

**Food Policy On Trial: Second in the dock – plain packaging on the worst impact food & drink  
30<sup>th</sup> September 2019  
JURY'S VERDICT**

This paper represents a summary of the Food Ethics Council's second *Food Policy On Trial* event, critically exploring the idea of plain packaging on 'worst impact' food and drink, which took place on 30<sup>th</sup> September 2019 at 5 St Andrew Street in central London.

## 1. CONTEXT

- **The responsibility of advertising:** Food advertising and marketing arguably comes with greater responsibility than advertising for most other sectors. This is because food directly affects people's health and wellbeing, and is closely linked to societal issues like animal welfare, workers' conditions and environmental degradation.
- **The plain packaging idea:** Several commentators have proposed some form of plain packaging on 'junk' food and drink. Recent proponents include policy think tank IPPR, who identified smoking, obesity and alcohol and substance abuse as three main contributors to preventable disease and called for "*Plain packaging on sweets and other confectionary, sugary drinks and crisps, in a challenge to the power of corporate manufacturers to... create a "level playing field" with unbranded fruit and vegetables...<sup>1</sup>*". In its recent landmark report, the RSA Food, Farming and Countryside Commission also called for radical restrictions on marketing high sugar, salt, trans fats and ultra-processed foods: "*Learning from the successes of curbs to tobacco advertising, advertising ultra-processed foods high in sugar, salt and trans fats could be restricted in all public spaces in the physical and digital world. Such foods could be required to use plain and factual packaging...<sup>2</sup>*" Subsequent to the trial, Dame Sally Davies, former Chief Medical Officer, published an independent report on childhood obesity, which set out a number of recommendations. One of these was to accelerate the reformulation programme. She wrote "*If sufficient progress is not made, the government should apply either: a. A fiscal lever or b. Standardised packaging, (as for tobacco).<sup>3</sup>*". The idea though has been challenged by many in branding, packaging and food and drink manufacture, with accusations of "nannying" and calls to maintain freedom of choice.
- **Assessing policy options:** The purpose of our Food Policy on Trial is to evaluate the idea, consider different arguments and explore whether – and if so what kind of – radical restrictions on advertising have the potential to make an 'in the round' positive contribution to fair food systems. The Food Ethics Council believes it is important to take an 'all things considered' perspective and to consider likely impacts (including potential unintended consequences e.g. substitution effects) of particular courses of action for the UK within a global context. There are unlikely to be many interventions that are win-win-win-win (across environment, human health, animal welfare and social justice dimensions), hence weighing up trade-offs may be necessary. In doing so, it is important to understand who the biggest losers are likely to be from any potential policy intervention, whether those losses are justified, and where they are not, to take mitigating steps.

<sup>1</sup> IPPR (2019) Ending the Blame Game: The case for a new approach to public health and prevention

<sup>2</sup> [RSA Food, Farming & Countryside Commission \(2019\) Our Future in the Land](#)

<sup>3</sup> [Dame Sally Davies \(10<sup>th</sup> October 2019\) Time to Solve Childhood Obesity](#)

## 2. SUMMARY OF KEY EVIDENCE FROM EXPERT WITNESSES

The following is a summary of selected evidence from expert witnesses, who were chosen to provide a range of views and evidence on this policy idea, drawing on their own experiences. *To explore the full evidence presented, please refer to the [audio recording of the event](#), with [accompanying slides](#).*

