

# ***Responding to the findings of the GambleAware Final Synthesis Report: CAP and BCAP's evaluation of responses to Question 3***



## 1. Introduction

**Following public consultation, the Committee of Advertising Practice (CAP) and Broadcast Committee of Advertising Practice (BCAP) have made a statement on their media placement and scheduling restrictions for gambling and lotteries advertising.**

Consultation question 3 set out CAP and BCAP's rationale for retaining the present approach to their scheduling and placement restrictions with specific reference to the '25% test', which sets the maximum threshold for under-18s in the audience for gambling and lotteries ads in 'one-to-many' media (see [consultation document](#) section 7).

CAP and BCAP have published a separate [regulatory statement](#) summarising the rationale for their decision and confirming the outcome of the process. The tables below in this document sets out CAP and BCAP's detailed evaluation of all significant comments received. It should also be read alongside the regulatory statement and the [consultation document](#). Full copies of the responses have been published on the consultation output page.

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

The following parties responded to the consultation.

	Organisation / Individual	Abbreviation
1	Age Verification Providers Association	AVPA
2	Apricot	AP
3	BetFred	BF
4	Betsmart Consulting	BC
5	Betting and Gambling Council	BGC
6	BV Gaming	BV
7	Betway	BW
8	Bet Index	BI
9	Bournemouth University Responsible Gambling Research Group	BU
10	Camelot	CA
11	Drummond Central	DC
12	Entain	EN
13	Flutter	FL
14	Fundraising Regulator	FR
15	Gambling Health Alliance	GHA
16	Gambling with Lives	GWL
17	Gamesys	GS
18	Incorporated Society of British Advertisers	ISBA
19	Media Ireland	MI
20	Mission and Public Affairs Council of the Church of England	MPAC
21	Money and Mental Health Policy Institute	MMHPI
22	Prof. Agnes Nairn	AN
23	Rank Group	RG
24	Sky	SK
25	Verime	VE
26	William Hill	WH
27	Public Respondent 1	PR1

### 3. Evaluation of consultation responses

Consultation question 3 sets out CAP and BCAP's rationale for retaining the present approach to their scheduling and placement restrictions with specific reference to the '25% test', which sets the maximum threshold for under-18s in the audience for 'one-to-many' media (see [consultation document](#) section 7.5).

*Question 3(a): Do respondents agree that evidence, identified by the GambleAware research, of an association between exposure to gambling and "susceptibility" to gambling for people aged 11-17 are, at most, modest and do not present a sufficiently robust basis to merit restricting further the media in which, and the audience to which, gambling advertisements may be served?*

*If not, please state why setting the basis upon which you believe the GambleAware evidence merits further regulatory interventions and what those interventions should be.*

	Respondents in agreement with the proposals	Comments	CAP and BCAP's evaluation
3(a) – 1.1	BC, BF, BV, BW, EN, FL, SK, WH	Respondents expressing agreement with CAP and BCAP's position	
3(a) – 1.2	GS	The respondent cited several extracts and pieces of evidence supporting their view that the current rules and guidance sufficiently under-18s and other vulnerable people against the dangers of viewing gambling ads. The respondent noted data cited in the consultation document that showed underage participation had declined significantly and asserted that "susceptibility" was minimal or at most, modest. They believed further restrictions were not merited. They also cited the <a href="#">Government Response to the House of Lords Gambling Industry Committee Report: Social and Economic Impact of the Gambling Industry</a> noting it indicated that the rates of gambling by young children were very low. They also noted the findings related to the role of parents and guardians in allowing (knowingly or negligently) children to gamble through their devices and how that contributed to youth gambling rates. They believed it indicated that Government further education for the parents and guardians was a better intervention than focusing on advertising.	CAP and BCAP note the respondent's point.

3(a) – 1.3	GS	<p>The respondent believed eSports and eSports gambling were a much stronger threat than regulated gambling citing various pieces of evidence and information on recent trends. They cited a study that found that those who were highly engaged in eSports participated in gambling and gambling-like activities at a higher rate than those who had either low or moderate levels of engagement. They stated that the study also showed that the number of young people who participated in gambling connected to video games and eSports was almost 75% for those aged 25 or under with the activity facilitated by virtual items and conducted via illicit and unregulated websites.<sup>1</sup> They cited a further study, which, they maintained, reached similar conclusions over the proliferation of virtual game items known as "skins" or "loot boxes" being used as currency to place bets on eSports and illegal third-party sites that host games of chance.<sup>2</sup></p>	<p>CAP and BCAP note the risks associated with content relating to eSports and video games more generally, owing to their high levels of popularity as activities with under-18s. Where such content is used in ads that fall within the remit of the CAP Code (which covers ads in online media directed at UK consumers), advertisers must comply with all the gambling rules, including the new restrictions on content of 'strong' appeal. This is particularly important for eSports betting ads. Work in 2019 responding to other aspects of the GambleAware research has looked at the issue of eSports marketing in social media in more detail. CAP <a href="#">wrote</a> to the Gambling Commission in April 2020 setting out its main finding that much of the material identified was outside the scope of the Code because it appears in foreign media and does not target consumers in Britain. Responsibility for ensuring such material does not target consumers in Britain rests with the Commission using its powers under the Gambling Act 2005 to tackle unlicensed gambling.</p>
3(a) – 1.4	FL	<p>The respondent noted the qualitative and quantitative studies produced by ScotCen used a definition of susceptibility that included those who stated they would "probably not" gamble in the next year, along with those who stated that they "definitely" or "probably would"; only those who stated that they "definitely would not" gamble are defined by ScotCen as "not susceptible". They pointed out that that meant that who had stated they would "probably not" gamble in the next year were classified as equally susceptible as those who probably or definitely would. The respondent believed there was a clear distinction between the two. They also pointed out that GambleAware had yet to complete any follow up analysis on the actual gambling behaviours of the respondents in order to verify the accuracy of the data. The respondent added that they considered the ScotCen survey did not provide an understanding of specific gambling intentions. As a result, the believed it did not clarify whether the activities respondents intended to engage in were actually age-restricted gambling activities rather than activities permitted under the Gambling Act. The respondent maintained that, given that the sample sizes were also relatively modest; it did not appear that the GambleAware report findings presented a sufficiently robust evidence base to support regulatory change.</p>	<p>CAP and BCAP note the limitations of the evidence base, in particular, relating to the finding of an association between ad exposure and 11-17-year olds' "susceptibility" to gamble. As set out in the <a href="#">evaluation of responses</a> to question 1 (see 1(a)–3.1), CAP and BCAP are satisfied that this evidence does contribute to the basis for the introduction of new rules to further limit the appeal of gambling and lotteries advertising. Notably, it suggests that advertising compliant with the UK Advertising Codes has more impact than previously understood. While this a basis for action on ad content, CAP and BCAP consider that it is not significant enough to support the case for more fundamental change, including measures to dramatically reduce the media spaces where under-18s might be exposed to gambling advertising. It is important to note the existing rules on placement, scheduling and targeting already have a significant impact on exposure ensuring that gambling and lotteries advertising appears in either overwhelmingly adult media environments or through targeted means that significantly reduce the likelihood of under-18s being served a gambling or lotteries ad.</p> <p>Although evidence from the Final Synthesis Report and other sources suggest under-18s are exposed to gambling and lotteries advertising at some level of significance (evidenced by levels of recalled exposure</p>

