STATUTORY INSTRUMENTS

2025 No. 1011

BROADCASTING

ELECTRONIC COMMUNICATIONS

FOOD

PUBLIC HEALTH

The Advertising (Less Healthy Food and Drink) (Brand Advertising Exemption) Regulations 2025

Made - - - -	*9th September 2025*
Laid before Parliament	*10th September 2025*
Coming into force - -	*31st October 2025*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 321A(3)(b), 368FA(3), 368Z14(4) and 402(3) of the Communications Act 2003(**a**).

The Secretary of State has consulted in accordance with sections 321A(8), 368FA(8) and 368Z14(9) of the Communications Act 2003.

Citation, extent, application and commencement

1.—(1) These Regulations may be cited as the Advertising (Less Healthy Food and Drink) (Brand Advertising Exemption) Regulations 2025.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland, and apply to England, Wales, Scotland and Northern Ireland.

(3) These Regulations come into force on 31st October 2025.

Exemption to prohibitions for brand advertising

2.—(1) A brand advertisement is—

(a) prescribed for the purposes of section 321A(3)(b) of the Communications Act 2003 ("the Act"), and

(**a**) 2003 c. 21. Sections 321A, 368FA and 368Z14 were inserted into the Communications Act 2003 by paragraphs 1, 2 and 3 respectively of Schedule 18 to the Health and Care Act 2022 (c. 31) and have been amended by S.I. 2025/641. Section 368Z14 has been amended by paragraph 3(3) of Schedule 7 to the Media Act 2024.

(b) exempted from the prohibitions imposed by sections 368FA(1) and 368Z14(1) of the Act.

(2) In paragraph (1), "brand advertisement" means an advertisement that promotes a brand, including the brand of a range of products, but does not include an advertisement to which any of paragraphs (3), (4) or (5) apply.

(3) This paragraph applies to an advertisement the content of which depicts a specific less healthy food or drink product, unless—

(a) such depiction of the product is only by way of the name of the product, including where the name of the product appears in the logo of a company, franchise or other commercial entity or in the logo of a brand of a range of products, and

(b) that product's name falls within paragraph (6).

(4) This paragraph applies to an advertisement that promotes a brand the name of which is also the name of a specific less healthy food or drink product, unless that product's name falls within paragraph (6).

(5) This paragraph applies to an advertisement the content of which includes a realistic image of a food or drink product where—

(a) the realistic image shows the food or drink itself and is not only of the product's packaging, and

(b) the food or drink product is visually indistinguishable from a specific less healthy food or drink product.

(6) A product's name falls within this paragraph if the full name of that product—

(a) is the name or is included in the name of a company, franchise or other commercial entity which was established before 16th July 2025 and which held that name immediately before that date;

(b) is the name of the brand of a range of products, where that brand—

(i) was in use, as the brand of that range, for the purposes of marketing, advertising or retail sale immediately before 16th July 2025;

(ii) held that name immediately before 16th July 2025.

(7) In this regulation—

(a) "depict" means to represent by way of name, text, imagery, logo, audio cue, jingle, brand character or other branding technique or combination of branding techniques;

(b) "less healthy" has the same meaning as sections 321A(4)(c), 368FA(4)(c) and 368Z14(5)(e) of the Act;

(c) "range of products" means a group of related food or drink products (whether or not those products are less healthy) and such group—

(i) may include a group of products composed of variants of a product, such as different flavours, but

(ii) may not include a group of products where such products are differentiated only by pack size or packaging format, such as carton, tin, block or bag;

(d) "specific" in relation to a food or drink product, means that the food or drink product—

(i) is capable of being purchased, and

(ii) is differentiated from other products capable of being purchased, unless it is only differentiated from such other products by pack size or packaging format such as carton, tin, block or bag;

(e) "a realistic image" means—

(i) a photograph,

(ii) a video recording, or

(iii) an image, whether still or moving, and however created or altered, that is so realistic as to make it indistinguishable, for all practical purposes, from a photograph or video recording.

Ashley Dalton
Parliamentary Under-Secretary of State
Department of Health and Social Care

9th September 2025

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide an exemption to the restrictions on the advertising of less healthy food and drink products imposed in standards set under section 321A or in sections 368FA and 368Z14 of the Communications Act 2003 (c. 21) ("the 2003 Act"), as inserted by the Health and Care Act 2022 (c. 31). The exemption is for brand advertisements, which are defined in these Regulations.

A full impact assessment of the effect that restrictions on the advertising of less healthy food and drink products will have on the costs of business, the voluntary sector and the public sector is available from https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/996232/impact-assessment-hfss-advertising.pdf. It is also available from the Department of Health and Social Care at 39 Victoria Street, London SW1H 0EU.

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