

Lynne Neagle MS
Deputy Minister for Mental Health and Wellbeing

7 July 2023

Dear Lynne

Proposals relating to supporting a healthier food environment in Wales

At our meeting on 12 June 2023 we considered your letter of 8 June about your proposals relating to supporting a healthier food environment in Wales. You provided us with advanced notice that you would deliver an oral statement to the Senedd on 27 June in which you would outline the Welsh Government's position in relation to price promotions and locations and that you would be bringing forward secondary legislation in 2024.

At that meeting, we noted there is a potential for the *United Kingdom Internal Market Act 2020*, the *Retained EU Law (Revocation and Reform) Act 2023*, and UK-wide Common Frameworks to all have an impact on or influence this area of work.

Having now heard your statement to the Senedd, there are some issues on which we would welcome further information and clarification.

We would be grateful to receive a response to the questions in the Annex by 31 August 2023.

Yours sincerely,



Huw Irranca-Davies
Chair

ANNEX

You told the Senedd:

"I am today announcing my intention to bring forward subordinate legislation in Wales to restrict the placement and price promotions of products high in fat, sugar and salt in retailers with over 50 staff members. (...)

The legislation, which will be brought forward next year, with at least a further 12-month implementation period for businesses up to 2025, will include location and volume price promotions. However, I am also minded to include temporary price promotions and meal deals within scope. (...)

The legislation I am bringing forward does not apply to all high fat, sugar and salt products, but targets food and drink that contribute most to obesity due to their calorie content and the way they are promoted. We wish to consider consistency with definitions set out within England's location and volume-based price restrictions legislation to ensure operability across borders. However, we are also exploring the scientific evidence base, which will be crucial. (...)

We will be working closely with the food industry and partners to develop comprehensive guidance for retailers to implement these measures. We will also support manufacturers to reformulate products to reduce levels of fat, sugar or salt. We will also be undertaking a consultation on enforcement measures, including how compliance should be investigated and penalties applied in instances of non-compliance. I will notify the Senedd when the consultation is published.

I'm encouraged by initial analysis showing that location restrictions in England have caused a shift in consumer spending away from high fat, sugar and salt products towards healthier alternatives. I look forward to further action by our colleagues in Whitehall with regard to price restrictions and on curbing tv and online advertising of high fat, sugar and salt products to children, which is another vital step to improve our food environment.

I am still considering the evidence and options for taking forward other proposals included within the healthy food environment consultation. This includes exploring further evidence on calorie labelling, and the opportunities to develop a broader out-of-home approach to maximise the impact of any changes. I am also considering further evidence on banning energy drink sales to children. I will make a further statement on these proposals to the Senedd in due course."

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.

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

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.

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

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.

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?

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?

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?

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?

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?

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?

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?

Question 13: If you have identified an 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?

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