<sup>1</sup> Macey, J. and Hamari, J. (2019) 'eSports, skins and loot boxes: Participants, practices and problematic behaviour associated with emergent forms of gambling', New Media & Society, 21(1)' <https://journals.sagepub.com/doi/10.1177/1461444818786216>

<sup>2</sup> Esport Betting and Skin Gambling: A Brief History, Journal of Gambling Issues vol.43 (several authors from Central Queensland University, <http://jgi.camh.net/index.php/jgi/article/view/4059>)

			and levels of brand awareness), other evidence presents a balancing picture of the level of impact; see the <a href="#">evaluation of responses</a> to question 1 (in particular, 1(a)–2.13) for CAP and BCAP's assessment of the evidence base. CAP and BCAP consider the most effective and proportionate approach is to focus new interventions on advertising content likely to attract the attention of under-18s; further restrictions that seek to reduce exposure are likely to be disproportionate and not justified by the available evidence. See section 3.3 of the <a href="#">regulatory statement</a> .
<b>3(a) – 1.5</b>	<b>FL</b>	The respondent pointed out that the detailed responses to the ScotCen study showed that 83% of survey respondents stated that they would “probably not” gamble in the next 12 months while just 0.9% of respondents stated that they definitely would. The respondent urged that, given their commitment to keeping regulatory burdens to a minimum, CAP and BCAP review the new information and reconsider whether the evidence base was sufficient to justify any of the changes currently proposed	See 3(a)–1.4 above.
<b>3(a) – 1.6</b>	<b>BGC</b>	<p>The respondent pointed out that the qualitative and quantitative studies produced by ScotCen used a definition of “susceptibility” based on whether respondents thought that they would spend money on gambling in the next year. Those who were not current gamblers were categorised as “susceptible” to gambling within the next year if they selected the answer ‘definitely yes’, ‘probably yes’ and ‘probably not’, and not susceptible, if they opted for ‘definitely not’. They were concerned that the classification of those answering ‘probably not’ in the same group as those answering ‘definitely yes’ and ‘probably yes’ raised a number of issues. They believed there was a clear qualitative difference. Furthermore, they pointed out that the detail of the survey responses revealed that 83% of the survey respondents classified as ‘susceptible to gambling’ stated that they would “probably not” gamble in the following year, while just 0.9% stated that they “definitely” would gamble.</p> <p>The respondent believed that such further called into question the way that susceptibility was described in the GambleAware Final Synthesis Report. They added that it seemed plausible that a number of ‘not current gamblers’ were on the cusp of the legal age to gamble (e.g. 15-year-olds for lotteries and 17-year-olds for most other activities) and that that might affect their intentions with regard to possibly gambling in the “next year”.</p>	See 3(a)–1.4 above.

3(a) – 1.7	BGC	<p>The respondent maintained that the ScotCen study did not allow an understanding of specific gambling intentions including which activities respondents thought they might participate in. They argued that it was therefore not possible to understand whether respondents intended to participate in an age-appropriate or age-restricted activity. The respondent also noted the ScotCen report highlighted the relationship between self-reported ‘susceptibility’ and a range of advertising effects, including, awareness of marketing, participation in marketing, brand awareness, recall of age limits, recall of health warnings and parent/carer/peer engagement with gambling. They pointed out that the results combined data from children (11-15), young persons (16-17) and young adults (18-24) but the report did not disclose any results on “the reported exposure to advertising of under-18s who were non-gamblers and their intention to gamble”, although it did indicate that the relationship between ‘susceptibility’ and brand awareness might be stronger with 18- to 24-year-olds than 11- to 17-year-olds.</p>	See 3(a)–1.4 above.
3(a) – 1.8	BGC	<p>The respondent noted the consultation document referred to a finding from the quantitative report regarding ‘susceptibility’ to gambling and its relationship with marketing stating: “The qualitative part of the research provides several significant insights on the appeal of advertising content both to under-18s and vulnerable adults.” The respondent highlighted the Gambling Commission’s <i>Young People and Gambling Survey 2020</i>. They noted the data showing that 7% of participating schoolchildren (11-16 years) claimed to have been prompted to gamble by an advertisement. They believed the more detailed disclosure provided in 2020 could be used to check the finding against reported gambling behaviours. They pointed out that, of all the children who claimed to have been prompted to gamble, just 15% were past-year online gamblers and 21% had gambled online ever. They maintained that that indicated the proportion of schoolchildren who claimed to have gambled in consequence of seeing an advertisement could be no higher than 1%.</p>	See 3(a)–1.4 above and 3(a)–2.6 below.

