

**Lynne Neagle AS/MS**  
**Y Dirprwy Weinidog Iechyd Meddwl a Llesiant**  
**Deputy Minister for Mental Health and Wellbeing**



**Llywodraeth Cymru**  
**Welsh Government**

Eich cyf/Your ref  
Ein cyf/Our ref

Huw Irranca-Davies MS  
Chair  
Legislation, Justice and Constitution Committee  
Senedd Cymru  
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11 September 2023

Dear Huw,

Thank you for your letter of 7 July regarding proposals relating to supporting a healthier food environment in Wales.

My answers are set out in the following Annex.

Yours sincerely

**Lynne Neagle AS/MS**  
**Y Dirprwy Weinidog Iechyd Meddwl a Llesiant**  
**Deputy Minister for Mental Health and Wellbeing**

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

## Annex

### **Question 1: Can you confirm under which Act and delegated power you intend to bring forward this subordinate legislation, and which scrutiny procedure will apply.**

The intention is to use powers contained in the Food Safety Act 1990 and the Regulatory Enforcement and Sanctions Act 2008. The specific delegated powers will be determined when the policy has been finalised.

The use of these powers will require the subordinate legislation to be subject to the affirmative procedure. Senedd scrutiny of any legislation has been factored into timetabling.

### **Question 2: When in 2024 do you intend to lay the subordinate legislation before the Senedd?**

Our intention is to lay the subordinate legislation before the Senedd in Autumn 2024.

### **Question 3: You said you will “wish to consider consistency with definitions set out within England’s locations and volume-based price restrictions legislation to ensure operability across borders”. We would be grateful to receive further information and clarity on this point, including a summary of the outcomes of any discussions you have had with the UK Government.**

We will seek to ensure that foods that are considered in scope of the regulations in England are also in scope here, i.e. what defines a product as HFSS (High in Fat Salt or Sugar). We also will seek to match the definitions of what a multi-buy promotion (i.e. buy one get one free or 50% extra free for example) is in the regulations in England. This will make it easier for retailers in areas of convergence. The precise nature of location restrictions will be defined in regulations and technical guidance, but we will seek to align with England in this instance where this is practicable and supported by evidence.

We have engaged extensively both with the UK Government and with industry on the similar regulations in England (The Food (Promotion and Placement (England) Regulations 2021). Whilst our primary driver for these regulations is to tackle the public health crisis obesity presents, we recognise the impact that regulatory divergence has on business and are mindful of this. The outcomes of our discussions with industry and with UK Government officials is to seek alignment where this is practicable and supported by evidence.

### **Question 4: How will you resolve any conflict between “operability across borders” and scientific evidence relevant to addressing the specific circumstances of Welsh citizens?**

Where scientific evidence shows us that the specific circumstances of Welsh citizens require us to diverge from approaches taken in England or other parts of the UK, we work to understand the possible policy responses to those circumstances, and how that affects issues that cross borders. In this set of proposals, we are working with industry to understand the challenges that divergence from policy and practice in England can have and seek to co-produce solutions.

**Question 5: You said you “look forward to further action by our colleagues in Whitehall in regard to price restrictions and on curbing TV and online advertising of high fat, sugar and salt products to children”. Please would you clarify what is being anticipated, and whether the Welsh Government has plans to work with the UK Government on England and Wales legislation.**

The implementation of regulations to limit the advertising of products high in fat salt and sugar was due to come into force across the UK in October 2023. This has been delayed twice, first to January 2024, and most recently until October 2025. We are keen to work with the UK Government on these UK-wide regulations, and I have previously expressed my disappointment to the UK Government at the delays.

Restrictions on the placement of HFSS products in England, such as near store entrances and checkouts, came into force in October 2022, but other measures, including restricting multibuy deals on these products have been delayed until October 2023.

**Question 6: What assessment have you made of how the United Kingdom Internal Market Act 2020 (the 2020 Act) may impact on the effectiveness of these proposals in practice?**

We have begun to consider the impact of the UKIM Act and whether there will be any impact on the proposals. However, until final, detailed policy instructions have been finalised we cannot make a detailed assessment.

**Question 7: If you have identified an impact resulting from the 2020 Act: a. What are the specific issues? b. How will you address these? c. How do you intend to communicate with Members of the Senedd and wider stakeholders about its impact?**

Once a definitive assessment is made, I will ensure the committee receive full answers to this question.

**Question 8: What discussions have you had with counterparts in the UK Government and devolved governments regarding the interaction between your proposals and the 2020 Act?**

Please see my answer to Question 6. As such, detailed discussions regarding the interaction between our proposals and the 2020 Act have not taken place with other Devolved Administrations or the UK Government.

**Question 9: Have you given any consideration to the need to seek an exclusion from the 2020 Act’s market access principles to ensure the proposals will be fully effective?**

This will depend on the outcome of any assessment. I will update the committee at the same time as my commitment in Question 7.

**Question 10: Have you considered asking the Office for the Internal Market to provide advice under section 34 of the 2020 Act on the potential impacts of the proposals on the UK internal market?**

Please see my answer to Question 6.

**Question 11: What assessment have you made of how the Retained EU Law (Revocation and Reform) Act 2023 (the 2023 Act) may impact these proposals?**

Officials are working closely with the Scottish and UK Governments, and the Northern Ireland Executive on the relevant areas of retained EU law and their revocation. Once policy instructions are finalised, we will make an assessment in relation to these proposals.

**Question 12: Are you content that the automatic revocation on 31 December 2023 of food-related retained EU law listed in Schedule 1 to the 2023 Act will not impact these proposals?**

Once final policy instructions are completed, such an assessment will be made.

**Question 13: If you have identified any impacts resulting from the 2023 Act: a. What are the specific issues? b. How will you address these? c. How do you intend to communicate with Members of the Senedd and wider stakeholders about its impact?**

Further information will be provided to the committee once such an assessment is made.

**Question 14: Do you consider that these proposals increase food standards in Wales?**

The principal aim of these proposals is to make it easier for Welsh consumers to make healthier choices in the retail environment. We hope to see more offers available on healthier products, and to make it easier for consumers to avoid purchasing HFSS products unnecessarily because of enticing price promotions. Another potential effect may see food manufacturers reformulate products to make them healthier and therefore not captured by the regulations.