

Response to CAP *Gambling and Lottery Advertising Rules*

January 2021

1. About ISBA

- 1.1. ISBA is the only body in the UK that enables advertisers to understand their industry and shape its future, because it brings together a powerful network of marketers with common interests, empowers decision-making with knowledge and insight and gives single voice to advocacy for the improvement of the industry.
- 1.2. ISBA is a member of the Advertising Association and represents advertisers on the Committee of Advertising Practice and the Broadcast Committee of Advertising Practice, sister organisations of the Advertising Standards Association, which are responsible for writing the Advertising Codes. We are also members of the World Federation of Advertisers. We are able to use our leadership role in such bodies to set and promote high industry standards as well as a robust self-regulatory regime.

2. Context

- 2.1. This consultation comes at a time of increased scrutiny of the gambling sector, at a time when our economy and society are under enormous strain from the coronavirus pandemic. Regulators and policymakers are understandably motivated to ensure that consumers are making informed choices and are being advertised to responsibly, and that action is taken to protect people’s health and well-being – particularly children and vulnerable groups.
- 2.2. CAP places children and the vulnerable at the heart of its work, and ISBA supports this focus. At the same time, we recognise that gambling is a legal activity which is enjoyed by millions of adults, and which can be done safely and securely. We support the right of our members to responsibly advertise what is a legitimate commercial endeavour, which can bring enjoyment to adults across the country.
- 2.3. In pursuing that right, we welcome the measures which gambling brands in ISBA membership have taken to promote responsible gambling and prevent harm. We also welcomed the ten-point plan set out at the beginning of the March 2019 lockdown by the Betting and Gaming Council which, among other measures, took action to ensure appropriate and responsible advertising, including monitoring volume; reported all illegal, rogue advertising from black market online operators; and increased safer gambling messages across all sites and direct to all customers.¹
- 2.4. As the CAP consultation notes, the UK’s advertising Codes already contain strict rules around gambling advertising, controlling “the scheduling, placement and targeting of gambling ads and restrict[ing] their creative content to protect children ... young people ... and other vulnerable groups”.² These rules “balance the rights of gambling operators to advertise their products as a legitimate leisure activity with the need to protect children, young persons and other vulnerable groups from gambling advertising-

¹ Betting and Gaming Council, “[10 pledge action plan announced](#)”, 27 March 2020.

² [CAP and BCAP Consultation: Responding to the Findings of the GambleAware Final Synthesis Report](#), p7.

related harms”.³ We believe that this should continue to be the goal of CAP/BCAP rules pertaining to gambling advertising, while recognising that the implementation of that principle will inevitably be subject to review given the fast-changing nature of digital markets (and pending the outcome of the Government’s announced review of the Gambling Act 2005).

- 2.5. Where there are to be changes in the Codes, we support evidence-led reform, rooted in real-world understanding of gambling behaviours and the level of consumption of gambling advertising, if any, by children, young people, and vulnerable groups. We note CAP’s assessment of the evidence presented in GambleAware’s Final Synthesis Report, that “the evidence does not suggest that, under the current controls on gambling operators and their advertising, that UK gambling advertising is inherently harmful or a significant cause of harm”. It also notes that the “most prominent findings – on the appeal of creative content to vulnerable groups and the association between exposure to gambling advertising and intentions to gamble among some under-18s – suggest, at most, a modest impact”.⁴
- 2.6. We do, however, recognise that the Final Synthesis Report found “a significant association between the reported exposure to advertising of under-18s who were non-gamblers and their intention to gamble”,⁵ while also finding that “engagement with and positive views of gambling advertising among under-18s and other vulnerable groups are limited” and that “the overall trend in underage participation in any gambling activity ... has declined significantly since 2011 and adult problem gambling rates have remained stable”.⁶
- 2.7. That being said, on the point about the intention of individuals to gamble, we note that the definition of ‘susceptibility’ includes those who responded to the ScotCen quantitative study and said that they would ‘probably not’ gamble, as well as those who said that they ‘definitely’ or ‘probably would’. Only those who stated that they ‘definitely would not’ were defined as ‘not susceptible’. This means that individuals who said that they probably would not gamble were classified in the same way as those who said that they definitely or probably would. There is a clear distinction between these categories which does not seem to have fed through to the final consultation – likely because the detailed survey responses were not available when the consultation was published. We support the view that CAP consider this information, and assess whether this evidence base is sufficient to justify the changes proposed, and whether it is consistent with the wish to keep regulatory burdens to a minimum.
- 2.8. Overall, in these circumstances, we believe that while there may be an argument for amendments to the Codes to take account of recent developments, a strong, evidence-led case must be made for these changes – especially given some of the fundamental challenges to some of our members’ operating models and brands that the proposals in the consultation represent.

³ Ibid., p8.

⁴ Ibid., p16.

⁵ Ibid., p17.

⁶ Ibid., p5.

3. Consultation Questions Response

'Strong appeal' and sports personalities

- 3.1. We have carefully noted the proposed amendment to the Codes, replacing 'particular' appeal to under-18s with 'strong' appeal, and note the section on how this is proposed to be defined. As was the case with our submission to the pre-consultation, we urge clarity over the final definition of these terms, and clear guidance as to how they will be assessed in practice.
- 3.2. In the first instance, on the definition of the term 'strong', we note the proposal to follow the guidance which has previously been issued with the alcohol sections of the Codes. Our members have expressed their concern that this is a subjective term and that they would wish to see specific examples of what would be considered 'strong' appeal, so that they could better assess what this change would mean for their advertising and whether the change is indeed proportionate.
- 3.3. We also note CAP's assertion that the ASA would "take a strict line in its approach to the application of any new test of appeal".⁷ This being the case, we believe it is important to be as clear as possible about the definition of 'strong' appeal, to give clear, real-world examples of how it could apply, and also to be clear about how an advertiser could prove their case if one were brought against them. On what grounds could an advertiser make the case that a personality did not have 'strong' appeal?
- 3.4. On a related vein, we believe that clarity is needed on the metrics on which would it be judged that a personality had a 'strong' appeal to under-18s. The consultation mentions social media follower demographics as one example; would there be any thresholds for this? Are there other potential metrics in prospect? Members have argued that there is the possibility for very loose interpretation of whether a personality is 'likely to be followed' by under-18s, and have queried what criteria this is to be judged upon and at what threshold.
- 3.5. Members have also raised the issue of ensuring that they are able to comply with the amended Code should this change go ahead, noting that they would clearly wish to train their staff to comply, but that this could be made more difficult by the lack of specific criteria against which judgments can be made. CAP should ensure that full guidance and support is available should these changes be made.
- 3.6. It is clear that the proposed new approach would likely prohibit specific types of advertising content, including the use of prominent footballers and other sportspeople, where those sports are likely to have 'strong' appeal to under-18s. For some of our members, the promotion of sports brands represents almost the entirety of their business model. It would accordingly be extremely difficult for them to advertise at all without the use of sports personalities – especially, for example, in relation to boxing or mixed martial arts events, where the event itself is often titled by the competitors' names. They have queried whether a sweeping restriction on the use of all sportspeople when trying to promote a sports brand is reasonable or feasible, and whether this accords with the consultation's recognition that it is not the role of CAP/BCAP to severely restrict a licensed operator's ability to advertise its products or services.

⁷ Ibid., p.24.

