**Proposals to make the food environment healthier**

You do not need to respond to all sections of this response form. Please scroll down to part 2 of the form if you only wish to respond to our call for evidence on energy drink consumption in children.

**Part 1: consultation seeking views on the draft regulations and enforcement approach for The Food (Promotion and Placement) (Wales) Draft Regulations**

**Draft Regulations**

Where you have particular evidence or practical experience to support your views, we would be grateful if you could provide such evidence and experience in your response to each question.

**Question 1**

# Do the draft Regulations describe the promotion and placement restrictions accurately and clearly for both business and enforcement agencies to implement and enforce?

* Yes [ ]
* No [ ]
* Don’t know [ ]

Please explain your answer. If you disagree with the proposed descriptions, please outline how you would describe the restrictions instead.

**Question 2**

# Do the draft Regulations describe the free refill restrictions accurately and clearly for both business and enforcement agencies to implement and enforce?

* Yes [ ]
* No [ ]
* Don’t know [ ]

Please explain your answer. If you disagree with the proposed description, please outline how you would describe the restrictions instead.

**Aisle end restrictions**

One minor difference between the proposed Regulations for Wales and the existing equivalent regulations in England is how aisle end restrictions will apply within a qualifying business’ physical (in store) retail environment:

Regulation 7(1)(c)(i) of the Food (Promotion and Placement) (England) Regulations 2021 provides that a qualifying business must not place HFSS foods inside a store in a display "at the end of (but not in) an aisle, where the aisle end is adjacent to a main customer route through the store", or "on a separate structure (such as an island bin, free-standing unit, side stack or clip strip) connected or adjacent to, or within 50cm of, such an aisle end".

It is proposed that, for aisle end restrictions in Wales under the Food (Promotion and Placement) (Wales) Regulations 2024, a qualifying business must not place HFSS foods inside a store in a display "at the end of (but not in) an aisle" or "on a separate structure (such as an island bin, free-standing unit, side stack or clip strip) connected or adjacent to, or within 50cm of, such an aisle end".

This means that the aisle end restrictions in Wales will apply regardless of whether an aisle end is adjacent to a main customer route through the store.

Feedback we have so far gathered from industry bodies and enforcement officers has indicated that it is difficult to determine what constitutes a "main customer route" within individual retail settings. Whilst we remain open to mirroring UK Government’s description of this restriction for Wales, our view is that extending this restriction to cover all aisle ends would support qualifying businesses and enforcement officers to understand which aisle ends are in scope of restrictions and remove the need for them to determine the main routes used by customers in specific retail settings.

**Question 3**

Do you foresee the difference in the way that aisle end restrictions are set out in England and Wales’ equivalent regulations causing any operational challenges for qualifying food businesses or enforcement officers?

* Yes [ ]
* No [ ]
* Don’t know [ ]

Please explain your answer.

**Enforcement**

**Question 4**

Should local authorities issue improvement notices in cases of non-compliance with restrictions as the first formal action, as set out in paragraph 19 of the consultation document?

* Yes [ ]
* No [ ]
* Don’t know [ ]

Please explain your answer. If you disagree with the proposed approach, please outline what approach you would see instead.

**Question 5**

Are there circumstances where an improvement notice may not be appropriate?

* Yes [ ]
* No [ ]
* Don’t know [ ]

Please explain your answer.

**Question 6**

Where a business fails to meet the terms of an improvement notice, is a fixed monetary penalty of £2,500 appropriate, as set out in paragraph 20 of the consultation document?

* Yes [ ]
* No [ ]
* Don’t know [ ]

Please explain your answer. If you disagree with the proposed approach, please outline what approach you would see instead.

**Question 7**

Are there circumstances where a different approach might be more appropriate?

* Yes [ ]
* No [ ]
* Don’t know [ ]

Please explain your answer. If answered yes, please explain the specific circumstance and preferred enforcement approach.

**Question 8**

Is 28 days an appropriate period to make representations and objections or to discharge liability for a Notice of Intent, as set out in paragraph 21 of the consultation document?

Please note: the Regulatory Enforcement and Sanctions Act 2008 (RESA) specifies that 28 days is the longest period that can be permitted, therefore any alternative suggestions must be less than 28 days.

* Yes [ ]
* No [ ]
* Don’t know [ ]

Please explain your answer.

**Question 9**

Where a fixed monetary penalty has been issued (for example, for failure to comply with an improvement notice) should a person be able to discharge liability upon being issued with a fixed monetary penalty at a rate of 50% of the penalty issued, as set out in paragraph 21 of the consultation document?

* Yes [ ]
* No [ ]
* Don’t know [ ]

Please explain your answer.

**Question 10**

Is 28 days an appropriate length of time to pay or appeal a final notice, as set out in paragraph 23 of the consultation document?

Please note: the RESA specifies that 28 days is the longest period that can be permitted, therefore any alternative suggestions must be less than 28 days.

* Yes [ ]
* No [ ]
* Don’t know [ ]

Please explain your answer.

**Question 11**

Should failure to pay or appeal a penalty within 28 days result in the penalty being increased by 50%, as set out in paragraph 23 of the consultation document?

