Compliance Report

# Gambling Advertising Survey 2010

ASA

# Contents

1. **Summary**

2. **Introduction**

2.1 Background

2.2 CAP and BCAP Code Rules

2.3 Survey Objectives

3. **Methodology**

3.1 Method

4. **Findings**

4.1 Compliance rate

4.2 Compliance by media

4.3 Compliance by product

4.4 Complaints

5. **Conclusions**

6. **Advice and Training**

7. **Appendices**

Appendix 1 - CAP Code - Gambling Section

Appendix 2 - BCAP Radio Code - Gambling Section

Appendix 3 - BCAP TV Code - Gambling Section

Appendix 4 - Media Examined in the Survey

Appendix 5 - ASA Adjudication

# 1. Summary

The Advertising Standards Authority (ASA) is the UK's independent regulator of advertising across all media. It administers the UK Advertising Codes and actively monitors compliance with them.

The ASA has undertaken this survey to determine the compliance rate of ads in the gambling sector with the British Code of Advertising, Sales Promotion and Direct Marketing (the CAP Code), the BCAP TV Advertising Standards Code and the BCAP Radio Advertising Standards Code (the BCAP Codes). (Please note, this survey assessed ads appearing in media during the first week of July 2010. Ads were therefore assessed against the previous edition of the Advertising Codes; the present editions came into effect on 1 September 2010. Other than in presentation and scope the gambling rules for broadcast and non-broadcast advertising remain unchanged, although rules that applied to society and local authority lotteries now also apply to the National Lottery.)

The Compliance team assessed gambling ads that appeared in a broad mix of media between 1 and 8 July 2010 (when the football World Cup was ongoing). To put the volume of ads in context, we needed to review ads over a two month period in the last Gambling Survey, carried out in 2007. Of the 796 ads assessed, we considered 31 were likely to breach a Code, a compliance rate of 96.1%. The result is 2.9% down on the findings of the 2007 Gambling Survey, which recorded a compliance rate of 99%. It is worth noting, however, that 25 of the 31 ads were near identical and were placed by only two companies. Those ads offered "free bets" but did not include significant terms and conditions. The Compliance team is engaged with advertisers to ensure that companies offering "free bets" are aware that they need to include significant terms and conditions in the ad itself (and only one-click away from internet display advertisements).

775 of the 796 ads appeared in non-broadcast media (newspapers and magazines, the Internet, circulars, direct mailings and posters) and 23 appeared in broadcast media (TV and radio). We have not included in the results duplicates of ads that we found more than once in the survey. Of the 775 non-broadcast ads assessed, we considered 4% (31) were likely to breach the CAP Code, a compliance rate of 96%. Encouragingly, none of the 17 television ads were likely to breach the BCAP TV Code and none of the six radio ads were likely to breach the BCAP Radio Code. That is in contrast to the 2007 Gambling Survey that found six TV ads to be in breach of the TV Code (four of those six were part of the same campaign).

The survey targeted what the Compliance team considered to be obvious breaches of the Codes.

The advertisers whose ads were likely to breach a Code were contacted and the Compliance team sought assurances that the ads will not be run again. The sector is under close scrutiny from many quarters, and ongoing monitoring of gambling ads across all media will continue to ensure high levels of compliance with the Codes are maintained.

*Online "Free Bet" ads*

For internet display advertising, it should be noted that our contracted Media Monitoring company is unable to capture information that is revealed after a user has clicked on an ad e.g. , information on a landing page. That information may determine whether a breach of the CAP Code has occurred. Of the 276 internet display ads in the survey sample, 181 included a "free bet" offer. Such offers almost always involve significant conditions, which the CAP Code requires to be made known to the consumer before he or she makes a decision to take advantage of the offer. Because we did not have the means of capturing information accessible from a banner ad, for example, we were unable to fully assess whether those 181 ads were compliant with the Code.

On 4 August 2010 the ASA published an adjudication (see Appendix 5) clarifying its position on internet display ads promoting "free bets". Those ads need to include an indication that terms and conditions apply and that those terms and conditions should be one-click away only. After the publication of the adjudication, the Compliance team contacted advertisers in that sector and asked them to ensure their "free bets" ads were in line with the adjudication.

Given our inability to capture information that is revealed after a user has clicked on an ad and the timing, after our survey period, of the ASA's key adjudication in relation to "free bets" internet display ads, we did not record any likely breaches of the CAP Code in relation to "free bet" ads. It is perhaps helpful, therefore, to calculate an overall compliance rate with the 181 ads removed from the calculation. We would then be left with 31 breaches from a sample of 615, a compliance rate of 95%. (See Table 3).

# 2. Introduction

## 2.1 Background

The ASA is the independent body that administers the CAP and the BCAP Codes ('the Codes'), which set standards for the content, scheduling and placement of non-broadcast and broadcast ads. The ASA accepts complaints from public and the industry about advertisements and, where appropriate, it investigates complaints, proactively identifies and resolves breaches of the Codes. It also uses research to ensure its decisions take account of generally accepted standards and promotes and enforces high standards in ads generally.

The Committee of Advertising Practice (CAP) is the body that created and revises the CAP Code. Its members include trade and professional bodies representing advertisers, agencies, media owners and the sales promotion and direct marketing industries. CAP provides a pre-publication copy advice service and co-ordinates the activities of its members to achieve the highest degree of compliance with the CAP Code. CAP's Broadcast Committee (BCAP) is contracted by the communications industry regulator, Ofcom, to write and promote compliance with the rules that govern TV and radio ads. BCAP comprises major broadcasters licensed by Ofcom and trade bodies representing advertisers, agencies and satellite and cable broadcasters.

