



OHID
Department of Health and Social Care
39 Victoria Street
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14 March 2024

Sent by email,

Dear Sir or Madam,

Thank you for giving us the opportunity to comment on the proposed changes to the for voluntary industry guidelines for commercial baby food and drinks aimed at children aged up to 36 months.

The BRC (British Retail Consortium) is the lead trade association for UK retail. Our purpose is to make a positive difference to the retail industry and the customers it serves, today and in the future.

Retail is the 'everywhere economy', a vital part of the socio-economic fabric of the UK. The industry makes up 5% of the UK GDP and is the largest private sector employer, providing 3 million direct jobs and 2.7 million more in the supply chain. Retail has a presence in every village, town and city across the country.

Over 200 major retailers are members of the BRC, with thousands of smaller, independents represented by BRC's trade association members. Together, these businesses operate across all retail channels and categories and deliver over £350 billion of retail sales per year. We build the reputation of the retail industry, work with our members to drive change, develop exceptional retail leaders, and use our expertise to influence government policy so retail businesses thrive and consumers benefit. Our work helps retailers trade legally, safely, ethically, profitably, and sustainably.

On food, our membership comprises over 5,000 businesses, accounts for £180 bn of grocery sales and employs over 1.5 million people in food outlets and distribution.

We have found the format of the document a little difficult to navigate. We appreciate that everyone has different preferences, but we feel that seeing the changes in the actual document would have help our understanding.

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The comments to the questions below relate to the changes that retailers can make to their own brand products. It is important to understand that this is a predominantly brand led category, and retailers have no control over the composition or labelling of branded products.

Q1. Do you agree with the draft proposed sugar and salt guidelines? Do you consider the guidelines to be broadly achievable? Do you have any alternative proposals?

Overall, we are supportive of the proposal, but we have some comments and questions.

We are supportive of the exclusion for products which are 100% fruit and vegetables. We want clarification that a product which contains fruit, vegetables and water will also be covered by that exemption.

On salt, we agree with the criteria not to permit salt to be added to products, but we have some concerns about the implications of the sodium criteria for certain products. McCance and Widdowson lists the sodium content for products like carrots and dried milk powder above the 75mg/100kcal set a maximum limit in the guidance. These ingredients are widely used in foods aimed at children 36 months and below. The guidance recognises the high sodium content in cheese and sets a different maximum level for products which reference cheese in the product name. This is welcomed; however, it does not address the implications of using dried milk powder, other naturally higher sodium/lower density vegetables like carrots, full fat milk and cheese used as an ingredient but not charactering the product, and therefore not being part of the product name.

We want to avoid products not being able to match recipes like the products would be made at home by parents. The use of these ingredients is key to support dietary guidance.

We believe a solution could be a recognition, recipes which add dried milk powder, carrot, full milk and cheese may exceed the guidelines, providing the recipe is no added sodium.

Q2. Do you agree with the revised timeframe for delivery of the guidelines? Do you have alternative proposals?

Despite the fact that our members have known this document was being produced, there have been tight controls about sharing it beyond the companies in our membership. This has meant that retailers have been able to look at the composition of products and understand how the proposed guidance will impact these formulations, however most of them have not been able to discuss what is practically feasible with their suppliers.

Many of the manufacturers of these products are not UK based and they have not been involved in any of the two rounds of consultation. These manufacturers produce products for retailers in different countries and they will need to be persuaded to prioritise the work required to review the composition of products.

The majority of products covered by the guidance are long-life products and it will take time to make both the compositional and the labelling changes. In some cases, it could take months to work on product reformulation and get the final composition, flavour, and safety, including self-life, right. It will then take up to 12 months to get the product to market due to factors such as packaging lead times, etc.

While conversations with suppliers to plan the changes will commence as soon as the guidelines are finalised and published, we strongly believe the proposed period of 18 months is too short. The originally proposed period of 24 months is more realistic. Even after that period, it could take some time for products with the new composition and label to appear on the market.

Q3. Do you agree with the points included in the section titled “Additional considerations – food labelling”? Do you consider these to be deliverable? Do you have any alternative proposals? Are these deliverable within an 18-month timeframe?

Please see our comments to the previous question. We feel the proposed 18 months period is too short and the previously suggested 24 months timeframe is more realistic.

Furthermore, some of the suggested changes, e.g. to move from a ‘suitable from 4 months’ statement to a ‘suitable from 6 months’, are contradictory to what is permitted by law, and the advice which parents receive from GPs and health professionals about feeding their children. This is therefore more than a label change. Clear guidance for customers who may be confused by the difference in advice will be very important.