	Respondents disagreeing with the proposals	Comments	CAP and BCAP's evaluation
3(a) – 2.1	AN, BU, GHA, MPAC	Respondents expressing disagreement with the CAP and BCAP's position.	
3(a) – 2.2	AN	<p>The respondent considered that question 3a) was based on the notion that there was a direct relationship between ad exposure and behaviour or harm, and that there was some quantifiable point at which advertising must be restricted. They presumed where the effect was more than “modest”. They believed the same point applied to question 3b) and the suggestion that advertising “in and of itself” could result in gambling advertising-related harms.</p> <p>The respondent cited the example of <a href="#">research into the effect of advertising for food and soft drink products high in fat, salt or sugar</a> (HFSS), which they considered relevant to the evidence relating to gambling advertising. The research cited contended that:</p> <ul style="list-style-type: none"> <li>• There was no perfect and/or ethical social science experiment that would show cause and effect between advertising (in and of itself) and behaviour/harm.</li> <li>• Such effects were generally mediated (e.g. via changes in attitude, emotion or family relationships) or moderated (e.g. the effects are different for children and teenagers because synaptic pruning in the latter results in impulsive behaviour).</li> <li>• Social science research could only ever show “modest” effects because advertising was just one influence on behaviours amongst a complex array of others including influences from parents, peers, culture and mores.</li> <li>• A “modest” effect in statistical terms might, in reality, affect substantial numbers of children with cumulative effects over their lifetimes.</li> <li>• Rather than ask the question of whether advertising affected behaviour it was more fruitful to ask what factors affect behaviour and amongst those, what was the balance of probabilities that advertising had some detrimental effect.</li> <li>• The precautionary principle should be applied; if there was a possible harm to children action should be taken</li> </ul>	<p>CAP and BCAP acknowledge the respondent's points about the limitations of what evidence relating to the impact of advertising might be expected to reveal. For such reasons, evidence is considered carefully and in its wider context. As set out in the <a href="#">consultation document</a> (section 4.3), CAP and BCAP take a broad view of what constitutes gambling advertising-related harm; from direct examples, like advertising prompting underage play, to more indirect ones like influences on attitudes.</p> <p>The absence of solid evidence of causation is not a barrier to action as evidenced by the decision to introduce new rules with stricter controls on the appeal of content in gambling and lotteries advertising. It is also important to note the UK Advertising Codes already place very significant restrictions on gambling and lotteries advertising. The question for this process is therefore not whether to intervene, but the appropriate extent of interventions restricting advertisers' commercial freedoms to protect under-18s from potential harm.</p> <p>As set out in <a href="#">evaluation of responses</a> to question 1 (1(a)–2.2), CAP and BCAP conclude that there is a reasonable basis for regulatory change. However, it is incumbent upon the Committees to weigh the evidence provided by the GambleAware research against factors such as existing evidence and other indicators of potential harm, the present framework of interventions controlling gambling advertising and underlying legal considerations; licensed gambling activities are a legally available and may be promoted through advertising.</p> <p>In CAP and BCAP's view, a case has not been made substantively that all gambling and lotteries advertising has an equivalent impact on under-18s and that impact is likely to result in gambling advertising-related harms. The evidence suggests that certain kinds of advertising content have more of an impact than previously understood. Accordingly, the outcome of the consultation therefore focuses new regulatory interventions there rather than approaches that seek to limit significantly the spaces where under-18s might see gambling</p>



