

Background to the outcome of the public consultation on the proposed recommendations

On 28 July 2009, the Agency published a 14-week public consultation seeking views on proposals for recommendations to industry on saturated fat and added sugar reductions, and portion size availability for biscuits, cakes, pastries, buns, chocolate confectionery and soft drinks. The web link to the consultation was also sent to over 400 UK stakeholders.

A total of fifty-eight responses to the consultation exercise were received – 39 from industry organisations, including manufacturers, foodservice suppliers, caterers and trade associations; 9 health organisations and 2 academic organisations responded; and 8 responses were received from consumer organisations, individual consumers, and other organisations.

Many of the industry organisations that responded supported the Agency's objective of improving consumers' health through a focus on saturated fat reductions and energy balance. There were however concerns about the details of the recommendations and some questioned the need for them as many companies are already working to reduce saturated fat, sugar and energy levels in foods.

In general, the health, academic and consumer organisations supported the Agency's objectives of reducing saturated fat levels in foods and helping consumers balance calorie intakes with their needs through recommendations on energy and portion size. Some individual consumers reflected on media reports that products viewed as indulgent treats would be reduced in size and questioned the appropriateness of influencing product specifications and supply. The consumer organisation, Which? supported the Agency's objectives and stated that industry action should not impact negatively on quality for products considered as treats by consumers. Health organisations were supportive and encouraged the Agency to go further and faster with their recommendations, suggesting for example that specific quantifiable reductions in calorie and sugar levels for specific foods should be introduced.

The following paragraphs outline the general themes of the responses received and explain how these have been considered. The summary table at the end of this Annex highlights how each proposed recommendation has been revised following a review of the comments received.

General overarching comments

Industry organisations questioned the feasibility of addressing saturated fat and energy levels together within the same programme. In particular, changes in oil ingredients to reduce saturated fat levels do not reduce energy content. In addition, recent changes to the energy conversion factors for fibre laid down in the food labelling legislation will have the effect of energy levels appearing to increase. We recognise that the opportunities for

saturated fat and calorie reductions may be limited for certain processes/products and the recommendations have been amended to reflect this. We continue to encourage businesses to consider alternative means of reducing calories if reductions in saturated fat do not result in a calorie reduction, for example, through consideration of portion size.

We welcome industry responses that trans fat levels will not increase as a result of reformulation. We encourage businesses to reduce saturated fat whilst maintaining the progress already made to reduce levels of artificial trans fats in foods through the removal of hydrogenated vegetable oils. Population average intakes of trans fats are well within recommended levels, whereas saturated fat is consumed to excess (about 20% more than recommendations). The Agency's priority is therefore to reduce population saturated fat intakes.

We recognise that sugar levels per 100 g in some products may appear to increase if total fat levels are reduced and absolute levels of other ingredients used in products / recipes remain unchanged.

There were requests for the Agency to be less prescriptive and not make specific recommendations. In contrast, some industry stakeholders requested further categorisation as there was concern that each recommendation did not take account of the diverse nature of that food category. The Agency believes that giving recommendations for all sub-categories of foods would result in a less flexible, more prescriptive set of recommendations and would not allow businesses to consider their products on a case-by-case basis. Nevertheless, for some food categories, we appreciate that it would be more useful for a further breakdown of the food category into subcategories and have introduced specific subcategory recommendations for biscuits and cakes.

The timescales suggested for the implementation of the recommendations were considered by some industry respondents as too short for a full reformulation/portion size change across their portfolio to be completed. Some respondents indicated that small businesses may not be able to achieve the recommendations in the timescales suggested due to a lack of in-house technological expertise to implement reformulation initiatives. In contrast, health groups considered that the timescales of 2015 were too long. For each recommendation, the dates given indicate the point where the Agency will review progress and consider what further work with industry is needed. We encourage businesses to work towards our recommendations and use our Achievements and Commitments Table to report progress and highlight issues. We encourage businesses to consider their portfolio of products and prioritise reformulation/portion size work for those products that will deliver the greatest public health benefits. We are also aware of the particular difficulties small businesses and those that trade in traditional/seasonal/niche products may experience in achieving these recommendations due to resource issues and expertise limitations. We

have considered and addressed these issues in the final recommendations and accompanying text.

Some industry organisations suggested that in order to achieve the recommendations they would need to consider the use of additives in their recipes, which may be unacceptable to some consumers. However, many industry organisations also noted that additives use is restricted, that the use of additives may not have the beneficial effect on calories assumed, or requested that the Agency invest in further consumer understanding of the benefits of artificial sweeteners. It is a commercial decision for individual businesses to use, or not use, particular additives.