The Compliance team works to ensure that ads comply with the Codes and with ASA adjudications. The team follows up ASA adjudications, monitors both broadcast and non-broadcast ads and takes immediate action to ensure ads that breach the Codes are removed or amended. One of the team's objectives is to help create a level-playing field for marketers in each sector and it achieves that by communicating decisions with sector-wide ramifications.

The Compliance team conducts surveys to assess compliance rates for ads in particular industries, sectors or media. The surveys help to identify marketing trends and to anticipate subjects of concern that might need to be addressed by the ASA, in its interpretation of the Codes, or CAP or BCAP, in their setting of standards in the CAP Code or the BCAP Code.

The CAP Code applies only to ads in UK media; the BCAP Codes apply to all TV and radio Ofcom licensees. Complaints about non-broadcast ads in some foreign media can be referred through the European Advertising Standards Alliance (EASA) to the relevant country's self-regulatory organisation.

The introduction of the Gambling Act 2005 on 1 September 2007 resulted in changes to the legal framework as well as the CAP and BCAP Codes. Since that date, all gambling operators must abide by the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) under the Gambling Act. The Commission's LCCP makes clear that licensed gambling operators should comply with the CAP and BCAP Codes. If serious or recurring breaches of the advertising rules are committed by licensed gambling operators, the ASA will refer them to the Gambling Commission who can take regulatory action. The Commission continues to work closely with the ASA to ensure effective regulation.

On September 1 2010 the new, revised Codes were introduced. Other than in their presentation, the gambling rules for broadcast and non-broadcast advertising remain unchanged. The new Code rules are in line with the objectives of the Gambling Act. In essence, gambling ads should not portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm. Advertisements for those products should not exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons and other vulnerable persons.

Only advertisers based in countries on the "White List", in the European Economic Area or holding a Gambling Commission licence are legally permitted to advertise in the UK. It should be noted that not all categories of gambling are permitted in Northern Ireland and CAP and BCAP recommend taking legal advice when considering the advertising of a gaming or gambling product there.

## 2.2 CAP and BCAP Code Rules

The purpose of the Codes is to maintain, in the best and most flexible way possible, the integrity of marketing communications in the interests of both the consumer and the industry. All ads should be legal, decent, honest and truthful. They should be prepared with a sense of responsibility to consumers and society and be in line with the accepted principles of fair competition.

The BCAP Code contains the rules that govern ads on television channels and radio stations licensed by Ofcom. The CAP Code contains the rules that govern ads in non-broadcast media.

The CAP Code and the BCAP Code each contain restrictions on the advertising of gambling products and services. Appendices 1, 2 and 3 set out the gambling rules that were in place at the time of this survey.

## 2.3 Survey Objectives

The purpose of the survey is to:

- Assess compliance rates for gambling ads in the following media: national and regional press, magazines, outdoor media, circulars, direct mail, online, TV and radio;
- Identify likely breaches of the CAP and the BCAP Codes;
- Contact advertisers responsible for ads that seem to break a Code and obtain an assurance that ads will comply fully with the relevant Code in future; and
- Act as a deterrent to bad practice and an encouragement to good practice.

# 3. Methodology

## 3.1 Method

The Compliance team used Billetts Media Monitoring, an online provider of ad monitoring in the UK, to identify gambling ads for assessment. The monitoring period ran from 1 July 2010 to 8 July 2010, a week during the football World Cup. The media examined were national and regional press, magazines, outdoor media, circulars, direct mail, online, TV and radio. If it identified a probable breach of the Code, the Compliance team informed the advertisers of their obligation to comply with the relevant Code and advised them to consult the CAP Copy Advice team for guidance on future non-broadcast ads.

## 3.2 Gambling product categories

The Compliance team considered only ads for gambling products, falling under the following categories:

- Bingo
- Bookmakers
- Casino
- Football Pools
- Lotteries
- Online Gambling: Bingo
- Online Gambling: Betting Exchanges
- Online Gambling: Bookmakers
- Online Gambling: Casinos and Poker
- Online Gambling: Gambling Supermarkets.

Each ad surveyed was categorised by advertiser, medium and product.

As in the previous ASA survey of Gambling ads (2007), the Compliance team defined bingo and online bingo as separate entities, covering bingo provided by traditional bingo halls and online bingo made available through websites. The same applied to traditional bookmaker services (betting on horse racing, snooker, football etc) and internet bookmaking services. Because many websites seem to offer the two products together, the team classified ads for casinos in two ways: traditional casino establishments and online casinos and poker. A separate category was created for gambling supermarket websites that offer a myriad of gambling products such as online games e.g. skittles and fruit machines, as opposed to poker or classic casino games. Finally, the team included a category for online betting exchanges, which facilitate individuals offering odds and placing bets.

# 4. Findings

## 4.1 Compliance rate

The survey sought to establish the proportion of gambling product ads that appeared between 1 July 2010 and 8 July 2010 that complied with the Codes. The Compliance team assessed 796 ads of which 3.9% seemed to breach the CAP Code. All the breaches, 31 in total, were in non-broadcast media.

## 4.2 Compliance by media

The team noted that of the 31 ads that seemed to breach the CAP Code, 29 appeared in the national or regional press and two appeared in magazines. No other non-broadcast ad or TV or Radio ad seemed to breach the Codes.