	<ul style="list-style-type: none"> <li>Policy must be based on a judgement and a balance of probabilities rather than an expectation of the production of black and white cause-and-effect evidence.</li> </ul> <p>The respondent noted that, since that body of research was used as a basis for new restrictions on HFSS advertising, policy makers had proposed further restrictions, which, they maintained, were based on civic judgements rather than evidence of cause and effect.</p> <p>They believed the same argument applied to current consideration of tightening the regulations for gambling advertising. They maintained that the GambleAware research highlighted very clearly that advertising was just one of many influences on gambling behaviour, and showed that children saw a great deal of gambling advertising and that they and their parents did not receive this favourably. The respondent considered that the quantitative research showed a “modest” direct effect, which could be expected from social science research and could result in the possibility of harm to a very large number of children in absolute terms. They stated, in line with HFSS precedent, question 3 should ask whether given the GambleAware evidence in the round, on balance, and taking the precautionary principle into account, the regulations should further protect 11–17-year-olds.</p> <p>They also pointed to changes in the media landscape since 2007 towards online media. In particular, they highlighted the differences between TV and online, in terms of research and reporting. They noted the ASA had given evidence to the House of Lords in 2020 and stated that tracking online advertising was considerably harder. The respondent argued that the precautionary principle should be applied much more strongly in 2021 than in 2007.</p>	<p>advertising or eliminate exposure entirely. For instance, by reducing the threshold for general audience media where ads are seen by all those who view the surrounding content like visitors to a website or readers of a magazine.</p> <p>Steps to reduce significantly the media spaces in which exposure to age-restricted ads might occur (for example, by the introduction of a 5% test) would involve restrictions in media that are overwhelmingly adult-oriented, thus fundamentally changing the underlying policy approach of delivering proportionate regulation that balances the legitimate commercial freedoms to Gambling Commission-regulated gambling operators, and the appropriate protections that should be afforded to under 18s.</p> <p>Alongside proportionality and evidence-based considerations, the impact of such interventions is, at best, uncertain. For example, in online environments a significant proportion of advertising is delivered using ‘ad tech’ that allow ads to be addressed to users on the basis of data held by platforms, ad networks and advertisers themselves (for instance, account or profile information submitted by users, and browsing history or other online activity). This kind of ad targeting operates on a ‘one-to-one’ rather than ‘one-to-many’ basis and is therefore subject to dedicated controls that recognise the need for ad tech to be used to meet regulatory objectives. CAP has produced <a href="#">dedicated guidance</a> setting out the requirements.</p> <p>While there is no substantive basis in the GambleAware evidence base to change the underlying policy approach for the targeting of one-to-many advertising by revising the ‘25% test’, CAP acknowledge that more can be done to improve the efficacy of online targeting within the present framework of the rules.</p> <p>The ASA <a href="#">recently published a report</a> on its monitoring activities, which called on advertisers to make better use of audience and media targeting tools to help minimise children’s exposure to age-restricted ads in mixed-age sites (these include gambling, as well as high fat, salt and sugar foods, alcohol, e-cigarettes and other products subject to age-restrictions). It committed to exploring further regulatory interventions to clarify in more detail how ad tech should be used to limit targeting in such environments. CAP considers that better enforcement of existing restrictions is the most effective and proportionate means of consolidating protections in online media. It will report publicly on this later in 2022.</p>
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			<p>In relation to the respondent's point concerning the 'precautionary principle', the <a href="#">consultation document</a> (section 4.4) set out the legal tests that CAP and BCAP must satisfy to introduce restrictions on the commercial freedom of expression of advertisers. The Committees must ensure, in accordance with Article 10(2) of the European Convention on Human Rights, that restrictions on advertisers' freedom of expression are necessary and proportionate in a democratic society.</p> <p>In relation to the respondent's points about the relevance of HFSS advertising policy to gambling, CAP and BCAP disagree. Although the two areas share commonalities, there are important differences not least in that HFSS products can legally be sold to children. Moreover, much of the key evidence base around HFSS advertising relates to the effects of 'acute' advertising exposure; frequently for products of direct interest to children and/or advertising using techniques designed to appeal to them. Controls on gambling and lotteries advertising are already much tighter prohibiting addressing of advertising to under-18s in any way.</p> <p>See also section 3.3 of the <a href="#">regulatory statement</a>.</p>
<b>3(a) – 2.3</b>	<b>AN</b>	<p>The respondent questioned at what point did the legality of advertising and the rights of advertisers take precedence over the rights of children and young people to be protected from possible harm. They pointed to the UN Rapporteur citing article 19 of the International Covenant on Civil and Political Rights as a basis for limiting commercial expression.</p>	<p>See 3(a)–2.2 above and section 4.3 of the <a href="#">consultation document</a> for detail of the tests CAP and BCAP must satisfy when introducing further regulation.</p>
<b>3(a) – 2.4</b>	<b>AN</b>	<p>In terms of "further regulatory interventions and what they should be" the respondent suggested that:</p> <ul style="list-style-type: none"> <li>• the "25% test" be revisited as a way of reducing the volume of advertising seen by young people;</li> <li>• CAP and BCAP commit to working in partnership with both the Gambling Commission and government to find ways to reduce advertising volumes; and</li> <li>• new regulations for digital advertising and, in particular, social media advertising should be investigated.</li> </ul> <p>On the final point, they noted regulations were intended to apply "equally online and offline". They were concerned, however, that the two types of media were not equal pointing out that other media were not directly</p>	<p>See 3(a)–2.2 above and the <a href="#">evaluation of responses</a> to question 1 (1(e)–2.2 on the regulation of social media.</p>

		shared between viewers (and thus able to reach consumers in an uncontrolled way) and the digital advertising supply chain was not transparent.	
<b>3(a) – 2.5</b>	<b>GHA</b>	The respondent pointed to the issue of policies to reduce obesity. They pointed out that despite research showing a modest association between food promotion and behaviour, Government had <a href="#">further tightened restrictions</a> to limit children's exposure to HFSS advertising. They suggested that that precautionary approach be adopted for gambling and pointed to their recommendations outlined in response to questions 1(c) and 1(d).	See 3(a)–2.2 above.
<b>3(a) – 2.6</b>	<b>GHA</b>	The respondent asserted that, while the evidence suggested there was a 'modest' link between exposure to gambling advertising and gambling susceptibility in 11- to 17-year-olds, it was not a strong enough argument against introducing further restrictions. They cited the Gambling Commission's Young People and Gambling Survey 2020 finding that 7% of young people in England and Scotland prompted to spend money on gambling after seeing marketing when they were not otherwise planning to. They pointed out that in the same sample, 19 young people had suffered the most severe form of gambling-harm from own gambling; 51% of problem gamblers and 33% of at-risk gamblers went on to spend money on gambling when they were not otherwise planning to. The respondent believed the results provided early evidence that young people suffering gambling-related harm were more susceptible to gambling advertising.	<p>CAP and BCAP consider that the Gambling Commission findings add to the case for strengthening content restrictions. However, they do not present a basis for revisions to restrictions on placement, scheduling and targeting of gambling and lotteries ads.</p> <p>The Gambling Commission's annual reporting on children's gambling behaviour was considered when CAP and BCAP <a href="#">reviewed</a> the under-18s-related evidence in 2018-19. It included a similar finding (although there have been note methodological differences between iterations of the survey). The review stated: "While these findings are concerning, the absence of further studies looking more closely at these associations between underage gambling and various influencing factors – in terms of types of advertising and levels of exposure – makes it difficult to draw firm conclusions."</p> <p>The latest Commission reporting found that 7% of the 58% in the sample who reported seeing gambling ads said they went on to gamble with their own money. The data does not provide a picture of the kinds of ad exposure or activities participated in. Other data in the report suggests that only a very small proportion of underage participation is in age-restricted activities. The majority of participation by under-18s is in private gambling activities that do not require a license or legal participation in activities like lotteries. Nevertheless, this evidence continues to give some cause for concern; CAP and BCAP note in particular the respondent's assertion about youth problem gambling.</p> <p>As set out in 3(a)–2.2 above, CAP and BCAP consider the most effective and proportionate response is to focus restrictions on advertising where there is a greater risk of attracting the attention of under-18s or influencing them. Stricter controls on the creative content of advertising are the best way to achieve this.</p>

