



SRC Response to the Scottish Parliament's Call for Evidence on The Food (Promotion and Placement) (Scotland) Regulations 2025

Introduction

1. The Scottish Retail Consortium's purpose is to make a positive difference to the retail industry and the customers it serves, today and in the future. Retail is an exciting, dynamic, and diverse industry which is going through a period of profound change. Technology is transforming how people shop; costs are increasing; and growth in consumer spending is slow.
2. The SRC is committed to ensuring the industry thrives through this period of transformation. We tell the story of retail, work with our members to drive positive change and use our expertise and influence to create an economic and policy environment that enables retail businesses to thrive and consumers to benefit. Our membership here in Scotland and across the UK comprises businesses delivering £180bn of retail sales and employing over one and half million employees.
3. In addition to publishing leading indicators on Scottish retail sales and shopper footfall, our policy positions are informed by our membership and determined by the SRC's Board.

General Comments

4. The Scottish Retail Industry is committed to helping consumers to make healthier choices. Fresh fruit and vegetables are heavily price promoted and often the very first thing shoppers see when entering stores, availability of healthy snack alternatives has risen considerably, and the quantity of fruit and vegetables in products like sandwiches and ready meals has increased. Our industry has led the way on product improvement, including reformulating products to reduce salt, sugar, and fat and increasing fibre and other positive nutrients. We've pioneered traffic light labelling and clear energy information in cafes and restaurants to help consumers understand products and make informed choices. These significant changes pioneered by retailers have yet to be fully adopted by other elements of the wider food and drink industry. By no means is the process complete, but our members are rightly proud of the work they have done.
5. Retailers do not oppose proportionate, evidence-based measures which encourage consumers to make healthier choices. That evidence needs to consider the impact on both consumer's health and household incomes. Furthermore, in the context of

the very significant changes the retail industry has made in recent years, where reasonable measures should apply across the food and drink industry so responsible businesses committed to encouraging healthier lives are competing on a level playing field.

6. It is important to note diet is only one factor which contributes to obesity. Physical activity – which some retailers support directly through initiatives and community support programmes - must also be seen as important part of the healthier living equation.
7. It should be noted these regulations follow the introduction of HFSS promotional restrictions in England in 2022, and ahead of regulations coming into force in Wales in March 2026. It is in the interests of consumers for there to be as coherent and consistent an approach as possible across these nations. Furthermore, we would note the English restrictions came following a period of detailed consultation on both regulations and guidance, and in many cases the reason for excluding certain areas was due to the practical challenges of implementation. We therefore welcomed the decision of the Scottish Government to, where practical within Scots Law, to align these regulations within that framework to ensure consumers have a consistent approach.

Responses to the Call for Evidence

1.Designation, alignment, and prioritisation

8. The definitions in Schedule 1 replicate the approach taken in England. This is to be welcomed. The SRC consistently called for an aligned approach on the definitions. However, one consequence is a lack of specificity. This has been ameliorated in England using guidance, including the BRC's supplementary guidance on products, which went beyond the UK Government's guidance. Consequently, developing practical guidance to support these regulations is essential; and we are pleased the SRC has been included in the Scottish Government working group developing this
9. The regulations cite that products will be included in the regulations on the basis of the 2003/2004 Nutrient Profiling Model. We support that approach. Establishing which products are in-scope for these regulations was an onerous and expensive process. It would take significant time and investment to use a different model so we support the inclusion of the aligned model with Wales and England. If a new model was selected, detailed consultation will be required and a significantly longer implementation period is necessary.
10. The regulations use the same definitions for areas within store as the regulations in England which makes implementation significantly more straightforward. It also

provides a small benefit to those retailers who have already implemented some of these proposals. We support this approach.

11. The decision to limit the regulations to volume promotions is sensible. We recognise Food Standards Scotland and others have done significant research on the causation between some volume promotions and over-purchasing and consequent over-consumption. We believe the restrictions put forward here are a proportional intervention on behalf of public health.
12. We believe the location restrictions in the regulations are reasonable. We would note that restricting the placement of HFSS products in store will also mean it is harder for retailers to use store location to promote 'healthier' alternatives to HFSS products but recognise the practical difficulties of differentiating in legislation within products which are captured by the NPM.