**Table 1: Number of ads by medium**

| Medium | No of Ads |
|---|---|
| | |
| Press, Magazine | 471 |
| Internet Banner Ads | 276 |
| TV | 17 |
| Radio | 6 |
| Direct Mailing | 20 |
| Circulars | 6 |
| Outdoor | 0 |
| Cinema | 0 |
| **Total** | **796** |

**Table 2: Compliance by Media**

| | No of Ads | Breach | % In Breach |
|---|---|---|---|
| Press, Magazine | 471 | 31 | 6.58 |
| Internet Banner Ads | 276 | 0 | 0 |
| TV | 17 | 0 | 0 |
| Radio | 6 | 0 | 0 |
| Direct Mailing | 20 | 0 | 0 |
| Circulars | 6 | 0 | 0 |
| Outdoor | 0 | 0 | 0 |
| Cinema | 0 | 0 | 0 |
| **Total** | **796** | **31** | **3.89** |

**Table 3: Compliance by Media excluding banner ads we were unable to assess**

| | No of Ads | Breach | % in breach |
|---|---|---|---|
| Press, Magazine | 471 | 31 | 6.58 |
| Internet Banner Ads | 95 | 0 | 0 |
| TV | 17 | 0 | 0 |
| Radio | 6 | 0 | 0 |
| Direct Mailing | 20 | 0 | 0 |
| Circulars | 6 | 0 | 0 |
| Outdoor | 0 | 0 | 0 |
| Cinema | 0 | 0 | 0 |
| **Total** | **615** | **31** | **5** |

## 4.3 Compliance by product

The team placed products into 11 categories: bingo, bookmakers, casino, football pools, lotteries, online bingo, online betting exchanges, online bookmakers, online casinos and poker, online digital TV bookmaker services and online gambling supermarkets. We noted that the breaches were for online bingo products and online bookmakers only.

**Table 4: Breaches by product category**

| Product | Category | Breaches |
|---|---|---|
| Online Gambling | Bingo | 2 |
| Online Gambling | Bookmakers | 29 |

The main problem ads were for online bookmakers and online bingo services. The majority were press ads offering “free bets” and “bonus bets” without including the significant terms and conditions of those promotional offers as required by rule 34.1a of the CAP Code and clarified by an ASA adjudication (adjudication at Appendix 7). Some of those ads also failed to include a closing date and one featured a man, playing a significant part, who looked under 25.

We considered that 17 near identical regional press ads produced by one advertiser for an online bookmaker service seemed to breach the Code. The ads all featured the same headline “£5 free bet +£10 more” but, because they advertised slightly different odds, were considered to be unique ads. The ads breached the Code because they did not include significant terms and conditions relating to the offer.

Similarly, eight ads by one company were also near identical and offered a “no lose bet up to £20”. The ads stated “offer terms apply” but included none of those terms and conditions. Only two of the eight included a closing date for the offer.

Two ads by another online bookmaker offered a “free £20 bet on the World Cup”, but included no closing date or significant terms and conditions.

Two ads by a fourth online bookmaker offered a “bet £10 and get a £20 bonus bet” and were likely to breach the Code for the same reasons; one of those ads was additionally questionable because it featured a man who appeared to be under 25 and playing a significant role.

Together those 29 ads seemed to break CAP Code clauses 7.1, 7.2 (Truthfulness), 34.1a (Sales promotion rules - how to participate) and 57.4(n) Gambling.

Two ads in magazines for online bingo services were likely to breach the Code because they implied that playing bingo could offer a solution to financial problems and were considered likely to prey on vulnerable consumers. The ads seemed to breach CAP Code clause 57.4 (d).

## 4.4 Complaints

The ASA did not uphold any complaints about gambling ads which appeared during the survey week (1 - 8 July 2010) but it should be remembered that, due to the volume of ads, only one weeks' worth of ads was assessed.

# 5. Conclusions

The survey found that 3.9% of the gambling product ads that appeared between 1 July and 8 July seemed to breach the Code (5% if we discount the online banner ads from the assessment). Although the compliance rate is lower than that of the 2007 survey it is worth noting that 25 of the 31 ads that were likely to breach a Code were near identical ads and were placed by only two companies. Those ads offered “free bets” but did not include significant terms and conditions. The Compliance team’s work in this area is on-going so that all advertisers offering “free bets” are aware that they need to include significant terms and conditions in the ad itself (and only one-click away from internet display advertisements).

No potential breaches were found in broadcast media in contrast again to the 2007 survey that found six TV ads to be in breach of the TV Code (four of those six were part of the same campaign) and no radio ads in breach.

We noted that the number of complaints about gambling product ads received by the ASA has been slowly decreasing. In 2008 the ASA received 262 complaints, in 2009 it received 211 and in 2010 (up until 8 December) it received 195, which, given the apparent increase in the volume of such ads, does suggest that advertisers are aware of the Gambling rules and working hard to ensure compliance with those rules.

The Compliance team has contacted the advertisers whose ads seemed to breach the Code and sought an assurance that they would not place the same ads again. The team will continue to monitor ads across all media to ensure a continuing high level of compliance with the Codes.

# 6. Advice and Training

## Cap Services

CAP and BCAP support the commitment of advertisers to communicate responsibly by providing a comprehensive range of advice and training resources. Collectively known as CAP Services, those include bespoke advice, online tools, advice newsletters and training seminars – all designed to raise awareness of the rules and to prevent breaches.

Of particular note is the pre-publication Copy Advice service which offers convenient and comprehensive online resources as well as a bespoke service. The dedicated website brings together more than 400 AdviceOnline entries and HelpNotes. Practitioners are urged to register to access the full database as well as case studies and other practical information.

