

**CONSULTATION RESPONSE FROM THE
NATIONAL HEART FORUM**

Consultation: 'Television without
Frontiers' Directive

Consulting body: European Commission

Date: July 2003

Submission on behalf of the National Heart Forum in the context of the review of the 'Television without Frontiers' Directive

July 2003

1. Introduction

The National Heart Forum (NHF) is the leading alliance of over 40 organisations working to reduce the risk of CHD in the UK (see appendix A for further information about the NHF).

The NHF welcomes the opportunity to submit its observations in the context of the Commission's review of the 'Television without Frontiers' Directive. The NHF has studied the questions to which the European Commission is requesting responses and our observations are set out below. To put our recommendations and observations in perspective, we first set out the background for our submission.

2. Background

a) Diet and health

In the course of policy analysis and development spanning a number of years¹², the National Heart Forum has consistently identified food marketing to children as a fundamental contribution to the problems of poor diet among the young: in particular a high consumption of salt, fat and sugar.

One of the health consequences of an energy-dense diet (combined with inadequate levels of physical activity) is weight gain leading to obesity. The high levels of overweight and obesity among children will exacerbate overweight and obesity in the adult population, since compared to children of a healthy weight; *obese children have a high risk of becoming overweight adults*. Across EU countries at least one in three adults (over 15 years) is overweight (BMI of $>25\text{kg/m}^2$), and one in five is obese (BMI $>30\text{kg/m}^2$)³.

The key public health concerns are that:

- diets high in fat (particularly saturated fat), excess calories (from fat and sugar) and salt, are major causes for premature disability and death from cardiovascular diseases;

¹ National Heart Forum. 1999. Looking to the future: making coronary heart disease an epidemic of the past. London: The Stationery Office.

² National Heart Forum. 2002. Towards a generation free from coronary heart disease: policy action for children's and young people's health and well-being. London: National Heart Forum.

³ Institute of European Food Studies, Trinity College, Dublin, 1999. A pan-EU survey on consumer attitudes to physical activity, body-weight and health, IEFS. Dublin.

- diet-induced risk factors, such as high blood cholesterol levels, atherosclerosis, raised blood pressure and type 2 diabetes (all major risk factors for cardiovascular diseases), are appearing in obese children, whereas previously these were usually only present in adults;
- levels of overweight and obesity among children in the European Union are on a steep increase (see appendix B).

b) Increasing advertising to children

Over the last decade, advertising to minors has increased considerably and in particular advertising of food. Surveys have shown that food advertising to minors comprises the largest category of products advertised to children - up to 70% of all advertising to children is for food. Foods high in fat, sugar and/or salt account for over half of all food advertisements. Studies in the UK showed that between 95% and 99% of all foods advertised on television were high in either fat, sugar or salt.⁴ In the UK during 2001, £594 million was spent on advertising food, of which around 20% was spent by the four confectionery manufacturers: Nestlé, Mars, Cadbury and Wrigley (Advertising Association 2001). Yet in nearly all EU member states, there is no mechanism for broadcasters or governments to regulate against the cumulative effect of food advertising to children.

Independent studies have borne out that advertising is an important determinant in shaping minors' food preferences and eating patterns⁵.

c) Parental concerns

Many recent, independent surveys (including some conducted by organisations working for the marketing industry) in the UK have shown that British parents are deeply concerned about the impact of advertising on their children:

- Cooperative Wholesalers' Society (2000) – 80% of parents wanted tighter controls on advertising to children and 77% wanted a ban on the advertising of food to children.
- Welsh Consumer Council (2003) – “Many parents felt under pressure from their children's demands as a result of the attractive and powerful advertising they saw on TV during children's programmes.”
- Chartered Institute of Marketing (2002) - 75% of parents said that children see too much advertising.

A survey across 20 European countries conducted for the Advertising Education Forum in 2000 (Parental Perceptions of Key Influences in Children's Lives) found that in 18 out of 21 countries, parents ranked TV advertising within the top ten important influences on children.

d) Inadequacy of reactive regulatory framework

NHF cites recent adjudications by the Independent Television Commission (broadcast regulatory authority) and the Advertising Standards Authority (print regulatory

⁴Sustain. TV Dinners: What's being served up by advertisers? 2001. Sustain.

