



Sarah Gardener
Executive Director
Gambling Commission

sgardener@gamblingcommission.gov.uk

Committee of Advertising Practice
Castle House, 37-45 Paul Street
London EC2A 4LS
Telephone 020 7492 2200
Email enquiries@cap.org.uk
www.cap.org.uk

31 October 2019
By email

Dear Sarah

Re: GambleAware's Interim Synthesis Report

Since the Gambling Act 2005 came into force and relaxed controls on gambling advertising, the UK Advertising Codes have had strong rules in place to protect under-18s and other vulnerable groups from potential harms. These include broadcast scheduling and non-broadcast placement restrictions that limit under-18s' exposure to gambling ads and strict rules to govern their content: ads must not appeal particularly to under-18s and they must not include content that exploit vulnerabilities associated with gambling.

It is clearly important to separate the risks arising directly from participation in gambling and the risks arising from advertising of gambling. The evidence we have reviewed to date indicates that advertising that is compliant with the UK Advertising Codes is unlikely to contribute significantly to problem gambling.

Our rules are based on the best available evidence of gambling advertising's likely impact, but most of the evidence relates to other countries where the legal and regulatory regime for gambling and the socio-economic circumstances are different to those in the UK. That is why GambleAware's research, with its UK focus, is such an important opportunity to reflect on the considerable developments in gambling markets over the past decade to ensure that the arrangements for regulating advertising in the UK remain effective.

We understand the second stage of the research is expected around the end of the year. It should tell us more about the impact of gambling advertising on under-18s and other vulnerable groups. As an evidence-based regulator, we consider it is important to have the fullest picture possible covering both the prevalence and nature of advertising – as the present report does – and the impact advertising has at an individual level.

Legal, decent, honest and truthful

Our commitments

As we await the second part of the research, we are committing to several initiatives now that respond to GambleAware's latest findings and recommendations. This acknowledges the continuing concerns around the known and potential impact of gambling on individuals and communities, and our concern to remain on the front foot. It is worth recalling that, in 2018 and earlier this year, we published extensive updated guidance – on general responsibility matters and protecting problem gamblers and the protection of under-18s – to make clearer to industry where the line between compliant and non-compliant gambling advertising is drawn. This is backed up by the ASA's on-going enforcement work to deal with ads that breach the Codes.

In our interim response to the GambleAware research, CAP and the ASA will:

1. **Compliance and enforcement:** assess the detailed findings of the research – in particular, those related to social media - to identify and address gambling ads that, according to the research, fail to comply with the UK Advertising Code;
2. **E-sports and regulatory remit considerations:** look closely at the emerging concerns around e-sports gambling and, as appropriate, engage with the Gambling Commission to determine the legal status of this activity and the appropriate enforcement body;
3. **Exposure and targeting restrictions:** incorporate insights from the GambleAware research in CAP's review of its online media targeting guidance, *Children and Age-restricted Advertising Online* (to which CAP has already committed as part of its response to the Government's food and soft drink advertising consultation, [Further advertising restrictions for products high in fat, salt and sugar](#)); and
4. **Appeal of ad content:** assess the report's findings and recommendations relating to the appeal to the audience of different types of content in gambling ads and consider implications, if any, for the rules and guidance governing UK gambling ads.

We will update the Commission on our progress before the end of the year and continue our dialogue after we have had an opportunity to assess the second part of the GambleAware research.

The following sections provide more detail on the outline response presented above and some initial views on the report's findings and recommendations.

Compliance and enforcement

Our Compliance team is already assessing the findings of the GambleAware report, in particular the content analyses of social media and other marketing. The two rules cited in the report prohibit content from appealing particularly to under-18s (CAP rule [16.3.12](#) and BCAP [17.4.5](#)) and prohibit the use of persons who are or appear to be under 25 years of

age in gambling ads (CAP rule [16.3.14](#) and BCAP [17.4.6](#)). Where we identify gambling ads that are likely to breach the UK Advertising Codes, we will take action to have them amended or removed. This will supplement our programme of proactive monitoring and enforcement exercises¹ to tackle irresponsible gambling ads.

E-Sports and regulatory remit considerations

The GambleAware report adds to our understanding of how novel gambling and gambling-like activities (such as social gaming, e-sports and skins betting) are more prevalent, especially via influencers and affiliate marketers on social media channels.