- 3.7. In keeping with point 3.4, members would also seek clarity on how the 'likelihood' of a sportsperson to be followed by under-18s is to be defined. If this is to be decided solely on the basis of the person being a professional footballer, then members have raised the question of whether any such person – even an unknown person who is playing football – is likely to be caught by the provision, given the game's popularity with under 18s. Some members previously raised the question of whether the end result will be that football promotions are ruled out altogether, although this point appears to be covered by the exemption set out in section 6.4.4 of the consultation.⁸
- 3.8. However, members have also raised the issue of the different appeal likely to be enjoyed by retired footballers, or former senior people within the game. Individuals from previous seasons of football competition may not enjoy as wide appeal with under-18s as the more recently retired, or current players. They have also queried whether former managers (for example, Harry Redknapp) could be held to have 'strong' appeal when compared, for example, to a contemporary footballer.

Responsibility and problem gambling

- 3.9. Moving to the consultation questions relating to proposed additions to the responsibility and problem gambling guidance, we note the proposed changes on presenting complex bets in a way that emphasises skill or intelligence; presenting gambling as a way to be a part of a community based on skill; implying that money back offers security; using humour or light-heartedness to play down the risks of gambling; and unrealistic portrayals of winners (for example, winning first time, or easily).
- 3.10. As stated above, we recognise the motivation behind these proposed changes, and understand the public policy challenge for industry and regulators. Industry remains committed to playing its full part in addressing this challenge. We would also refer to the Betting and Gaming Council consultation response for analyses of these proposed changes and their impact in practice.
- 3.11. On prohibiting the presentation of gambling as a way to be part of a community based on skill, members have raised the specific matter of bingo customers. The sense of community which bingo generates is often extremely important to certain segments of the population and is far from harmful. Members question how belonging to a community of this kind could cause harm in the context suggested.
- 3.12. On money back offers, members have asked whether the prohibition on implications that money back offers create security means that the ASA is considering a ban on all such offers.
- 3.13. On the use of animation, members have raised points regarding the use of this in order to deliver advertising which also conveys a public health message. For example, one member has used animation which contained a message on social distancing during the coronavirus crisis. The question arises of whether there may be exemptions for examples of this kind.
- 3.14. More widely, as with the use of sports advertising, it is the case that some ISBA members' brand identities are substantially or wholly built around animation. Any blanket restriction would likely require an absolute reset of that identity. This would clearly impact widely on the brand's operation, beyond the issue of advertising which

⁸ Ibid., p25.

may impact on children, young people, and vulnerable adults, and we would query whether this is the intention of the proposed changes to the Codes.

From: info@mediaireland.org

Sent:

To:

Subject:

Consultation on Advertising Gambling

Media Ireland

Hi

Only point we would want to raise on this is that different laws apply to Gambling in Northern Ireland and we would be grateful that any changes to the BCAP Code should take full account of this in order to provide clarity which to date has been lacking.

In the past, regulatory bodies have advised that stations in NI take legal advice, and when we ask solicitor and counsel, they advise seeking direction from the regulatory bodies.

Many thanks,

Money and Mental Health response to CAP and BCAP's consultation responding to the findings of the GambleAware Final Synthesis Report

Introduction

The Money and Mental Health Policy Institute is a research charity established by Martin Lewis to break the vicious cycle of money and mental health problems. We aim to be a world-class centre of expertise developing practical policy solutions, working in partnership with those providing services, those who shape them, and those using them, to find out what really works. Everything we do is rooted in the lived experience of our Research Community, a group of 5,000 people with personal experience of mental health problems.

This written submission has been informed by this powerful, lived experience testimony, as well as our wider body of research. Unless otherwise specified, all quotes in this response are drawn directly from our Research Community. In particular, it makes reference to research conducted for a recent report, *A Safer Bet*, published in July 2020 that looked at people with mental health problems' experiences of online gambling. This involved a survey of 238 members of our Research Community who had gambled online, as well as a focus group. For more information please read our *A Safer Bet* report [here](#).

In this document, we respond to Questions 2a and 3b.

Background

- In any given year, one in four people will experience a mental health problem,¹ and over a lifetime this rises to nearly half the population². However, we do not always know when we are unwell, or receive treatment. Over a third (36%) of people with a common mental disorder have never received a diagnosis, and 62% are not currently receiving treatment.³
- The incomes of people with mental health problems are significantly lower than average, for people with common mental disorders like anxiety or depression this equates to an income gap of £8,400.⁴ This can mean they have less savings to fall back on when their income drops.

¹ McManus S et al. Adult psychiatric morbidity in England, 2007. Results of a household survey. NHS Information Centre for Health and Social Care. 2009.

² Mental Health Foundation. Fundamental facts about mental health. 2016.

³ McManus S et al. Mental health and wellbeing in England: Adult Psychiatric Morbidity Survey 2014. NHS Digital. 2016.

⁴ Bond N and D'Arcy C. Mind the income gap. Money and Mental Health Policy Institute. 2020.

- People with mental health problems can experience a range of difficulties accessing the benefits system, which can make it harder to claim entitlements.⁵
- Common symptoms of mental health problems, like low motivation, unreliable memory, limited concentration and reduced planning and problem-solving abilities can make managing money significantly harder.⁶
- People with mental health problems are three and a half times more likely to be in problem debt than those without, and half (46%) of adults in problem debt also have a mental health problem.⁷
- Mental health and financial problems can form a devastating, self-reinforcing cycle. Over 420,000 people in problem debt consider taking their own life in England each year, and more than 100,000 people in debt actually attempt suicide.⁸
- Mental health problems can impact the reasons why we gamble online, and make it harder to stay in control and cut down on the amount we gamble. A quarter (24%) of respondents to our Research Community survey had experienced financial problems as a result of gambling online, and one in three (32%) had bet more than they could afford to lose. Over a third (36%) had become stressed or anxious because of gambling online and the same proportion had felt guilty about the way they gamble.⁹

⁵ Bond N, Braverman R and Evans K. The benefits assault course. Money and Mental Health Policy Institute. 2019.

⁶ Holkar M. Seeing through the fog. Money and Mental Health Policy Institute. 2017.

⁷ Holkar M. Debt and mental health: a statistical update. Money and Mental Health Policy Institute. 2019.

⁸ Bond N and Holkar M. A silent killer: Breaking the link between financial difficulty and suicide. Money and Mental Health Policy Institute. 2018.

⁹ Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020.

Question 2:

- a. **Do respondents agree with CAP and BCAP's proposed additions to the Gambling advertising: responsibility and problem gambling guidance? If not, please state why.**

We welcome the proposed additions to the guidance, which we believe will give more clarity to operators and help prevent harm. The additions to section 4.3 on impulsiveness and urgency are particularly relevant for people with mental health problems, as increased impulsivity is a common symptom of several conditions.¹⁰ In our research on online gambling, we found that many people with mental health problems felt that online gambling adverts were hard to resist when unwell.¹¹

"I find it really hard to resist the pop up adverts for gambling online. It's really tempting to click and have a go."

Expert by experience

This is further exacerbated by the short journey from seeing an advert online to making a bet. It is therefore important that gambling adverts do not encourage impulsive behaviour or put undue pressure on the audience to gamble, and extra guidance on what this means in practice is welcome.

The additions to both sections 4.4 and 6.2, with particular regard to the portrayal of winners, are also welcome. Our research identified two common reasons why people with mental health problems might gamble that are particularly relevant to the additions. Firstly, for many, online gambling was seen as a means to solve financial problems. People with a mental health problem are more likely to be in problem debt, falling seriously behind on repayments in the last year,¹² and symptoms such as difficulty thinking clearly can make it harder for people to weigh up decisions and lead to an unrealistic view of what gambling can offer.¹³ Secondly, online gambling was described by others as a way to escape poor mental health, providing a short-term means of lifting their mood.¹⁴ Adverts that unrealistically depict gamblers as winning easily or take advantage of someone's own hopes of winning can, therefore, be especially problematic for people with mental health problems.