Many industry organisations commented that the ability to inform their consumers about changes to recipes is important and that this is currently restricted by legislation: the EU rules on nutrition and health claims. This is currently an area of discussion at EU level, and a claim that would enable reformulation changes to be declared is under consideration.

On portion size, a range of respondents felt that recommendations to widen the availability of smaller portion sizes will succeed only if smaller portion sizes are offered at equivalent value for money for the consumer as the larger sizes. We note that this is a key consideration for the recommendation and suggest that offering similar value for money for smaller portion sizes will ensure that businesses are encouraging consumer preference for the smaller portions. The recommendations have been revised to reflect this.

Concerns were raised about the impact that working towards these recommendations will have on businesses in terms of costs. We welcome the information received in response to our questions about the costs of these recommendations to businesses and the Agency's Impact Assessment has been updated accordingly, specifically around familiarisation costs to industry and the minimum cost of reformulation. It is important to note that the costs around reformulation are likely to be overestimates as all products under each category have been included, whereas not all products will be reformulated in line with the recommendations. The Agency has refrained from aggregating the total costs to industry as this would be misleading given the number of assumptions required. This is because it is difficult to disentangle the role of the Agency's voluntary recommendations from other strategic drivers that are individual to each business.

Industry stakeholders, in particular, raised questions about the scientific basis for the recommendations, including requests for further research on consumer behaviour around portion size and that specific advice is sought from the Scientific Advisory Committee on Nutrition (SACN) regarding the relationship between sugar and obesity and the effects of different saturated fatty acids on health. The Agency's recommendations were developed following discussions with industry about the challenges and achievements already made by some companies, expected future progress, and reviews of the current market. They are

intended to encourage wider engagement and action by the food industry and take account of achievements already made. The Agency will continue to review new research and evidence as it becomes available and will seek advice from SACN as appropriate.

Specific comments on soft drinks

Health associations raised concerns that sports and energy drinks are currently outside the scope of the sugar-reduction and portion size recommendations, suggesting that these products are consumed by the general public and not elite athletes alone. We recognise that these products are widely available and contain sugar levels equivalent to other soft drinks with added sugar on the market; they represent a very small part of the market at just 3% of the total soft drinks market (including bottled water and fruit juices). The final recommendation applies to non-sports/energy drinks only at this time to encourage businesses to focus on the products that will deliver the greatest public health benefits. We will continue to monitor the market and promotion of energy/sports drinks.

A further point raised was that fruit juice drinks aimed at children that contain just two ingredients – water and pure fruit juice would fall within the remit of the proposed recommendation, which would effectively be encouraging businesses to reduce the level of fruit juice ingredient which is not the intention of the recommendation. The final recommendation has therefore been revised to clarify that it applies to products containing added sugar (i.e. not fruit juice) only.

Specific comments on chocolate confectionery

Public health organisations questioned why the portion size recommendation for chocolate confectionery countlines (which recommend a broadening of the availability of single-portion sizes of 50 g or less) differed from that for chocolate blocks (recommending wider availability of 40 g or less for single-portion sizes) and encouraged the Agency to apply a standard 40 g maximum portion size for all single-portion chocolate confectionery products. The proposed recommendations were developed following a review of the market and have been set based on the range of existing products that consumers already purchase. The proposals should widen the choice of products available for consumers to include smaller portions and, given that some chocolate confectionery countlines at 50 g or less are already produced by some manufacturers (usually as part of multipacks), the recommendation should be able to be implemented with lower costs to industry.

Health groups also raised the point that the recommendations will have no impact on larger products currently marketed as 'duo' or 'sharer' bars that could be consumed in one sitting. We are aware that these products are not impacted by the recommendations and we will continue to consider whether further recommendations on these types of formats are necessary.

Specific comments on biscuits, cakes and buns

Industry commented about the significant challenges involved in reducing saturated fat in products containing chocolate. We have considered the detailed responses received and have updated and clarified our recommendations on biscuits and cakes.

For non-plain biscuits, we have extended the timeline for a 5% saturated fat reduction in these products from 2012 to 2014. Similarly, for cakes, it was noted that, whilst we proposed separate recommendations for plain and non-plain biscuits to take account of the differing technical challenges in reducing saturated fat in these two sub-categories, we had not applied the same principle to cakes which also face similar technical challenges, including the restrictions on reformulation of chocolate, cream and buttercream. For the final recommendations we have introduced categories for plain cakes and non-plain cakes and applied the same saturated fat reduction level and timescale to non-plain cakes as for non-plain coated biscuits, i.e. 5% saturated fat reduction by the end of 2014 to take account of these issues.