The team of six experts also provide fast, free and confidential bespoke advice by e-mail or telephone on specific queries for practitioners who want to check whether or not their campaigns comply with the CAP Code before publishing. The dedicated and experienced team can draw on ASA research, previous adjudications and the likely reaction of the ASA Council, making Copy Advice the most authoritative provider of compliance advice on the CAP Code. For bespoke advice, consult the Copy Advice team on 020 7492 2100 or by e-mailing advice@cap.org.uk.

To keep up-to-date with the latest advice, training seminars, ground-breaking ASA adjudications, regulatory developments and changes to the Advertising Codes, we encourage all industry practitioners to sign up to receive the e-newsletters - Update and Insight - provided by CAP and Copy Advice respectively. To sign up, go to www.cap.org.uk or www.copyadvice.org.uk. For full details of CAP Services, visit www.cap.org.uk/capservices.

# 7. Appendices

## Appendix 1 - CAP Code - Gambling Section

**57.1**

The term "gambling" means gaming, betting, and participating in a lottery, as defined in the Gambling Act 2005, and spread betting. This section does not apply to the UK National Lottery. The UK National Lottery is, however, subject to the rest of the Code. The Gambling Act does not apply outside Great Britain. Specialist legal advice should be sought when considering advertising any gambling products in Northern Ireland or the Channel Islands. Spread Betting may be advertised as an investment under the Financial Services and Markets Act (FSMA) 2000, the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 and other FSA rules and guidance (see clause 53.1 above). A "Spread Bet" is a contract for differences that is a gaming contract, as defined in the glossary to the FSA Handbook.

The clauses in this section apply to marketing communications for "play for money" gambling products and marketing communications for "play for free" gambling products that offer the chance to win a prize or that explicitly or implicitly direct the consumer to a "play for money" gambling product, whether on-shore or off-shore.

For the purposes of this Section, "children" are people of 15 and under and "young persons" are people of 16 or 17.

**57.2**

Marketing communications for gambling should be socially responsible, with particular regard to the need to protect children, young persons and other vulnerable persons from being harmed or exploited by advertising that features or promotes gambling.

**57.3**

**a)** In line with clause 2.8, the spirit as well as the letter of the clauses in this section apply whether or not a gambling product is shown or referred to.

**b)** These clauses are not intended to inhibit marketing communications to counter problem gambling that are responsible and unlikely to promote a brand or type of gambling.

**c)** Unless they portray or refer to gambling, these clauses do not apply to marketing communications for non-gambling leisure events or facilities, for example hotels, 20 cinemas, bowling alleys or ice rinks, that are in the same complex as, but separate from, gambling events or facilities.

**57.4 Marketing Communications:**

**a)** should not portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm

**b)** should not exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons.

**c)** should not suggest that gambling can provide an escape from personal, professional or educational problems such as loneliness or depression.

**d)** should not suggest that gambling can be a solution to financial concerns, an alternative to employment or a way to achieve financial security.

**e)** should not portray gambling as indispensable or as taking priority in life, for example over family, friends or professional or educational commitments.

**f)** should not suggest that gambling can enhance personal qualities, for example that it can improve self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration.

**g)** should neither suggest peer pressure to gamble nor disparage abstention.

**h)** should not link gambling to seduction, sexual success or enhanced attractiveness.

**i)** should not portray gambling in a context of toughness or link it to resilience or recklessness.

**j)** should not suggest gambling is a rite of passage.

**k)** should not suggest that solitary gambling is preferable to social gambling.

**l)** should not be likely to be of particular appeal to children or young persons, especially by reflecting or being associated with youth culture.

**m)** should not be directed at those aged below 18 years (or 16 years for lotteries, football pools, equal chance gaming (under a prize gaming permit or at a licensed family entertainment centre), prize gaming (at a non-licensed family entertainment centre or at a travelling fair) or Category D gaming machines) through the selection of media or context in which they appear.

**n)** should not include a child or young person. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role. No-one may behave in an adolescent, juvenile or loutish way.

**o)** for family entertainment centres, travelling fairs, horse racecourses and dog race tracks, and for non-gambling leisure facilities that incidentally refer to separate gambling facilities e.g. as part of a list of facilities on a cruise ship, may include children or young persons provided they are accompanied by an adult and are socialising responsibly in areas that the Gambling Act 2005 does not restrict by age.

Marketing communications for a lottery product may include children or young persons. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role.

**p)** that exclusively feature the good causes that benefit from a lottery and include no explicit encouragement to buy a lottery product may include children or young persons and they may be featured playing a significant role.

**q)** should not exploit cultural beliefs or traditions about gambling or luck.

**r)** for events or facilities that can be accessed only by entering gambling premises should make that condition clear.

**s)** should not condone or encourage criminal or anti-social behaviour.

**t)** should not condone or feature gambling in a working environment. An exception exists for licensed gambling premises.

## Appendix 2 - BCAP Radio Code - Gambling Section

### Gambling

Central copy clearance is required. Gambling advertisements must comply with the minimum standards set out here, as well as the appropriate scheduling restrictions (see Section 2, Rule 8). These Rules apply principally to advertisements for gambling products. However, incidental portrayals of gambling in advertisements for other products and services must always be carefully considered to ensure that they do not contradict the spirit of these Rules. The term "gambling" means gaming, betting, and participating in a lottery, as defined in the Gambling Act 2005, and spread betting. This section does not apply to the UK National Lottery (see Section 2 Rule 26).