"Gambling is like believing in a fairy tale. That something will come along one [day] to make everything better and take all your troubles away."

Expert by experience

¹⁰ Holka M. Seeing through the fog. Money and Mental Health Policy Institute. 2017.

¹¹ Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020.

¹² Holkar M. Debt and mental health: A statistical update. Money and Mental Health Policy Institute. 2019

¹³ Holkar M. Seeing through the fog. Money and Mental Health Policy Institute. 2017.

¹⁴ Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020.

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.**

Adverts for gambling are widespread and people can be exposed to them in a variety of different places. For many people, this can lead to gambling and for some it can directly lead to harm. In particular, adverts can make it harder for people who have decided to reduce their gambling to do so and it can lead to them returning to their earlier behaviour.

Our research found that many people with mental health problems feel overwhelmed by the amount of gambling adverts online. Three-quarters (73%) of Research Community respondents said they always or often see a gambling advert when online, and 85% felt it was impossible to avoid seeing online gambling adverts.¹⁵

“The online adverts are horrendous, there feels like there is no escape at times.”

Expert by experience

Previous research has suggested that seeing an advert can lead to gambling behaviour. For example, the Gambling Commission found that half (52%) of online gamblers with a social media account gambled after seeing an advert on social media.¹⁶ Offers such as free bets that are designed to get people to sign up have also been found to sometimes encourage longer and riskier gambling behaviour.¹⁷ The Ipsos MORI report on behalf of GambleAware also found such a connection.¹⁸

Within our own research, we heard from people with lived experience of mental health problems and online gambling who felt that adverts were difficult to resist and led them to gamble. In particular, there were 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. People who have taken the decision to cut down on gambling are likely to have done so after experiencing some form of gambling-related harm and as such should be considered vulnerable to further harm. It can be very difficult to limit gambling: only 6% of Research

¹⁵ Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020.

¹⁶ Gambling Commission. Gambling participation in 2019: behaviour, awareness and attitudes. 2020

¹⁷ The Behavioural Insights Team. Can behavioural insights be used to reduce risky play in online environments? 2018

¹⁸ Ipsos MORI. Final Synthesis Report: The impact of gambling marketing and advertising on children, young people and vulnerable adults. GambleAware. 2020.

Community respondents agree it was an easy process, while 71% disagreed.¹⁹ Tools designed to block gambling adverts online are limited in number and effectiveness, and adverts on television appear during a range of programmes. Seeing adverts during the difficult period of trying to cut down can lead to people returning to gambling.²⁰

“Facebook adverts cannot be turned off for gambling, only reported as spam, so even after you've tried quitting you still get bombarded with them.”

Expert by experience

¹⁹ Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020

²⁰ 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.

Evidence submitted by Mission and Public Affairs Council on stricter rules for gambling ads

Introduction

Who is submitting this evidence?

1. The Mission & Public Affairs Council (MPAC) of the Church of England is the body responsible for overseeing research and comment on social and political issues on behalf of the Church. The Council comprises a representative group of bishops, clergy and lay people with interest and expertise in the relevant areas, and reports to the General Synod through the Archbishops' Council.
2. We are happy to be contacted by the ASA and CAP in relation to this response. Please contact
Mission and Public Affairs,

Why are we submitting this evidence?

3. The Church of England is one of the largest grassroots organisations in the country, with a presence in every community. Our response is based on experience of supporting vulnerable people across the country.
4. The Church has a particular concern for vulnerable children. There are 4644 Church of England schools, educating around a million students. This educational commitment is combined with parish and youth work activities that brings the Church into contact with thousands of families each year. Accordingly, we operate on the frontline of responding to children and parents' concerns about gambling and in providing support services to those experiencing gambling-related harm.
5. In addition, the Church has a long history of involvement on gambling and gaming. This has included an MPAC response to the 2019 House of Lords' Call for Evidence on Gambling, a 2020 response to the DCMS on loot boxes and papers from the Ethical Investment Advisory Group.
6. The Church of England believes that children are at particular risk when exposed to gambling and/or encouraged to engage in gambling behaviours and habits and that every effort should be taken to restrict their exposure and access to gambling in all its forms.
7. In February 2019 the General Synod of the Church of England debated advertising and gambling. Many contributions noted significant concerns with the ubiquity and pervasiveness of gambling adverts, and in particular the widespread exposure of children.

Consultation question 1.

a) Do respondents agree with the proposed amendments to CAP rule 16.3.12 (gambling) and BCAP rule 17.4.5 (gambling)?

1. We recognise that these proposals represent an improvement over and above the current status quo. Bringing gambling advertising at least into line with alcohol advertising is a step forward. The switch from 'particular' to 'strong' appeal is a welcome recognition that

advertises can be highly suggestive to children even in cases where children are not intended to constitute the primary audience.

2. The accompanying guidance could be strengthened further with a restriction on depiction of gameplay (e.g. depictions of online bingo or slot gameplay on phones and computer devices which show clips of simulated gameplay). The ASA has previously recognised that gambling-like games or games that feature elements of simulated gambling activity are often popular with children and young people and standards, and noted that such games should not be used to promote real-money gambling products (ASA 2019). However, there is no apparent restriction in these rules to prevent advertisers from depicting people playing games with gambling features as part of advertising. We submit that such gameplay elements have a strong appeal to children and ought to be included in the guidance.
3. While recognising the proposals as an improvement, as noted below, we would urge consideration of going further, towards a complete ban more in line with tobacco. This will be discussed in greater depth in relation to further answers below.

b) Do respondents agree with the proposed amendments (set out in section 6.4.1 above) to CAP rule 17.13 (lotteries) and BCAP rule 18.5 (lotteries)? If not, please state why including any alternative approach(es) to achieving CAP and BCAP's policy aims.

4. As above, we acknowledge that this proposal represents an improvement on the current rules, and in particular the recognition that a 'strong appeal' is a better standard to protect children from harmful advertising than 'particular appeal'.

c) Do respondents consider the intended application of the rules proposed in questions 1(a) and 1(b) and the guidance to support their application (set out in sections 6.4.2 and 6.4.3 above) are broadly proportionate to the intended purpose of preventing gambling ads from appealing 'strongly' to under-18s? If not, please state why.

5. These proposals would go some way to making gambling advertising less appealing to children and that is to be welcomed.
6. However, any realistic assessment of the likely effectiveness of these changes will still have to reckon with the fact that advertising is designed by its nature to be appealing to a range of audiences, and that children are highly susceptible to the products marketed by gambling companies. The current gambling advertising industry (which has been described by the Bishop of St Albans, Vice Chair of the Peers for Gambling Reform Group as "out of control" to the Church of England's General Synod) amounts to levels of exposure in which even moderate appeal is likely to have significant consequences for children's perceptions of gambling. GambleAware estimated the spend, excluding online advertising, has: 'Steadily increased year on year from £264,657,325 in 2015 to £328,945,916 in 2018. This represents a 24% increase from 2015 to 2018' (GambleAware 2020). According to the GambleAware/Ipsos Mori report only four per cent % of 11-24 year olds reported having no exposure to gambling marketing in the last month.
7. Given the sheer reported levels of exposure and the high level of brand awareness of gambling companies among children it is implausible to imagine that even moderately appealing advertising would not have an impact on children, and amount to a widespread normalisation of gambling as a recreational activity. This is confirmed in the GambleAware report and discussed in relation to Question 3a below). Efforts at removing adverts which

are highly appealing to children are, therefore, welcome, but ultimately unlikely to significantly reduce the harms experienced by children.