For this food sector, health groups highlighted the high sugar content of these products and indicated a need for recommendations on sugar and portion size, which we will consider. In the mean time, we recommend that sugar levels should not increase as a result of reformulation in line with the current recommendations.

Recommendations on advertising, marketing and promotion, and pastries

Finally, we have also received comments relating to advertising/marketing/promotion of healthier options and saturated fat reductions in sweet pastries. These particular recommendations are still subject to public consultation as part of our second consultation on draft recommendations on promotion of lower-fat products including dairy products, fat and saturated fat reductions for meat products, and portion size availability for savoury snacks. This second consultation closes on 9 March 2010 at which time all the comments received will be reviewed together. As such, these two proposed recommendations will be finalised in spring 2010.

Summary of changes to the proposed recommendations

New/amended text is shown underlined

Draft recommendation consulted on	Final recommendation	Basis for change
All product categories		
<p>For all the product categories covered by this consultation:- that all businesses should increase the proportion of advertising, marketing and promotional budgets allocated to promoting reduced/low fat and/or reduced/low/no sugar options to encourage consumers to make within category switches to these products, for example, from full sugar to no added sugar soft drinks. Commitments to movement from current baselines and progress would be reported as part of the Achievements and Commitments Table.</p>	<p>To be finalised.</p>	<p>The proposed recommendation is currently subject to further consultation as part of the Agency's consultation on draft recommendations on promotion of lower-fat products including dairy products, fat and saturated fat reductions for meat products, and portion size availability for savoury snacks published 1 December 2009. The proposed recommendation will be finalised subject to comments received.</p>
Soft drinks – non-alcoholic carbonated, dilutable, still and juice drinks		
<p>For existing carbonated, dilutable, still and juice drinks containing 8 g total sugar/100 ml or more:- by end of 2012, reduce the level of added sugar in each product by at least 4% compared to the level of added sugar present in that product during 2008. This reduction should be accompanied by a calorie reduction unless a technical case can be made that this is not achievable. For new drinks containing more than 8 g total sugar/100 ml, the product should have at least 4% less sugar than the nearest equivalent existing product on the market in 2008.</p>	<p>For existing carbonated, dilutable, still and juice drinks containing 8 g total sugar/100 ml or more:- by the end of 2012, reduce the level of added sugar in each product by at least 4% compared to the level of added sugar present in that product during 2008. This reduction should be accompanied by a calorie reduction unless a technical case can be made that this is not achievable. For new drinks containing more than 8 g total sugar/100 ml, the product should have at least 4% less sugar than the nearest equivalent existing product on the market in 2008.</p>	

Draft recommendation consulted on	Final recommendation	Basis for change
<p>For existing and new single-portion sugar-containing carbonates, still and juice drinks:- by the end of 2015, manufacturers and retailers should make readily available single-portion packaging sizes equal to 250 ml or less for purchase singly and as part of a multipack and market these in such a way to encourage consumer preference for these smaller single-portion sizes.</p>	<p>For existing and new single-portion carbonates, still and juice drinks <u>containing added sugar</u>:- by the end of 2015, <u>businesses</u> should make readily available single-portion packaging sizes equal to 250 ml or less for purchase singly and as part of a multipack and market these in such a way to encourage consumer preference for these smaller single-portion sizes, <u>for example, by offering the smaller single-portion sizes at proportional value for money for consumers as larger packs.</u></p>	<p>The revision clarifies that the recommendation applies to those drinks containing added sugar (and not, for example, to juice drinks containing water and pure fruit juice only).</p> <p>The scope of the recommendation is clarified to reflect that it applies to all food businesses, including foodservice and catering outlets.</p> <p>The importance of offering the smaller single-portion packs at proportional value for money as existing larger packs is emphasised.</p>
Chocolate confectionery		
<p>For existing and new single-portion chocolate block products that exceed 40 g packaging weight:- by end 2012, manufacturers and retailers should make readily available single-portion packaging sizes equal to or less than 40 g for purchase singly or as part of a multipack and market these in such a way to encourage consumer preference for these smaller single-portion sizes.</p>	<p>For existing and new single-portion chocolate block products that exceed 40 g packaging weight:- by the end of 2012, <u>businesses</u> should make readily available single-portion packaging sizes equal to or less than 40 g for purchase singly <u>and</u> as part of a multipack and market these in such a way to encourage consumer preference for these smaller single-portion sizes, <u>for example, by offering the smaller single-portion sizes at proportional value for money for consumers as larger packs.</u></p>	<p>The scope of the recommendation is clarified to reflect that it applies to all food businesses, including foodservice and catering outlets.</p> <p>The revision clarifies that chocolate block products of 40 g or less should be made available for sale separately and, if appropriate to that product, in multipack format.</p> <p>The importance of offering the smaller single-portion packs at proportional value for money as existing larger packs is emphasised.</p>