* Yes [ ]
* No [ ]
* Don’t know [ ]

Please explain your answer.

**Supporting guidance**

**Question 12**

Are there any areas that need to be specified in guidance to allow businesses to implement the policy successfully?

* Yes [ ]
* No [ ]
* Don’t know [ ]

Please explain your answer.

**Question 13**

Are there any areas that need to be specified in guidance to allow enforcement agencies to implement the policy successfully?

* Yes [ ]
* No [ ]
* Don’t know [ ]

Please explain your answer.

**Impact assessments**

We have published a number of draft impact assessments alongside this consultation and would welcome your views on these.

**Question 14**

What, if any, challenges resulting from the proposed Regulations do you feel should be further recognised within the draft regulatory impact assessment, particular to your field of interest?

**Question 15**

What, if any, positive effects resulting from the proposed Regulations do you feel should be further recognised within the draft regulatory impact assessment, particular to your field of interest?

**Question 16**

Do you have any comments on the emerging conclusions in the draft impact assessments for Welsh language, children’s rights, or equality and human rights, and if so what evidence do you feel should be further considered particular to your field of interest to support your comments?

The Equality Act 2010 prescribes protected characteristics that include age, religion or belief, race, sexual orientation, sex, gender reassignment, marriage and civil partnership, pregnancy and maternity, and disability.

* Yes [ ]
* No [ ]
* Don’t know [ ]

Please explain your answer.

**Question 17a**

What, in your opinion, would be the likely effects of the Regulations on the Welsh language? We are particularly interested in any likely effects on opportunities to use the Welsh language and on not treating the Welsh language less favourably than English.

**Question 17b**

Do you think that there are opportunities to promote any positive effects?

**Question 17c**

Do you think that there are opportunities to mitigate any adverse effects?

**Question 18a**

In your opinion, could the Regulations be formulated or changed so as to have positive effects or more positive effects on using the Welsh language and on not treating the Welsh language less favourably than English?

**Question 18b**

In your opinion, could the Regulations be formulated or changed so as to mitigate any negative effects on using the Welsh language and on not treating the Welsh language less favourably than English?

**Additional comments**

**Question 19**

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

**Part 2: call for evidence in relation to the consumption of energy drinks by children**

While we welcome all evidence on the subject matter, we have listed a number of areas below that we are particularly interested to hear about. You do not have to provide evidence relating to every area we have set out. Submit evidence where you have relevant knowledge.

1. **Health impacts and wider societal concerns**

Evidence of the health impacts (both physical and mental) relating to the consumption of energy drinks by children, including qualitative and quantitative evidence and evidence of wider societal concerns for example, but not limited to:

Evidence of links with high-risk behaviours such as alcohol, drug or tobacco use, eating disorders, truancy.

**Is the evidence you have submitted specific to a particular age group?**

* Yes: under 16 years old [ ]
* Yes: under 18 years old [ ]
* No [ ]
* Not sure [ ]
1. **Purchasing and consumption behaviours**

Evidence of the purchasing and consumption habits of children in relation to energy drinks, for example, compared with other caffeinated products such as tea and coffee.

**Is the evidence you have submitted specific to a particular age group?**

* Yes: under 16 years old [ ]
* Yes: under 18 years old [ ]
* No [ ]
* Not sure [ ]
1. **Marketing**

Evidence on the impact of energy drinks marketing on children within different settings, including online.

**Is the evidence you have submitted specific to a particular age group?**

* Yes: under 16 years old [ ]
* Yes: under 18 years old [ ]
* No [ ]
* Not sure [ ]
1. **Operability**

Evidence on the impact of voluntary bans to the sale of energy drinks to under 16 year olds implemented by some food retailers.

**4a. Operability**

Evidence on the approaches to enforcement, including how other countries have approached enforcement within different settings, including online.

1. **Economic impact**

Evidence of the costs to society of energy drink consumption by children.

1. **Impact of the consumption of energy drinks on different groups**

Evidence of how the following groups of children are impacted by the consumption of energy drinks.

**6a. Those in lower socio-economic groups.**

**Is the evidence you have submitted specific to a particular age group?**

* Yes: under 16 years old [ ]
* Yes: under 18 years old [ ]
* No [ ]
* Not sure [ ]

**6b. Those with protected characteristics, as set out within the Equality Act 2010.**

**Is the evidence you have submitted specific to a particular age group?**

* Yes: under 16 years old [ ]
* Yes: under 18 years old [ ]
* No [ ]
* Not sure [ ]

**6c. Those living in rural areas.**

**Is the evidence you have submitted specific to a particular age group?**

* Yes: under 16 years old [ ]
* Yes: under 18 years old [ ]
* No [ ]
* Not sure [ ]

**6d. Those living in urban areas.**

**Is the evidence you have submitted specific to a particular age group?**

* Yes: under 16 years old [ ]
* Yes: under 18 years old [ ]
* No [ ]
* Not sure [ ]

**Submit your response**

You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

**Name (optional):**

**Organisation (if applicable):**

**Telephone number (optional):**

**Address (optional):**

**If you want to receive a receipt of your response, please provide an email address:**

**Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box:** [ ]