8. This is underlined by the fact that aspects of gambling advertising which are not designed to appeal strongly to children can still do so. The widespread association of gambling adverts with football is particularly worrying in this respect. Most children surveyed in one study, aged between 8-16 years were able to recall the names 30 of sports betting brands, and male children aged 12-16 years who play football or attend matches were more likely to recall brand names than younger children, girls or those who played other sports (Thomas, et al., 2016). Nothing in these proposed rules would impact on the fact that attending a football match or watching a highlights package such as BBC's Match of the Day amounts to a complete immersion in gambling advertising which even if not designed to be strongly appealing to children, can certainly have an influential impact upon them.
9. The same point holds true when it comes to the ASA's rather murky rulings on personalities. The 2015 case of David Beckham and the Haig Club advert is a case in point of a lack of consistency and clarity in approach. The note that David Beckham may primarily be known as a retired footballer but his contemporary profile and pull as a model, fashion icon and celebrity continues to have an enormous impact on under 18s. Even in the 2015 case Diageo's submitted evidence noted that 24% of Beckham's Facebook followers were under 18, which seems perilously close to the 25% rule. In terms of scale and reach Beckham is at the time of writing the 35th most followed Instagram account, suggesting an impact well in excess of any claim that he is simply a retired footballer followed most closely by those with a nostalgia for the 1998 World Cup. This suggests a serious lack of clarity about the criteria by which strong appeal is going to be assessed in relation to personalities and their appeal to children.
10. Other forms of advertising, particularly but not exclusively online, are simply designed to increase brand association or to share content which is not always widely understood by children to amount to advertising (Smith et al 2019). Again, the issue here is less with the content of the advertising per se, but in the building of normalization and high levels of awareness of brands without appropriate clarity that these are advertising or with appropriate focus on age restrictions. The use of humour, or close association with sports content consumed by children on the internet, carry a high level of appeal not confronted by these proposed rules changes.
11. In light of this, and the evidence of harms associated with gambling discussed in greater detail in answer to question 3 below, there is a strong case to go significantly beyond the rule changes suggested here. In an effort to protect children from harms associated with advertising more attention could be given to the emerging evidence from Italy and Spain, both of who have responded to levels of gambling related harm with significant new restrictions on gambling advertising.

d) Do respondents agree with the proposal (set out in section 6.4.4 above) to exempt from the rules, proposed in 1(a) and 1(b), certain content inextricably linked to licensed gambling activity or the good causes that benefit from lottery funds? If not, please state why.

12. The government recently announced that 'Owing to emerging evidence of harm, public opinion and the importance of protecting young people, we have decided to increase the minimum age to play National Lottery games to 18. The legislative change will come into

force in October 2021.’ (UK Gov December 2020). This reflects a precautionary principle that since lotteries can be linked to gambling related harms in young people, young people should be prevented from playing them.

13. Following the same logic, it is hard to justify permitting exceptions to the rules on advertising where there are good causes that benefit. Either lotteries pose a risk to children or they do not. If they do (as the government’s recent ruling on National Lottery products seems to indicate) then every effort should be made to prevent advertising for lotteries from appealing to children. There is no reason to believe that gambling related harms are reduced if the proceeds of that activity support good causes. The welfare and wellbeing of children ought to overrule such considerations.
14. More concerning is that 6.4.4 explicitly notes that football ought to be excluded from these rules on the basis that ‘Applying a “strong appeal” test to football and other subjects, which are held to be popular with under-18s and inextricably linked with the licensed gambling activity would effectively prevent the advertisement of those licensed activities.’ And notes that the Gambling Commission is responsible for licensing gambling operators and ensuring their provision of products is compatible with the Gambling Act 2005’s requirement to ensure children and young people remain protected.
15. This seems an abrogation of responsibility. The Gambling Commission is responsible for ensuring that the products are compatible with protecting young people, not to rule on whether the advertising of those products is harmful. When it comes to football there is demonstrable evidence that the scale of advertising for gambling products in football is highly problematic. Male children aged 12-16 years who play football or attend matches were more likely to recall brand names than younger children, girls or those who played other sports (Thomas, et al., 2016).
16. The Bishop of St Albans told the Church of England General Synod in 2019: ‘I know families that will not let their children watch football matches on television because they feel their children are being groomed into gambling’ (Church of England 2019). Nor is the Whistle to Whistle ban likely to be effective when half the Premiership teams have gambling sponsorship on their shirts and when research demonstrates viewers are exposed to more gambling adverts on the BBC’s Match of the Day than watching a live TV broadcast on Sky (Cassidy, et al., August 10, 2017). The result of the industry’s involvement in sports was highlighted by a study by Dr Darragh McGee who suggested football supporters in both Great Britain and Northern Ireland have become used to gambling being a central aspect of enjoying sport. This includes losing the ability to watch, or discuss, football unless they place multiple bets and focus on gambling while commonly owning ‘up to 25 accounts with online gambling companies’ (Conn, January 10, 2019).
17. It seriously undermines the stated commitment to protect children and vulnerable people if such an out-of-control sector of the gambling advertising industry is allowed to go unchecked in an area where there clearly is a strong appeal to children and young people.

e) Do respondents agree the rules proposed in questions 1(a) and 1(b) should not apply to advertisements restricted on the basis of robust age-verification measures (set out in section 6.4.5 above), which, for all intents and purposes, exclude under-18s from the audience? If not, please state why.

18. The proposal notes that ‘To meet the requirement, marketing data would have to be drawn from sources compliant with the Gambling Commission’s age verification requirements.’ This is problematic in so far as the GC’s ability to enforce robust age verification is demonstrably

lacking, as shown simply by the scale of children experiencing gambling-related harm. Gambling Commission children and young people surveys consistently show that thousands of children each year take part in supposedly age restricted gambling activities (Gambling Commission 2018).

19. If, as MPAC has previously called for in evidence submitted to the House of Lords' Call for Evidence on Gambling, there was a robust, regulator-created age verification system to guarantee all operators have the same standards of protection then this proposal would have more weight (MPAC 2019). William Hill have previously been revealed, alongside PaddyPower and Betfair, as having adverts for their products in mobile phone apps approved for use by seven-year-olds (Davies, June 19, 2019). It is difficult to have confidence, therefore, that the industry is presently capable or willing of ensuring that its age verification accurately excludes under-18s, and we would urge caution in allowing exceptions to the rules until such time as this is resolved.

Consultation Question 2

- A. Do respondents agree with CAP and BCAP's proposed additions to the [*Gambling advertising: responsibility and problem gambling*](#) guidance? If not, please state why.
20. The most effective means of preventing harms associated with gambling advertising would be to ban or significantly restrict all (or almost all) gambling advertising, as in the Italian legislation. However, these proposed additions, are welcome and reflect the GambleAware research. The proposed restrictions on implying a level of control which is erroneous, and crackdowns on trivialization are particularly welcome.
- B. Do respondents consider that there are additional provisions, which might be added to better meet CAP and BCAP's objective of ensuring that its guidance protects vulnerable adults from ad content with the potential for gambling advertising-related harm? If so, please set out the reasons including reference to the evidence base, further information and examples as necessary
21. As part of the section on erroneous perceptions of risk and control, we welcome the restriction on "implying that money back offers create security (for example, because they give gamblers the chance to play again if they fail or that a bet is 'risk free' or low risk)." We believe that this same logic could be applied more broadly to the dangers of inducement bets more widely, for example, those that encourage registering with a remote operator and getting a varied amount of money 'free' or in 'credit' form. Research indicates that such inducement bets 'increased electrodermal activity while viewing the advertisements [which] was associated with greater severity of gambling-related harm ($p < .001$), as well as greater ratings of desire for most advertisements. Rating of desire was, likewise, positively associated with gambling-related harm ($p < .001$).' (Lole et al 2020).
22. Inducement bets have also been found to be 'subject to numerous terms and conditions which were complex, difficult to find, and obscured by legalistic language. Play-through conditions of bonus bets were particularly difficult to interpret and failed basic requirements for informed choice. Website advertisements for inducements were prominently promoted but few contained a responsible gambling message.' (Hing et al 2017).

