS.

It is important for manufacturers to be able to advertise products higher in fibre, particularly breakfast cereals which supply key micronutrients to children's diets. This will help raise

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<sup>31</sup> As legislated for by Regulation 609/2013 on Food Intended for Infants and Young Children, Food for Special Medical Purposes and Total Diet Replacement for Weight Control

consumer awareness, increase fibre consumption and help people gain the health benefits recognised by SACN.

In addition, many products that fail the draft model are below the 2020 SWA 20% sugars reduction guidelines for the PHE sugars reduction programme, so the fact that they will not be able to be advertised will remove one of the three main methods of reducing the category sales weighted average (SWA), namely that of promoting products with lower sugars and shifting the portfolio to include more sales volumes of those products.

#### Case Studies (High fibre Breakfast Cereals)

These products are high fibre and meet the World Health Organisation Nutrient Profiling Model.

##### **Less than 5% sugar Oat Cheerios Cereal**

Cheerios Oats meets the conditions for both a 'high fibre' (9g/100g) and a 'low sugar' (4.7g/100g) claim, is green for sugars on the front of pack nutrition labelling, is significantly below the PHE 20% sugars reduction guidelines for breakfast cereals for 2020 (12.3g/100g) and contains 97.8% whole grain and does not pass the draft 2018 NP model.

##### **Nesquik A-Z Alphabet Cereal (specifically formulated to meet WHO NP Model)**

Nesquik A-Z is recently launched a 'high fibre' (9.8g/100g) cereal which contains 15g sugars/100g, is amber for sugars on front of pack nutrition labelling, contains 57.7% whole grain and 30g of cereal contains at least 18% of the RI for 9 vitamins and minerals, including vitamin D and iron and does not pass the draft 2018 NP model.

According to the NDNS years 7 and 8, high fibre breakfast cereals only contribute on average between 2% and 3% of total free sugars to children's diets, so a policy restricting their advertising would seem disproportionately strict.

The new model effectively removes incentives to reformulate. Given it is very stringent with regards to free sugars, in many categories; it would become extremely technically challenging to reformulate to meet the model.

#### **Nutritional benefits of breakfast cereals.**

In the UK, breakfast cereals are nutrient dense and contribute significantly to the nutrient intake of children in particular.

88% of ready to eat breakfast cereals are consumed with milk (Kantar 52 w/e | 22 April 2018) and provide an important source of dairy in the diet. Many are fortified with calcium as well as vitamin D.

High fibre breakfast cereals provide a range of much needed micronutrients in the younger generation:

- Providing 11% of iron intakes across the 1.5 years to 18 years age groups.
- Providing primary school aged children and teenagers 4-5% of vitamin D, 2-4% of zinc, and 4-7% of fibre intakes.
- We have recently increased our fortification of vitamin D and so breakfast cereals contribution to vitamin D is likely to increase.
- Preliminary work that we are undertaking looking at the nutrient contribution of high fibre breakfast cereals using the latest NDNS children and adolescent (5-17 years) data shows that those cereals contribute only 6.6% of total sugars, yet 24.1% fibre, 19% of niacin and folate, 7.5% of vitamin D and 26.3% of iron to the diets of UK children.

Studies looking at the dietary contributions of wholegrain consumption have been carried out by Chris Seal's group at Newcastle University. The aim of one of the studies<sup>32</sup> ([here](#)) was to describe whole grain intakes in UK households using data from the National Diet and Nutrition Survey (NDNS) rolling programme 2008–11. The results showed that overall the population intake of wholegrains was low. It also showed that in 1.5-5 year old children, ready to eat cereals were the highest contributor to wholegrain eating occasions and the second highest in 5-17 year olds, contributing at least one third of eating occasions in children.

Another study<sup>33</sup> ([here](#)) aimed to investigate the association of whole grain intake with intakes of other foods, nutrients and markers of health. The results showed that nutrient intakes in consumers compared with non-consumers were closer to dietary reference values, such as higher intakes of fibre, Mg and Fe, and lower intakes of Na, suggesting that higher intake of whole grain is associated with improved diet quality.

### **Recommendations:**

For the breakfast cereal category, we propose the following:

1. Removal of the protein cap for breakfast cereal products that score maximum points for fibre. This would mean the following for Cereal Partners products.

Current Model: (48%) products are classified as non HFSS.

Proposed Model: (4%) products are classified as non HFSS

Proposed Model + removal of protein cap when max. fibre is achieved: (38%) products are classified as non HFSS.

2. Increasing the number of points fibre can score up to 10, in line with the 'A' nutrients', which would provide a greater reformulation incentive.

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<sup>32</sup> Mann KD et al Low whole grain intake in the UK: results from the National Diet and Nutrition Survey rolling programme 2008–11 Br J Nutr. 2015 May 28; 113(10): 1643–1651.

<sup>33</sup> Mann KD et al Whole grain intake and its association with intakes of other foods, nutrients and markers of health in the National Diet and Nutrition Survey rolling programme 2008–11. Br J Nutr. 2015 May 28; 113(10): 1595–1602

## **1.2 Yogurts and Fromage Frais:**

The newly proposed NP model now causes many yogurts to fail. This, coupled with the fact that most cheese fails the original 2004/5 model, means there may be an unintended consequence of labelling dairy products as 'junk', and thus a potential impact on children's intake of nutrients, particularly calcium.

The sales of fromage frais and yogurts purchased for use in school children's lunch boxes has been in decline following the introduction of Universal Free School Meals. This could be further exacerbated by the recent announcement of the Scottish Government Consultation on the proposed amendments to the 'Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2008'<sup>34</sup>. The consultation states that the Government is proposing to introduce a limit on the provision of sweetened foods typically high in sugar at lunchtime along with introducing sugar limits for products such as yogurts.

### **Nutritional benefits of Yogurts and Fromage Frais.**

Yogurts are very low contributors to free sugars intake of the population, are good sources of vitamin D and calcium respectively and are often consumed as a dessert in place of some higher calorie, higher sugars alternatives. Yogurt, fromage frais and other dairy desserts also provide on average 6% of calcium intakes across the 1.5 years to 17 year old age groups.

Latest dietary survey data shows that yogurt, fromage frais and other dairy desserts provide children with 6% of calcium intakes across the 1.5 years to 18 year old age group and less than 3% of energy in children aged 4-10.

A review carried out by the British Nutrition Foundation (BNF) investigated the contribution of yogurt to nutrient intakes across the life course<sup>35</sup>. A secondary analysis was undertaken on NDNS data and the results showed that despite being consumed in relatively small amounts, the yogurt group makes a useful contribution to micronutrient intakes and that encouraging teenagers to increase their consumption of yogurt could help meet recommended intakes for several micronutrients particularly calcium and iodine.

We are concerned that classifying such foods as 'junk foods', could lead to micronutrient shortfalls and the model fails to recognise the important role that dairy plays both within the Eatwell Guide and dietary recommendations but also in terms of the wider consumer health benefits, such as digestive health or bone health.

The increasing and ongoing demonisation of dairy products such as yogurt is negatively affecting a category that provides valuable contributions to nutrient intakes of relevance in children's diets. This was compounded by the reduction of the dairy segment of the Eatwell guide – a matter raised by the All Party Parliamentary Group.

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<sup>34</sup> <http://www.gov.scot/Publications/2018/06/3221/downloads>

<sup>35</sup> Williams EB, Hooper B Et al The contribution of yogurt to nutrient intakes across the life course. Nutrition Bulletin 40: 9-32.

In addition, a number of products have been reformulated to support the PHE 20% Sugar Reduction Programme and many products that are at or below the 2020 20% sugars reduction guideline do not pass the draft model.

### **Munch Bunch Organic Fromage Frais**

Munch Bunch Organic Fromage Frais is a recently launched no added sugar fromage frais which contains 9.8g sugars/100g (6g free sugars/100g), 70 calories per pouch so is recognised as a 100 calorie 'snack swap', is amber for sugars under front of pack nutrition labelling guidance and is a source of calcium and vitamin D.

It is also significantly lower than the PHE Sugar Reduction programme SWA calorie recommendation (120kcal/100g) and the 2020 20% sugar reduction guideline (11g/100g).

It does not pass the draft 2018 NP model and does pass the current model.

### **Recommendations:**

For the yogurt category, we propose the following:

**1. Consider inclusion of a dairy ingredient component (e.g. milk % which allows the protein cap to be excluded), to recognise the valuable contributions the dairy category makes to intakes of high quality protein and micronutrients in children's diets.**

### **1.3 Fruit and Vegetables**

We are unclear why in the original model the fruit and vegetable scoring is not uniformly spaced out, and why the threshold for scoring 1 point is set at >40% fruit and vegetables. We are aware that for some products, for example ready meals, this can be difficult to achieve and a linear, more evenly spread scale may encourage reformulation to include further fruits and vegetables.

In the case of a 100g yogurt, it would not be feasible to add 40g of fruit, however, adding 10% would be realistic, so it would be useful to be able to obtain points on an incremental basis.

### **Recommendations:**

1. Increase the number of points fruit and vegetables can score to 10, in line with the 'A' nutrients.
2. Consider a scale of scoring for fruit and vegetables that is uniformly spaced to encourage increasing fruit and vegetables in a step wise fashion in products.

## **2. Appropriateness of Model for Foods for Infants and Young Children<sup>36</sup>**

<sup>36</sup> As legislated for by Regulation 609/2013 on Food Intended for Infants and Young Children, Food for Special Medical Purposes and Total Diet Replacement for Weight Control"

We are concerned that neither model has been validated for use in infants and young children. The nutritional needs of infants and young children are very different from those of adults or older children. This was identified when the model was first developed in 2004/5<sup>37</sup>, and similarly the nutrient profile model developed by the World Health Organisation (WHO) specifically exempts products for infants under 36 months.

The SACN report on Carbohydrates and Health acknowledged a lack of evidence of the health effects of free sugars in children under the age of 2 years. Existing public health recommendations favour the use of simple purees of fruit and vegetables as appropriate first weaning foods which results in the fruit and vegetable sugars being classified as free sugars.

Many foods for infants and young children are heavily regulated by EU legislation, with compositional requirements. Products within this category include infant and follow on formula, which are strictly regulated by Commission Directive 2006/141/EC, and those defined in Commission Directive 2006/125/EC<sup>38</sup> as 'processed cereal-based foods and baby foods for infants and young children', also known as complementary foods. Products covered by Regulation 609/2013 on Foods for Specific Groups and its delegated acts must also adhere to strict compositional requirements. Our analyses are showing that some of these products are being classified as HFSS under the draft model.