- **What is 'plain packaging'?** The notion of 'plain packaging' is somewhat ambiguous or even misleading. In practice, even so-called 'plain packaging' would not be completely devoid of text. It would need to include mandatory information, such as the product name and manufacturer's name in large enough font to be legible, as well as information such as ingredients. Brand Finance's report on Plain Packaging suggests that *"Plain packaging is often referred to as a branding ban or brand censorship. By imposing strict rules and regulations, the legislator requires producers to remove all branded features from external packaging, except for the brand name written in a standardised font, with all surfaces in a standard colour<sup>4</sup>".* It is important to be clear when drawing parallels over 'plain packaging' in relation to tobacco that cigarette packaging in the UK in reality is not 'plain'. Instead it displays shocking images and graphic health warning messages. As yet, no one has suggested such shock warnings should be introduced for those foods or drinks that contribute to poor health outcomes (however defined), but some will interpret 'plain packaging' in that way.
- **Lessons from tobacco?** It was argued that tobacco is a different case and therefore may not be a useful (direct) comparison; the health effects of smoking are undeniable, and smoking is not essential to sustaining life, in the way that food is. The counter to this is that surely 'junk food' is not essential to sustaining life either – albeit there is of course contention, including over what constitutes 'junk food'. Secondly, changes to tobacco packaging were in practice part of a long-term, much wider, overall strategy. The present status is that it has become socially unacceptable to smoke in many circumstances, to the extent that smoking has been banned in certain places.
- **Is food a different case?** Should the debate focus on the food and ingredients in question, rather than on plain packaging or negative advertising? Some argue that a better parallel than tobacco might be petrol, which is still seen as a 'necessary bad' by some – i.e. something which some people claim is needed to enable everyday living. Reducing petrol usage requires a multi-strategy approach, where, for instance, national government and local authorities might promote and enable better public transport and discourage use of private cars (particularly for short journeys). Some will argue that the parallel in a food context is emphasising and incentivising people to eat 'better' foods, or rather better diets, than only a negative approach of bans and increased taxes.
- **Misleading claims about food on packaging (and beyond).** Examples of foods prepared for and promoted to infants and young children and their parents were discussed, as exemplifying particularly critical issues. For instance, one packeted-product for infants labelled 'Broccoli, pears and peas' actually had 7% broccoli and 79% pear. Although the packet (correctly) stated that no sugar had been added, the sugars in pureed fruits and vegetables are counted as free sugars. There is a strong case for challenging the current labelling regulations, which do not seem to be fit for purpose in what they allow (and do not allow).

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<sup>4</sup> Brand Finance (2019) Plain Packaging 2019 – Brand Impact Analysis <https://brandfinance.com/knowledge-centre/market-research/brand-finance-plain-packaging-2019/>

- **Too many spurious non-claims about food.** Anecdotally, there appeared to be a rise in spurious ‘non-claims’, where things are asserted which are irrelevant, such as ‘no egg’ in foods that would never contain egg, ‘no gluten’ in foods which would evidently not contain gluten or even ‘made with real ingredients’ (on one crisp brand).
- **Radical restrictions on advertising of certain food categories?** In early 2019, a ban on junk food advertising in the Transport for London (TfL) estate was introduced by London Mayor Sadiq Khan, in order to tackle the ‘ticking time bomb of child obesity’ in the capital. The proposal was well received by the vast majority of Londoners, with 82% of 1,500 respondents to an online consultation backing the proposals.<sup>5</sup> Should there be particular geographic areas (e.g. zones around schools) or times of the day when advertising of certain food and drink categories is banned? One proposal put forward was for an independent group of nutritional and environmental experts to be appointed by the government to establish an initial ‘blacklist’ of food and drink products.
- **Where to draw the line?** If radical restrictions are placed on advertising and/ or the idea of plain packaging is accepted, then the challenge quickly rears its head of ‘where to draw the line’ on what is deemed acceptable and what is not. Which products or brands or categories (if any) should be categorised as ‘worst impact’ or ‘unhealthy’? It can be difficult to assess *what* to measure and then *how* to measure that consistently. An example was cited of one online grocer falling foul of the TfL restriction on junk food advertising, with a photograph of a range of its products having to be heavily cropped in order to remove free-range butter from the image, as that was classified as ‘junk food’ under TfL rules. The lines between different product categories are often blurred. Nevertheless, typical product categories that are likely to come under scrutiny include alcohol, confectionery, sugary drinks and savoury snacks.
- **Plain packaging might have a huge impact on brand value.** According to Brand Finance, if plain packaging is extended to alcohol and sugary drinks the potential value loss to businesses could be up to US\$430.8 billion worldwide<sup>4</sup>. It was suggested that the reason for this is that such a move would render many of the world’s iconic brands (largely) unrecognisable, thus significantly reducing the value of the intangible asset of food and drink brands. The jury pushed back on whether significant loss of brand value for companies selling mostly confectionery or fizzy drinks is necessarily a bad thing. The point was made that brands can make positive contributions, including through employment and social impact. There was debate about the extent to which brands *necessarily* represent recognisable quality.
- **Incorporating externalities into food prices.** A strong argument was made for true cost accounting and ‘internalising the externalities’ of the worst offending products. This should incorporate the potential societal costs of diet-related ill health and environmental damage from producing and consuming the ‘worst impact’ food and drink.
- **Consequences of introducing plain packaging** – It was hypothesised that introducing plain packaging would not affect *volumes* of affected products sold; instead that it would affect *value* – loss of brand advantage; market share rather than overall value. This could encourage brands to shift their portfolios towards ‘healthier’ alternatives. The Brand Finance report highlighted that not all companies in its sample would be affected with “*Danone [being] the only company in the sample which would be able to avoid any damage.*” As the report states,