23. One example of the above, which has been challenged by campaigners and academics is the request-a-bet product that was heavily used during the 2018 World Cup. These types of bets often rely on complex combinations which appear to sports fans achievable but rarely pay out (Newall et al 2019). The high-profit margin bets provide few chances for punters to win large amounts of money but appear as if they potentially could.
24. A further concern, highlighted by the All-Party Parliamentary Group (APPG) on Gambling-Related Harm in a 2019 discussion is the capability of firms to 'knit' online data about those who suffer from gambling-related harm with adverts for addictive products. This had already occurred in 2017 when gambling companies were accused of using third-party companies to 'harvest people's data' in order to 'target people on low incomes and those who have stopped gambling' (Busby, August 31, 2017). More guidance from the ASA on the use of data harvesting and vulnerable adults would be welcome.

Consultation 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.

25. We are extremely disappointed that this is the conclusion that the CAP has chosen to take of the research, and will consider asking the statistics watchdog to consider whether this is a fair assessment of the research.. The GambleAware research explicitly notes that while it is 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." [GambleAware 2020 p69]
26. 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." (GambleAware 2020). Though causality is notoriously hard to establish, advertising and marketing has been shown recently in British studies to 'influence the normative environment for gambling and encourage some youth to want to gamble' (Wardle et al, 2019).
27. Furthermore, while only a relatively small number of children have been shown by the GC surveys to have actively engaged with advertising and thereafter engaged immediately in gambling, there was a minority of 7% who did so. While representing a small minority that nevertheless would amount to over 970,000 children. (Gambling Commission 2018).
28. The argument that exposure does not lead to susceptibility does not pass a basic test of plausibility. It would require us to believe that the industry, which has increased advertising spending year on year from £264,657,325 in 2015 to £328,945,916 in 2018, a 24% increase

from 2015 to 2018, does not believe that this increased level of investment is related to any increased susceptibility to gambling. This is also the assessment of the House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry who note in their report that “Plainly the companies would not spend increasingly large sums on advertising if they did not believe that this would increase either the overall amount gambled, or the amount gambled with their company, or both, and it does indeed seem counter-intuitive that this should not also result in an increase in gambling-related harms.” (House of Lords 2020)

29. If longitudinal evidence is hard to assess this must primarily be blamed on a refusal on the part of the industry to release data for independent analysis and research. While data is held confidentially by the gambling industry and its advertising and marketing agencies, researchers will be unable to properly assess causality. This point has been made repeatedly, notably as a firm recommendation in the report of the House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry:

598. Gambling companies should make freely available to researchers, and to those commissioning research, data sets with the information they have about those gambling with them online, and their communications with them (anonymised if necessary). Similar information in relation to those gambling offline should also be provided if it is available. (House of Lords 2020).

30. The evidence of gambling related harm in under 18s suggests that the present measures are ineffective. More attention should be given to international comparisons. Italy responded to a fourfold increase in gambling-related harm in the past decade with a Dignity Decree law which bans all adverts (excluding current ad-deals and the Government-approved lotteries) (Kelly, July 5, 2018). This follows the logical conclusion that since children are gambling and subject to gambling related harms, and since advertising and exposure must be a causal factor in encouraging gambling, then more comprehensive restrictions are required.

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.

31. As above, we are disappointed that this is the interpretation of the GambleAware evidence presented. The report seems to fairly clearly confirm that the 25% test is proving entirely ineffective at meeting the stated purpose of limiting the exposure of children to gambling advertising. Indeed the conclusion that “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” seems unambiguous.
32. The scale and ubiquity of advertising to which children are exposed is out-of-control. The Ipsos Mori data notes that 82% of 11-17 year olds see gambling advertising regularly on TV,

in fact the mean average is that they see 5.9 a month (GambleAware 2020). Nor is this a surprise when the annual spend on TV advertising by the gambling industry has increased to a staggering £193,548,007.

33. The argument for not resolving this seems again to be based on the implausible assumption, as noted above, that the association between advertising exposure and susceptibility is considered moderate. If this were true, then it is difficult to explain either the amount spent on advertising, or the growing number of children experiencing advertising related harm.
34. Indeed, the idea that exposure is, in and of itself, a negative when it comes to children is explicitly supported by the industry itself in other areas. In August last year the BGC celebrated the success of the whistle-to-whistle ban with a statement from the Chief Executive Michael Dugher that noted that:

“The success of the whistle to whistle ban is a clear example of that commitment and I’m very pleased at how effective it has been during its first year in operation. In particular, it’s encouraging to see that it has effectively eliminated children’s ability to view betting adverts during live televised sport.” (Gallagher 2020)

35. The success being celebrated was that Research carried out by Enders Analysis found that during the whistle to whistle period, the number of betting ads seen by children fell by 97% (we also note that this finding is contested and that the report, which was commissioned by the industry, beyond an executive summary has not been widely circulated or scrutinised by either academics or journalists despite requests. Curiously the executive summary notes that the reduction in betting ads seen by children was 70%, not the press released 97% (BGC 2020)).
36. It is difficult to conclude from this press release that the industry itself does not view children’s exposure to gambling advertising as a negative force and one that is linked to susceptibility to gamble later in life.
37. The fact that the 25% rule is manifestly failing to reduce exposure is, therefore, concerning. We note that the consultation document rejects alternative measures suggested in the GambleAware 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. Given the current scale and ubiquity of gambling advertising seen by children the onus must surely 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.
38. The simplest and clearest alternative for the prevention of exposure, if it is genuinely too difficult for the industry to clean up its act, would be to follow the example of the Italian government in a ban of almost all gambling advertising. This is the view supported by the 2019 General Synod, the national assembly of the Church of England and that the MPAC submitted in evidence to the House of Lords Call for Evidence on Gambling.

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20th January 2021

Response to CAP and BCAP Consultation.

Dear Sirs,

I wish to respond, as a member of the public, to the CAP and BCAP Consultation.

I am principally concerned that children are exposed to excessive advertising for gambling such as lotteries, bingo and betting at inappropriate times, such as terrestrial Television and inappropriate places, such as YouTube videos aimed at pre-teen children.

Television adverts during the day and early evening appear on all mainstream channels, with the exception specific children's channels. The adverts are mainly lotteries and bingo related, and often illustrate young adults in a party style atmosphere.

I find the style of advertising unrealistic, portraying a screen based fundamentally solitary game as a social event. This gives impressionable children and young people an unrealistic impression of these games.

I am also very concerned at internet-based gambling advertising. This covers all mainstream forms of betting. The adverts are numerous, generally fast moving, colourful and feature persuasive voices offering complex features. These appear in YouTube videos absolutely aimed at children and young people, including quite shockingly, sites aimed at lockdown related educational subjects.

I appreciate many internet-based sites 'contract out' their advertising, but I do not see that as a valid reason to avoid responsibility.

I have no objection to gambling. However, I believe it is essential for the gambling companies and advertisers to apply much more diligence to targeting their potential audience and avoiding young people to inappropriate influences. I would expect this to benefit the advertisers.

I would like gambling to be treated in a similar way to alcohol in advertising terms. Focus on the target market only.