⁵ Bolton 1983, Norton et al 2000

organisation) against advertising claims made in the UK for Knorr Vie carton soup. While this is not an advertisement aimed at children, it serves to demonstrate how, in the NHF's view, the principle of a reactive, complaints-based regulatory framework lacks consistency and adequacy to protect the public against inappropriate advertisements. (See appendix C)

e) A public health objective

The NHF proposes that there is a very persuasive case to be made to adopt the *precautionary principle* for the marketing of foods to children. It is an appropriate way to fulfil duties to protect children from possible harm and promote their wellbeing. This opinion was supported by the UK government's chief medical adviser in June 2003⁶.

It is clear from the available evidence that more regulated markets have lower obesity rates⁷. The rapid rise in rates of overweight seen in the United States (an increase of 382% among 6-11 year olds in less than 30 years⁸) and the appearance of co-morbidities including type 2 diabetes during childhood must be taken as a warning to European policymakers.

The NHF believes that the revision of the Television without Frontiers Directive is an ideal opportunity to make a contribution to halting and reversing the epidemic of avoidable diet-related chronic diseases and, among others, responding to the concerns set out in the Council Conclusions on Obesity of December 2002. In these Conclusions, the Council underlines the need for a cross-sectoral approach to prevent problems resulting from obesity, including in the education and cultural sectors, and the Council invites the Commission to ensure that prevention of obesity is taken into account in all relevant Community policies.

3. Discussion Document on Theme 3: protection of general interests in television advertising, sponsorship, teleshopping and self-promotion

Questions regarding Articles 12 and 16:

In response to the question whether there are problems with the interpretation of the concepts with regard to recent technological and market developments, it is the NHF's opinion that there are problems with the interpretation of the concepts set out in:

Article 12 *Television advertising and teleshopping shall not encourage behaviour prejudicial to health and safety;*

Article 16.1 *Television advertising shall not cause moral or physical detriment to minors;*

Article 16.1 (b) *it (advertising) shall not directly encourage minors to persuade their parent or others to purchase the goods or services being advertised.*

In order to fully respect the concepts of these articles, food advertising to children would already have been restricted or banned given the link between such advertising and the severe health outcomes listed above in section 2 as well as the pressure put on parents.

⁶ Department of Health. Health Check. Chief Medical Officer's Annual Report 2002

⁷ Harvard Institute of Economic Research. Why Have Americans Become More Obese? 2003

⁸ Ogden et al. JAMA. 2002;288:1728-1732

Although some countries have implemented rules restricting or banning food advertising to children (see below), cross-border advertising activities remain a threat to national provisions and have the potential to render the rules ineffective.

In order to provide a high level of health protection, especially of children, throughout Europe, the NHF recommends that Article 16 be amended to include a general reference to the protection of minors' health and a specific ban on advertising of food and soft drinks to minors.

4. Discussion Document on Theme 5: Application (related aspects)

The NHF expresses its concern that self-regulation will be ineffective in enforcing the Directive. As is pointed out above, it is the NHF's opinion that food advertising to children, in particular, is not respecting the concepts set out in the Directive (articles 12 and 16).

The NHF has noted that some EU member states have taken measures which are more restrictive than those in the Directive ranging from a total ban on TV advertising to under 12s (Sweden), to bans of certain advertising during certain hours (Netherlands) to detailed rules on the content of advertising to children (Greece).

The NHF believes that an effective way of ensuring that advertising does respect the concepts set out in the Directive is for the national regulatory authorities to introduce a pre-vetting of advertising to minors. All national regulatory authorities should include the relevant stakeholders, such as consumer organisation, parents' organisations and public health organisations.

As the national regulatory authorities can only introduce restrictions over and above those in the Directive in their own countries but cannot stop advertising coming from another EU Member State, it is important that EU-wide standards are in place. Therefore and also in response to question II.2 on the Contact Committee's (Article 23a) role in a co-regulation approach, the NHF recommends that the Contact Committee in co-operation with the national regulatory authorities sets minimum standards for programmes and advertising to minors.

