

NUFFIELD COUNCIL ON BIOETHICS

Response to the Department of Health and Social Care's consultation on restricting promotions of products high in fat, sugar, and salt by location and by price

- 1 The Nuffield Council's response to the Department's consultation draws on the conclusions and recommendations of our 2007 report [Public health: ethical issues](#), which considers the ethical and social issues that arise when designing measures to improve public health.¹
- 2 Our response focuses particularly on one of the case studies addressed in our report, which discusses a public health approach to obesity, and the general principles that we believe should underpin any public health policy in this area. Our response does not address technical aspects of the inquiry, but instead offers general comments on the Government's policy proposals.

Background

- 3 Our report takes the position that the state has a duty to provide conditions that allow people to lead a healthy life: everyone should have a fair opportunity to lead a healthy life, and therefore governments should try to remove inequalities that affect disadvantaged groups or individuals. To support this position, our report proposes a 'stewardship model' that outlines the ethical principles that should be considered by public health policy-makers and sets out a series of public health goals (see **Appendix 1** below for a summary of the stewardship model).
- 4 Our report also presents an 'intervention ladder' (see **Appendix 2** below, and Box 3.2 in our report) as a useful way of thinking about the acceptability and justification of different public health policies. Any intervention should be proportionate to the effect that it is intended to achieve, and should be supported by evidence (or, in the absence of robust evidence, should be accompanied by an evidence-gathering programme). Interventions that are higher up the ladder are more intrusive and therefore require a stronger justification.

Response

According to the stewardship model, the state has an ethical duty to provide conditions that allow people to lead a healthy life. Food and drinks businesses

¹ Nuffield Council on Bioethics (2007) *Public health: ethical issues*, available at: <http://nuffieldbioethics.org/project/public-health>.

also have an ethical duty to help individuals to make healthier choices and minimise the potential harms of their products. If industry fails to adequately deliver on its duties, then the state could be ethically justified in intervening. A voluntary agreement on promotions was not reached through the Public Health Responsibility Deal, and as the Department notes in its consultation document, feedback from industry stakeholders has made clear that consistent sector-wide action to restrict promotions of HFSS products is not possible through voluntary measures.

- 5 With these factors in mind, we therefore suggest that **the Government is ethically justified in introducing legislation to restrict the promotion of foods high in fat, sugar, or salt to reduce health harms associated with their excessive consumption.**

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Appendix 1: The stewardship model

Acceptable public health goals include:

- reducing the risks of ill health that result from other people's actions, such as drink-driving and smoking in public places
- reducing causes of ill health relating to environmental conditions, for instance provision of clean drinking water and setting housing standards
- protecting and promoting the health of children and other vulnerable people
- helping people to overcome addictions that are harmful to health or helping them to avoid unhealthy behaviours
- ensuring that it is easy for people to lead a healthy life, for example by providing convenient and safe opportunities for exercise
- ensuring that people have appropriate access to medical services
- reducing unfair health inequalities

At the same time, public health programmes should:

- not attempt to coerce adults to lead healthy lives
- minimise the use of measures that are implemented without consulting people (either individually or using democratic procedures)
- minimise measures that are very intrusive or conflict with important aspects of personal life, such as privacy

Appendix 2: The intervention ladder

Eliminate choice: regulation in such a way as to entirely eliminate choice, for example through compulsory isolation of patients with infectious diseases.
Restrict choice: regulation in such a way as to restrict the options available to people with the aim of protecting them, for example removing unhealthy ingredients from foods, or unhealthy foods from shops or restaurants.
Guide choice through disincentives: fiscal and other disincentives can be put in place to influence people not to pursue certain activities, for example through taxes on cigarettes, or by discouraging the use of cars in inner cities through charging schemes or limitations of parking spaces.
Guide choices through incentives: regulations can be offered that guide choices by fiscal and other incentives, for example offering tax-breaks for the purchase of bicycles that are used as a means of travelling to work.
Guide choices through changing the default policy: for example, in a restaurant, instead of providing chips as a standard side dish (with healthier options available), menus could be changed to provide a more healthy option as standard (with chips as an option available).
Enable choice: enable individuals to change their behaviours, for example by offering participation in an NHS 'stop smoking' programme, building cycle lanes, or providing free fruit in schools.
Provide information: inform and educate the public, for example as part of campaigns to encourage people to walk more or eat five portions of fruit and vegetables per day.
Do nothing or simply monitor the current situation