Yours sincerely,

Regulatory Policy Team,
Committee of Advertising Practice,
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London
EC2A 4LS

TOR
Saint-Cloud Way
Maidenhead SL6 8BN
Tel: 01628 504 000
Fax: 01628 504 429
Web: www.rank.com

20 January 2021

By Email:

Dear Sir

I am writing on behalf of the Rank Group Plc in regards the CAP and BCAP consultation issued on 22 October in response to the GambleAware Final Synthesis Report on gambling advertising in the UK.

Rank Group Plc is the UK's leading land-based casino business, operating under the Grosvenor brand, and is the second largest bingo business by volume of venues, operating under the Mecca Bingo brand. We also operate two online businesses licensed by the UK Gambling Commission, Rank (Alderney) Ltd which operates the Grosvenor, Mecca and Bella online sites, and Daub (Alderney) Ltd which runs a variety of small casino and bingo brands in the UK online market.

Rank is a member of the Betting and Gaming Council (BGC), the industry trade body, and supports its response to the consultation. However, I thought I would write to outline one very specific concern about the proposed changes to the codes.

UK licensed gaming sites require online verification before customers are allowed to deposit and play. Consequently there is no risk that under-18s can be attracted by content featured on a site and go on to gamble. Operators recognise that the onus is on them to ensure that images used, particularly within game tiles which identify the gaming content onsite, do not use creative images which particularly appeal to under-18s.

Changing the codes so that gambling advertising cannot strongly appeal to under-18s will, in my view, have potentially serious implications for competition within the online gaming sector. The 2019 ruling by the ASA that the Mr Monopoly character fronting a number of online games particularly appealed to under-18s highlights the dangers of the proposed move to restrict advertising, including websites, from using content which strongly appeals to under-18s. The Gambling Commission, adopting the ASA ruling on the Mr Monopoly character, has taken enforcement action against sites which have, most probably inadvertently, continued to display the image on gaming websites.

The interpretation of strong appeal by the ASA could potentially lead to large amounts of the creative content used within online gaming sites being deemed to be in breach of the codes. Content such as the Marvel branded slot games, TV game shows such as Deal Or No Deal, indeed much of the creative used in online gaming, all of which is designed to appeal to adult consumers,



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could fall foul of the strong appeal restriction. The only solution to this would be for online gaming sites to disappear behind an age gate, and most likely one which required strict customer verification before consumers were allowed to browse an online gaming site.

To restrict consumers from browsing on sites would significantly restrict competition in the online sector making new market entry almost impossible and making it very difficult for challenger brands to grow market share. This would restrict offers and incentives. It would also restrict investment in new features and benefits which would be difficult to promote to customers who cannot browse a site without being registered and verified.

I would request that the Committee review what might be an unintended consequence of this change in so far as it impacts the creative content used within online gaming, with the consequent material lessening of competition within the sector.

Yours sincerely,



Service



Teamwork



Ambition



Responsibility



Solutions



Response to CAP/BCAP's consultation on changes to their rules and guidance on gambling and lotteries advertising

January 2021

1. Executive summary

Sky welcomes the opportunity to respond to CAP and BCAP's consultation on changes to their rules and guidance on gambling and lotteries advertising. Sky is one of the UK's largest advertisers and the second largest television advertising sales house in the UK. Sky also has an established, long-term brand licence agreement with licensed betting operator 'Sky Betting & Gaming'. This gives us a unique and well-informed perspective on which to consider the effectiveness of changes to the rules for gambling advertising, sitting on both sides of the advertising value chain and having a vested interest in the responsible practice and operation of the gambling industry.

Sky is a responsible business, committed to the safety of our customers and the wider public

As a family brand in over 12 million UK homes, the safety of our customers, and their children, is of fundamental importance to us, and we recognise the importance of placing the protection of young and vulnerable people at the heart of advertising. We note the consultation's objective to revise current advertising rules and guidance to further restrict the creative content of gambling ads to limit their potential to appeal to, and adversely impact, under-18s and vulnerable adults.

Sky, as a leading broadcaster, adheres to CAP/BCAP advertising rules for all linear and on demand services. We have control and responsibility for all the adverts we offer and we have an effective pre-transmission compliance system, in addition to providing robust age verification tools such as the Sky TV PIN. Our AdSmart service also allows us to place ads where adults are viewing and the potential for children's exposure is low. We are also fully transparent about the advertising we serve on our TV channels and the audiences to whom it is served, keeping copies of everything broadcast.

As a responsible business, Sky has committed to provide airtime and digital media inventory to the value of £1m per annum for two years to GambleAware for the 'Bet Regret' campaign, which launched in March 2019. The campaign encourages individuals to tap out of betting apps before placing a bet, giving them time to think and help avoid impulsive bets that can be placed, often when drunk, bored or chasing losses.¹

We welcome the intention of the proposed changes to the rules for the creative content for gambling advertising, and note the measures taken by CAP/BCAP to ensure these changes are proportionate and targeted

We welcome the intention of the proposed changes to the existing CAP/BCAP rules and guidance on the creative content for gambling ads in seeking to limit the undue appeal of gambling advertising to young and vulnerable people. Given the impact of existing regulation in limiting children's exposure to gambling ads on broadcast media², it is right that the consultation sets out exemptions to ensure that the potential incorporation of these rules remains proportionate.

Sky strongly agrees with CAP/BCAP's assessment that the 25% test which ensures ads for gambling and other age-restricted ads, served to mixed-age audiences, are

¹ <https://www.begambleaware.org/betregret>

² <https://www.asa.org.uk/news/children-s-exposure-to-tv-ads-for-gambling-and-alcohol-a-2019-update.html>

prohibited if more than 25% of the audience under 18 remains appropriate and proportionate.

We also agree with CAP/BCAP's assessment that the proposed amendments should not apply to advertisements restricted on the basis of robust age-verification measures which, for all intents and purposes, exclude under-18s from the audience, and support proposed mitigations set out for certain content inextricably linked to licensed gambling activity.

The regulation of advertising on broadcast media is held to high standard of responsibility and safety, with broadcasters accountable for ensuring ads are compliant with regulatory codes. Broadcasters also prioritise ad placement and utilise age verification tools to help prevent ads being shown to the wrong audiences. TV ads are also subject to various voluntary measures that further limit children's exposure to adult content. This has contributed to the significant decline in children's exposure to TV gambling advertising since 2013.³

We note shifting trends in children's media consumption in recent years, which have seen a substantial shift to consuming content online.⁴ This suggests that less regulated online advertising poses a greater threat to children's wider wellbeing than TV advertising. Maintaining regulatory parity across media, to ensure equivalence in intended outcome should thus be a priority for regulators.

In this response, we welcome the proposed rule and guidance changes and note the measures taken to ensure these changes are proportionate and targeted, recognising the characteristics of broadcast media in seeking to meet CAP/BCAP's objective.

