

Consultation on the sexual portrayal of under-18s in advertising (2016):

CAP and BCAP's evaluation of responses



1. Introduction

Following public consultation, the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) have decided to introduce new rules to prohibit the sexual portrayal of under-18s in advertising.

CAP and BCAP have published a separate regulatory statement setting out the rationale for their decision. This document provides detailed responses to specific comments received during the consultation.

1.1 How to use this document

This document should be read alongside the [consultation document](#).

2. List of respondents and their abbreviations used in this document

1	Children & Young People's Commissioner Scotland	CYPCS
2	Children's Society	CS
3	Equality Unit, Scottish Government	EUSG
4	Girlguiding	GG
5	Institute of Practitioners in Advertising	IPA
6	Internet Advertising Bureau	IAB
7	Mothers' Union	MU
8	Professional Publishers Association	PPA
9	Radiocentre	RC
10	Scottish Women's Convention	SWC
11	Zero Tolerance	ZT

3. Evaluation of consultation responses

1. Do you agree or disagree with the introduction of CAP rule 4.6 and BCAP rule 4.4? Please provide any relevant evidence or reasoning in support of your answer.			
	Respondent(s)	Comments	CAP and BCAP's evaluation:
	CYPCS, CS, EUSG, GG, IPA, MU, PPA, RC, SWC and ZT.	The respondents on the left agreed with the proposal. A summary of significant points follows below:	
1.1	CYPCS	<p>Numerous reviews have expressed concern about the premature sexualisation of under-18s (e.g. Bailey and Papadopoulos Reviews).</p> <p>Although the ASA already has the interpretive power to deal with inappropriate and sexual images of 16 and 17-year-olds, advertisers have no explicit signal to exclude such imagery and no certainty as to what images are likely to be acceptable.</p> <p>Exemption for sexual welfare in rules is important.</p> <p>The new rules are a positive step towards a necessary and proportionate strengthening of existing rules to protect under-18s but gender stereotyping of girls and women is perpetuated in the media and this can have extremely negative effects.</p>	<p>CAP and BCAP note this research, which forms important context to the discussion of premature sexualisation of children.</p> <p>CAP and BCAP agree.</p> <p>CAP and BCAP agree.</p> <p>CAP and BCAP note the important comments made that relate to gender stereotyping. CAP, BCAP and the ASA are carrying out work to assess the existing position on stereotyping in advertising: respondents' comments relating to this issue are important and will be considered as part of the work on gender stereotyping.</p>
1.2	CS	<p>Numerous reviews and studies have presented a strong case that children are being prematurely sexualised by media and commercial culture. Concerned that this is having a very detrimental impact on their well-being and is not well-recognised or acknowledged.</p> <p>Believes that companies should market their products in a responsible way and should not be encouraging adults to view children in a sexualised manner nor encourage children to regard themselves as sexual objects. This should be the case not only for ads aimed at children but</p>	<p>CAP and BCAP note the findings of reviews into premature sexualisation (such as The Bailey Review), which form important background to the narrower issue of sexual imagery in advertising.</p> <p>CAP and BCAP's proposals relating to sexualised depiction apply to all ads, regardless of their target audience.</p>

