

Responding to the findings of the GambleAware Final Synthesis Report: CAP and BCAP's evaluation of responses to Question 4



1. Introduction

Following public consultation, the Committee of Advertising Practice (CAP) and Broadcast Committee of Advertising Practice (BCAP) have decided to update the introductory parts of the UK Advertising Codes to better reflect underlying legislation and improve the background information available to Code users. These proposals were set out under Question 4 in section 8.5 of the [consultation document](#).

CAP and BCAP have published a separate [regulatory statement](#) setting out the rationale for their decision. The statement provides responses to key comments received during the consultation. This evaluation document should also be read alongside the regulatory statement and the [consultation document](#).

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

There were 13 responses to the consultation that included comments on Question 4.

This evaluation includes summaries of responses to consultation Question 4; only responses to that question have been included in this table. In line with the timetable set out in the Regulatory Statement, the full consultation responses will be published when the final outcome of the consultation is published later in 2021.

	Organisation / Individual	Abbreviation
1	Apricot	AP
2	BetFred	BF
3	Betsmart Consulting	BC
4	BetVictor	BV
5	Betway	BW
6	Bet Index	BI
7	Bournemouth University	BU
8	Entain	EN
9	Flutter	FL
10	Gambling Health Alliance	GHA
11	Media Ireland	MI
12	Agnes Nairn	AN
13	William Hill	WH

3. Evaluation of consultation responses

Consultation Question 4 sets out CAP and BCAP’s proposals for technical updates to the UK Advertising Codes (see [consultation document](#) section 8.5)

a) Do respondents agree with the proposed amendments to the introductory sub-section of the CAP Code’s gambling rules? If not, please say why including any suggested wording that would better meet this part of the consultation’s objective.

	Respondents in agreement with the proposals	Comments	CAP’s evaluation
4(a) – 1.1	AN, AP, BF, BC, BI, BV, BW, BU, FL, GHA, WH	These respondents expressed general agreement with the proposed changes.	
4(a) – 1.2	AN	The respondent believed the amendments clarified existing provisions, bringing the Codes up to date and addressing some of the cross-border concerns articulated in the GambleAware research. They particularly welcomed the move from focusing on types of product to marketing communications, including brand promotional activity. They considered that that acknowledged the implicit influence of brands as well as the overt influence of an explicit sales message. They urged CAP to also include explicit mention of “content marketing” owing to the growth in its important.	<p>CAP understands “content marketing” to be social media communications by advertisers that aim to build a long-term emotional relationship with the audience. It was a particular issue highlighted in a study that formed part of the GambleAware research programme; Biddable Youth - Sports and esports Gambling Advertising on Twitter: Appeal to Children, Young & Vulnerable People, carried out by the University of Bristol and the research company, Demos. The consultation respondent was one of the authors. Such marketing, as it is directed at UK consumers and promoting specific products or an advertiser’s brand directly, is covered under the CAP Code’s remit (See Scope of the Code I(h)). The sector-specific rules on gambling apply in full alongside general provisions, principally, those relating to harm, offence and misleading advertising.</p> <p>CAP set out a more detailed response to various issues arising from this study in a letter to the Gambling Commission of April 2020. This work in turn fed into the proposals set out in this part of the consultation.</p>
4(a) – 1.3	WH	The respondent pointed out that businesses such as tipsters were not subject to statutory regulation by the Gambling Commission leaving significant scope for their marketing to be socially irresponsible. They noted ASA action against betting tipsters	The ASA has long been responsible for regulating advertising by non-operators that is directly related to licensed gambling activities as defined in law. CAP acknowledges concerns over the risks associated with this kind of marketing. The proposals represent

		through recent rulings. They believed it important all gambling-related products were subject to the same rules relating to responsible marketing for gambling.	<p>technical changes to make the Codes clearer and more consistent respecting the formal distinction between licensed operators and those promoting non-gambling products involving references to gambling.</p> <p>In the latter respect, tipster advertising is distinct because inherently promotes gambling by the nature of the products offered (advising consumers, for instance, on betting selections). As such, there is a clear case to apply appropriate protections. Accordingly, marketers must comply with the principles of UK Advertising Codes' rules on gambling advertising, which, respecting the distinctions in legislation, the ASA will enforce using the general responsibility provisions of the Codes. These require that marketing communications must be prepared with a sense of responsibility to consumers and to society.</p>
	Respondents disagreeing with the proposals	Comments	CAP's evaluation
	(None)		
	Other comments	Comments	CAP's evaluation
4(a) – 3.1	EN	The respondent considered that the proposed changes to “Scope” applying to on-shore or off-shore operators was relevant in this context. They believed the existing introductory text relating to Great Britain licensed operators would cover both on-shore and off-shore operators. They did not see the need to define “play for free” or “play for money” gambling products as all gambling related advertising would fall under the scope of CAP codes.	CAP considers the proposed revisions to the text of the introductory sub-section address the points raised by the respondent.

Consultation Question 4 sets out BCAP’s proposals for technical updates to the UK Advertising Codes (see [consultation document](#) section 8.5)

b) Do respondents agree with the proposed amendments to the introductory sub-section of the BCAP Code’s gambling rules? If not, please say why including any suggested wording that would better meet this part of the consultation’s objective.

	Respondents in agreement with the proposals	Comments	BCAP’s evaluation
4(b) – 1.1	AN, AP, BF, BC, BI, BV, BW, BU, FL, GHA, WH	These respondents expressed general agreement with the proposed changes.	
	Respondents agreement with the proposals	Comments	BCAP’s evaluation
	(None)		
	Other comments	Comments	BCAP’s evaluation
4(b) – 3.1	MI	The respondent pointed out that different laws applied to gambling in Northern Ireland. They believed changes to the BCAP Code should take full account of that to provide clarity that had, in their view, had been lacking. They maintained that, in the past broadcast licensees following the Code’s guidance to seek legal advice had been directed back to regulatory bodies.	BCAP has made amendments to the introductory sub-section making clear that remote gambling services advertised in Northern Ireland are subject to controls under the same licensing regime operating in Britain. They require a Gambling Commission license and must comply with the UK Advertising Codes as any licensed operator must. For non-remote services, Northern Irish legislation applies under the auspices of the Northern Ireland Executive’s Department for Communities . This legislation includes significant statutory controls on such advertising enforced by authorities in Northern Ireland. It is therefore appropriate for the Codes to advise advertisers and other involved in the preparation of campaigns to seek legal advice. In the event of complaints being raised, the ASA and BCAP will seek their own advice including liaising with the Northern Ireland Executive as appropriate.
4(b) – 3.2	EN	(As per 4(a)-3.1 above)	See the response to 4(a)-3.1 above.