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<sup>5</sup> <https://www.bbc.co.uk/news/uk-england-london-47318803>

*“Thanks to the company’s repositioning towards healthier products, there would be no potential loss to Danone’s enterprise value<sup>4</sup>.”* Could the threat of plain packaging being introduced on certain food and drink categories be an incentive for major brands to accelerate towards healthier product portfolios?

- **Role of brands** – It was argued that too much importance can sometimes be placed on the impact of *brands*. Sometimes it is the *category* which matters most in public health terms e.g. carbonated soft drinks or confectionery. In addition, some food is purchased non-packaged, either fresh produce or ‘meals’ from independent food outlets, where regulation may not always be enforced in the same way. People feel a lot of trust in recognising a brand, through the packaging. If people see certain brands on a supermarket shelf, they trust the product. Furthermore, brands developed in order to indicate consistency and quality in a particular product. Brands emerged as industrialisation and state regulation grew, particularly to protect the public against food adulteration. Some argue plain packaging has the potential to drive down standards and increase the risk of poor-quality foods. It was also suggested that plain packaging might lead to a decline in innovation, albeit products would still be differentiated by name (albeit much less immediately recognisable).
- **Beyond nutrition** - Much of public health concern has been on nutritional or ingredient content, particularly in relation to obesity, but other considerations are also crucial, such as animal welfare, contribution to soil degradation, water loss, climate change and method of production. Labelling for a range of ‘worst impact’ foods has not progressed very far, perhaps because in practice it is difficult to do, despite several people and organisations calling for it. However, momentum is now building in some areas, including method of production labelling, particularly for animal products.

### **3. ‘IN THE ROUND’ JUDGEMENT – FOR THE ATTENTION OF PUBLIC POLICY MAKERS**

#### **JURY’S JUDGEMENT**

Our jury judged that **much stronger regulation is needed on packaging and on food and drink claims, both in what is allowed and how strictly that is enforced**. The jury agreed for example that there should be an immediate ban on using cartoon animations on pack to market unhealthy products to children, which some campaigners have previously called for<sup>6</sup>. So-called ‘fake farms’ that some retailer and foodservice brands use should also be outlawed. Too many claims about food and drink are misleading. The panel called for the virtue of honesty to become a central tenet of any food strategy.

**The jury proposed a citizens’ assembly to decide on which claims about food and drink should and should not be allowed** (on packaging and more broadly). It recommended incorporating that into any citizen engagement activity undertaken through the National Food Strategy (England) process.

**The jury felt that the specific idea of introducing plain packaging on worst-offending food and drink categories should be kept as a potential future intervention**. There are problems with the idea as it stands, particularly setting boundaries about what should and should not be included. However, such

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<sup>6</sup> Action on Salt, Action on Sugar and the Children’s Food Campaign for example called for such a ban in June 2019 <http://www.actiononsugar.org/news-centre/press-releases/2019/call-for-ban-on-using-cartoon-animations-on-pack-to-market-unhealthy-products-to-children-.html>

a radical idea opens up the space for other interventions to be brought in, which in itself is a good reason to keep the option of plain packaging on the table, rather than it being dismissed out of hand.

**Policy options relating to packaging should only ever be one part of a wider strategy**, which should address other levers including those relating to price, promotion and distribution. Much more also needs to be done to encourage simple, often low-cost, approaches to encourage sustainable, healthy diets. What is needed is a wide-ranging strategy to both curb the excesses of the UK food system and build on more encouraging existing aspects. Such an approach should include measures to support people participating in the food system beyond the point of purchase, such as encouraging people to eat together, improving cooking facilities, reviving community spaces and providing a platform for civic engagement. There are simple ways to empower citizens to shape the food system, rather than treating them as disempowered consumers at the end of a chain. Hence, the Food Ethics Council's work on [Harnessing the Power of Food Citizenship](#) is so important.