	<p>also for all adverts children and young people may easily and inadvertently view.</p> <p>Any ads seen to normalise the sexualisation of children or young people should be prohibited irrespective of the target audience, scheduled timing of the advert or the product that it seeks to endorse.</p> <p>CAP and BCAP should review the use of violence including sexualised violence in advertising as part of their regulations on the sexual portrayal of children in ads.</p> <p>Makes extensive comments about gender stereotyping, objectification and body image.</p> <p>Not only do sexualised forms of media, including ads, expose children to inappropriate sexual behaviours and expectations but they can often depict an unhealthy representation of sex and relationships.</p> <p>Welcomes the consultation but urges CAP and BCAP to scrutinise the way in which celebrities synonymous with youth culture are used within ads across the board (often in a sexualised way).</p> <p>Considers that CAP and BCAP should share the learning and outcomes of this consultation with The Department for Culture Media and Sport. This should help inform guidance on the sexualisation of children and young people in media to ensure there is a shared understanding and definition between media regulators of what constitutes materials which may be inappropriate and harmful.</p> <p>Recommends that CAP and BCAP develop an educational programme to work with schools and others working with children and young people make clear to children and young people how judgements are made over which ads are considered appropriate and which are not.</p>	<p>CAP and BCAP's existing rules on harm and offence regulate the use of violence, including sexualised violence) in advertising.</p> <p>CAP and BCAP note the important comments made that relate to these issues. CAP, BCAP and the ASA are carrying out work to assess the existing position on stereotyping in advertising: respondents' comments relating to this issue are important and will be considered as part of the work on gender stereotyping.</p> <p>CAP and BCAP note these comments.</p> <p>CAP and BCAP note these comments but they fall outside the scope of the proposals being examined.</p> <p>CAP and BCAP will share the outcome of the consultation with DCMS.</p> <p>The ASA's Ad:Check resource is designed for schools to help students understand how and why advertising is regulated in the UK. It explores the advertising rules in place – including those relating to imagery – to protect young consumers and whether or not children and young people really need</p>
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			specific protections in advertising.
1.3	GG	<p>Welcomes proposal. GG research shows that girls feel that there is too much female nudity in advertising and that the media too often shows women as sex objects, which can make them feel disempowered. Abundance of sexualised images of women has an extremely negative impact on girls' body confidence and contributes to a culture in which women are valued more for their appearance than ability and in which sexism and harassment are frequently normalised. Makes many points related to objectification of women and gender stereotyping in advertising. Sexualisation should not be considered in isolation and needs to be examined alongside gender stereotyping in advertising.</p> <p>Whether content is 'sexualised' or 'responsible' should be carefully considered using a gendered perspective. Examples of sexualised imagery provided in the consultation document mainly feature women.</p> <p>Agree it is important to present issues such as sexual health in a realistic and accessible way but do not think that this has to involve sexualised portrayals of 16 and 17-year-olds; any such adverts should avoid the sexual objectification of girls and young women (and, indeed, all children) under the age of 18.</p>	<p>CAP and BCAP welcome the support for the proposal. The issue of objectification, and other important issues raised, are linked to the wider issue of gender stereotyping. CAP, BCAP and the ASA are carrying out work to assess the existing position on stereotyping in advertising: respondents' comments relating to this issue are important and will be considered as part of that piece of work.</p> <p>Again, CAP and BCAP will consider these comments as part of the work on gender stereotyping.</p> <p>Despite the exemption in the new rules, the ASA will still be able to assess whether the level of sexualisation in ads falling within the exemption is appropriate, taking into account such factors as the degree of sexualisation.</p>
1.4	IPA	<p>Inconsistency between CAP and BCAP Code on protection against sexual portrayal.</p> <p>Needs to be a set of clear and consistent rules across all media for the protection of people aged under 18 to for certainty on what is acceptable.</p> <p>Proposals will allow ASA to point to 'strict liability' transgressions rather than having to rely (in the case of non-broadcast ads) on general rules, such as those dealing with social responsibility or harm and offence.</p> <p>New rules will benefit advertisers and agencies, and increase the protection of young people.</p>	<p>CAP and BCAP agree with these comments which support the rationale for the introduction of the new rules.</p>
1.5	MU	<p>Agrees that it is right to address the portrayal of under-18s in a sexualised manner under the banner of harm and offence.</p> <p>Concerned by use of term "premature" sexualisation, as it suggests that sexualisation is somehow inevitable or 'normal' after a certain age - a premise with which strongly disagree if</p>	<p>CAP and BCAP agree.</p> <p>CAP and BCAP have used the term "sexualisation" to refer to a person</p>