The Gambling Act does not apply outside Great Britain. Licensees should ensure that specialist legal advice is sought when considering advertising any gambling products in Northern Ireland or the Channel Islands.

Spread Betting may be advertised as an investment activity under the Financial Services and Markets Act (FSMA) 2000, the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 and other FSA rules and guidance. Spread betting may be advertised on specialised financial stations or in specialised financial programming only (see Section 1 Rule 1.3). A "Spread Bet" is a contract for differences that is a gaming contract, as defined in the glossary to the FSA Handbook.

These Rules apply to advertisements for "play for money" gambling products and advertisements for "play for free" gambling products that offer the chance to win a prize or that explicitly or implicitly direct the consumer to a "play for money" gambling product, whether on-shore or off-shore. Unless they portray or refer to gambling, these Rules do not apply to advertisements for non-gambling leisure events or facilities, for example hotels, cinemas, bowling alleys or ice rinks, that are in the same complex as but separate from gambling events or facilities. These Rules are not intended to inhibit advertisements to counter problem gambling that are responsible and unlikely to promote a brand or type of gambling.

For the purposes of these Rules, "children" are people of 15 and under and "young persons" are people of 16 or 17.

**21.1 Protection of Children and Young Persons**

**a)** Advertisements for gambling must not be likely to be of particular appeal to children or young persons, especially by reflecting or being associated with youth culture.

**b)** No child or young person may be included in a gambling advertisement. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role. No-one may behave in an adolescent, juvenile or loutish way.

**c)** Advertisements for family entertainment centres, travelling fairs, horse racecourses and dog race tracks, and for non-gambling leisure facilities that incidentally refer to separate gambling facilities e.g. as part of a list of facilities on a cruise ship, may include children or young persons provided they are accompanied by an adult and are socialising responsibly in areas that the Gambling Act 2005 does not restrict by age. Advertisements for a lottery product may include children or young persons. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role.

**d)** Advertisements that exclusively feature the good causes that benefit from a lottery and include no explicit encouragement to buy a lottery product may include children or young persons and they may be featured playing a significant role.

**21.2 Unacceptable Treatments**

**a)** Advertisements for gambling must not portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm.

**b)** Advertisements for gambling must not exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons.

**23**

**c)** Advertisements for gambling must not suggest that gambling can provide an escape from personal, professional or educational problems such as loneliness or depression.

**d)** Advertisements for gambling must not suggest that gambling can be a solution to financial concerns, an alternative to employment or a way to achieve financial security.

**e)** Advertisements for gambling must not portray gambling as indispensable or as taking priority in life, for example over family, friends or professional or educational commitments.

**f)** Advertisements for gambling must not suggest that gambling can enhance personal qualities, for example that it can improve self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration.

**g)** Advertisements for gambling must neither suggest peer pressure to gamble nor disparage abstention.

**h)** Advertisements for gambling must not link gambling to seduction, sexual success or enhanced attractiveness.

**i)** Advertisements for gambling must not portray gambling in a context of toughness or link it to resilience or recklessness.

**j)** Advertisements for gambling must not suggest gambling is a rite of passage.

**k)** Advertisements must not suggest that solitary gambling is preferable to social gambling.

**l)** Advertisements for gambling products must not exploit cultural beliefs or traditions about gambling or luck.

**m)** Advertisements for events or facilities that can be accessed only by entering gambling premises must make that condition clear.

**n)** Advertisements for gambling products must not condone or encourage criminal or anti-social behaviour.

**o)** Advertisements for gambling products must not condone or feature gambling in a working environment. An exception exists for licensed gambling premises.

## Appendix 3 - BCAP TV Code - Gambling Section

### 11.10 Gambling

**Notes to 11.10:**
**1)** The rules in this section are designed to ensure that gambling advertisements are socially responsible, with particular regard to the need to protect children, young persons and other vulnerable persons from being harmed or exploited by advertising that features or promotes gambling.

**2)** The term "gambling" means gaming, betting, and participating in a lottery, as defined in the Gambling Act 2005, and spread betting. This section does not apply to the UK National Lottery. See Rule 11.6.

**3)** The Gambling Act does not apply outside Great Britain. Licensees should ensure that specialist legal advice is sought when considering advertising any gambling products in Northern Ireland or the Channel Islands.

**4)** Spread Betting may be advertised as an investment activity under the Financial Services and Markets Act (FSMA) 2000, the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 and other FSA rules and guidance. Spread betting may be advertised on specialised financial channels or in specialised financial programming or on interactive or additional TV services (including text services) only (see Section 9 Rule 9.5). A "Spread Bet" is a contract for differences that is a gaming contract, as defined in the glossary to the FSA Handbook.

**5)** The rules in this section apply to advertisements for "play for money" gambling products and advertisements for "play for free" gambling products that offer the chance to win a prize or that explicitly or implicitly direct the consumer to a "play for money" gambling product, whether on-shore or off-shore.

**6)** For the purposes of this section, "children" are people of 15 and under and "young persons" are people of 16 or 17.

**11.10.1 – Rules for all advertisements**

Rule 11.6.1 is not intended to inhibit advertisements to counter problem gambling that are responsible and unlikely to promote a brand or type of gambling.

**(a)** Advertisements must not portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm.

**(b)** Advertisements must not suggest that gambling can provide an escape from personal, professional or educational problems such as loneliness or depression.

**(c)** Advertisements must not suggest that gambling can be a solution to financial concerns, an alternative to employment or a way to achieve financial security.