2. Population Health Framework

13. We welcomed the work done by the Scottish Government to develop the Population Health Framework as a prerequisite to laying these regulations and welcomed the chance to input into early thinking including through the New Deal for Business Group. The retail industry acknowledges Scotland faces public health challenges and believes only a coherent approach across different categories will lead to an effective response. We also believe the Population Health Framework will allow government to assess the cumulative impact of policymaking on businesses and hopefully allow a joined-up approach which maximises the impact on public health whilst minimising unnecessary disruption to businesses.

3. Financial implications and Impact on businesses

14. We are unable to provide a definitive cost to the introduction of these regulations. However, in our view this iteration of these restrictions are not unreasonably onerous to the retail industry. The decision to align with the previously laid English restrictions removes the most significant costs from businesses, not least the technical challenges involved in assessing which products are in or out of scope.
15. We would note the original implementation of these regulations in England did include a very significant cost, measured in the hundreds of millions (which comes as food retailers contend with myriad regulatory and tax matters). This reaffirms the benefits of an aligned approach across the four nations. There will still be costs from implementing this in Scotland, but as they are predominantly limited to changes in store that significantly lowers the impact.

16. We would anticipate there will be a commercial impact from the regulations in reducing the volume of HFSS products sold in stores in Scotland. This is a design feature of the regulations and something retailers must adapt to. However, for smaller and independent businesses, who may overtrade in some of these categories, that will have an impact on their margins which will presumably have to be recovered in some manner.

4. Implementation, enforcement and compliance

17. As we have already stated the implementation of these regulations will be significantly simplified for retailers of scale by the decision to align with Wales and England. Whilst smaller retailers won't have the advantage of previous experience, most of their suppliers will have which should make the process less onerous.

18. We would note that strictly speaking Scottish retailers will have slightly fewer than twelve months to implement this policy by October 2026. We believe the decision to align these regulations mean retailers should be able to implement these regulations in that timeframe. However, we would note under normal circumstances at least a year is needed to implement policy changes. We however would note that the decision to avoid peak trading in the last two months of the year is welcome.

19. We would note in England our experience has been that there was little to no enforcement of these regulations. That has led to a two-tier model where responsible retailers have implemented these restrictions in full; but irresponsible retailers have been advantaged by ignoring the restrictions. We would further note the innate complexity of using nutrient profiling models puts a significant burden on enforcement.

20. Therefore, we hope Scottish Government will take forward two actions. Firstly, there should be funding to local authorities to ensure they can devote the appropriate resources to enforcing these regulations. Secondly, we hope Scottish Government works with COSLA and local authorities to ensure these regulations are enforced in a consistent manner across Scotland. In England retailers have been able to use Primary Authorities to generate assured advice to aid national implementation. With the regrettable failure to yet implement a Scottish Primary Authority model for devolved legislation, despite 11 years since the introduction of the Regulatory Reform Act, it's essential Scottish Government ensures a consistent approach is taken in the absence of assured advice.

5. Impact on inequalities

21. The University of Leeds published a report in August (<https://www.leeds.ac.uk/research-32/news/article/5839/positive-impact-of-supermarket-junk-food-restrictions-revealed>) which indicated the English regulations restricting the placement of High Fat, Salt, and Sugar (HFSS) products had a small impact on reducing sales. The report found similar results in Wales and

Scotland, where retailers acted early by adopting these new regulations ahead of their introduction. The legislation reduced sales of HFSS products as a proportion of total sales. The impact was seen across different geographical area. The regulations also encouraged businesses to change their reformulation approach as well to put more products outwith the scope of the regulations on the market. Consumers were broadly supportive of the changes.

22. We therefore believe that these regulations are likely to be a proportional intervention in the market. Whilst they will impact on retail businesses, we believe the public health benefits are likely to outweigh those impacts. Since the evidence indicates a public health policy like this will have a greater impact on less affluent consumers, we believe that will outweigh the potential impact of increasing the cost per unit of some products.