		<p>“sexualisation” refers to the sexual objectification of a person.</p> <p>Concerned about the issue of gender stereotyping in ads.</p> <p>Calls for meaningful sanctions against advertisers who breach new rules if they are introduced.</p>	<p>becoming aware of sex as a general concept, or taking part in a sexualised life (the term is used in this way in research such as the Bailey Review into the Sexualisation of Childhood): it is not used to refer to sexual objectification.</p> <p>The issue of objectification is linked to the wider issue of gender stereotyping. CAP, BCAP and the ASA are carrying out work to assess the existing position on stereotyping in advertising: respondents’ comments relating to this issue are important and will be considered as part of that piece of work.</p> <p>CAP and BCAP have a range of sanctions at their disposal for advertisers who breach the rules.</p>
1.6	PPA	<p>Comments on CAP Code only. Given legal age of consent in UK is 16, it is important that responsible marketers to promote ‘safe-sex’ to under-18s through responsible marketing. Encourage CAP to consider whether additional wording is needed within the rule to clarify the ability of marketers to reach these audiences for such purposes.</p> <p>Encourages CAP to clarify within guidance that the introduction of this rule does not introduce a new definition of a child throughout the CAP Code as a person under the age of 18.</p>	<p>CAP considers that the wording of the new rule would exempt “safe sex” messages from the prohibition.</p> <p>CAP will make this clarification.</p>
1.7	RC	<p>Supports proposal, citing both the certainty for advertisers that new rules would create and the exemption for ads promoting welfare, which would allow clearance of radio ads providing advice on sex issues.</p>	<p>CAP and BCAP agree.</p>
1.8	SWC	<p>Makes extensive comments on the issue of gender stereotyping and objectification of women in advertising, supported by anecdotal evidence, and argues that the new rules will have an impact on this.</p>	<p>CAP and BCAP welcome the support for the new rules, and note the important comments made that relate to gender stereotyping. CAP, BCAP and the ASA are carrying out work to assess the existing position on stereotyping in advertising: respondents’ comments relating to this issue are important and will be considered as part of the work on gender stereotyping.</p>

1.9	ZT	<p>The sexualisation, and sexual objectification of girls forms part of the ways in which gender norms, and gender inequality in society is perpetuated.</p> <p>Not concerned that 16 and 17-year-olds see themselves as sexual beings, but that unequal power roles will be promoted through media sexualisation which is dependent upon particular gendered norms. Equally, concerned that young women are depicted as sexual objects, which encourages men to see them as such, promoting attitudes which justify and normalise violence and abuse.</p> <p>Use of women's bodies to advertise products primarily to a male audience can, often deliberately, conflate the notion of owning a product with 'ownership' of a woman's body. This is not exactly the same as a sexual depiction, though the two are often related.</p> <p>Supports exemption on welfare. Would be regrettable if any changes to the Codes restricted potentially beneficial educational resources from having a wide audience.</p>	<p>CAP and BCAP welcome the support for the new rules. and note the important comments made that relate to gender stereotyping. CAP, BCAP and the ASA are carrying out work to assess the existing position on stereotyping in advertising: respondents' comments relating to this issue are important and will be considered as part of the work on gender stereotyping.</p> <p>CAP and BCAP welcome this support.</p>
	IAB	<p>The respondent on the left disagreed with the proposal. A summary of significant points follows below:</p>	
1.10	IAB	<p>Disagrees with proposal for three main reasons:</p> <ul style="list-style-type: none"> • Believes the current provisions in the Code provide adequate protection to those who are, or appear to be, 16 or 17. • Does not believe that the evidence base justifies change to the Code. • Does not believe that an outright ban on those who are, or appear to be, 16 or 17 being portrayed in a sexual way is necessary or would be proportionate. <p>Level and nature of complaints received by the ASA does not indicate either a significant problem in advertising practice or a change in social views and norms, and there is no legal imperative or otherwise to make a change. Does not consider that there is a sufficient evidence base for making the proposed change to the CAP Code.</p>	<p>CAP and BCAP acknowledge in the consultation document that there is not a significant problem in advertising practice; however, it considers the proposals are necessary to give advertisers an explicit signal on what is appropriate. CAP and BCAP consider that it is only appropriate to portray 16 or 17-year-olds in a sexual way in ads whose principal function is to promote welfare.</p>