We would also like to point out that the regulatory compositional requirements for infant and follow on formulae stipulate the amino acid and lactose composition. In order to achieve these requirements, whey powder and lactose are added to milk powder which, under the PHE free sugars definition, are classified as free sugars, resulting in these products being classified as HFSS under the draft model.

Additionally the PHE definition of free sugars is not in line with the Soft Drinks Industry Levy Statutory Instrument. For the purposes of the SDIL whey, reconstituted whey and recombined whey are all treated as milk, so sugars in the whey are considered part of the milk. The PHE definition of free sugars means the sugars in whey are classed as free sugars.

### **Recommendations:**

1. We propose an exemption for foods and drinks for infants and young children under 3 years old as the current and new nutrient profiling models are not validated or appropriate for use with this age group.
  - a. While the model is intended for specific use in determining whether a product is suitable to be advertised to children and these products are not advertised to children, it is typically used more widely, e.g. in the media or by retailers to 'score' products as healthy or less healthy, which then has far wider implications.
2. We request an acknowledgement in the model that it has not been validated in infants and young children under the age of 3 who have very specific nutritional requirements.

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<sup>37</sup> Nutrient profiles: Applicability of currently proposed model for uses in relation to promotion of food to children aged 5-10 and adults. M Raynor et al 2005

<sup>38</sup> <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32006L0125>



3. We suggest that the PHE free sugars definition regarding whey powder is changed to sugars in whey powder added as an ingredient for the purpose of sweetening.

### **3. Broader implications to Government's Childhood Obesity Plan and Healthy Eating Messages**

The terms of reference of the Expert Group are very clear that the purpose of the model is for defining what can be advertised to children. This has been reflected in discussions within the Expert Group.

However, the current nutrient profile model is being used beyond this scope. For example, NHS England has previously used the model in [CQUIN 2016/17](#) to ban HFSS advertisements, price promotions, and placement of products at checkouts within hospitals. We are also aware that there are ongoing discussions in Westminster and Holyrood which may extend the model's use, including proposals in the recently published London Food Strategy by Sadiq Khan.

In addition to this, the model is used by media, health charities, and NGOs call food 'junk', including within the recommendations of the recently published [Health and Social Care Committee report into childhood obesity](#):

- Giving local authorities power to limit the prevalence of HFSS advertising near schools
- Restrictions on promotions on less healthy foods in retail outlets
- A watershed banning advertising of HFSS products before 9pm
- A ban on brand generated and licensed characters in the promotion of HFSS foods

The Scottish Government is also currently considering limiting retail promotions using the NP model. So, the results will then be known more widely by the general public and could result in contrary health messages.

The Health and Social Care Committee report and other recommendations, if implemented, have wide reaching implications on the advertising and promotions of HFSS foods, well beyond the remit of advertising to children. We believe that it is important that the implications of these are considered by PHE before the finalisation of the model.

#### **3.1 PHE Sugars Reduction Programme**

Many companies, including us, are reformulating their products, working closely and constructively with PHE on sugars reduction. This is a long and difficult process, with huge technical barriers and risks such as negative consumer response if a product's reformulated taste does not meet their expectations and taste, which can then result in consumers switching to other not reformulated products, thereby not achieving the public health goal.

Both breakfast cereals and yogurts achieved the initial stated ambition of reducing sugars by 5% within the first year of the programme.

Our modelling has shown that some of our products that have achieved 20% sugars reduction such as those highlighted in the case studies would fail the draft nutrient profiling model.

We are very concerned that the free sugars criterion in the draft model is so strict it will not provide a reformulation incentive. It also limits one of the methods of reducing sugars sold by a company that PHE is encouraging - to change the portfolio by promoting lower sugars products over their higher sugars counterparts.

Whilst, it can be argued that this only applies to current advertising restrictions and therefore will have minimal impact, the potential broader impact of the NP model must be considered to provide a realistic view of the impact of the changes. The model is already used by some food manufacturers and retailers as a means to determine healthier products.

### **3.2 Change 4 Life Sugar Swaps and 100 Calorie Snack Swaps**

Another example of where the Government's healthy eating advice would not be in line with the model and the message the model sends, is the recent sugar swaps Change 4 Life programme. The programme recommends some products that would be classed as HFSS under the new model.

For example fromage frais are widely accepted within Change 4 Life as healthy alternatives, but would all fail the draft NP model.

#### **Munch Bunch Double Up Fromage Frais**

Munch Bunch Double Up Fromage Frais contains 12.5g sugar/100g (8.9g free sugars/100g), following a reduction of 10% in 2017 and 85kcal per pot, so is recognised as a '100kcal' snack swap' and is amber for sugars under the front of pack nutrition labelling guidance and is a source of calcium and vitamin D.

It is also significantly lower than the PHE Sugar Reduction programme SWA calorie recommendation (120kcal/100g) and the 2020 20% sugar reduction guideline (11g/100g).

It does not pass the draft 2018 NP model and does pass the current model.

### **Recommendations**

1. We would request that as part of the evaluation following this consultation and before a model is announced, a review is undertaken which highlights the potential impacts and that this is factored into PHE's health assessment of the model before any recommendations are made.
2. We would also request that in all communications about the model, PHE is very clear that this has only been considered with respect to the current advertising codes, and that any extension of its use would require a separate review and impact assessment.
3. We recommend that the model is not used as a proxy for defining 'healthy foods' for products that pass the model or 'junk foods' for foods that do not and that the model is not used beyond its original purpose of advertising to children.

### **4. Practicalities**

Any model must be useable – both for food companies applying it and for regulators seeking to ensure the advertising codes are being adhered to. This was also agreed by the Expert Group during its first meeting of 1 July 2016, where it was noted that *‘both the practicality and science of the model is essential’*, and *‘it would not be feasible in devising a model that is not practical’*.

As the model is now used within both broadcast and non-broadcast codes, it will impact a larger number of products across companies of all sizes, including those with no internal nutrition expertise.

#### **4.1 Free Sugars**

Free sugars cannot be analysed for, and estimating free sugars is technically challenging and requires detailed information from raw material specifications. The calculation is labour intensive and the data used to obtain the information is commercially sensitive.

Free sugars will have to be estimated (rather than quoting total sugar data from nutrition labels) and the declared value could be subject to challenge, as the level of free sugars is open to interpretation.

As an example, we have recently had differing interpretations, by different Company Nutritionists, with regard to what counts as both free sugars and fruit and vegetables in a newly developed product composed of fruit puree, concentrated fruit juice, dried fruit pieces and dehydrated fruit powder.

The free sugars definition is also not aligned with other policy instruments such as the Soft Drinks Industry levy and it is not aligned with the 2015 World Health Organisation ‘Guideline: Sugars Intake for Adults and Children’ definition of free sugars which includes sugars in fruit juices, but not those in fruit purees.

Other areas of difficulty encountered include:

- It is unclear at what point during the processing of fruits and vegetables, they are defined as puree or pastes.
- To calculate a free sugars value in dairy products the lactose from the milk is subtracted from the total sugars value. Lactose values in milk products are not routinely analysed as sugars are declared as total sugars on packaging. However, for a product that is close to a threshold for free sugars content, the use of an average lactose value may change the result of whether a product will pass or fail, and therefore either subject a company to additional cost for analysis or open it to an ASA challenge. If the product also contained added lactose, then the added vs ‘natural’ lactose composition could not be determined by analysis, so could not be determined independently.
- There is inconsistency in PHE communications regarding sugars in syrups. In both [Annex A](#) of the nutrient profiling consultation and the definition published in [Public Health Nutrition](#), the body of text states that the total weight of the syrup should be counted as a free sugars, whereas the tables in these documents differ slightly, stating that only the ‘sugars in honey, syrups and nectars’ are free. Depending on the water content of such syrup, this could change the total sugars content significantly. In the glucose syrups that we use in beverage creamers, the current range is from

12% mono and di saccharides to 73%. Changing the glucose syrup is one method where sugars can be reduced, so it is only the mono and di saccharides should be counted as free sugars.

- The PHE definition of free sugars is not in line with the Soft Drinks Industry Levy Statutory Instrument. For the purposes of the SDIL whey, reconstituted whey and recombined whey are all treated as milk, so sugars in the whey are considered part of the milk. The PHE definition of free sugars means the sugars in whey are classed as free sugars.

## **Recommendations**

Whilst we acknowledge that free sugars are taken as the basis of dietary recommendation, we would like to encourage PHE to reconsider its free sugars definition and align with the World Health Organisation's definition. At a minimum we would like to see definitions that are made much more precise.

We'd also encourage PHE to consider more fully than it has to date whether a proxy for free sugars content using total sugars can be developed which whilst it may not have 100% alignment will be a practical and cost-effective solution.

A proxy would help smaller companies who do not have in house nutrition experts, and would be a helpful option to larger companies who could choose to either follow the proxy or do their own more detailed estimations based on recipe information.

Failing a move to total sugars, detailed technical guidance is required, and we would like to see this developed in consultation with industry, to ensure a consistent understanding of how to calculate free sugars.

We recommend that sugars from whey are only counted as free sugars when the whey is used for the purposes of sweetening.

### **4.2 Fruit and Vegetable Calculations**

We agree with FDF's recommendation that the [IGD guidance](#) for calculating fruit and vegetable content is used as a guide and that PHE consider linking to this when developing its technical guidance to help calculate the model.

### **4.3 Technical Guidance**

The current technical guidance only provides limited examples of products that need to be prepared in order to be consumed (squash, milkshake mix, cocoa powder, powdered soup, rice, pasta). Any technical guidance should enable all foods and drinks that have to be prepared to be permitted to score nutrients for the food or drink on a per 100g or 100ml basis as consumed.

## **5. Conclusion**

We acknowledge the rigour and work PHE has undertaken to review the nutrient profile model. We are aligned to the FDF conclusions in that we believe that due to the narrow focus of the review there are some unintended consequences and we would therefore

request that further modelling work is undertaken for the Expert Group to discuss, before PHE finalises the model.

Specifically:

- Additional modelling work which looks at the impact of the protein cap.
- Additional modelling work looking at changing the score for fruit/ vegetables / nuts and fibre.
- Additional modelling work which looks into introducing a dairy ingredient component (i.e. % milk).

In addition, we request:

- Foods for infants and young children are specifically exempted from the model.
- A wider impact assessment is undertaken on the implications of the model on government obesity policy. In particular we have concerns that companies have devoted considerable resource, both time and cost, to reformulation programmes and yet the model as proposed sets the bar so high that it would not enable these products to be advertised in the future. This has possible consequences for incentivising future reformulation, in particular if the model is applied more widely outside its original remit.
- Further consideration is given to the practicalities of implementing a free sugars criterion, both for food companies and for the regulator.

## 30. Obesity Action Scotland

Obesity Action Scotland welcomes this consultation and the opportunity to provide our views.