Draft recommendation consulted on	Final recommendation	Basis for change
<p>For existing and new single-portion chocolate confectionery countlines that exceed 50 g packaging weight:- by end 2012, manufacturers and retailers should make readily available single-portion packaging sizes equal to or less than 50 g for purchase singly or as part of a multipack and market these in such a way to encourage consumer preference for these smaller single-portion sizes.</p>	<p>For existing and new single-portion chocolate confectionery countlines that exceed 50 g packaging weight:- by the end of 2012, <u>businesses</u> should make readily available single-portion packaging sizes equal to or less than 50 g for purchase singly <u>and</u> as part of a multipack and market these in such a way to encourage consumer preference for these smaller single-portion sizes, <u>for example, by offering the smaller single-portion sizes at proportional value for money for consumers as larger packs.</u></p>	<p>The scope of the recommendation is clarified to reflect that it applies to all food businesses, including foodservice and catering outlets.</p> <p>The revision clarifies that chocolate confectionery countlines of 50 g or less should be made available for sale separately and, if appropriate to that product, in multipack format.</p> <p>The importance of offering the smaller single-portion packs at proportional value for money as existing larger packs is emphasised.</p>
<p>For existing chocolate confectionery countlines:- by the end of 2012, reduce the saturated fat level by at least 10% compared to each product's level during 2008. This reduction should be accompanied by a calorie reduction unless a technical case can be made that this is not achievable. For new countlines, the product should have at least 10% less saturated fat than the nearest equivalent existing product on the market in 2008.</p>	<p>For existing chocolate confectionery countlines:- by the end of 2012, reduce the saturated fat level by at least 10% compared to <u>the level of saturated fat present in that product</u> during 2008. This reduction should be accompanied by a calorie reduction, <u>unless not technically possible in which case businesses should look at other opportunities for calorie reduction for example portion size.</u> For new <u>products</u>, the product should have at least 10% less saturated fat than the nearest equivalent existing product on the market in 2008.</p>	<p>The revision takes account of the technical challenges of reducing calories in addition to saturated fat levels and indicates that calorie reductions should be sought where this is possible.</p>

Draft recommendation consulted on	Final recommendation	Basis for change
Biscuits, cakes and buns		
<p>For existing plain sweet and savoury biscuits:- by end 2012 reduce the saturated fat content by at least 10% compared to the level in that product during 2008. This reduction should be accompanied by a calorie reduction unless a technical case can be made that this is not achievable. For new products, the product should contain at least 10% less saturated fat than the nearest equivalent existing product on the market in 2008.</p>	<p>For existing plain* sweet and savoury biscuits:- by the end of 2012, reduce the saturated fat content by at least 10% compared to the <u>level of saturated fat present</u> in that product during 2008. This reduction should be accompanied by a calorie reduction, <u>unless not technically possible in which case businesses should look at other opportunities for calorie reduction for example portion size</u>. For new products, the product should contain at least 10% less saturated fat than the nearest equivalent existing product on the market in 2008.</p> <p>*includes biscuits with ingredients used solely for flavouring purposes for example ginger, lemon.</p>	<p>The revision takes account of the technical challenges of reducing calories in addition to saturated fat levels and indicates that calorie reductions should be sought where this is possible.</p>
<p>For all non-plain biscuits on the market:- by end 2012, reduce the saturated fat content by at least 5% compared to the level in that product during 2008. This reduction should be accompanied by a calorie reduction unless a technical case can be made that this is not achievable. For new products, the product should contain at least 5% less saturated fat than the nearest equivalent existing product on the market in 2008.</p>	<p>For <u>existing non-plain†</u> biscuits <u>that do not contain chocolate</u>:- by the end of 2012, reduce the saturated fat content by at least 5% compared to the level of <u>saturated fat</u> in that product during 2008. This reduction should be accompanied by a calorie reduction, <u>unless not technically possible in which case businesses should look at other opportunities for calorie reduction for example portion size</u>. For new products, the product should contain at least 5% less saturated fat than the nearest equivalent existing product on the market in 2008.</p> <p>†includes biscuits with additions for example fruit, nuts, cream.</p>	<p>The revision splits non-plain biscuits according to the presence of chocolate and extends the timeframe for saturated fat reductions in chocolate-containing biscuits from 2012 to 2014.</p> <p>The revision takes account of the technical challenges of reducing calories in addition to saturated fat levels and indicates that calorie reductions should be sought where this is possible.</p>