**(d)** Advertisements must not portray gambling as indispensable or as taking priority in life, for example over family, friends or professional or educational commitments.

**(e)** Advertisements must neither suggest peer pressure to gamble nor disparage abstention.

**(f)** Advertisements must not suggest that gambling can enhance personal qualities, for example that it can improve self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration.

**(g)** Advertisements must not link gambling to seduction, sexual success or enhanced attractiveness.

**(h)** Advertisements must not portray gambling in a context of toughness or link it to resilience or recklessness.

**(i)** Advertisements must not suggest gambling is a rite of passage.

**(j)** Advertisements must not suggest that solitary gambling is preferable to social gambling.

**11.10.2 – Rules for gambling advertisements.**

Advertisements for events or facilities that can be accessed only by entering gambling premises must make that condition clear. Unless they portray or refer to gambling, rule 11.10.2 does not apply to advertisements for non-gambling leisure events or facilities, for example hotels, cinemas, bowling alleys or ice rinks, that are in the same complex as but separate from gambling events or facilities.

**(a)** Advertisements for gambling must not exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons.

**(b)** Advertisements for gambling must not be likely to be of particular appeal to children or young persons, especially by reflecting or being associated with youth culture.

**(c)** No child or young person may be included in a gambling advertisement. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role. No-one may behave in an adolescent, juvenile or loutish way.

**(d)** Advertisements for family entertainment centres, travelling fairs, horse racecourses and dog race tracks, and for non-gambling leisure facilities that incidentally refer to separate gambling facilities e.g. as part of a list of facilities on a cruise ship, may include children or young persons provided they are accompanied by an adult and are socialising responsibly in areas that the Gambling Act 2005 does not restrict by age. Advertisements for a lottery product may include children or young persons. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role.

**(e)** Advertisements that exclusively feature the good causes that benefit from a lottery and include no explicit encouragement to buy a lottery product may include children or young persons and they may be featured playing a significant role.

**(f)** Advertisements for gambling products must not exploit cultural beliefs or traditions about gambling or luck.

**(g)** Advertisements for gambling products must not condone or encourage criminal or anti-social behaviour.

**(h)** Advertisements for gambling products must not condone or feature gambling in a working environment. An exception exists for licensed gambling.

## Appendix 4 - Media Examined in the Survey

**Billetts Media Monitoring captured ads for assessment from these newspapers:**

Sun
Racing Post
Mirror
Metro-London
Daily Star
Daily Mail
FHM
Pick Me Up
News of the World
Woman's Own
Chat
Times
Liverpool Echo
Woman
Daily Telegraph
Manchester Evening News
Irish News
Nuts
Irish Independent
Sunday Mirror
Daily Record Scottish Edition
Take a Break
Daily Star Sunday
Star
Best
People
London Sport
TV Times
Daily Sport
Loaded
Four Four Two
Love it!
City A.M.
OK!
What's on TV
Inside Soap
Sunday Express
Closer
Woman's Weekly
Money Observer
Express
Sunday World Northern Ireland Edition
Belfast Telegraph

**And these TV stations:**

CH4 Network
ITV London Carlton
ITV1 - MIDWEST Macro
ITV North Macro
Five Network
ITV South East Macro
ITV STV Macro
ITV South East ex Channel
FIVE Part Network
Sky Sports News
CH4+1 Network
CH4 Network excluding Ulster
Sky 3
ITV3
E4
Sky Sports 1
FIVE LONDON
Comedy Central
ITV2
ITV Wales
Sky Sports 3
ITV4
E4+1
Dave
G.O.L.D
Film 4
Virgin 1
Alibi
Yesterday
ITV Central
Comedy Central+1
Viva
CH4 London
Sky Sports 2
ITV UTV
five USA
CH4 North
Hallmark
Sky 1
Comedy Central Extra
Living TV
Bravo
ITV2+1
Sky 2
Quest
Watch
More 4
CH4 London/South/Midlands
G.O.L.D.+1
FX
Living TV+1
CH4 South

DMAX
Bravo +1
Challenge TV
Virgin 1+1
ITV Central East
ITV Granada
MTV
Film 4+1
CH4 Midlands
Home
Dave ja vu
ITV Anglia
CH4 Scotland
CH4+1 Network excluding Ulster
ITV3+1
FIVE (DDS)
LIVINGit
Alibi+1
FIVE NORTH
Sky Sports 4
CH4 Ulster
ITV Central West
Hallmark+1
Discovery Science
MTV Shows
CBS Reality TV
ITV Wales & West
ITV Meridian Hampshire ex Chan
ITV Granada Border Macro
ITV Westcountry
FX +
ITV Yorkshire Tyne Tees Macro
DMAX+1
Home +1
Discovery Channel
STV Central
MTV Hits
Discovery Shed
ITV4+1
Discovery Knowledge
CBS Reality+1
Sky Movies Premiere
Blighty
VH1
Discovery Home & Health
ESPN
Good Food
MTV Base
CH4+1 London/South/Midlands
Discovery+1
Military History
Comedy Central Extra+1
CH4+1 North
Sky News
Fiver
MTV Classic
Movies 24 +
MTV Dance
Animal Planet
ITV Central South
National Geographic HD
STV North
ITV Yorkshire Belmont
MTV Rocks
CBS Drama
Eden
MTV +1
Extreme Sports Channel
Clubland TV
Discovery HD
E!
Channel AKA
Horror Channel
Watch+1
ESPN Classic
Crime & Investigation Network
Challenge TV+1
CH4+1 London
Discovery Real Time
ITV Meridian South East
DMAX+2
Bravo 2
attheraces
ITV Yorkshire Emely Moor
Good Food +1
CH4+1 South
Movies 24
Investigation Discovery
History
Syfy
National Geographic TV
Channel Starz
The Vault
Dance Nation TV
Yesterday+1
Really
National Geographic +1
ITV West Macro
five USA+1
LIVINGit +1
CBS Action
Scuzz
CH4 England
Discovery Real Time+1
Eden+1
Sky Movies Premiere+1
Horror Channel +1
Chart Show TV
ITV Meridian ex Channel
Discovery Travel and Living
Flava
Bliss
Bio
CH4+1 Scotland