Businesses are asked to:

- **ensure honest labelling so that product names are not misleading and are aligned with the primary ingredients**

We believe the requirements in Regulation (EU) No 1160/2011 on food information to consumers are clear on what is an appropriate descriptive legal product name and how ingredients should be presented in the ingredients lists. This Regulation also has some general principles addressing misleading practices.

DHSC may want to consider referencing the legal requirements in the guidance document, otherwise businesses may be confused about what is a voluntary best practice versus what is a legal requirement.

- **restrict use of implied nutrition and health claims and health halo statements**

We do not believe the term “implied nutrition” or “halo statements” are sufficiently clear. They are subjective terms which need further explaining in the final document. The inclusion of some examples could help. It is also important that coherent advice is given by the Department. A company recently asked DHSC at an open forum whether an approved health claim with no specific conditions of use and for which the evidence upon which it was agreed was not specific to a population group, could be used in foods aimed at small infants. The answer was yes. While legally this might be correct, it does not align with your guidance discouraging this practice.

We support restricting inappropriate use of claims, and we understand the confusion when claims are made on characteristics which are true for all products in that same category.

We ask that DHSC consider the educational role that claims/nutrition education can play for the whole category to drive positive change, for example by developing a trusted logo for complaint products. This could also serve as a badge of recognition for businesses to strive towards and help customers more easily navigate the category to make a better choice, if they choose not to scratch cook.

- **ensure that clear feeding instructions (use a spoon/do not suck) are present on the front of pack of products packaged in pouches with a nozzle**

The main challenge with this proposal is the space available on front of pack for many products, and the risk of confusing customers as other important information will remain on the back of the pack.

We believe this advice is better approached through a wider educational campaign, which our members will be able to support through means other than the label.

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- ensure that products high in sugars are labelled as not being suitable for eating between meals.

There is no definition for 'high in sugar' anywhere in the document. There are several definitions for high in sugar used by industry and therefore it will be necessary to be clear which of those definitions is guiding this principle.

Furthermore, some of these products are aimed at small infants who may not have three set mealtimes established and therefore the messaging could be confusing for parents. As stated above, these label changes cannot be made in isolation. The guidance needs to be supported by active parent engagement and education by the Government. Lastly, these statements may have to appear in a wide range of products, and therefore flexibility on presentation is welcome, but some direction, e.g. these statements can appear on back of pack, will lead to consistency.

Being able to provide clear feeding instruction on front of pack is dependent on adequate label space being available. This may not be the case for certain types of products.

Q4. Are there any technical or other challenges associated with achieving the three proposals made?

There are a number of elements which are not clear:

The previous document made the restriction for the use of fruit juice from concentrate in certain products clear, but it also stated that the use of **lemon and lime juice** used as preservatives was permitted. These are important functional ingredients, and we want to make sure that that exemption is part of the final document.

If the tables shared as part of the consultation are to be used in the final document, clarification through the use of an asterisk will be necessary.

Portion sizes – The document suggests “consider appropriate portion sizes, particularly for finger foods/snacks, and products aimed at children aged under 12 months”. DHSC would be aware of the lack of consensus and appropriate guidance on suitable portion sizes. Including such a statement in the document will not result in any change unless advice is given on what would be considered an appropriate portion size for many of the products covered in the document.

Having said, consideration should be given to the fact that many products, especially snacks, e.g., rice cakes, will be consumed by a 9 month old and a 36 month old in different quantities. This will make providing any meaningful advice on portion size for these types of products very challenging.

Language / terms – Some targets are presented as less than and others as less or equal to. This is confusing and it makes it difficult to communicate to suppliers. We encourage consistency.

Banana flakes – These are in scope in this new version of the document; they are highlighted as a not permitted ingredient. Not all banana flakes are the same; they are produced in a number of different ways, and they vary in composition.

Table 1 sets limit for fruit ingredients in main meals for 'all sugar naturally present in fruit and vegetable purees, pastes and similar products in which the structure has been broken down (e.g. powders, flakes). For example, in dry cereals they are permitted in a quantity less or equal to 10% by weight.

This is quite confusing. Our understanding is that a banana flake produced exclusively from banana puree would be permitted in cereals to the limit specified. This point needs clarifying in the document.

Timings – A substantial period of time passed between DHSC issuing the first draft of the guidance document and the second one. Companies need certainty to plan changes. We need DHSC to confirm and stick to a date of publication for the final document.