Obesity Action Scotland is a unit that was established in summer 2015 to provide clinical leadership and independent advocacy on preventing and reducing overweight and obesity in Scotland. It is funded by a grant from the Scottish Government and hosted by the Royal College of Physicians and Surgeons of Glasgow on behalf of the Academy of Medical Royal Colleges and Faculties.

The main aims of the Unit are:

- To raise awareness and understanding of what drives obesity and the health problems associated with obesity and overweight with health practitioners, policy makers and the public
- To evaluate current research and identify strategies to prevent obesity and overweight based on the best available evidence
- To work with key organisations in Scotland, the rest of the UK and worldwide, to promote healthy weight and wellbeing

The Steering Group of Obesity Action Scotland has members across various disciplines involved in preventing and tackling obesity and its consequences e.g. clinicians, public health experts, epidemiologists, nutritionists and dieticians, GPs and weight management experts.

### Childhood Obesity in Scotland

- In 2016 in Scotland, 14% of children aged 2-15 years old were at risk of obesity and a further 15% were at risk of overweight<sup>1</sup>
- In 2016 23% of children starting school in Scotland were at risk of overweight or obesity<sup>2</sup>
- Inequalities in childhood obesity have widened over recent years in Scotland<sup>3</sup>
- Childhood obesity generates adverse consequences over the entire lifespan and into the next generation<sup>4</sup>
- Consequences of childhood obesity are striking. They include stigma and discrimination, mental health problems, musculoskeletal complications, heart disease, stroke and common cancers later in life<sup>5</sup>. All result in worse quality of life

### The impact of marketing of high fat, sugar and salt foods on children

Advertising and marketing techniques have the potential to influence obesity rates by overriding established eating patterns; they can encourage buying more of a product, or switching between brands and products.

Advertising and marketing change purchasing preferences and consumption patterns, especially for children<sup>6,7,8,9</sup>. This is not new knowledge. In 2003 the Food Standards Agency presented the evidence on this to the UK Government<sup>10</sup>. In 2010, the World Health Organization reviewed evidence and published a set of recommendations<sup>11</sup>, including: 'given

the effectiveness of marketing is a function of exposure and power, the overall policy objective should be to reduce both the exposure of children to, and power of, marketing of foods high in saturated fats, trans-fatty acids, free sugars and salt'. In 2015, Public Health England gave very similar advice to the UK Government, showing evidence that marketing shifts choices towards less healthy products<sup>12</sup>.

In her recent written submission to the Health and Social Care Committee Emma Boyland, University of Liverpool, presented the evidence very clearly and we would support that evidence including the cascade of effects and the evidence that associates unhealthy food marketing with the following impacts in children<sup>13</sup>:

- Greater awareness of advertised brands and products
- The 'normalisation' of junk food consumption
- More positive attitudes towards junk food
- Increased preference for junk food
- Greater taste preferences towards advertised products
- Greater choice of the advertised brand and product
- Greater pestering of parents to buy junk food
- Immediate snack food consumption
- Greater intake of junk food overall
- Lower intake of healthy food overall
- Increased food intake that is not compensated for at later eating occasions
- Greater body weight

### **OAS Position on Advertising and NPM**

It is our position that the current policy on TV advertising is unacceptable and is not doing enough to reduce children's exposure to the advertising of foods and drinks high in fat, salt or sugar. The Obesity Health Alliance recently reported that children watching TV during prime time family viewing were being exposed to up to 9 adverts for junk food every 30 minutes and that the majority (59%) of food and drink adverts shown during family viewing times were for high fat, sugar and salt (HFSS) products and would be banned from children's TV<sup>14</sup>.

Obesity Action Scotland support a 9pm watershed for TV advertising of food high in fat, sugar or salt and support regular review of the nutrient profile model in its application to TV restrictions.

We agree that the NPM should be regularly reviewed to be in line with dietary recommendations and we will be supportive in calling for a revised NPM to be adopted by the UK advertising regulators as soon as possible.

### **The scope of the 2018 review**

We were disappointed about the narrow scope of the review. A decision to limit its scope seems to have been taken very early on in the process; we would have liked to understand the rationale behind that decision as we feel a wider scope would have been much more advantageous.

The use of the NPM beyond advertising would have been valuable in light of the need for action across the food system to limit our intake of foods high in fat, sugar and salt.

The consideration of international models was limited and only offered a qualitative description of selected models. We would urge you to undertake a quantitative comparison of those models against the UK NPM model. This has been undertaken previously in academic studies and we would urge you to undertake such a comparison and publish the results<sup>15</sup>.

### **Theoretical basis to model**

The document states that excluding whole food and drink categories from the NPM would require starting from first principles and could introduce bias inconsistent with messages around a balanced diet. We disagree with this statement. Food and drink categories were removed from the Eatwell guide in its recent review (i.e. high fat, salt and sugar foods have been removed from the purple section of the plate and placed outside the main image to improve consumers' understanding of the role of these foods and drinks in the diet, as products to be consumed infrequently and in small amounts). Therefore, a model that was acknowledges those specific categories separately could be consistent with the messages around a balanced diet.

A two tier model (one that that excludes HFSS food and drink categories consistent with the Eatwell guide, but applies to all other foods) could have greater impact in encouraging and supporting a healthy diet.

There are international nutrient profile models that use food and drink categories to restrict advertising, and these could have been compared and the options explored. We would urge PHE to consider the option to name categories of discretionary foods which are not to be advertised to children.

### **NPM Test dataset**

The test dataset outlined within the review documentation contains only retail items. It is important that we test the NPM using out of home (OOH) offerings as well, as many are advertised on TV and using non-broadcast channels. With up to 25% of our calories coming from food purchased out of home this is important. Moreover, in children, the evidence tells us that those who have takeaway food at least once a week consume 55-168 kcal more per day<sup>11</sup>. This impact is amplified in children from less affluent households<sup>11</sup>.

### **Specific modifications**

#### *Free sugars*

We strongly support modifications made to bring the NPM into line with evidence based dietary recommendations on free sugars made by SACN in their Carbohydrates and Health Report<sup>16</sup> in 2016. The latest National Diet and Nutrition Data<sup>17</sup> shows that children of all ages are exceeding the recommendation of free sugars providing no more than 5% of daily total energy intake, with girls aged 11-18 consuming just under three times the recommended daily limit of free sugars.

We strongly support the performance measure that the draft 2018 NPM should allow fewer foods that are high in free sugars to pass the modified NPM. We are pleased to see that



during testing, the revised NPM allowed fewer foods and drinks higher in free sugars to pass than the existing model.

Currently, free sugar content of a product is not required to be listed on product packaging. We note that this will mean advertising regulators are reliant on manufacturers' own calculation of free sugars content to assess whether a product passes the revised NPM. It will make it more challenging for independent scrutiny by academics and NGOs with an interest in the enforcement of existing marketing restrictions and collecting evidence on the volume of HFSS marketing outside of existing restrictions.

We urge the development and publication of standard tools that can be used by industry and all interested stakeholders to calculate free sugars content of food and drink products using information that is available on pack.

#### *Saturated fat*

We support the recommendation to retain the current reference value for saturated fat. We note that this aligns with the 2018 draft SACN recommendation on saturated fat intake.

#### *Fibre*

We support the principle of updating the NPM to take into account the revised UK dietary fibre recommendations. We are pleased to see that the modifications were considered to ensure they did not encourage high intake of free sugars while promoting intake of fibre. We note that the changes to the free sugars component of the model were considered to offset the likelihood of products high in fibre and free sugars passing the model.

As the saturated fat component of the model has not changed, we encourage PHE to review the recommended fibre modification to ensure that it does not encourage high intake of saturated fat while promoting intake of fibre. We are particularly concerned that some pre-packaged OOH products such as burgers could be high in both fibre and saturated fat. As outlined above, we strongly recommend that PHE carries out more comprehensive testing of the model using OOH products.

While we note that children and adults are not meeting daily fibre recommendations, it is our view that they should not be encouraged, via advertising, to increase fibre intake via consumption of high fat, salt or sugar products.

1. Scottish Government. Scottish Health Survey 2016. Main Report. Edinburgh, 2017
2. ISD, NHS National Services Scotland. Body Mass Index of Primary 1 Children in Scotland. School Year 2016/17. Edinburgh, 2017.
3. ISD, NHS National Services Scotland. Body Mass Index of Primary 1 Children in Scotland. School Year 2016/17. Edinburgh, 2017.
4. Obesity Action Scotland. Childhood obesity briefing. Glasgow, 2017
5. Obesity Action Scotland. Childhood obesity briefing. Glasgow, 2017
6. Tedstone A, Targett V, Allen R. Sugar reduction. The evidence for action. 2015 [www.obesityactionsotland.org](http://www.obesityactionsotland.org)
7. Hastings G, Stead M, McDermott M, et al. Review of research on the effects of food promotion to children. Final report prepared for the Food Standard Agency. 2003
8. Kraak V, Story M. Influence of food companies' brand mascots and entertainment companies' cartoon media characters on children's diet and health: A systematic review and research needs. *Obesity Reviews*. 2015; 16(2):107-126

9. Boyland et al, Advertising as a cue to consume: a systematic review and meta-analysis of the effects of acute exposure to unhealthy food and non-alcoholic beverage advertising on intake in children n and adults. *Am J Clin Nutr* 2016 Feb; 103(2):519-33
10. Hastings G, Stead M, McDermott M, et al. Review of research on the effects of food promotion to children. Final report prepared for the Food Standard Agency. 2003
11. World Health Organization. Set of recommendations on the marketing of foods and non-alcoholic beverages to children. 2010
12. Tedstone A, Targett V, Allen R. Sugar reduction. The evidence for action. 2015.
13. Written submission from Emma Boyland, University of Liverpool to Health and Social Care Select Committee Inquiry into Childhood Obesity in 2018. Accessed 15th May 2018 at <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/health-and-socialcare-committee/childhood-obesity/written/81090.html>
14. Obesity Health Alliance (2017) A 'watershed' moment. Why it's prime time to protect children from junk food adverts
15. Food Foundation. UK's restrictions on junk food advertising to children. International learning series 3. London, 2017.
16. SACN. Carbohydrates and Health.
17. Public Health England (2018). NDNS: results from years 7 and 8 (combined)

## **31. Obesity Health Alliance**

The Obesity Health Alliance (OHA) is a coalition of over 40 leading health charities, medical royal colleges and campaign groups working together to influence Government policy to reduce obesity across the life course. A full list of members is available here: [obesityhealthalliance.org.uk](http://obesityhealthalliance.org.uk)

Thank you for giving us the opportunity to provide our views on the modifications made to the UK NPM 2004/5, and the methodology for developing the modifications, in particular with reference to the remit and aims of the review to ensure the NPM reflects the current UK dietary recommendations. As an alliance, our feedback represents the general overall views of our members. Several of our members have specialised nutrition expertise and may provide more detailed feedback.