<b>3(a) – 2.7</b>	<b>MPAC</b>	The respondent noted, although only a relatively small number of children had been shown by Gambling Commission surveys to have actively engaged with advertising and thereafter engaged immediately in gambling, there was a minority of 7% who did so. They pointed out that, although a small minority, it amounted to over 970,000 children.	See 3(a)–2.6 above.
<b>3(a) – 2.8</b>	<b>MPAC</b>	The respondent expressed disappointment with CAP and BCAP’s view of the evidence. They stated that they would consider asking the statistics watchdog to consider whether it was a fair assessment of the research. They pointed out that the GambleAware research explicitly noted that while it was difficult to draw definitive links: “Nonetheless, triangulation of the evidence produced by this research project would suggest that there are reasonable grounds for concern. In the absence of conclusive longitudinal research and wider comparisons, there is a clear link between gambling advertising and the attitudes, current and likely future behaviours of children, young people and vulnerable adults.” The respondent pointed out that it also noted that “The research suggests that sheer exposure to gambling advertising can have an impact on attitudes towards the prevalence and acceptability of gambling, and in turn the susceptibility to gamble in the future.” And that “among those who do not currently gamble, exposure to gambling advertising was significantly associated with whether or not they were susceptible to spending money on gambling in the future.” The respondent asserted that although causality was hard to establish, advertising and marketing had been shown in recent British studies to “influence the normative environment for gambling and encourage some youth to want to gamble.” <sup>3</sup>	As set out in the <a href="#">evaluation of responses</a> to question 1 (1(a)–2.13) and 3(a)–2.2 above, CAP and BCAP consider the evidence base supports the introduction of new restrictions increasing the protections relating to the creative content of advertising and not a fundamental change to the policy of appropriately limiting under-18s’ exposure and protecting them from ads they do see with content restrictions.
<b>3(a) – 2.9</b>	<b>MPAC</b>	The respondent believed the argument that exposure to gambling advertising did not lead to “susceptibility” did not pass a basic test of plausibility. They pointed to the significant amounts of ad spend by the gambling industry and noted that it had increased by 24% between 2015 and 2018. They did not believe that that increased level of investment was unrelated to increased susceptibility to gambling. They cited the assessment of the House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry in support of the point.	3(a)–2.2 above sets out CAP’s view of the evidence base in relation to the decision to introduce tougher restrictions on the creative content of advertising while maintaining the present approach in CAP’s policy on ad placement in ‘one-to-many’ media.
<b>3(a) – 2.10</b>	<b>MPAC</b>	The respondent believed that, if longitudinal evidence was hard to assess, it must primarily be blamed on refusal of the industry to release data for independent analysis and research. They pointed out that the	CAP and BCAP note the respondent’s point. Although some longitudinal indicators are available (for instance, in the Gambling Commission’s annual reporting on under-18s’ attitudes and behaviour

<sup>3</sup> Wardle, H., Reith, G., Langham, E., Rogers, R., D., ‘Gambling and public health: we need policy action to prevent harm,’ (2019) BMJ, 365 (1807)

		same point had been made in the report of the House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry.	toward gambling), there are limitations. Nevertheless, as the outcome of this consultation demonstrates, there is a reasonable basis within the available to conclude that further restrictions on ad content are necessary. CAP and BCAP have responded to the new evidence presented by GambleAware in a proportionate manner, but will remain open to considering significant new evidence as it emerges in the future.
<b>3(a) – 2.11</b>	<b>MPAC</b>	The respondent asserted that the evidence of gambling related harm in under-18s suggested that the present measures are ineffective. They believed more attention should be given to international comparisons. They pointed to Italy, which had introduced legislation to ban all gambling advertising.	See 3(a)–2.2 above and the <a href="#">evaluation of responses</a> to question 1 (1(a)–2.13 and (1(a)–3.20).
<b>3(a) – 2.12</b>	<b>BU</b>	The respondent disagreed. They believed there was a reluctance to strongly consider the GambleAware evidence due to relatively low response rates. They believed that carrying out gambling-related research with people aged 11-17 and younger required consideration of the ethical implications, particularly as that group were underage for the activity. They pointed out that the research required under-18s to be exposed to assess current gambling advertising samples, particularly with evolving technology such as TikTok. As a consequence, the respondent believed that any evidence involving children's participation should be considered a sufficient argument for further regulatory interventions.	See 3(a)–2.2 above

**Question 3(b): Respondents are invited to submit further evidence, which suggests that exposure to gambling advertising can, in and of itself, result in gambling advertising-related harms? Respondents to this question are encouraged to have regard to the CAP and BCAP guidance on their approach to evidence-based policy making.**