³ ibid

⁴ TV: BARB, 2019 (aged 4 to 15); Online: Ofcom, Media Use and Attitudes Report 2018 (aged 5 to 15)

2. Gambling advertising on broadcast media

Gambling advertising on TV is heavily regulated and current initiatives ensure exposure to children is minimised

We note the significant impact of existing broadcast regulation, age verification tools, and voluntary measures in limiting the exposure of children to gambling advertising on TV and the increasing prominence of safer gambling messages that seek to inform and support vulnerable people. ASA data on TV gambling ads, shows that in 2019, children saw, on average, 2.5 TV gambling ads per week and that gambling ads made up just 2.1% of all the TV ads that children saw, on average, in a week.⁵

Children's exposure to gambling ads peaked in 2013 (at 4.4 ads per week), since when it has decreased by just under half, suggesting the existing measures are making an impact.⁶

TV advertising is held to a much higher standard of responsibility and safety than other forms of advertising. The Communications Act 2003 sets out a regulatory framework for television advertising where it is the broadcaster's responsibility to make sure all advertising is compliant. This aligns with the strict regulation of television content set out in Ofcom's Broadcasting Code. This contrasts with online media where the platform has no responsibility, rather it is the advertiser's responsibility to ensure they are compliant with the self-regulatory UK Code of Non-broadcast Advertising.⁷

Sky and other broadcasters are proud of this higher standard, which gives TV advertising a stamp of quality and credibility. We recognise the power of television advertising and our responsibility to exercise that power with care. Broadcasters' use of Clearcast to help safeguard that ads are compliant ahead of transmission demonstrates this.⁸

The BCAP code only legally applies to linear television content, but Sky voluntarily ensures that our non-linear advertising and placement complies with the code and the spirit of the provisions. We ensure that potentially problematic clashes of advertising are avoided so that, for example, car advertising is not placed next to alcohol advertising.

The 25% test ensures that gambling ads are not allowed to appear in any media where more than a quarter of the audience is under 18 years old, and that broadcasters must schedule advertising accordingly. Gambling and lotteries advertising is also presently prohibited from appealing particularly to under-18s⁹, including creative content that is likely to appeal more to under-18s than to adults, although through this consultation CAP and BCAP proposes taking this further to prohibit creative content that appeals 'strongly' to under-18s.

⁵ <https://www.asa.org.uk/news/children-s-exposure-to-tv-ads-for-gambling-and-alcohol-a-2019-update.html>

⁶ *ibid*

⁷ <https://www.asa.org.uk/codes-and-rulings/advertising-codes/non-broadcast-code.html>

⁸ <https://kb.clearcast.co.uk/Attachments/Welcome%20to%20Clearcast%20th%20edition%20June%202019.pdf>

⁹ <https://www.asa.org.uk/uploads/assets/f939d3c2-42cf-4c2f-82901b688554fdea/CAP-gambling-Oct2020-consultation-document.pdf>

On top of existing regulation, broadcasters prioritise ad placement, utilise age verification tools and are subject to voluntary codes on gambling advertising to protect children and vulnerable people

Alongside current broadcast regulation, many broadcasters utilise age verification and ad placement tools to further protect children. For example, Sky's TV PIN gives parents more control over the content children see and our AdSmart service enables ads to be placed in households where children's potential exposure is low.¹⁰

Voluntary codes employed by gambling operators and broadcasters have further supported measures to reduce children's exposure to gambling advertising and protect vulnerable gamblers – adding an additional layer of protection on top of broadcast regulation and broadcasters' own age verification and ad placement tools. Sky adheres to the gambling industry code for socially responsible advertising (IGRG code). This notably prohibits gaming advertising until post 9PM and supplements the extensive rules set out in the BCAP Code.¹¹

Further to this, the IGRG code also includes the whistle-to-whistle ban, introduced in August 2019 it significantly reduced the base level of gambling advertising linked to televised sporting events. It has resulted in a decline in children's exposure to gambling advertising during sporting events, with research carried out by Enders Analysis finding that during the whistle-to-whistle period, the number of betting ads seen by children fell by 97%.¹² UK gambling operators have also imposed a voluntary ban on advertising sign-up offers (free bets and free money) on TV before 9pm¹³, and in 2020, UK gambling operators pledged to devote 20% of their TV and radio advertising to 'safer gambling' messaging for the foreseeable future.¹⁴

¹⁰ <https://www.sky.com/help/articles/tailored-advertising-with-sky-adsmart>

¹¹ [file:///C:/Users/GSO15/Downloads/BGC-GAMBLING-INDUSTRY-CODE-FOR-SOCIALLY-RESPONSIBLE-ADVERTISING%20\(1\).pdf](file:///C:/Users/GSO15/Downloads/BGC-GAMBLING-INDUSTRY-CODE-FOR-SOCIALLY-RESPONSIBLE-ADVERTISING%20(1).pdf)

¹² <https://bettingandgamingcouncil.com/news/whistle-to-whistle-ban-dramatically-reduces-number-of-betting-adverts-seen-by-children/>

¹³ House of Commons Library, Gambling advertising: how is it regulated?, Dec 2020 [file:///C:/Users/GSO15/Downloads/CBP-7428%20\(3\).pdf](file:///C:/Users/GSO15/Downloads/CBP-7428%20(3).pdf)

¹⁴ <https://sbcnews.co.uk/social-responsibility/2020/06/05/bgc-dedicates-20-of-advertising-to-safer-gambling/>

3. Questions

1. **a) Do respondents agree with the proposed amendments (set out in section 6.4.1) to CAP rule 16.3.12 (gambling) and BCAP rule 17.4.5 (gambling)? If not, please state why including details of any alternative approach(es) to achieving CAP and BCAP's policy aims.**

We welcome these proposed changes in seeking to reduce the potential for gambling ads to appeal unduly to children and young people and note CAP/BCAP's recognition of the characteristics of broadcast media by proposing exemptions to ensure changes are proportionate and targeted.

ASA data highlights that in 2019 gambling ads made up just 2.1% of all the TV ads that children saw, on average, in a week. With children's exposure to gambling advertising falling by just under half since 2013.¹⁵

This suggests that for the proposed CAP/BCAP rule amendments to be proportionate on broadcast, they must include proposed exemptions set out in the consultation. Specifically, that amendments should not apply to advertisements restricted on the basis of robust age-verification and the exemption of certain content inextricably linked to licensed gambling activity. These exemptions are especially important for TV, where ads are more highly regulated than online; where children have a low level of exposure to gambling advertising, and where children's broader content consumption is in decline.¹⁶

If BCAP intend to proceed with the amendment to BCAP rule 17.4.5, to avoid misinterpretation of the guidance, in addition to the exemptions set out in 6.4.4 which propose the exemption of certain content inextricably linked to licensed gambling activity – we suggest the need for an additional mitigation around the use of sports personalities that do not have 'particular appeal' to those under 18 for licensed sports related gambling advertising on broadcast.

Gambling and lotteries advertising is presently prohibited from appealing particularly to under-18s. CAP/BCAP set out that in the proposed amendment that 'Strong appeal' is distinct from 'particular appeal' because it does not rely on a comparison with the likely appeal of a piece of content to adults.

CAP/BCAP have also outlined that regarding the interpretation of 'strong appeal' for personalities, assessment of a personality's appeal will take into account their general profile among the public and with under-18s in particular. This would likely consider the context the personality is best associated with (for example, as a sports person or entertainer) and their likely under-18 following. This may also include metrics such as a personality's following on social media.

Unlike pop stars, television performers or animated characters, sports personalities have clear contextual relevance in licensed sports betting on TV. If BCAP intend to incorporate this amendment, we suggest that sports personalities who may have wide ranging public notoriety (e.g. significant social media presence) but clearly do not have particular appeal to young people (i.e. due to age, retirement status, current inactivity or profile) are given explicit mitigation to prevent the misinterpretation of the guidance.