	<p>ASA has not been in a position where it has been unable to rule against an ad where it believed that the sexualisation of the people in it has been inappropriate, and an express age-related rule would have allowed it to do so. It is not, therefore, in a position where it is unable to prevent harmful or offensive advertising because no such age-related rule exists.</p> <p>Subject matter of legal provisions cited in the consultation (e.g. indecent images) is not analogous to sexualised imagery in advertising.</p> <p>Not convinced that to feature a 16- or 17- year old in a sexual way in an ad would necessarily, in itself, be harmful or offensive and that it is inappropriate to do so in all circumstances. Degree of sexualisation and other factors as set out in the consultation document are relevant to ASA's decision-making as to whether an ad is harmful or offensive.</p> <p>Main evidence put forward in chapter 5 of the consultation document relates to legislation in other areas. While this is relevant information, and important to consider, it does not create a robust evidence base for change.</p> <p>In a recent case (relating to ads for Nobodys Child) upheld by the ASA, cited in the consultation document, the model featured was aged 21 and the advertiser believed that she was not sexualised, and did to appear to be a child. The model was not a child (whether defined as under-16 or under-18) and the advertiser's view was that she would not be perceived as being a child or vulnerable. It is not clear, then, that a specific prohibition relating to those who are, or appear to be, under -18 would in fact have meant that this ad did not appear in the first place.</p>	<p>CAP and BCAP note that the ASA has not been in a position where it has not been able to uphold a complaint about an ad for inappropriate sexualisation. However, CAP and BCAP consider that the sexual portrayal of under-18s in ads is inappropriate in all circumstances (except for in ads promoting welfare) and that advertisers should be given an explicit signal that this is the case.</p> <p>CAP and BCAP consider that although the focus of the law is on indecent imagery, it does provide a useful analogy for the age at which sexual imagery can be used in advertising.</p> <p>CAP and BCAP consider that the only circumstances in which it would be appropriate to portray a 16 or 17-year-old in a sexual way would be in an ad which promotes welfare: the exemption to the new rules reflects this.</p> <p>CAP and BCAP consider that the legislation cited provides a useful analogy with the use of sexualised imagery in advertising. However, it is not determinative of the outcome of the consultation.</p> <p>CAP and BCAP recognise that the ASA was able to rule against this ad but consider that without a specific age-related prohibition, advertisers have no explicit signal not to use sexualised imagery of under-18s and no certainty as</p>
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		Other comments:	
1.11	EUSG	Pleased to hear CAP and BCAP examining protection of children/young people. Media is a powerful influencer and young people in particular can be negatively affected by sexualised imagery in the media, including in advertising.	CAP and BCAP welcome the support for the consultation.

2. If you do not agree with the introduction of CAP rule 4.6 and BCAP rule 4.4, do you agree with the introduction of a rule in the CAP Code to prevent the sexual portrayal or representation of under-16s? Please provide any relevant evidence or reasoning in support of your answer.

	Respondent(s)	Comments	CAP's evaluation:
	IAB	The respondent on the left agreed with the proposal.	
2.1	IAB	<p>CAP Code offers different age-related protections for children and young people for different purposes, and the ASA can make interpretative rulings relating to harm and offence, but featuring someone who is, or appears to be under 16 in an ad in a sexual way would be inappropriate in all circumstances.</p> <p>In almost all other relevant circumstances, a person aged under 16 is deemed to be a minor or a child, and in need of specific protections to reflect their potential vulnerability, and they are at greater risk of exploitation or harm due to their age. Such a rule would also be consistent with the existing BCAP rule. This would send a clear signal to marketers that featuring under-16s in this way in ads in any medium is not acceptable, but would also allow for finer judgements to be made, on a case-by-case basis, in cases where someone featured in an ad is, or appears to be, aged 16 or 17.</p>	CAP notes the support for an equivalent rule in the CAP Code to that already in the BCAP Code.