<b>3(b) – 1.1</b>	<b>AN</b>	<p>The respondent asserted that advertising rarely resulted in and of itself in harm or purchases. They maintained, however, that it could and did contribute to harm in a variety of ways including through mediated and moderated effects. They considered that there was no need for further evidence on that phenomenon as it was already exceptionally well documented in decades of books and journal articles that explicated how advertising works. They argued that there was no reason to suppose that gambling advertising worked differently to HFSS advertising or advertising for consumer goods. The respondent cited several pieces of evidence in support of these points.</p>	<p>The UK Advertising Codes seek to ensure that potentially harmful advertising is avoided. A key premise – in line with the evidence cited by the respondent – is that advertising can have a variety of effects on an audience. In relation to gambling, CAP and BCAP take a broad view of what constitutes gambling advertising-related harm. This consultation process bears out their commitment to ensuring that the Codes remain up to date and respond to the latest evidence. However, it is important to acknowledge that gambling and lotteries advertising is already subject to an evolved and significant framework of interventions intended to limit under-18's exposure to and the impact of content included in gambling ads. There must be a substantive case in the evidence based for there being potentially harmful impacts that are not covered by the existing rules. As set out in the <a href="#">evaluation of responses</a> to question 1 (see 1(a)–2.2), CAP and BCAP consider that is the case. However, as set out in 3(a)–2.2 above, the case for change must be considered with due regard to proportionality concerns and the underlying legal framework in which the UK Advertising Codes regulation of gambling and lotteries advertising sits.</p>
<b>3(b) – 1.2</b>	<b>MMHPI</b>	<p>The respondent asserted that gambling advertising was widespread and people could be exposed to them in a variety of different places. They believed that, for many people, it could lead to gambling and, for some, directly to harm. In particular, they maintained that ads could make it harder for people who had decided to reduce their gambling to do so and could lead to them returning to their earlier behaviour. They cited research that found many with mental health problems felt overwhelmed by the amount of gambling adverts online. They noted 73% of respondents said they always or often saw a gambling advert when online, and 85% felt it was impossible to avoid them.<sup>4</sup></p>	<p>CAP and BCAP acknowledge the respondent's points, but note they relate to the protection of adults; something not within scope of this part of the consultation. As set out in see the <a href="#">evaluation of responses</a> to question 1 (1(a)–2.11 and 1(a)–3.20), licensed gambling is a legally available product that can be advertised.</p> <p>As set out in the <a href="#">evaluation of responses</a> to question 1 (1(a)–3.19), CAP and BCAP consider there is no substantive basis to extend the scope of content restrictions designed to protect under-18s to young adults (aged 18-24). The same is true for targeting restrictions. Protection of adult audiences, in particular those who exhibit vulnerabilities owing to factors like problem gambling behaviour, substance abuse and mental health concerns, nevertheless remains an important objective for the UK Advertising Codes. This consultation has already resulted in strengthening of the protections for adult audiences in CAP and BCAP's <a href="#">Gambling advertising: responsibility and problem gambling</a> guidance.</p>

<sup>4</sup> Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020



			<p>The revised guidance further supports the UK Advertising Codes' rules that aim to protect audiences in general. Ads may legitimately be directed to adults, but gambling and lotteries advertisers must ensure that ads do not contain content that could encourage irresponsible or potentially harmful behaviour, even indirectly. A key emphasis within the guidance is problem gambling, but CAP and BCAP recognise the need to protect the vulnerable across a range of areas, including individuals with mental health concerns (section 4.1 of the guidance specifically references mental health issues as a factor the ASA may consider in relevant cases). See CAP and BCAP's <a href="#">interim statement</a> published in August 2021 for further details.</p> <p>The UK Advertising Codes' gambling rules include general responsibility provisions (rules 16.1 and 16.3.1 of the <a href="#">CAP Code</a> and rule 17.3.1 of the <a href="#">BCAP Code</a>). These are the basis upon which parts of the guidance are enforced (principally, guidance section 4). They provide the ASA with the flexibility to take action on new compliance issues as they are identified in complaints or through proactive monitoring. This includes complex issues relating to vulnerability, like those relating to mental health.</p>
<b>3(b) – 1.3</b>	<b>MMHPI</b>	The respondent noted research had suggested that seeing an ad could lead to gambling behaviour. For example, they noted the Gambling Commission had found that 52% of online gamblers with a social media account gambled after seeing an advert on social media and offers such as free bets that are designed to get people to sign up had also been found to sometimes encourage longer and riskier gambling behaviour. <sup>5 6</sup> They pointed out that the GambleAware Final Synthesis had also found such a connection.	See 3(b)–1.2 above.
<b>3(b) – 1.4</b>	<b>MMHPI</b>	The respondent cited research drawing on people's lived experience of mental health problems and online gambling who felt that adverts were difficult to resist and led them to gamble. They noted several respondents who had tried to cut down on their gambling but had found it difficult to do so because they continued to be exposed to gambling adverts. They pointed out that people who had taken the decision to cut down on gambling were likely to have done so after experiencing some form of gambling-related harm. They also cited findings on how difficult people	See 3(b)–1.2 above.

<sup>5</sup> Gambling Commission. Gambling participation in 2019: behaviour, awareness and attitudes. 2020

<sup>6</sup> The Behavioural Insights Team. Can behavioural insights be used to reduce risky play in online environments? 2018

		thought it was to limit their gambling. <sup>7</sup> They maintained that tools designed to block gambling adverts online were limited in number and effectiveness, and that ads on television appeared during a range of programmes. They cited further evidence that seeing ads while trying to cut down could lead to people returning to gambling. <sup>8</sup>	
<b>3(b) – 1.5</b>	<b>BU</b>	The respondent cited research that showed social media posts, which, they considered, were easily accessible by anyone including under-18s, often did not include responsible gambling warning messages (apart from the age restriction/warning icon (18+)) embedded in multimedia content, within the text-based posts. They believed it was also evident that all social media posts published by the gambling operators were promotional and that stricter rules for gambling social media advertising were required. <sup>9</sup>	See the <a href="#">evaluation of responses</a> to question 1 (1(e)–2.2).
<b>3(b) – 1.6</b>	<b>AP</b>	The respondent noted the ScotCen quantitative study categorised those who were not current gamblers as “susceptible” to gambling within the next year, if they selected the answer ‘definitely yes’, ‘probably yes’ and ‘probably not’, and not susceptible, if they opted for ‘definitely not. They considered that it was difficult to interpret the results as participants who replied ‘probably not’ were classified in the same way as those who replied ‘definitely yes’. They also pointed out that the research did not disclose any results on “the reported exposure to advertising of under-18s who were non-gamblers and their intention to gamble”. They believed it was therefore difficult to understand whether advertising was adversely affecting under 18’s who do not gamble.	See 3(a)–1.4 above.
<b>3(b) – 1.7</b>	<b>FL</b>	The respondent cited the Gambling Commission’s Young People and Gambling report believing it was possible that some respondents to the consultation might cite it as evidence of gambling-related harm. They urged CAP and BCAP to note the report did not disclose the rate of gambling by activity. They believed what they regarded as the highly robust verification methods used by Gambling Commission licensed operators meant the vast majority of survey results would have derived from playing the National Lottery (currently permitted at age 16), gambling with friends or the use of category D gaming machines such as those featured at amusements parks	See 3(a)–2.6 above.