### **Childhood Obesity**

The latest figures from the National Childhood Measurement Programme show that levels of childhood obesity have hit a devastating all-time high. More than one in three (34.2%) children aged 10 to 11 have a weight status classified as overweight or obese. In reception aged children it is nearly one in four. Obesity prevalence for children living in the most deprived areas is more than double that of those living in the least deprived areas for both reception and year 6. <sup>1</sup>

Children with obesity are over five times more likely to be obese as adults.<sup>2</sup> This increases their risk of developing serious diseases including Type 2 diabetes, cancer, heart and liver disease plus associated mental health problems. Obesity is putting an enormous and unsustainable strain on the NHS and society.

### **The impact of HFSS marketing on children**

There is a substantial body of evidence to demonstrate that junk food marketing negatively affects children's dietary health. Research has shown, in children, junk food marketing is associated with:

- The 'normalisation' of junk food consumption<sup>3</sup>
- Increased preference for junk food<sup>4</sup>
- Greater taste preferences towards advertised products<sup>5,6,7</sup>
- Greater pestering of parents to buy junk food<sup>8</sup>
- Immediate snack food consumption<sup>9</sup>
- Greater intake of junk food and lower intake of healthy food<sup>12</sup> overall<sup>10</sup>
- Increased food intake that is not compensated for by eating less at later eating occasions<sup>11</sup>
- Greater body weight<sup>12</sup>

### **The OHA position**

Protecting children from exposure to HFSS marketing across all media is one of OHA's agreed policy priorities. We support the use of the NPM as an established and evidence-

based tool to identify 'less healthy' food and drink that should be subject to marketing restrictions.

We support the principle that the NPM should align with current UK dietary guidance, and therefore be regularly reviewed and updated. We will be strongly calling for the final revised NPM (and any subsequent updated versions) to be swiftly adopted by the UK advertising regulators. We also note that the NPM has scope to be used more widely, such as to aid product reformulation by industry, to guide retailer behaviour on promotions and by public institutions such as schools, hospitals etc.

### **The scope of the process to update the NPM**

We support the approach taken and methodology used by PHE to update the NPM. We note that a decision was taken, early in the process, and without consultation, to update the existing NPM rather than develop a new model from starting principles. There is little information about the rationale for this decision on the consultation documents. As such we feel there may have been a missed opportunity to fully consider the lessons or improvements from other model structures that could enhance the UK's NPM in order to provide protection to children from HFSS advertising. We encourage PHE to commit to a full review of the NPM against lessons from international models ahead of any future reviews.

### **The NPM test data set**

We note that the NPM test data set was comprised of food and drink at a household level and does not include food and drinks products consumed out of home (OOH). One fifth of children eat food from OOH food outlets at least once a week. These meals tend to be associated with higher energy intake; higher levels of fat, sugar, and salt, and lower levels of micronutrients.<sup>13</sup> Furthermore, our own evidence suggests that fast food is the most heavily advertised food and drink category, during the TV programmes most popular with children.<sup>14</sup>

We strongly encourage PHE to undertake further testing, using OOH food and drink products to ensure the revised NPM provides adequate protection from fast food adverts.

### **Specific modifications**

#### *Free sugars*

We strongly support modifications made to bring the NPM into line with evidence based dietary recommendations on free sugars made by SACN in their Carbohydrates and Health Report<sup>15</sup> in 2016. The latest National Diet and Nutrition Data<sup>16</sup> shows that children of all ages are exceeding the recommendation of free sugars providing no more than 5% of daily total energy intake, with girls aged 11-18 consuming just under three times the recommended daily limit of free sugars.

We strongly support the performance measure that the draft 2018 NPM should allow fewer foods that are high in free sugars to pass the modified NPM. We are pleased to see that during testing, the revised NPM allowed fewer foods and drinks higher in free sugars to pass than the existing model. We are pleased that the revised model allows fewer cereal and yoghurt products to pass. Our own research shows that these products are typically advertised to children, around children's TV programming. Furthermore, sweetened cereals

and cereal products represent the largest source of free sugars intake in children aged 1.5-10 years.<sup>16</sup>

Currently, free sugar content of a product is not required to be listed on product packaging. We note that this will mean advertising regulators are reliant on manufacturers' own calculation of free sugars content to assess whether a product passes the revised NPM. It will make it more challenging for independent scrutiny by academics and NGOs with an interest in the enforcement of existing marketing restrictions and collecting evidence on the volume of HFSS marketing outside of existing restrictions.

We encourage PHE to develop and make public standard tools that can be used by industry and all interested stakeholders to calculate free sugars content of food and drink products using information that is available on pack.

We also encourage the Government to explore options on how to communicate free sugars content of foods as part of the commitment made in their Child Obesity Plan<sup>17</sup> to review additional opportunities to go further and ensure we are using the most effective ways to communicate information to families on packaged food labels.

#### *Saturated fat*

We support the recommendation to retain the current reference value for saturated fat. We note that this aligns with the 2018 draft SACN recommendation on saturated fat intake.

#### *Fibre*

We support the principle of updating the NPM to take into account the revised UK dietary fibre recommendations. We are pleased to see that the modifications were considered to ensure they did not encourage high intake of free sugars while promoting intake of fibre. We note that the changes to the free sugars component of the model were considered to offset the likelihood of products high in fibre and free sugars passing the model.

As the saturated fat component of the model has not changed, we encourage PHE to review the recommended fibre modification to ensure that it does not encourage high intake of saturated fat while promoting intake of fibre. We are particularly concerned that some pre-packaged OOH products such as burgers could be high in both fibre and saturated fat. As outlined above, we strongly recommend that PHE carries out more comprehensive testing of the model using OOH products.

While we note that children and adults are not meeting daily fibre recommendations, it is our view that they should not be encouraged, via advertising, to increase fibre intake via consumption of high fat, salt or sugar products.

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## **32. PepsiCo UK**

### **1. Introduction**

We welcome the opportunity to respond to this consultation. We recognise the rationale for reviewing the Nutrient Profiling Model (NPM) in light of the outcomes of the Scientific Advisory Committee on Nutrition (SACN) report on the role of carbohydrates in the diet.

Unless cited otherwise in the body of the response, this submission applies to the following PepsiCo brands (Tropicana, Naked, Copella, Quaker Oats, Pepsi Beverages) and specifically in the UK market.

### **2. About PepsiCo**

PepsiCo is a leading global food & beverage company with a broad portfolio of brands including household names such as Pepsi, Walkers, Tropicana and Quaker Oats. PepsiCo is listed on the Nasdaq with global Headquarters in Purchase, New York, USA.

In the UK, PepsiCo has approximately 4,300 employees. A distinct UK Business Unit manufactures and markets a portfolio of brands including Walkers Crisps, Tropicana Juice and Quaker Oats, while our carbonated beverage brands are manufactured on our behalf in the UK by Britvic plc. The global PepsiCo Inc. group of companies supplies beverage concentrate to Britvic, who converts the concentrate, packages and then distributes finished product.

Performance with Purpose (PwP) is the guiding principle of everything we do at PepsiCo. Companies have always operated with a license from society, and it is our firm belief that successful companies of the 21st century must earn that license by aligning the needs of their business with the needs of the world around them. So we recognise the role we have to play in tackling obesity and have a strong track record of taking voluntary action to transform our portfolio. We have proactively taken action in a number of areas: the product itself – through reformulation and innovation; its availability; shifting consumer behaviour – encouraging consumers towards low calorie choices and marketing responsibly.

We have also been active members of industry and cross-societal initiatives aimed at driving behaviour change by consumers, product reformulation and better information about our products. These include Change4Life, the Department of Health Responsibility Deal and working within the Food and Drink Federation, the Advertising Association and the British Soft Drinks Association to promote a progressive approach.

### **Responsible approach to advertising and marketing**

Since 2007 and ahead of others in the industry, we voluntarily applied the strict OFCOM rules on broadcast advertising of products high in fat, salt or sugar (HFSS) to children across all media. We also haven't marketed any HFSS products directly to children under 16 across all channels, from broadcast to digital. Below are examples of our approach:

- Tropicana has, for a number of years, been leading the sector on responsible advertising around portion sizes and nutrition information – more recently through our

'Little Glass' advertising campaign. In March 2016 we took the lead recognising the misconception about the goodness of juice amidst a very one-sided sugar debate. So we invested in an Above the Line campaign to educate on how just a 'Little' glass / 150ml portion gives you 60% of the recommended daily amount of Vitamin C as well as counting as one portion of five a day.

- Pepsi Beverages has for 12 years now had a commitment to only advertise no sugar drinks and to focus commercial plans on no sugar/zero calorie options. Approximately 75% of Pepsi grocery retail sales are now in no-sugar Pepsi MAX and Diet Pepsi.

### **Transparent Labelling**

In 2013 we voluntarily signed up to adopting front of pack traffic light labelling. In the juice category specifically, we remain the only branded juice to do so.

### **Portion size control**

- In 2018 we are reducing our recommended smoothies portion from 250ml to 150ml and Naked 450ml to 360ml in meal deals – a 20% reduction. (Meal deals account for around 80% of Naked on-the-go format volume sales).
- In 2016 we introduced 150ml Tropicana bottles, principally designed for children and available in some supermarkets.
- In 2015 we reduced our juice back of pack serving suggestion to 150ml. We also reduced the size of our Tropicana and Copella on-the-go bottles by almost 10% (330 to 300ml).
- For many years now our RRP for 600ml no sugar Pepsi MAX has been in line with our 500ml Pepsi Regular.

### **Investing in lower calorie/sugar alternatives**

Through new product innovation, we have also brought lower calorie options to market:

- **Tropicana** - In 2013 we launched Trop50, which has 50% less sugar and calories than pure fruit juice. We also launched some naturally low in sugar juices, such as coconut water in 2014.
- **Quaker**- we're proud that the level of total sugars already falls below the sales weighted average level for breakfast cereals set by Public Health England's 2020 guidelines. However, we know we can go further so we're committed to reducing added sugars where we can and plan to reduce added sugars in selected Quaker products in the UK by an average of around 16% in 2019. In fact, starting this summer, we plan to remove over 700 million calories from our Quaker portfolio every year through reformulation of existing products and investment in innovative new ones.
- **Pepsi Beverages** – We reduced sugar in Regular Pepsi by 4% between 2008-2011 followed by a 30% reduction of sugar in Lipton Ice Tea in 2015 (joint venture with Unilever). More recently, in 2017, by introducing a naturally sourced plant-based sweetener from Stevia to the 7UP original formula, our R&D team successfully reduced the sugar content by 30%, all without negatively impacting the taste. Global R&D teams continue to work on potential future reformulation. Over the past few



years, through innovative R&D, we have continued to develop our low sugar variants, adding Pepsi MAX flavour variants MAX Cherry and MAX Ginger. This has been supported with a continuous focus on improving the availability and visibility of our 'No Sugar' portfolio, supporting UK consumers to make healthier lifestyle choices without compromising on taste.