#### **JURY'S ASSESSMENT**

**Packaging is important** – it needs to be much better regulated, and that regulation needs better policing and enforcing. But advocating plain packaging for what will always be a narrowly prescribed category of products seems too crude. Not enough evidence as presented to be able to say that plain packaging would make a net positive contribution on its own; some proposals that it could contribute as part of a wider strategic approach.

**We need honesty and clarity.** Some of the claims and visuals on packaging (and beyond packaging) are misleading. People must be able to trust what they are being sold. Infant and toddler food is an obvious case in point, but the issues extend across lots of categories. Dishonest claims undermine 'real food'. People want to, and should be able to, trust the foodstuffs they buy. If a brand claims on its packaging that it is for example 'healthy' or 'good for you', then it must demonstrably be so. Brands that mislead or make spurious claims should not be able to get away with it. Being a food and drink brand brings with it a huge responsibility that should not be abused. Dishonest claims undermine real food.

**Unanswered questions remain.** Evidence was not available on the potential long-term healthcare cost savings of introducing plain packaging for example, which it would be useful to know - alongside potential loss of brand value - when considering whether there may be net benefits from such a policy. Unanswered questions remained too about who decides, on what basis and what counts as unhealthy or junk food. Focusing only on nutrients in limited and has potential for unintended consequences.

**It is time to move towards a true cost of food model:** The jury agreed that internalising the externalities from the way food is produced would be sensible. In doing so, it will be vital to ensure that the poorest in society are supported and are empowered to participate in a fair food system.

**It is vital to consider at what level policy interventions should take place:** Policy interventions might in future be rated in terms of their potential to drive systemic change. Interventions such as labelling and packaging would be classified by Donella Meadows to be less effective 'places to intervene in a system' than e.g. changing the goals of the system or changing mindsets.

**A balance of measures is needed** to address availability, affordability and accessibility in order to normalise healthy, sustainable diets.

#### **AUDIENCE JUDGMENT:**

The invited audience consisted of c. 40 opinion formers, policymakers, NGOs, food business representatives, nutritionists, media and academics. **Around two-thirds (65%) of the audience felt that introducing plain packaging on the worst impact food and drink in isolation was either 'flawed' or 'harmful'**, with only just over one-quarter (26%) believing it was a 'promising' idea.

**When asked about introducing plain packaging as part of a suite of measures, the proportion thinking the idea was 'promising' increased** to c. 45%, with around 15% believing it was a 'powerful' idea. When proposed as part of a broader set of tools, the proportion that felt it was 'flawed' or 'harmful' fell to around 30%.

Note – this was a snapshot audience poll and should not be taken as a representative sample of the UK population!

#### **5. PROCESS**

This *Food Policy On Trial* event adopted a select committee style format. A panel of members of the Food Ethics Council took evidence from, and asked questions of, four eminent expert witnesses on the idea of plain packaging on the worst impact food and drink in the UK. This was enriched by additional insights and questions from an invited audience, before jury deliberation and judgement.

List of expert witnesses:

1. Alex Haigh, Valuation Director, Brand Finance
2. Craig Mawdsley, Joint Chief Strategy Officer, AMV BBDO
3. Dr Helen Crawley, Director, First Steps Nutrition
4. Ben Pugh, co-founder and CEO, Farmdrop (online grocer)

Jury of members of the Food Ethics Council:

- [Jon Alexander](#), Co-founder, New Citizenship Project
- [Dr Julian Baggini](#), freelance writer and philosopher
- [Emeritus Professor Liz Dowler](#), University of Warwick
- [Jo Lewis](#), Strategy and Policy Director, Soil Association (Chair of jury)

#### **Caveats to the process:**

- Evidence was limited to four expert witnesses, chosen by the Food Ethics Council, and comments from audience members and the panel.
- It was a very short process, not a fully comprehensive analysis. It was designed to raise important ethical concerns and to encourage 'in the round' deliberative thinking about policy.

Nevertheless, we believe it is possible to come to an initial broad-based judgement based on the evidence and viewpoints raised, to help with developing policy in this area. As well as the outcome, the *process* of encouraging 'in the round' consideration of food policies is in itself important. The Food Ethics Council is committed to 'joining the dots' across public health, animal and human welfare, and the natural environment, in consideration of the food system. It provides space to help people come to practical, ethical decisions, with 'all things are considered' approach.

**We strongly encourage people to listen to the evidence from the trial (and other evidence) and to form their own judgements.**