<sup>7</sup> Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020

<sup>8</sup> Hing, N et al. Do advertising and promotions for online gambling increase gambling consumption? An exploratory study. International Gambling Studies 2014; 14, 3; 394-409.

<sup>9</sup> Bolat, E. et al, [Transparency in Responsible Gambling Messaging and Communication: A Content Analysis of the UK’s Gambling Operators’ Websites. Technical report](#). Bournemouth University Responsible Gambling Research Group, 2021



**Question 3(c):** *Although CAP considers the GambleAware evidence does not present a case for change to the ‘25% test’ (subject to its evaluation of responses to this consultation), do respondents consider there is a better way for CAP to meet its policy objective of balancing, on the one hand, necessary advertising freedoms for gambling operators and, on the other hand, necessary protection for under-18s? Respondents are invited to consider the full range of restrictions that apply to gambling advertising and, where available, provide evidence to support their submissions, particularly, that which bears out the regulatory benefits of an alternative approach.*

<b>3(c) – 1.1</b>	<b>BW</b>	The respondent agreed that the GambleAware evidence did not present a case for change to the ‘25% test’.	CAP and BCAP note the respondent’s points.
<b>3(c) – 1.2</b>	<b>BF</b>	The respondent considered the present approach had been effective.	CAP and BCAP note the respondent’s points.
<b>3(c) – 1.3</b>	<b>BV</b>	The respondent believed that implementing a numerical test would make it difficult to for advertisers to forecast when deciding on targeting strategy. They considered the existing measures were robust and effective. They pointed out that the measures were supplemented by additional restrictions from the industry’s IGRG voluntary code. The respondent also noted that the growth of ad tech had facilitated easier and more precise ‘white list’ targeting of digital marketing campaigns. They added that, as capabilities increased, they would be supportive of more restrictive controls and reductions in the percentage requirement.	CAP and BCAP note the respondent’s points.
<b>3(c) – 1.4</b>	<b>EN</b>	The respondent considered that the current ‘25% test’ and ‘particular appeal’ test, coupled with other age targeting restrictions as set out in other regulatory codes of practice (e.g. IGRG Code), were sufficient to afford adequate protections to under-18s.	See the <a href="#">evaluation of responses</a> to question 1 (1(a)–2.2).
<b>3(c) – 1.5</b>	<b>EN</b>	The respondent pointed out that their operator license required them to comply with the industry’s IGRG Code, which included provisions on targeting paid social advertising to individuals aged 25 and over (e.g. Facebook paid advertising) and adherence to an 18+ age gating for organic content on YouTube. They urged CAP to consider, given the its position on the effectiveness of the ‘25% test’ and the IGRG code provisions, whether current the targeting of paid social advertising was sufficient ads were directed to a majority adult audience and whether the proposed ‘strong appeal’ test should not be applied in such circumstance.	See the <a href="#">evaluation of responses</a> to question 1 (1(e)–1.4).

<b>3(c) – 1.6</b>	<b>EN</b>	The respondent asked for further guidance on the scheduling of broadcast advertising in relation to the application of the ‘strong’ appeal test. Specifically, they asked whether it was applicable to adverts adhering to the IGRG Code provisions restricting advertising before 9pm.	See the <a href="#">evaluation of responses</a> to question 1 (1(a)–3.18).
<b>3(c) – 1.7</b>	<b>FL</b>	The respondent believed the existing restrictions were proportionate and fit for purpose as evidenced by the data gathered through the course of ASA’s last quarterly review of online advertising for age-restricted products. They also believed the industry’s AdTech Forum would play an important role in ensuring the industry remained at the cutting edge of new advances in advertising technology.	CAP and BCAP note the respondent’s points.
<b>3(c) – 1.8</b>	<b>SK</b>	The respondent agreed that the ‘25% test’ remained appropriate and proportionate and that the effects of additional measures were, at best, uncertain. In particular, they noted there was little evidence to indicate that exposure to gambling advertisements was, in and of itself, likely to cause harm.	CAP and BCAP note the respondent’s points.
<b>3(c) – 1.9</b>	<b>AN</b>	The respondent believed that the basis for rejecting change to the 25% test appeared to be that the association between exposure to gambling advertising and “susceptibility” to gambling for 11- to 17-year-olds was modest and only one influence amongst a range of influences. The respondent pointed to previous points made on how social science research would only ever show a modest effect and also capture other effects. The respondent stressed that where an effect of any sort was found it could nonetheless affect a great many children. They maintained that the precautionary principle should be applied. They pointed out that that had happened with HFSS food advertising and, with smoking and alcohol advertising where there was no evidence to the respondent’s knowledge that showed more than a modest or indeed direct relationship between advertising in and of itself and smoking, problem drinking or changes in eating habits which might lead to obesity – but where there was plenty of evidence that advertising was a significant contributory factor.	See 3(a)–2.2 above
<b>3(c) – 1.10</b>	<b>AN</b>	The respondent believed the focus should be on protecting the greatest absolute number of under-18s from potential gambling harms. They pointed out that the ‘25% test’ meant that where an advertising medium had an audience of 500,000 up to 125,000 children could be exposed to gambling advertising. They questioned why those 125,000 children did not have a right to be protected in the same way CAP and BCAP’s policies protected others. That 21% of the population were under-18s	See 3(a)–2.2 above