So at PepsiCo, performance always comes with purpose. What we do, why we do it, who we affect with our actions – these are all inextricably linked.

### 3. Executive Summary

Our response centres on our concerns about the negative consequences of the model's reclassification of fruit and vegetable juice, high fibre breakfast cereals and a sugar threshold which means many soft drinks reformulated to be low in calories/sugar in line with regulations will be defined as HFSS. It is important to note that the NPM is now widely used for purposes beyond advertising restrictions, including by retailers, charities and to underpin other proposed regulatory measures - and therefore the unintended consequences of the proposed revisions would be far reaching.

#### Key asks:

- **Exempt pure juice/smoothies or rebalance the points system**

We are concerned that recategorising pure juice and smoothies as HFSS could demonise what are effectively healthy products and at odds with the aim of encouraging people to eat at least 5 portions of fruit and vegetables. A 150ml portion of juice/smoothies counts as one of 5-a-day because of the important micronutrients it provides which are not specifically considered as part of the NPM.

*We believe that the aim of focusing attention on free sugars can be achieved without penalising products that are healthier because they contribute significant positive nutrition. We ask that fruit and vegetable juices and smoothies are exempt from the model. This could be achieved by rebalancing the points system for the percentage of fruit and vegetables and fibre [to score to 10 in line with 'A' nutrients]*

- Remove the protein cap

The SACN report which underpins the proposed revisions recommended an increase in fibre intake from 18g to 25g (NSP); 30g AOAC fibre. To help achieve such an uplift we need to be able to advertise high fibre cereals to shift consumers in this direction.

*We suggest the protein cap is removed as it would enable a greater number of high fibre breakfast cereals to pass the model and support the Government's aim of increasing consumers' fibre intake.*

- Recognise reformulation progress

The NPM should differentiate between drinks that are low versus those that are high in sugars and calories. Even products classified by UK and EU Regulations and International Codex standards as "No Calorie" can fail. The situation is the same for beverages that are "Low calorie" and/or "low sugar". As well as supporting policy objectives to drive healthier

choices in the category this would avoid challenging and confusing discrepancies with food and beverage Regulations (particularly Regulations on Nutrition and Health Claims) and with thresholds in other policy areas.

*We ask that the model is revisited to ensure that reformulated drinks are recognised within the model to allow for promotion to help shift consumers towards healthier alternatives incentivised by the design of the recently enacted SDIL.*

*The practicalities of implementing the proposed revised model are complex given the requirement to submit 'proof of passing' to Clearcast. Under the revised model, the process would be complicated as it would entail estimating free sugars (rather than quoting total sugar data from nutrition labels) thereby creating additional bureaucracy.*

*We are also already experiencing Brexit related cost increases which are likely to rise, packaging regulatory challenges and a concurrent sugars reduction programme for pure juice and smoothies. All of which pose significant challenges and investment.*

#### **4. Free Sugars**

The UK SACN reported no significant association between unsweetened fruit juice consumption and BMI, body fatness or fat distribution in children or adolescents. Recent reviews of the evidence do not support an association between intake of 100% juice and weight or adiposity in children after controlling for energy intake. Therefore, any concerns regarding fruit juice, as a source of free sugars intake, and adiposity in children does not appear to be warranted, and harmful effects on teeth can be mitigated by promoting guidance to consume at mealtimes (which 84% of fruit juice consumption occasions already are). Furthermore, fruit juice consumption is associated with improved nutrient density of the diet and the evidence of an association between fruit juice consumption and incident Type 2 diabetes is inconsistent.

Free sugars cannot be chemically determined and will not be defined within an ingredients declaration or recipe, meaning estimating free sugars is technically challenging and often requires detailed information from raw material specifications. This makes the calculation labour intensive and commercially sensitive as well as lacking legal certainty.

The declared value could therefore be subject to challenge, as the determination of free sugars is open to interpretation, resulting in a potential situation where the regulator will have to determine which calculations are correct. This could also result in a request for us to supply detailed, weighted ingredients information, which is not normally placed in the public domain and could be competitively detrimental from a commercial perspective.

It is also unclear what level of mechanical processing is required of fruit and vegetables to classify them as free sugars. Is there a threshold size of piece or viscosity of final product for when a puree is not classified as such because it contains some small whole pieces of fruits or vegetables?

We have concerns that by looking at free sugars and fibre in isolation the wider dietary contribution of some of the products has not been considered, resulting in a model which is skewed towards failing on free sugars content.

## **5. Sugars Reduction Programme**

Concurrently we are being asked to participate in PHE's sugar reduction programme for juice and cereals. This is a long and difficult process, with huge technical barriers and is undertaken in recognition of discerning, demanding consumers where taste takes precedence.

100% of our juice portfolio provides no added sugars, indeed this is a regulatory requirement for all fruit juices. As PHE has acknowledged, 100% pure juice contains no added sugars and you cannot reformulate what is a natural product hence the exemption for 100% juice within the Soft Drinks Industry Levy. The sugar content of 100% juice can be subject to seasonal variations and it is technically impossible to reformulate pure single fruit (monofruit) juice other than through blending without affecting taste or creating a different product. Any attempt to dilute a juice or engineer other changes could be viewed by some as adulterating a high quality natural and traditional product with likely negative consequences on the inherent positive nutrition it delivers.

## **6. Pure juice and smoothies**

It is widely accepted that pure juice can play a positive role in a healthy and balanced diet and is a convenient way of consuming 1 of 5 a day. A 150ml glass of 100% orange juice delivers 60% of the daily Vitamin C recommended intake as well as other important micronutrients such as folate and potassium. This equates to only 62 kcal, or around 3% of daily energy based on a 2,000 kcal diet.<sup>39</sup>

We welcome PHE's commitment to the Eatwell Guide, confirmation that this would not be revised, and continued recognition of fruit and vegetable juice contributing to 1 of your 5 a day<sup>40</sup>. Yet the review states that children are consuming "too little fibre, oily fish and fruit"; in addition, people from lower socio-economic groups tend to have poorer diets, with the differences most marked in the intake of fruit and vegetables. In light of this, together with the latest NDNS data indicating that both the percentage of children achieving 5 a day and fruit juice consumption is decreasing (already well below the 150ml recommendation at 62g/day for children aged 4 – 10 and 64g/day for children aged 11 – 18<sup>41</sup>) it would seem counter intuitive to implement any policy that may further decrease children's consumption of fruit and vegetables, particularly when there is no evidence that fruit and vegetable juice is being over consumed by children.

Smoothies made with whole crushed fruit contribute to fibre intake and both smoothies and fruit and vegetable juice provide 1 of your 5 a day; and contain a range of minerals, vitamins and bioactive compounds, such as phytochemicals, that are increasingly recognised as important for good health. Guidelines for a healthy, balanced diet typically recommend

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<sup>39</sup> Lewis HB et al. (2012) How much should I eat? A comparison of suggested portion sizes in the UK. *Public Health Nutrition* 15: 2110-7.

<sup>40</sup> Category specific meeting for juice based drinks – revised slides (Alison Tedstone – Nov 17 – page 3)

<sup>41</sup> NDNS Years 7 and 8 Combined

consumption of plenty of fruits and vegetables to support our vitamin and mineral needs. Within these guidelines, moderate consumption of 100% juices and smoothies can make a significant contribution to potassium and some other micronutrients. Intake of some of these essential micronutrients is of concern in a substantial proportion of children in the UK. Further still, the SACN report does not actually mention smoothies, which contain useful amounts of pulped fruit. A recent study by the University of Leeds found smoothies are actually much closer to crushed fruit, because they retain their fruit cell wall structures after production and that the dietary fibre naturally present has potential health benefits<sup>42</sup>.

In order for 100% fruit and vegetable juice to NOT be considered HFSS within the proposed revisions to the model, a reformulated recipe would need to be developed, which extracts 100% fruit juice content and replaces it with ingredients including sweeteners and/ or the addition of artificial fibres. The product would no longer be considered or labelled as a “fruit juice”. It is worth noting at this point that European Law does not permit the natural sugar content of 100% juices to be artificially increased or reduced. It would not be possible to create a fruit or vegetable juice to meet the fibre targets unless a maximum of 10 points can be awarded to offset the natural sugars content.

We believe that the potential for harm by not continuing to encourage moderate consumption of fruit and vegetable juice and smoothies has not been adequately considered in the proposed model, and that consideration should also be given to weighting micronutrients present in fruit and vegetable juices and smoothies. In the proposal, most fruit and vegetable juices would pass modification 2. The increase in including sugars naturally occurring in fruit and vegetable juice is not offset by increased scoring for fibre or the micro nutrients included in fruit and vegetable juice.

*We suggest an increase in the number of points fruit and vegetables can score to 10 in line with the ‘A’ nutrients.*

*In addition, it can be challenging to estimate fruit and vegetable content when a product contains a mixture of dried and pureed fruits or vegetables and the IGD guidance is a useful tool in this regard. We would urge PHE to consider linking to this when developing its technical guidance to help calculate the model.*

## **7. Fibre**

The SACN report<sup>43</sup> states that: “Overall the evidence from prospective cohort studies indicates that diets rich in dietary fibre are associated with a lower incidence of cardiovascular diseases, coronary events, stroke and type 2 diabetes mellitus, colo-rectal cancer, colon and rectal cancer.”

Although fibre was considered by the Expert Group and the scoring amended, the net effect of this change is that across all product sectors only 54% of high fibre products now pass the model, compared to 70% passing the 2004/5 model<sup>44</sup>. This means the proposed model does not meet the terms of reference for the review of the model to reflect the ‘latest government dietary guidelines’.

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<sup>42</sup> <http://eprints.whiterose.ac.uk/110985/7/fibrous-cellular-structures-are-found-in-a-commercial-fruit-smoothie-and--remain-intact-during-simulateddigestion-2155-9600-1000576.pdf>

<sup>43</sup> SACN (2015). [Carbohydrates and Health](#)

<sup>44</sup> Table 10 on page 53 of Annex 1 of the NPM consultation package

More broadly, we urge PHE to also be mindful of consumer preferences and habits. Taste is paramount and consumers may add sugar to their cereal if it is not deemed palatable enough. Increasingly, consumers skip breakfast or seek “on the go” alternatives. We believe the new PHE model has the potential to encourage consumers into less healthy alternatives. In addition, it may limit companies’ ability to move consumers from higher sugar, lower fibre to lower sugar, higher fibre products. We believe it is important for brands like Quaker Oats to be able to advertise products higher in fibre. This will help raise consumer awareness, increase fibre consumption and help people gain the health benefits recognised by SACN.