Sky Movies Modern Greats
CH4+1 Ulster
Sky Real Lives 2
History +1
Sky Real Lives
Sky Real Lives+1
ITV Meridian Kent
Discovery Science+1
Sky Movies Action & Adventure
Food Network +1
Crime & Investigation Net+1
More 4+1
Syfy +1
Discovery Home & Health+1
Food Network
ITV Tyne Tees
BET
ITV Border
National Geographic Wild
Quest +1
BET+1
CH4+1 England
CH4+1 Midlands
Diva
ITV Anglia North East
Sky Movies Comedy
Sky Movies Drama & Romance
ITV Tyne Tees Bilsdale
The Style Network
ITV Meridian South ex Channel
ITV Anglia East
Film 24
Discovery Knowledge+1
Kiss TV
ITV Meridian Thames Valley
4Music
Animal Planet+1
ITV West
True Movies
Sky Movies Classics
Sky Arts 1
Sky Movies Family
Sky Movies Sci-Fi / Horror
NME TV
Fox News
Kerrang
Motors TV
Diva+1
Sky Movies Crime & Thriller
fiver+1
Sky Movies Indie
True Entertainment
True Movies 2
Prime TV
Travel Channel
Travel Channel+1
Sky Movies Showcase
Q
Smash Hits
Magic TV
Sky Box Office (Events)
The Box
Sky Sports Active 2
Wedding TV

**And these Radio Stations:**

Real Radio (Wales)
Red Dragon
Real Radio (Scotland)
Clyde 1 FM
ForthOne
96.4 FM The Wave
West Sound FM (incl. West FM)
Smooth Radio Glasgow
Clyde 2
Swansea Sound-1170 MW
Heart 103.4 Cheshire & NE Wales (was Marcher)
Moray Firth Radio
Heart 96.3 FM North Wales Coast (was Coast)
Gold South East Wales
102.1 Bay Radio
Northsound One
97.1 Radio Carmarthenshire (inc 97.5 Scarlet FM)
102.5 Radio Pembrokeshire
Tay FM
Tay AM
106.3 Bridge FM
Heart 103 FM Anglesey & Gwynedd (was Champion)
TalkSPORT North West
Talk Sport (London)
Talk Sport (Midlands)
Borders
Original 106 (Aberdeen)
Kingdom FM
Forth2
Talk Sport (South)
Northsound Two
Gold North Wales/Cheshire
TalkSPORT North (excl. TalkSPORT North West)
Central FM
Wave 102 FM
talkSPORT (Scotland)
talkSPORT (Ulster)

**And these websites:**

www.digitalspy.co.uk
www.ebay.co.uk/Other
www.ebay.co.uk
www.msn.co.uk/Other
www.thesun.co.uk
www.racingpost.co.uk
www.skysports.com/Other
www.five.tv
www.mirror.co.uk
www.amazon.co.uk
uk.news.yahoo.com
www.autotrader.co.uk
www.page3.com
www.nuts.co.uk
www.telegraph.co.uk
www.teamtalk.com
uk.tv.yahoo.com
www.hellomagazine.com
www.metro.co.uk
www.independent.co.uk
uk.sports.yahoo.com
uk.games.yahoo.com
www.virginmedia.com
www.msngamecentre.co.uk
AOL/News
uk.cars.yahoo.com
www.skysports.com
www.oddschecker.com
www.thisismoney.co.uk
www.jobsite.co.uk
www.mousebreaker.com
www.bebo.com
www.itv.com
www.gm.tv
www.pogo.com
www.liverpoolfc.tv
www.pricerunner.com
www.tiscali.co.uk/games
www.sky.com/skynews
msnsport.skysports.com
uk.finance.yahoo.com
www.bettingzone.co.uk
www.trade-it.co.uk
www.myoffers.co.uk
www.weeworld.com
www.fish4jobs.co.uk
www.50connect.co.uk
www.dailyrecord.co.uk
www.adtrader.co.uk
AOL/Motoring
uk.movies.yahoo.com
www.orange.co.uk/games
www.sporting-life.com
www.loot.com
AOL Service/Other

