

# 16

GAMBLING



## Principle

The rules in this section are designed to ensure that marketing communications for gambling are socially responsible, with particular regard to the need to protect children, young persons and other vulnerable persons from being harmed or exploited.

## Background

"Gambling" for the purposes of this section covers:

- gaming, betting and other activities defined as gambling by the Gambling Act 2005 (as amended); and
- spread betting as defined in financial services legislation.

Rules on marketing communications for lotteries are set out separately in Section 17. The legal framework for gambling in Great Britain, including the requirements for licensing gambling operators, is set out in the Gambling Act 2005 (as amended). The Gambling Commission regulates commercial gambling and permits gambling on the basis that the licensing objectives to keep gambling safe, fair and crime out, are met.

To advertise in Great Britain, and to advertise remote gambling in Northern Ireland, gambling operators must comply with the relevant licensing requirements set out in statutes. The ASA will refer marketing communications for unlicensed operators to the Gambling Commission. The Gambling Commission's Licence Conditions and Codes of Practice make it a direct requirement on licensed operators to ensure their marketing communications comply with the UK Advertising Codes.

The Gambling Act 2005 and Gambling (License & Marketing) Act 2014 apply to Great Britain and Northern Ireland for remote gambling.

Specialist legal advice should be sought when considering advertising any gambling product in Northern Ireland, the Channel Islands or the Isle of Man. The ASA will cooperate with the relevant authorities to address complaints relating to these jurisdictions.

Spread betting may be advertised as an investment under the Financial Services and Markets Act 2000 (as amended) (FSMA), the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (as amended) and other Financial Conduct Authority (FCA) rules and guidance (see Background, Section 14, Financial Products). A "spread bet" is a contract for difference that is a gaming contract, as defined in the glossary to the FCA Handbook.

## Scope

Unless otherwise stated, the rules in this section apply to marketing communications by:

- gambling operators licensed in Great Britain that are likely to have the effect of promoting gambling; and
- firms authorized to provide spread betting products.

This includes marketing by third parties (for example, affiliate marketers) acting on an advertiser's behalf.

Although they do not apply to marketing communications for non-gambling operators, the ASA may draw on the principles established in the rules to assess whether ads for products likely to encourage gambling (for example, betting tipsters) meet the standards required by the general social responsibility provisions of the Code (see Section 1).

The rules are not intended to inhibit marketing communications by non-gambling operators that aim to counter problem gambling provided they are responsible and unlikely to promote a brand or type of gambling. Safer gambling messaging and marketing by gambling operators must comply with the rules.

Unless they portray or refer to gambling, this section does not apply to marketing communications 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.

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

## Rules

- 16.1** Marketing communications for gambling must be socially responsible, with particular regard to the need to protect children, young persons and other vulnerable persons from being harmed or exploited.
- 16.2** In line with rule 1.2, the spirit as well as the letter of the rules in this section apply whether or not a gambling product is shown or referred to.
- 16.3** Marketing communications must not:
- 16.3.1** portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm
  - 16.3.2** exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons
  - 16.3.3** suggest that gambling can provide an escape from personal, professional or educational problems such as loneliness or depression
  - 16.3.4** suggest that gambling can be a solution to financial concerns, an alternative

to employment or a way to achieve financial security

- 16.3.5 portray gambling as indispensable or as taking priority in life; for example, over family, friends or professional or educational commitments
- 16.3.6 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
- 16.3.7 suggest peer pressure to gamble nor disparage abstention
- 16.3.8 link gambling to seduction, sexual success or enhanced attractiveness
- 16.3.9 portray gambling in a context of toughness or link it to resilience or recklessness
- 16.3.10 suggest gambling is a rite of passage
- 16.3.11 suggest that solitary gambling is preferable to social gambling
- 16.3.12 be likely to be of strong appeal to children or young persons, especially by reflecting or being associated with youth culture.

They must not include a person or character whose example is likely to be followed by those aged under 18 years or who has a strong appeal to those aged under 18.

Where appropriate steps have been taken to limit the potential for an advertisement to appeal strongly to under-18s, this rule does not prevent the advertising of gambling products associated with activities that are themselves of strong appeal to under-18s (for instance, certain sports or playing video games).

CAP has published guidance on the application of the rule, including for advertising of gambling products associated with activities that are themselves of strong appeal to under-18s.

- 16.3.13 be directed at those aged below 18 years (or 16 years for 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
- 16.3.14 include a child or a 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.

Individuals who are, or seem to be under 25 years old (18-24 years old) may be featured playing a significant role only in marketing communications that appear in a place where a bet can be placed directly through a transactional facility, for instance, a gambling operator's own website. The individual may only be used to illustrate specific betting selections where that individual is the subject of the bet offered. The image or other depiction used must show them in the context of the bet and not in a gambling context.

- 16.3.15 exploit cultural beliefs or traditions about gambling or luck
  - 16.3.16 condone or encourage criminal or anti-social behaviour
  - 16.3.17 condone or feature gambling in a working environment. An exception exists for licensed gambling premises.
- 16.4 Marketing communications 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, for example, 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 (as amended) does not restrict by age.
- 16.5 Marketing communications for events or facilities that can be accessed only by entering gambling premises must make that condition clear.