*We suggest the protein cap is removed as it would enable a greater number of high fibre breakfast cereals to pass the model which would support the government’s intention to encourage a higher fibre intake as per the SACN recommendations.*

## **8. Beverages (soft drinks excluding pure juice and smoothies)**

In order to support the important objectives of helping families recognise healthier lower calorie and lower sugar beverage choices, the NPM should differentiate between drinks that are low versus those that are high in sugars and calories. The proposed model does not do this: even products classified by UK and EU Regulations and International Codex standards, “No Calorie” can fail (<4kcal per 100ml, equivalent to 1g sugar per 100ml). The situation is the same for beverages that are “Low Calorie” (< 20 kcal per 100ml, equivalent to 5g sugar per 100ml) and/or “low sugar” (<2.5g per 100ml).

Whilst we understand that the intention is to drive a reduction in free sugars consumption and that products containing “high” levels of free sugars are intended to fail the model, we consider that this can still be achieved by setting the scoring in such a way that products that are calorie-free, low in sugars and low calorie have the possibility to pass. An alternative option would be to retain a total sugars approach.

As well as supporting policy objectives to drive healthier choices in the category this would avoid challenging and confusing discrepancies with food and beverage Regulations (particularly Regulations on Nutrition and Health Claims) and with thresholds in other policy areas.

*We ask that the model is revisited to ensure that reformulated drinks are recognised within the model to allow for promotion to help shift consumers towards healthier alternatives as incentivised by the design of the recently enacted SDIL.*

## **9. Use of the NPM beyond Advertising to Children**

Whilst we understand that the purpose of the model is in defining what can be advertised to children, it is widely used beyond this scope. So reclassifying a number of products as HFSS or less healthy would also have implications beyond advertising to children.

For example;

- Retailers use the model to determine healthier products and categories in a bid to increase the health profile of shopping baskets. This includes ranging and listing choices, availability and distribution, promotional space and types. It would also limit listings of our products in contract catering sites. *(Rest assured we work closely with*

*our customers in making it easier for consumers to opt for healthier alternatives within our categories).*

- It would impact consumer perception because peoples' awareness of the health benefits of fruit juice would be restricted, as well as promotions that encourage them to switch from other products which might not have the same nutritional content.
- It would restrict advertising and marketing such as billboards and bus stop ads.
- It could prevent charitable commercial support. With over half a million British children going to school hungry, Tropicana is a proud supporter of Magic Breakfast and since 2009 we've donated over a million litres of 100% fruit juice and servings of Quaker Oats to the cause.
- A further demonstration of the seeming mismatch between the model and Government's healthy eating advice is the fact that some of the products that are recommended in the recent sugar swaps Change 4 Life programme would be classed as HFSS or less healthy under the new model.

We also understand that Governments at local, devolved and national level and public sector bodies (eg CQUIN) are reviewing related restrictions which may use the NPM to underpin measures. So although the model is a technical one, the effects of the model will be widely and publicly felt.

*We would therefore urge PHE to consider the wider, perhaps unintended, consequences and adjust the model accordingly.*

## **10. Economic challenges**

The reclassification of many of our products to HFSS will limit our ability to advertise and market them with significant commercial impact. This comes at a time when the food and drink sector as a whole is also facing a number of significant costly challenges such as a potential single use plastics tax, a Deposit Return Scheme and not least PHE's concurrent sugars reduction programme. All of which demands significant industry investment.

We're also already facing increased and unpredictable costs which are, in part, Brexit related. Tropicana is a case in point. We package imported Brazilian orange juice at Zebrugge in Belgium for Tropicana sold in the UK. Today, we pay a 12.2% import tax on the juice from Brazil (Tropicana Pure Premium). We have seen a number of factors such as the cost of raw materials and commodity prices affecting the cost of producing orange juice. Eg Supply pressures on tropical fruits due to yield and weather as well as fluctuating foreign exchange rates affecting prices for commodities such as oranges and raw materials for packaging that are traded in foreign currencies. Last summer alone apples from Poland cost 60% more due to weather conditions.

*We would urge the Government and PHE to work together to mitigate the effects of these competing issues to ensure that the food and drinks sector is not unfairly disadvantaged by having to comply with multiple competing policies.*

## **11. Practical challenges of revised NPM implementation**

In order for the model to meet its primary objective of defining which foods and drinks can be advertised in children's media, it must be useable – both for food companies applying it and for regulators seeking to ensure the advertising codes are being adhered to. This was also

agreed by the Expert Group during its first meeting of 1 July 2016, where it was noted that *'both the practicality and science of the model is essential'*, and *'it would not be feasible in devising a model that is not practical'*.

The practicality and ease of use is even more pertinent now the NPM is used within both broadcast and non-broadcast codes, as it will impact across a much larger number of products and across companies of all sizes, including those with no internal nutrition expertise. To advertise on television, proof of passing the NPM is required to be submitted to Clearcast in advance of the advertising being allowed to proceed. Under the revised model, this process is not as simple, as it means free sugars will have to be estimated (rather than quoting total sugar data from nutrition labels) and therefore pose a greater burden of proof on us advertising products that pass the model to demonstrate whether the sugars are free or not.

## **12. Conclusion**

We recognise the need to review the model in light of changing dietary advice arising from the SACN report. We have concerns on the proposed model - by focusing specifically on changing two individual nutrients the end result is skewed and would exclude many foods/beverages that are nutrient dense and are a healthy component of not just children's but adolescents' diets. In addition, within some categories, the proposal will mean it is difficult to reformulate to pass the model and therefore it will no longer be seen as an incentive to reformulate. Although this is not the primary purpose of the model, given the current emphasis on reformulation in Government policy, it would be disappointing if this incentive was removed.

We therefore urge PHE to revisit the proposals to exempt pure juice/smoothies or rebalance the points system, remove the protein cap and recognise reformulated soft drinks to allow for promotion to help shift consumers towards healthier alternatives as incentivised by the design of the recently enacted SDIL.

## **Appendix I – Additional empirical evidence**

### **CHILDREN'S SUGAR INTAKE**

According to government figures, sugar intake by 4 – 10 years from soft drinks, including fruit juice, has declined by 15% since 2012, and sugar intake by 11 – 18 years from soft drinks, including fruit juice, has declined by 11% since 2012.<sup>45</sup>

### **SUGAR IN FRUIT JUICE VERSUS WHOLE FRUIT**

In the Eatwell Guide, fruit and vegetable juice is portrayed separately to foods high in fat, salt and sugars, and this distinction should be reflected in the proposed model. In addition, the modelling work which underpinned the new Eatwell Guide included a small glass of fruit juice, and yet all no added sugar fruit / vegetable juices and smoothies fail the new model.

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<sup>45</sup> NDNS Combined Years 7 and 8

## **FIVE A DAY**

Fruit juice and smoothies can provide a valuable contribution to overall fruit and vegetable consumption. Only around 33% of UK adults meet the '5 a day' recommendation. Children's intake of fruit and vegetables is far from the recommended '5 a day', with children aged 11-18 only achieving on average 2.7 portions a day, and only 8% of this age group achieving the full '5 a day' recommendation (only 7% of girls and 10% of boys). One quarter of children's fruit and vegetable intake is from fruit and vegetable juice. Teenagers who consume fruit juice are twice as likely to achieve their 5 a day as non-consumers (11% vs 5%).

## **JUICE CONSUMPTION INSIGHTS DATA (KANTAR)**

- Only 16% of the population drink 100% juice (NFC & FC) weekly, and on average only 3.3 times per week.
- 84% of juice consumption occasions are at a mealtime, half of which is at breakfast.
- 75% of juice consumed OOH is by consumers over 20 yrs old.
- 75% of juice consumers are ABC demographic.

## **FIBRE**

Fibre intakes in children (and indeed adults) are around a third lower than SACN recommendations. Mean intakes in children aged 4-10 years and 11-18 years have also fallen, being significantly lower in NDNS years 7&8 than in years 1&2. Only 4% of teenagers and 10% of younger children are achieving the recommended AOAC fibre intakes.

According to the NDNS years 7 and 8, high fibre breakfast cereals only contribute on average between 2% and 3% of total free sugars to children's diets. High fibre breakfast cereals provide a range of much needed micronutrients in the younger generation:

- Providing 11% of iron intakes across the 1.5 years to 18 years age groups.
- Providing primary school aged children and teenagers 4-5% of vitamin D, 2-4% of zinc, and 4-7% of fibre intakes. To note one major breakfast cereal manufacturer has recently increased its fortification of vitamin D and so the categories contribution to vitamin D is likely to increase.



### **33. Porter Nutrition**

I welcome the proposed changes in the nutrient profiling. I specifically welcome the change from total sugar to free sugar in line with the SACN recommendations for free sugars. There is a lot of confusion around labelling of sugar so I hope this change in the nutrient profiling will lead to a change in labelling in due course. I also welcome the update in the fibre amounts as this is a crucial nutrient for health which is often overlooked with the focus on calories. I hope these changes will go some way in supporting the education of the consumer on the foods which make healthier choices. I also hope that the food industry will respond by reformulating products across their whole to make them higher in fibre and lower in free sugar, salt and fat as we know children don't always choose the food advertised, rather they choose that brand.

## **34. Provision Trade Federation**

### **Executive Summary**

The Provision Trade Federation (PTF) strongly supports measures to tackle child obesity and is fully engaged in work to reformulate products and provide clear and consistent information to consumers about the importance of balanced and varied diets.

The product categories we represent are essentially protein based and for the most part relatively lightly processed.

Many of them also contain a range of vital nutrients without being major contributors to energy intakes – cheese, ham and yogurts being particular examples.

We believe that the basic construction of the UK NPM 2004/5 gives insufficient weight to the concept of “nutrient dense” foods and unduly discounts the many micronutrients they contain, for which protein is not necessarily a sufficient marker.

The effect of this is compounded by the “protein cap” and the nature of the scoring system.

As the review is designed solely to take account of the most recent dietary recommendations in relation to sugar and fibre, it does not address some of these acknowledged anomalies – and may indeed add to them for products such as yogurt where defining “free sugar” is often problematic – particularly as one of the stated a priori aims of the review is to ensure that a higher proportion of foods fail the draft 2018 NPM compared to the 2004/5 version.