		was not, in the respondent's view, a sound basis for the '25% test' as it did not take into account the absolute number of under-18s that may be affected by advertising exposure.	
<b>3(c) – 1.11</b>	<b>AN</b>	The respondent suggested that lowering the threshold to 5% would be a step in the right direction. They disagreed with the consultation document's argument that that was not justified because of the "modest effects" argument. They also noted CAP's comments on the negative impact on gambling operators' advertising freedoms. They questioned whether CAP and BCAP, together with the Gambling Commission and government should consider what trade-off society wanted to make between the rights of gambling operators to commercial free speech and the rights of children to be protected from potential gambling harms.	See 3(a)–2.2 above
<b>3(c) – 1.12</b>	<b>AN</b>	The respondent noted the consultation document's comments on the difficulties in tracking absolute audience numbers online and on social media because of the many differences between the one-to-one versus one-to-many media models. They believed that was not a reason for not addressing the issue and urged CAP and BCAP to consider the matter more broadly with input from other parties. The respondent asserted that, if CAP and BCAP were serious about protecting children from gambling (and other) advertising-related harms, it required a joined-up approach from government, regulators, academics and ad tech experts.	<p>As set out in 3(a)–2.2 above, CAP and BCAP consider that there is no substantive basis for making changes CAP's policy on the targeting of 'one-to-many' ads. There are significant interventions already in place and CAP considers it more effective to work within existing policy frameworks by improving compliance of addressable advertising online.</p> <p>CAP notes the respondent's points about the limitations of audience measurement in certain online environments. The ASA's enforcement approach takes this into account, however, requiring that advertisers actively hold the necessary information to demonstrate compliance with the Codes. In the absence of a robust picture of the audience, the ASA can find advertisers in breach of the Code where there is a risk of significant exposure of under-18s (see CAP's Advertising Guidance, <a href="#">Media placement restrictions: protecting children and young people Advertising Guidance</a>). Moreover, the ASA ongoing ad tech-driven monitoring activities (see the most recent report <a href="#">here</a>) demonstrate its capacity to enforce placement and targeting restrictions effectively in the online space.</p>
<b>3(c) – 1.13</b>	<b>AN</b>	The respondent suggested that the absolute volume of gambling advertising that under-18s might see should be lowered by setting the threshold at 5% where possible, setting an absolute number where possible and through substantial revisions to the Codes to reflect the growing importance of online and social media advertising.	See 3(a)–2.2 above

<b>3(c) – 1.14</b>	<b>GHA</b>	<p>The respondent pointed out that gambling accounted for a significant proportion of ad spend in the UK. The respondent believed protection of under-18s was not possible unless the level of advertising was substantially reduced on top of changes to the content. They maintained the ‘25% test’ did not balance advertising freedoms and adequate protection for under-18s. They believed that, if 25% of an audience were children permitted to seeing adverts for gambling, that represented a significant proportion of under-18s who were seemingly, what they considered, acceptable collateral damage for the potential harms. The respondent wanted to see an end to gambling advertising but recognised that that would have to take place in increments, and therefore suggest the 25% threshold was reduced to 5% in the interim.</p>	See 3(a)–2.2 above
<b>3(c) – 1.15</b>	<b>MPAC</b>	<p>The respondent expressed disappointed at CAP’s interpretation of the GambleAware evidence. They believed the Final Synthesis Report confirmed fairly clearly that the ‘25% test’ was proving entirely ineffective at meeting the stated purpose of limiting the exposure of children to gambling advertising. They cited one of the report’s conclusions: “This suggests that current rules to restrict exposure have a limited impact, including the ‘25% rule’ aimed at excluding advertising from media with an audience consisting of a 25% or more of children and young people. The research suggests that sheer exposure to gambling advertising can have an impact on attitudes towards the prevalence and acceptability of gambling, and in turn the susceptibility to gamble in the future”.</p>	<p>See 3(a)–2.2 above. Additionally, the purpose of the UK Advertising Codes’ rules on placement, targeting and scheduling is to appropriately limit the exposure of under-18s; gambling advertising can appear only in media environments where the audience is overwhelmingly adult and ads may not be targeted at under-18s via direct means. They work in conjunction with strict controls on the creative content of gambling and lotteries advertising to limit the impact of advertising under-18s do see (this consultation’s outcome entails a significant strengthening of those restrictions). As set out in the <a href="#">evaluation of responses</a> to question 1 (1(a)–2.13) and <a href="#">consultation document</a> section 3.2, there is significant evidence supporting the effectiveness of CAP and BCAP’s restrictions.</p>
<b>3(c) – 1.16</b>	<b>MPAC</b>	<p>The respondent also pointed to what they considered the scale and ubiquity of advertising to which children were exposed believing it out-of-control. They noted the Final Synthesis Report found that 82% of 11- to 17-year-olds had seen gambling advertising regularly on TV with the mean average of 5.9 a month. They also cited figures for annual spend on TV advertising by the gambling industry, which had increased to £193,548,007. The respondent maintained that the argument for not resolving the issue seemed to be based on the implausible assumption that the association between advertising exposure and susceptibility was considered moderate. The asserted that, if that were true, it was difficult to explain either the amount spent on advertising, or the growing number of children experiencing advertising-related harm. The respondent cited a press release by the BGC and research on the impact of the industry’s ‘whistle-to-whistle’ ban of betting advertising from appearing around live sport on TV. They believed it difficult to conclude that the industry itself did not view children’s exposure to gambling advertising as a negative force and one that linked to susceptibility to gamble later in life.</p>	See the <a href="#">evaluation of responses</a> to question 1 (1(a)–3.20).

<p><b>3(c) – 1.17</b></p>	<p><b>MPAC</b></p>	<p>The respondent was concerned that the ‘25% test’ was failing to reduce exposure. They noted the consultation document rejected alternative measures suggested in the GambleAware Final Synthesis Report, including moving to an absolute number instead of a percentage of the audience as being too difficult, and reducing the percentage rule for online advertising as too disruptive for the industry. They believed the onus should be on the industry to follow the success of the whistle-to-whistle ban with further conscious efforts to reduce the exposure of children and to overcome the barriers noted. The respondent believed the clearest alternative for the prevention of exposure would be to follow the example of the Italian government in a ban on almost all gambling advertising. They pointed out that that view was supported by the 2019 General Synod, the national assembly of the Church of England.</p>	<p>See 3(a)–2.2 above and the <a href="#">evaluation of responses</a> to question 1 (1(a)–3.20).</p>
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