We want to understand more about the nature of potential problems emerging in this space. Some issues are straightforwardly dealt with, for example where affiliate marketers promote licenced gambling activities or gambling operators; here, the operator is responsible for ensuring compliance with the Codes. Others are less clear cut, in particular, social media posts relating to e-sports that include references to gambling. These present challenges in terms of the licensing and legal status of the activities, and the whether or not the social media posts fall inside or outside the remit of the UK Advertising Code.

This work will be important in defining and explaining more clearly what are often quite technical distinctions, so that regulators can approach any problems in a joined-up way, taking into account the extent of their respective remits and powers to act.

Exposure and targeting restrictions

The Gambling Act 2005 removed advertising prohibitions previously in place for most gambling products. As a natural and anticipated consequence of this liberalisation, the volume of gambling ads has increased very significantly. The freedom for gambling operators to market their products has also coincided with a maturing online environment and the emergence of digital gambling platforms. Online gambling is now readily accessible through smartphone and other internet-connected devices.

GambleAware's research includes data and qualitative findings that provide further insights on gambling advertising in the digital world. It also helps to underscore the importance and effect of a pan-media regulatory framework to appropriately limit under-18s' exposure to gambling ads.

- The GambleAware report found no examples of gambling ads directly targeting an under-18 audience.
- The ASA recently [announced enforcement work](#) based on monitoring involving online avatars that did identify a small but significant number of instances of non-compliance mostly related to the unacceptable behaviour of an individual operator.

¹ CAP's recent [avatar-based enforcement project](#) has been effective in identifying and tackling problematic practices among gambling operators. This has been backed by [continuing enforcement work](#) in online spaces centring on sensitive product categories including gambling.

- The ASA's publication of comprehensive [data on children's exposure](#) to gambling advertising provides a corresponding picture for TV. Although exposure increased after 2007 with new legislation that allowed more freedom for operators to advertise, gambling ads made up under 2% of all the TV ads that children saw, on average, every year between 2008 and 2017. For 2017, that equated to approximately 65 seconds per week on average.

This exposure data must be considered alongside evidence of the impact of gambling ads. To date, the evidence available does not suggest that gambling ads that comply with the UK Advertising Codes contribute significantly to problem gambling. We nevertheless look forward to assessing GambleAware's second tranche of research to test our understanding.

The gambling rules that prevent unacceptable targeting of audiences aged 17 or younger are based on policies common to other product category areas, like ads for alcohol and high fat, sugar or salt food and soft drink products. The ASA and CAP's [response](#) to the Department of Health and Social Care's consultation on food and soft drink advertising included a commitment "to reviewing and potentially revising its provisions on the responsible targeting of online ads, targeted on the basis of known or inferred information about an audience group" (see p. 26). We will assess the case for further strengthening this guidance, incorporating insights from the GambleAware report and lessons learned from the ASA's application of the targeting rules, especially to online ads.

Appeal of ad content

Working in conjunction with the rules that limit under-18s' exposure to gambling advertising are extensive restrictions on the kinds of creative content acceptable in gambling ads. These seek to ensure that content does not appeal particularly to under-18s and protects adults from messages that are irresponsible. The GambleAware findings provide a useful source of different kinds of creative content present in a large sample of gambling marketing. As outlined, we will assess this material to assess its conformity with the UK Advertising Code and, as necessary, take follow-up action to remove or amend non-compliant ads.

CAP's rules establish a test based on the relative appeal of advertising content. They prohibit content that is likely to be of greater appeal to under-18s (including particular age groups such as teenagers) than it is to adults. The GambleAware recommendations invite regulators to consider whether the 'particular appeal' test remains proportionate in the light of evidence, which suggests the *general* content of gambling ads appeals to people aged older and people aged younger than 18.

When we have completed the Compliance assessment – which will determine the extent to which we can take action under the present rules – we will start to consider whether there are regulatory implications for the rules and guidance notes themselves. It is obviously important, however, that we consider the findings on 'appeal' against the second tranche of GambleAware research to ensure we have the full picture before deciding on whether to take action.

Gambling remains high on our list of priorities going into 2020. We hope the commitments outlined in this letter reinforce that, as well as our continuing aim of working closely with the Commission to contribute to wider policy developments related to gambling.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Coupal'. The signature is fluid and cursive, with the first letter 'S' being large and prominent.

Shahriar Coupal
Director, Committees of Advertising Practice

CC: GambleAware
Department for Digital, Culture, Media and Sport
Advisory Board on Safer Gambling