In case a ban on advertising unhealthy food and soft drinks to children should fail to be included in the revision of the Television without Frontiers Directive, any minimum standards must ensure that food advertising, particularly to children, does not undermine progress towards national dietary improvements by misleading or confusing viewers, especially children, or by setting bad examples. Specifically, the cumulative output of food advertising should not encourage excessive consumption of foods that are high in fat, sugar and/or salt. Such standards would need to be legally enforced.

5. Links with other policies

In its Fourth Report on the application the Television without Frontiers Directive⁹, the Commission refers to a number of other policies that are connected with European audiovisual policy. Health protection is not included. Concerns about the impact of food advertising to children on their health and health behaviour would indicate that health should be explicitly mentioned in the Directive's recitals. This would also be in line with the Treaty's Article 152 which aims at mainstreaming health into all EU policies.

Specifically, the NHF recommends the following amendments:

In recital 27: Whereas in order to ensure that interests of consumers as television viewers are fully and properly protected, it is essential for television advertising to be subject to a certain number of minimum rules and standards and that the Member States must maintain the right to set more detailed or stricter rules and in certain circumstances to lay down different conditions for television broadcasters under their jurisdiction;

The NHF would propose to introduce the words '*..to ensure that interests of consumers as television viewers are fully and properly protected and to ensure public health objectives, it is essential ...*'.

In recital 41: Whereas it is, furthermore, necessary to introduce rules to protect the physical, mental and moral development of minors in programmes and advertising;

The NHF would propose to introduce the words '*.., necessary to introduce rules to protect the physical, mental and moral development of minors and to protect them against negative health consequences in both programmes and advertising;*'.

6. Other media

The NHF draws the attention to the need to extend the provisions in the Television without Frontiers Directive to other relevant media, including the Internet.

Submitted by the National Heart Forum, July 2003
The opinions expressed here are consensus based
and do not necessarily represent the views of
individual members of the National Heart Forum.

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⁹ Fourth Report from the Commission to the Council, The European Parliament, the European Economic and Social Committee and the Committee of the Regions on the application of Directive 89/552/EEC "Television without Frontiers"; COM (2002) 778 final.

Appendix A

The National Heart Forum (NHF) is the leading alliance of over 40 organisations working to reduce the risk of coronary heart disease (CHD) in the UK. Member organisations represent the medical and health services, professional bodies, consumer groups and voluntary organisations. Members also include many individual experts in cardiovascular research. Government departments have observer status. (A full list of members is available at www.heartforum.org.uk) The purpose of the NHF is to work with and through its members to reduce disability and death from CHD. Our four main objectives are:

- To provide a forum for members for the exchange of information, ideas and initiatives on coronary heart disease prevention;
- To identify and address areas of consensus and controversy;
- To develop policy based on evidence and on the views of member organisations;
- To stimulate and promote effective action.