Given the fundamental importance of calcium for children’s health – as recognised in both the Eatwell Guide and the School Food Plan - we believe that there is a strong case for the exemption of cheese (as is already the case in some other international models) and for this to be extended to yogurts given the risk that classifying them as “less healthy” could encourage children to switch to higher calorie snacks and desserts instead.

We would also caution against the use of the NPM in wider applications than advertising controls, especially given the risk of confusion with the Eatwell Guide recommendations. We request further consultation if the use of the model is to be extended to other areas.

### **1 Introduction**

This consultation response is sent on behalf of the Provision Trade Federation (PTF), a long established trade association representing companies of all sizes involved in supplying dairy products (including milk powders, cheese, butter, yogurt and other dairy desserts), bacon, pig meat and fish. Collectively these categories account for about £24 billion a year, or roughly 20% of total UK household expenditure on food, and support some 130,000 jobs.

Our members include importers and exporters, as well as processors and manufacturers. Some of our members make branded products, where they themselves are responsible for advertising decisions. Others supply major retailers, who market and promote products under their own labels. Many of our members’ products, particularly in the dairy sector, may be advertised to children and therefore any changes to the model are of significance to them.

As explained below, our particular concerns relate to:

- The NPM is not consistent with current dietary recommendations. Dairy and meat are included in the 'School Food Plan' and the Eatwell Guide, in recognition of their importance in children's diets, but their contributions are not reflected in the model.
- The NPM continues to ignore the importance of micronutrients, particularly calcium and iron, despite the evidence in the [National Diet and Nutrition Survey \(NDNS\)](#) that our children's diets are severely lacking in these nutrients and the potential impact on their future health.
- Calcium is a key nutrient for children, especially those between nine and 18 years where there is a period of rapid growth and development. Dairy products contribute 42% of calcium intakes (PTF calculation using the latest NDNS results).
- The rationale for selecting protein as a marker for calcium, iron and omega 3, and for capping the score, is not clear, and we question whether it is scientifically justified.
- There are very good reasons for exempting cheese, and for extending this to other nutrient dense foods such as yogurt. The majority of cheeses fail the model despite being a concentrated and convenient source of many nutrients.
- Yogurt is a valuable, versatile and nutrient dense lower calorie option. It also represents an alternative to many desserts and sweet snacks. A revised model which classifies yogurts as HFSS/unhealthy is detrimental to the overall objective to reduce obesity in children.
- As a minimum, scenarios should be explored for achievable adaptations that recognise the valuable contributions the dairy category makes to intakes of high quality protein and micronutrients of relevance in children's diets. This could be inclusion of a criterion for naturally occurring calcium or inclusion of a dairy ingredient component such as increments of milk %.
- The free sugar criterion is impractical and markedly changes the nature of the guidelines compared to the previous iteration. In neglecting to look at the impact across all nutrient intakes there is a danger of unintended consequences for products that are important contributors in the diets of children, which will confuse consumers.
- The model has a very narrow focus and should be used only to control advertising to children, as clearly specified by the FSA when they developed the model. However, it is increasingly used beyond this scope, and to identify 'junk foods', despite a lack of evidence to support this.

## **2 Overall Position**

PTF wholeheartedly supports efforts to reduce obesity, particularly in children. It is a serious and growing problem and we agree that action must be taken. However, the DoH/PHE nutrient profiling model, with its disproportionate focus on calories, saturated fat, salt and sugar, severely impacts on the perception of, and ability to market, traditional lightly processed dairy and meat products, such as cheese and ham, many of which score above 4 using the (existing) DoH nutrient profiling model and are classified as high fat, salt, sugar (HFSS), or "less healthy" foods. As a consequence of the proposed revisions, and the move to a markedly stricter criterion based on 'free sugar', a high proportion of yogurts, particularly those consumed by children will also now fail.

We strongly object to the classification of these products as “unhealthy”. Instead they are important contributors of nutrients to children’s diets, yet are not major contributors to energy intakes.

Dairy contributes up to 11 micronutrients to the diet and is a key contributor of high value protein, calcium, vitamin B12, zinc and vitamin D. Calcium is important for growth and development of bone as well as several other functions such as blood clotting and neurotransmission. It is of particular importance to children and especially children between nine and 18 years because that is a period of rapid growth and development, and the key period of development where maximum bone mass is built to support calcium needs during the rest of the life. Poor storage of calcium at this crucial period can have critical health effects later on in life, in particular resulting in osteoporosis.

Under the [EU Register of nutrition and health claims](#), calcium is the subject of 12 authorised health claims, and is specifically authorised alone, and with Vitamin D for normal growth and development of bone in children. Additionally, there are 12 claims currently authorised by the European Commission specific to children. Eight of these claims are across calcium, vitamin D, iodine, iron, phosphorous, and protein. Dairy makes a valuable contribution to these micronutrient and macronutrient intakes.

Pork is naturally rich in protein, and provides ten vitamins and minerals that contribute towards good health and wellbeing. It is rich in thiamine, niacin, vitamin B6 and vitamin B12, and a source of riboflavin, zinc, potassium, phosphorus, selenium and pantothenic acid. The scientifically substantiated nutrition and health claims that can be made in relation to pork, [are available here](#) and have been agreed as assured advice between the Agriculture and Horticulture Development Board and trading standards officials in Buckinghamshire and Surrey.

Dairy and meat are included in the [Eatwell Guide](#) and in the [‘School Food Plan’](#), in recognition of their importance in children’s diets, with dairy to be consumed every day and meat/poultry to be consumed at least three times per week.

### **3 Role of Micronutrients**

The UK NPM does not reflect the importance of all nutrients, omitting completely any contribution by vitamins and minerals or other beneficial components. It therefore does not reflect the nutritional value of nutrient dense meat and dairy products and favours lower calorie foods which provide few nutrients.

Protein is still used as a proxy for 2 specific micronutrients, calcium and iron. We have two issues questioning the rationale and scientific basis underpinning this.

Our first concern is the scientific basis demonstrating that protein is a marker for these micronutrients. The nature of food categories today is that there is significant inter and intra category variation in protein, calcium and iron levels. Additionally, within the dairy category there are other micronutrients of relevance, with up to 11 vitamins and minerals from dairy making significant contributions. We consider it important that wider consideration be made for the overall contributions such products make, in order to avoid unintended consequences.

Secondly, protein itself can only score a maximum of 5 compared to a maximum of 10 for the “negative” criteria (energy, saturated fat, sugar and salt). In addition, if a food or drink scores 11 or more 'A' points then it cannot score points for protein at all, unless it also scores 5 points for fruit, vegetables and nuts. The rationale for selecting protein as a marker, and for capping the score, is not clear, and we question whether it is scientifically justified.

The latest results from the [National Diet and Nutrition Survey](#) (NDNS) illustrate that our children’s diets remain extremely poor when compared to Government recommendations, not just with respect to the nutrients selected for the NPM - sugar, saturated fat, and salt - but also for micronutrients, many of which are showing downward trends (see Appendix 2), and achievement on Eatwell Guide recommendations such as “5 A Day fruit and vegetable portions” and oily fish recommendations.

Calcium intakes have been going down for younger children (4-10 years) and are already of concern for older children/ teenagers with 22% of girls (11-18 years) and 11% of boys (11-18 years) below the lower recommended level. Dairy products feature prominently in the Top 10 contributors to calcium intakes across both age groups reported in the NDNS. Yogurts are the 5th and 7th largest contributors, whilst cheddar cheese is 6th and 4th respectively, with milk itself being the number 1 contributor across both age groups for children.

Vitamin D mean intakes from food sources range between 1.9 to 2.1 µg for children 1.5-3, and 4-10 years old. This is well below the recent Government dietary recommendations for 10 µg/ day. Government advice is that it is difficult to get enough vitamin D from foods that naturally contain vitamin D and/or fortified foods alone and everyone should consider taking a daily supplement containing 10µg of vitamin D. However, mean intakes from all sources range between 1.9 and 4.6 µg for children across those age groups, so intakes are still not meeting recommendations even with supplementation. Yogurts, oily fish and pork products feature among the top contributors to vitamin D intakes.

With respect to iron intakes, 54% of girls have low iron intakes and this figure is increasing year-on-year. In addition, there is evidence of both iron deficiency anaemia and low iron stores in 9% of older girls.

In order to align the model with current UK dietary recommendations, and in particular to reflect those that are not being achieved, it should be revised to include micronutrients, particularly calcium, iron and vitamin D. If PHE’s aim was to ensure consistency with dietary guideline recommendations, the modelling work conducted during the review would have been across all important macro and micronutrient intakes, and dietary guideline recommendations. As a consequence fewer lightly processed dairy and meat products would have failed, because when a more comprehensive approach to account for nutrients of public health relevance is taken, it is clear that these products are not ‘unhealthy’.

#### **4 Treatment of Nutrient-Rich Products**

The latest review of the NPM included the consideration of nutrient profiling models currently used in other countries.

Five nutrient profiling models were identified that had been adapted from the UK NPM 2004/5. It is highly significant that all these models contained an exemption or special treatment for dairy and/or cheese, acknowledging the valuable contribution it makes to

children's diets as a rich source of calcium. It is clear that the authorities in other countries believe that the UK model needs amendment in this respect.

The Australian 'Health Star Rating' (and the South African model based on it) adapts the UK model to two major categories, i.e. non-dairy food and dairy foods, with three categories under each of them. For dairy these were:

- "dairy beverages",
- "dairy foods"
  - other than those included in "dairy beverages" and "cheese and processed cheese",
- "cheese and processed cheese".

In Ireland, advertisements and other commercial communications for cheese are exempt from the model, upon the recommendation of the Department of Health in Ireland. The move was prompted by the [comments submitted](#) by the Food Safety Authority Ireland (FSAI) which are equally valid in the UK (see Appendix 1), and hold true for other nutrient dense dairy products. The French 5-Colour National Labelling (5-CNL) System/Nutri-Score also treats cheese as a special case.

The Irish model of exempting cheese, and extending this to yogurts, merits further discussion, particularly with respect to how products on the healthier end of the spectrum should de facto be able to pass the system. The NPM is frequently used to identify foods as 'junk foods' that should be avoided. The unintended consequences of discouraging the consumption of foods that are rich providers of nutrients has not been considered in sufficient depth, and importantly what foods children might eat otherwise or be nudged towards.

We welcome the opportunity to have a conversation on how adaptations to the NPM could be designed to recognise the value of dairy products, whilst ensuring a fair proportion of products pass/fail and that those passing represent the more nutritionally dense offerings available.