Draft recommendation consulted on	Final recommendation	Basis for change
	<p>For existing biscuits <u>containing chocolate</u>‡:- by the end of <u>2014</u>, reduce the saturated fat content by at least 5% compared to the level of <u>saturated fat</u> in that product during 2008. This reduction should be accompanied by a calorie reduction, <u>unless not technically possible in which case businesses should look at other opportunities for calorie reduction for example portion size</u>. For new products, the product should contain at least 5% less saturated fat than the nearest equivalent existing product on the market in 2008.</p> <p>‡including biscuits coated in chocolate – full or half coated and biscuits containing chocolate chips or pieces.</p>	

Draft recommendation consulted on	Final recommendation	Basis for change
<p>For existing cakes:- by end 2012 reduce the saturated fat content of the final cake product by at least 10% compared to the level in that product during 2008. This reduction should be accompanied by a calorie reduction unless a technical case can be made that this is not achievable. For new products, the product should contain at least 10% less saturated fat than the nearest equivalent existing product on the market in 2008.</p>	<p>For existing <u>plain*</u> cakes:- by the end of 2012, reduce the saturated fat content by at least 10% compared to the level <u>of saturated fat</u> in that product during 2008. This reduction should be accompanied by a calorie reduction, <u>unless not technically possible in which case businesses should look at other opportunities for calorie reduction for example portion size</u>. For new products, the product should contain at least 10% less saturated fat than the nearest equivalent existing product on the market in 2008.</p> <p>*includes cakes with ingredients used solely for flavouring purposes for example ginger, lemon, coffee and iced plain cakes.</p> <p>For existing non-plain† cakes:- by the end of <u>2014</u>, reduce the saturated fat content by at least <u>5%</u> compared to the level <u>of saturated fat</u> in that product during 2008. This reduction should be accompanied by a calorie reduction, <u>unless not technically possible in which case businesses should look at other opportunities for calorie reduction for example portion size</u>. For new products, the product should contain at least <u>5%</u> less saturated fat than the nearest equivalent existing product on the market in 2008.</p> <p>†includes cakes with additions for example chocolate, fruit and cakes that are coated and / or filled.</p>	<p>The revision splits plain and non-plain cakes. The recommendation for saturated fat reductions in non-plain cakes is amended to 5% and extended to 2014 to take account of the technical challenges different components, such as chocolate, cream and buttercream, may pose.</p> <p>The revision takes account of the technical challenges of reducing calories in addition to saturated fat levels and indicates that calorie reductions should be sought where this is possible.</p>
<p>For short and puff pastry both sold as such and where used as an ingredient in pastry products:- by end 2012, reduce the saturated fat content of the pastry by at least 10% compared to the highest level in that product during 2008. This reduction should be</p>	<p>To be finalised in spring 2010.</p>	<p>The proposed recommendation is currently subject to consultation as part of the Agency's consultation on draft recommendations on promotion of lower-fat products including dairy products, fat and saturated fat reductions for meat products, and portion size</p>

Draft recommendation consulted on	Final recommendation	Basis for change
<p>accompanied by a calorie reduction unless a technical case can be made that this is not achievable.</p>		<p>availability for savoury snacks published 1 December 2009. The proposed recommendation will be finalised subject to comments received.</p>
<p>For doughnuts and other fried buns:- move to a lower saturated-fat frying oil, where possible. This reduction should be accompanied by a calorie reduction unless a technical case can be made that this is not achievable.</p>	<p>For doughnuts and other fried buns:- move to a lower saturated-fat frying oil <u>and reduce calories, unless not technically possible in which case businesses should look at other opportunities for calorie reduction for example portion size.</u></p>	<p>The revision takes account of the technical challenges of reducing calories in addition to saturated fat levels and indicates that calorie reductions should be sought where this is possible.</p>