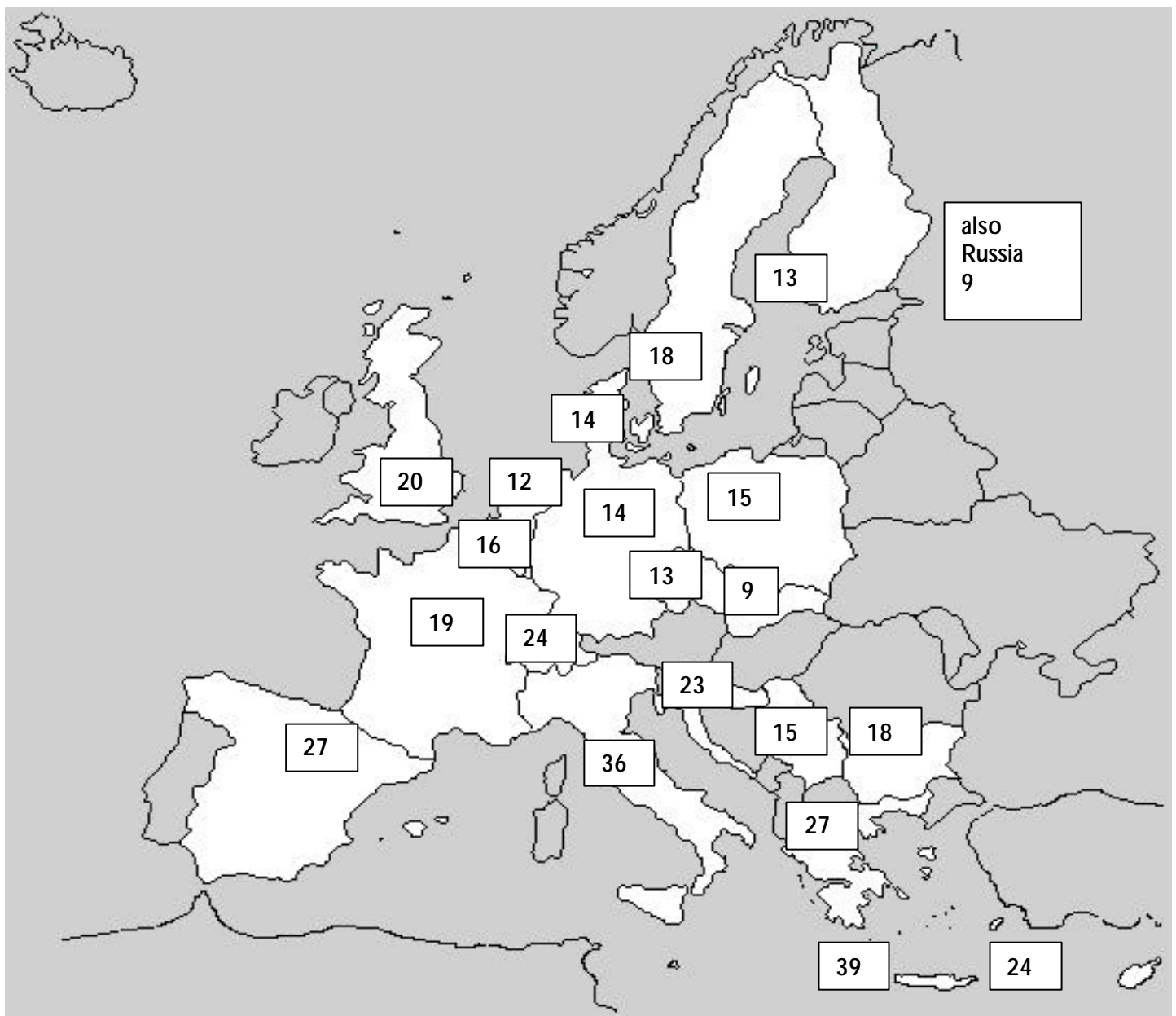
The NHF embraces professional, scientific and policy opinion in current issues in CHD prevention. It co-ordinates action to reduce heart disease risk through information, education, research, policy development and advocacy. The NHF is a member of the European Heart Network (EHN) and its submission reflects and supports the submission of the EHN.

Appendix B

Prevalence (as a percentage) of overweight (BMI 25+ age adjusted) among children in Europe.

Data from the International Obesity TaskForce and the European Child Obesity Group.
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Data from studies which looked at schoolchildren aged 5+ years. For background information, see the IOTF paper published at the Copenhagen conference September 2002 (www.iotf.org)



Appendix C

In July 2003, an independent UK watchdog organisation, the Food Commission, complained against advertising claims made for *Knorr Vie Soup* which claimed that one carton of the product could contribute up to three portions of vegetables towards the five-a-day daily recommended target. Complaints were made against both print advertisements (to the Advertising Standards Authority) and against TV advertisements (to the Independent Television Commission).

The complaint was upheld by the Advertising Standards Authority (www.asa.org.uk):

- The Advertising Standards Authority agreed that Knorr had exaggerated how much fruit and vegetables a consumer could get from a single serving, because a lot came from tomatoes, and so did not represent enough variety.
- The ASA also agreed with the Food Commission that the high salt content (5g of salt per 500ml serving) meant that the product was too salty to be promoted as a healthy product using the five-a-day message.

The complaint was not upheld by the Independent Television Commission. It is understood that in the light of the ASA ruling the ITC has retracted.