## **5 Free Sugar Criterion**

### ***5.1 Impact on Yogurt***

The plan to use free sugar, rather than total sugar in the proposed revised model, and the drastically reduced sugars thresholds, will impact heavily on yogurts and fromage frais, many of which will fail and will now be classified as HFSS/'unhealthy'. The proposed free sugar criterion is far stricter than the existing total sugar approach, as SACN effectively halved the dietary recommendations for sugars.

In table 9 of [Annex A](#) in your consultation package, the dataset modelling conducted (Modification 3) indicates that 31% of the yogurt and fromage frais category passes the revised NPM, compared to 82% in the old model. This represents the largest change of - 51% across all the categories evaluated. However, we have concerns that even this may not portray the full impact on the sector, particularly for products that are typically designed for children, given the makeup of the products selected in the test database.

The detail available suggests that “natural, no added sugar products” are a large proportion of the dataset (20%) and are likely to be products that pass, yet this type of product is currently excluded from the yogurt and fromage frais category within the reformulation program. We estimate that exclusion of “natural no added sugar” yogurts would mean that the actual estimated pass rate for yogurts as defined in the PHE reformulation program would be 13%.

We do not accept that yogurt is an ‘unhealthy food’ for the reasons given above in relation to the nutrient composition of dairy products in general. In addition, yogurt is relatively lower calorie, and frequently also low fat, and as such is a quick, easy and ‘healthy’ snack or dessert option for busy mothers, particularly when compared to some of the alternatives.

While we accept that some yogurts have higher levels of sugar, considerable efforts have been made, and the category has been working hard with PHE to reduce these levels in line with the PHE recommendations. The results in the PHE’s first [sugar reduction progress report](#) illustrate that the yogurt category is performing ahead of targets, achieving 6% reductions for both sugar and calories in the first year alone.

However, there is a clear and disincentivising lack of coordination between the work on the NPM and the PHE sugar reduction programme, with many yogurts which have been reformulated to achieve the sugar target now likely to be classified as HFSS owing to the stricter thresholds for sugar.

This will have the undesirable effect of limiting the options for promotion of the products that have been reformulated in line with the PHE programme. Currently, many companies are working hard to meet the very challenging targets for sugar in 2020 and will need to advertise their lower sugar products in order to raise awareness and encourage purchase. The ability to do this will be limited if they fail the NPM.

The following case study for Petit Filous fromage frais illustrates this:

#### **Case Study – Petits Filous Fromage Frais**

*Under the new NP model, Petits Filous fromage frais would fail, largely driven by free sugar content. However, the range is already 1.1g below the original 2020 target of 11.0g, with 9.9g total sugars per 100g, thanks to a 17% reduction since 2016. A further 40% reduction of free sugars would be required to pass.*

*PHE featured Petits Filous fromage frais in the recent smart snack <100 calorie campaign. Petits Filous are designed for children, they are portion controlled, nutrient dense pots bringing a source of Calcium and 50% of the Vitamin D daily recommendation per serving, whilst being low in fat and high in protein.*

To put this in context, free sugars are the main driver for the inability for yogurts to pass the revised model, a teaspoon of sugar is sufficient to already score the “fail” threshold of 4 points.

If we were to impute the 2020 target of 11g/100g from the reformulation strategy into the typical composition of yogurts, whilst assuming the lactose proxy of 3.8g/100g, yogurt products would score 7 points before accounting for any other “A” nutrient points.

For fruit-based fat free, and low-fat yogurts there would be zero energy “A” points but these products would still require greater than 6.4g/100g protein to pass the system (and would not even pass when compared to some products in the market where the low fat fruit yogurts could score 11 A points which does not allow the positive C points from protein). The typical protein composition of a fat free and low-fat yogurt is 4.8g and 4.2g of protein respectively so this is an unrealistic expectation.

A fruit full fat yogurt would score an additional three “A” points (saturated fat, and kilojoules), and still not be able to score more than 2 protein points coming in at 4.0g protein.

An immediate impact of this stricter approach is a substantial reduction in the desserts/sweet finish to a meal that are considered, and used as, healthier options compared to other sweet treats. These products are, by their nature, likely to contain sugar as there is an expectation that they will be sweet. The alternative - to use artificial sweeteners – is often avoided by the yogurt industry as it is not always accepted by consumers, particularly for children’s products. In addition, the more strict sugar criterion could perversely incentivise companies to reduce fruit content and replace it with flavour ingredients, impacting the overall nutritional offering.

## **5.2 Practical Issues**

A free sugar approach, while in line with SACN recommendations, will be much more difficult to work to in practice. The existing total sugar figure is easily measurable and can be compared to the figure provided in the nutrition information table. In contrast, a free sugar criterion is more difficult to calculate and companies may adopt different approaches. It will also be more difficult to check and enforce and there is the potential for commercial confidentiality issues if recipes need to be declared to show due diligence.

With respect to the fruit in yogurt, and whether the sugar content would be treated as free sugar, it is unclear what level of mechanical processing is required to define a fruit ingredient as a puree / paste rather than a small whole piece of fruit. There are also important considerations with respect to the estimation of lactose in yogurts, as it is not routinely tested by manufacturers, and whether a proxy value would be more practical. Detailed technical guidance is required, developed in consultation with industry, to ensure a consistent understanding of how to calculate free sugars. The need for a concession for sugar which is added in yogurt to make the product palatable due to the nature of fermentation should also be discussed.

## **6 Saturated Fat**

The proposed revised model retains the saturated fat criterion which would remain at 11% of food energy. SACN has conducted [a review](#) of the evidence for the relationship between saturated fats and health and has published draft recommendations which are currently out for consultation. It would seem premature for PHE to make a decision to retain the existing approach on saturated fat before the SACN recommendations have been finalised. This is of particular relevance for the dairy industry because there is increasing evidence that there is limited or no correlation between the consumption of saturated fats of dairy origin and the incidence of coronary and heart diseases.

## **7 Use of the Model**



In developing the UK NPM, the FSA made clear that it was a simplified approach and would only ever be used for controlling advertising to children. Subsequent reviews have adopted a strict approach on the understanding that the model is to be used only in this context.

Therefore it is of significant concern that the model is creeping into use in other areas and increasingly used as a reference document to define 'junk foods'. For example, NHS England uses the model to ban HFSS advertisements, price promotions, and placement of products at checkouts within hospitals. In addition, the [draft London Food Strategy](#) states that the Mayor will consult on a ban on advertising of food and drink that is not healthy, clearly stating that the FSA NPM will be used to define 'healthy'. This wider use of the NPM, beyond its intended scope, could have unintended consequences particularly given the very narrow and simplified focus of the model, and should be subject to further discussion and consultation.

## Appendix 1

### FSAI Comments on an Exemption for Cheese (Extract)

*"The UK Nutrient Profiling (NP) Model provides Ireland with a method that enables prompt action to protect children's immediate and long-term health in an area where intervention is urgently required. However the inclusion of cheese with less healthy food products, which are subject to advertising restrictions, presents some challenges to the adoption of the UK NP Model in Ireland.*

*The FSAI believes there are three reasons to support amending the UK NP Model in the context of achieving a balanced diet. Firstly, as outlined in the BAI report, over a quarter of children in Ireland have inadequate calcium intakes. Puberty and the teenage years (from age 9 to 18 years) represent a critical period for bone mass accretion yet inadequacy of dietary calcium affects between 23 and 37% of this age group in Ireland. During these years children and teenagers need to consume five servings from the Dairy Food Group (Milk, Yoghurt and Cheese) every day in order to meet their calcium requirements. However, restricting intake of these foods to milk and yogurt only requires large amounts of food to be consumed on a daily basis e.g. 1000mls of milk or 750mls of yoghurt. Such large food volumes can overwhelm the limited capacity of many children within this age group who have a relatively small body size such as the younger children aged between 9 and 13 years. In relation to this, recent modelling of food intakes for healthy eating carried out by the FSAI found achievement of calcium requirements difficult in children aged 9 to 13 years. This work on healthy eating concluded that although low-fat milks and yoghurts should be predominantly used in order to achieve calcium intakes without exceeding saturated fat goals; nonetheless cheese can be part of a healthy diet. For the critical age group of 9 to 13 years, where calcium needs are highest yet capacity to consume large volumes of milk and yoghurt is limited due to small body size, cheese represents a useful calcium-rich food source.*

*Secondly, cheese intakes have been stable among children and teenagers in Ireland over last three decades when obesity rates increased dramatically.*

*Thirdly, FSANZ (Food Standards Agency New Zealand) has adapted the UK NP Model by creating an additional food category that facilitates the assessment of cheese and processed cheese taking particular account of calcium content . . . . .Therefore, the FSAI recommend*

the BAI adopt the UK NP Model with amendments to permit assessment of calcium-rich cheese.”

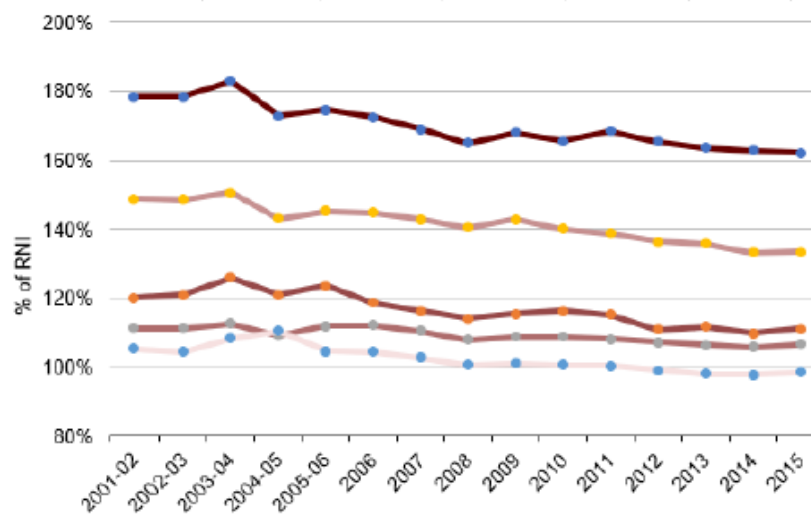
## Appendix 2

### Trends in Micronutrient Intakes

Data source: Family Food in 2015, Defra, March 2017

[Return to Index](#)

	Riboflavin	Iron	Magnesium	Calcium	Potassium
2001-02	178	120	111	149	105
2002-03	178	121	111	149	105
2003-04	183	126	113	151	108
2004-05	173	121	109	143	110
2005-06	175	123	112	145	105
2006	172	119	112	145	104
2007	169	116	110	143	103
2008	165	114	108	140	101
2009	168	115	109	143	101
2010	166	116	109	140	101
2011	168	115	108	139	100
2012	165	111	107	136	99
2013	164	112	106	136	98
2014	163	110	106	133	98
2015	162	111	107	133	98



Source: Family Food in 2015, Defra, March 2017