www.orange.co.uk/communicate
AOL/Entertainment
www.about.co.uk
www.people.co.uk
www.homesandproperty.co.uk
www.msn.co.uk
www.motorstoday.co.uk
uk.travel.yahoo.com
AOL/Games
www.lottery.co.uk
AOL/Movies
www.heart1062.co.uk
www.imdb.co.uk
uk.music.yahoo.com
AOL/Sport
www.exchangeandmart.co.uk
www.kiss100.com
www.fish4.co.uk
www.thisislondon.co.uk
www.upmystreet.co.uk
www.sing365.com
motors.ebay.co.uk
www.computerandvideogames.com
www.belfasttelegraph.co.uk
www.supanet.com
AOL/Television
www.scotsman.com
www.letssingit.com
www.asos.com
www.planet-f1.com
www.fish4cars.co.uk
www.cricket365.com
www.ents24.com
www.orange.co.uk
www.yahoo.co.uk
www.allinlondon.co.uk
www.empireonline.co.uk
uk.weather.yahoo.com
www.freeonlinegames.com
uk.my.yahoo.com
www.fhm.co.uk
www.tiscali.co.uk/community
www.bravo.co.uk
www.multimap.co.uk
www.mtv.co.uk
www.ticketmaster.co.uk
uk.shopping.yahoo.com
www.fish4homes.co.uk
uk.groups.yahoo.com
www.streetmap.co.uk
www.ivillage.co.uk
www.dooyoo.co.uk
www.cricinfo.com
www.xe.com
www.rottentomatoes.com
www.itv-f1.com
www.kerrang.com

www.uknetguide.co.uk
www.propertiestoday.co.uk
www.gamesradar.com
www.reviewcentre.com
www.addictinggames.com
www.orange.co.uk/shopping
www.orange.co.uk/entertainment
www.dictionary.com
www.orange.co.uk/money
AOL/Music
www.orange.co.uk/cars
www.ebaumsworld.com
www.cheapholidaydeals.co.uk
www.aloud.com
www.map24.com
www.icnetwork.co.uk
www.uktv.co.uk
www.autoexpress.co.uk
www.reference.com
www.moremagazine.co.uk
www.gamewinners.com
www.skymovies.com
www.myvillage.com
www.shockwave.com
chat.lycos.co.uk
www.city-visitor.com
www.tiscali.co.uk
uk.horoscopes.yahoo.net
www.information-britain.co.uk
www.gamershell.com
www.closerdiets.com
AOL/Women
www.onthebox.com
shopping.lycos.co.uk
www.bigbrother.com
www.radiocity.co.uk
www.key103.co.uk
www.orange.co.uk/sport
www.baa.com
www.viamichelin.com
mail.lycos.co.uk
www.fetch.lycos.co.uk
www.hotmail.co.uk
www.bounty.com

## Appendix 5 - ASA Adjudication

**Case number:** A10-122179/JN

**Hillside (New Media) Ltd t/a bet365**
Hillside
Festival Way
Stoke on Trent
Staffordshire
ST1 5SH

**Media:** Internet (sales promotion)
**Sector:** Leisure
**Agency:**

**Number of complaints :** 1

**Ad**
A banner ad for a betting website, which appeared on three successive screens, stated "bet365 JOIN NOW..... £200 FREE BETS FOR NEW CUSTOMERS.....NO1 FOR SPORTS".

**Issue**
The complainant challenged whether the ad was misleading because:

1. it did not make clear that new customers could only claim £200 in free bets if they staked a significant amount of their own money first; and

2. it did not make clear that free bet participants could only withdraw winnings if a number of conditions were met first.

**Response**
1. & 2.
Bet356 Group Ltd (Bet365) said that market research conducted by the industry had shown that UK customers were comfortable with "free bet" terminology and that they understood that such offers were subject to terms and conditions and qualifications. They explained that many of their competitors used the same or very similar terminology and provided screenshots of other online gambling providers' websites which referred to "free bets" .

They argued that banner advertisements were limited by space and believed that, for the purposes of the CAP Code, a "marketing communication" in this context should be interpreted as meaning a banner ad which was supplemented by separate terms and conditions. They said the nature of the banner ad meant that a limited amount of information could be captured on it but, in any event, consumers were unable to sign up to the "free bets" offer without first having the opportunity to view the relevant terms and conditions. They said they had taken steps to make sure this information was clearly available to consumers.

**Assessment**
1. & 2 Upheld
The ASA noted the terms and conditions on the Bet365 website stated that the "free bet" would match the amount of the new customer's first deposit provided that deposit was between £10 and £200. We therefore understood that, in order to receive the £200 of free bets referred to in the ad, new customers were required to deposit £200 of their own money We also understood that the terms and conditions required new customers to bet their initial deposit and matching free bet amounts on three separate occasions before they could then withdraw any cash winnings that had been awarded to their accounts during this process. Furthermore, we noted all of these bets needed to be made within 90 days or any winnings that were in the account would be forfeited.

We acknowledged that some experienced gamblers were likely to be familiar with the "free bets" terminology and would expect terms and conditions to apply to the offer. However, we noted the ad targeted new customers and considered that, although the ad appeared on a gambling website, there was nothing to prevent inexperienced or new gamblers who were not familiar with the terminology from visiting the site and wanting to take part in the offer.

We considered that the terms and conditions attached to the “free bets” were significant and were likely to affect a consumer’s decision about whether to sign up to Bet365; we noted the banner ad did not state that terms and conditions applied. Furthermore, although we understood the terms and conditions themselves were available on the website for all customers, we noted this information was not signposted in the banner ad itself and was not available until after the landing page. We considered that, in order to be displayed sufficiently clearly, significant conditions likely to affect a consumer’s decision to participate in the promotion should have been displayed in the banner ad itself or no further than one click-through away from it. We also considered that the banner should have signposted that terms and conditions applied. We concluded that, because the terms and conditions of the “free bet” offer were not displayed with sufficient prominence, the ad was likely to mislead.

On these points the ad breached CAP Code clauses 7.1, 7.2 (Truthfulness) and 34.1a (Sales promotion rules - how to participate).

**Action**
The ad should not appear again in its current form. We told Bet365 to ensure that terms and conditions for "free bet" offers were only one-click from banner advertisements in the future.