¹⁵ <https://www.asa.org.uk/news/children-s-exposure-to-tv-ads-for-gambling-and-alcohol-a-2019-update.html>

¹⁶ TV: BARB, 2019 (aged 4 to 15); Online: Ofcom, Media Use and Attitudes Report 2018 (aged 5 to 15)

We note that children's viewing of sports gambling advertisements on live broadcast has declined significantly with the imposition of the whistle-to-whistle ban in 2019.¹⁷ Introduced by gambling operators, this measure banned TV betting advertising from five minutes before a live sporting event begins until five minutes after it ends, prior to the 9pm watershed, reducing children's exposure to TV gambling advertising in a sporting context. Overall, the amount of gambling ads viewed by youngsters has fallen by 70% over the full duration of live sport programmes.¹⁸ The first 5 months after the measure became effective produced 1.7 billion fewer views of gambling ads, and there were 109 million fewer views over 4 comparative weekends.¹⁹

Case Study

The consultation sets out that the ASA has only once assessed a TV ad for alcohol against the restriction on 'strong appeal'. It did not find the ad, featuring David Beckham (2015), in breach because the ASA was of the view that he had retired as a player and had been based in the USA for several years and his appearance in the ad was, therefore, unlikely to have 'strong appeal' to under-18s.²⁰

Given this example, to avoid misinterpretation, it would be advisable for the proposed BCAP amendment to explicitly include an exemption on licensed sports gambling ads on TV, pertaining to sports personalities who may have wide ranging public notoriety, but clearly do not have particular appeal to children.

- 1. b) Do respondents agree with the proposed amendments (set out in section 6.4.1 above) to CAP rule 17.13 (lotteries) and BCAP rule 18.5 (lotteries)? If not, please state why including any alternative approach(es) to achieving CAP and BCAP's policy aim**

N/A

- 1. c) Do respondents consider the intended application of the rules proposed in questions 1(a) and 1(b) and the guidance to support their application (set out in sections 6.4.2 and 6.4.3 above) are broadly proportionate to the intended purpose of preventing gambling ads from appealing 'strongly' to under-18s? If not, please state why.**

Yes we agree that the rules and guidance proposed are broadly proportionate with the intended purpose, but stress the importance of appropriate exemptions to ensure the potential incorporation of these amendments is proportionate on broadcast media, where children's exposure to gambling advertising is low.²¹ This is supported by existing broadcast regulation, voluntary rules on broadcast such as the introduction of a whistle-whistle ban, and the age verification and ad placement tools provided by broadcasters.

Sky agrees with CAP/BCAP that the proposed amendments set out in section 6.4.1 should not apply to advertisements restricted on the basis of robust age-verification measures which, for all intents and purposes, exclude under-18s from the audience.

¹⁷<https://bettingandgamingcouncil.com/news/whistle-to-whistle-ban-dramatically-reduces-number-of-betting-adverts-seen-by-children/>

¹⁸ <https://www.gamblingnews.com/news/bgc-hails-the-impact-of-the-whistle-to-whistle-ban/>

¹⁹ Ibid

²⁰ <https://www.asa.org.uk/uploads/assets/f939d3c2-42cf-4c2f-82901b688554fdea/CAP-gambling-Oct2020-consultation-document.pdf>

²¹ <https://www.asa.org.uk/news/children-s-exposure-to-tv-ads-for-gambling-and-alcohol-a-2019-update.html>

We also note the exemptions set out by CAP/BCAP in 6.4.4 for certain content inextricably linked to licensed gambling activity are important in ensuring proportionality in the incorporation of this rule change. Sky suggests the introduction of a broadcast specific exemption on the use of sports personalities who do not have a particular appeal to young people in advertising for licensed sports gambling.

1. d) Do respondents agree with the proposal (set out in section 6.4.4 above) to exempt from the rules, proposed in questions 1(a) and 1(b), certain content inextricably linked to licensed gambling activity or the good causes that benefit from lottery funds? If not, please state why

Yes we support the exemptions set out in section 6.4.4. that exempt from the proposed rules, certain content inextricably linked to licensed gambling activity or the good causes that benefit from lottery funds.

As outlined in our responses to previous questions we would suggest the inclusion of a further explicit broadcast specific exemption on the use of sports personalities who clearly do not have particular appeal to young people (i.e. due to age, activity status, current inactivity or profile) in advertising for licensed sports gambling. Such figures can be inextricably linked to licensed sports gambling activity and may have high levels of population wide notoriety without having strong influence on the behaviour of under 18s. This explicit mitigation could reduce the likelihood of misinterpretation and the potential imposition of contentious rulings.

1. e) Do respondents agree the rules proposed in questions 1(a) and 1(b) should not apply to advertisements restricted on the basis of robust age-verification measures (set out in section 6.4.5), which, for all intents and purposes, exclude under-18s from the audience? If not, please state why.

Yes we agree that the rules proposed in question 1(a) and 1(b) should not apply to advertisements restricted on the basis of robust age-verification measures which, for all intents and purposes, exclude under-18s from the audience.

In contrast to some online targeting tools, which have been criticised for an apparent lack of effectiveness²², there are numerous robust age verification methods and ad placement tools used across broadcast TV. These tools prevent children from accessing adult content and have contributed to children's low exposure to TV gambling advertising.

With gambling ads served to predominantly adult audiences via the 25% test, these measures provide an additional layer of protection.

As a responsible advertiser, Sky consistently innovates and promotes age verification tools that can help to protect children and young people from inappropriate content. All Sky subscribers have to be over 18, however we recognise that other users in the household may have access to our content. We therefore offer a range of measures to further protect audiences.

Parental control services

- PIN Protection – We offer PIN protection which can be turned on by parents for pre-watershed playback, purchases or rentals via the Sky Store or Box Office, to lock individual

²² <https://theintercept.com/2020/12/24/facebook-ad-targeting-small-business/>

recordings and to restrict shows at all times based on their age rating. Mandatory PIN protection cannot be disabled for broadcast services where it is required. In addition to this, our internal compliance team can require PINs to be applied to content available on demand in order to safeguard users.

- Kids Safe Mode (Sky Q) - Allows parents to use their TV pin to lock their Sky Q box to the Kids section. Once Kids Safe Mode is activated, kids can only see and explore age-appropriate content for 0-12 year olds, all non-Kids content, including live TV channels, recordings, on-demand shows and apps is blocked until the setting is turned off. Kids Safe Mode can be activated on any Sky Q box in the home, allowing parents to watch their favourite shows in one room and the kids to watch TV safely in another.
- Sky Go - If age restrictions are set on Sky Q, they will be replicated on Sky Go. Adult channels and recordings cannot be viewed on Sky Go regardless of parental settings.
- Sky Kids App - Our child-friendly app provides a streaming service that allows children to watch their favourite TV shows on demand with a compatible mobile or tablet. Parents are able to create separate profiles for each child which age-gates the content that is served. The app complies with the 5Rights Safety by Design principles.
- For Sky Cinema and Sky Store we age rate all of our linear and on demand assets. Sky Cinema content is rated internally to Sky standards, whereas Sky Store content is rated using the BBFC framework.
- For our linear programming we apply appropriate warnings before scheduled programmes and in the electronic programme guide if necessary. Beyond our broadcast services, we also apply age warnings, which are determined by our internal compliance team, to content on our social media platforms. We do not offer any R18 content.
- Family Setting - This setting can be used to turn on PIN-protection for any rated shows watched before the watershed, as well as for any purchases or rentals. It will also hide all adult channels and recordings.
- Adult Channels - Adult channels are blocked by default on the electronic programme guide; however, end users can choose to unblock these if they wish.

Sky AdSmart

Innovation is a key facet in the safety of television advertising and Sky AdSmart enables households to be served relevant and appropriate advertising content. Powered by innovative technology and sophisticated data analysis, Sky AdSmart allows different ads to be shown to different Sky households watching the same programme.

The expansion of AdSmart into Virgin Media homes in 2019 means that 40% homes are addressable, providing the ability to reach 30 million individuals with relevant messaging in the brand safe and effective medium of TV.²³ AdSmart technology is also utilised by broadcasters such as Viacom/Channel 5.

Sky AdSmart works by using the household data stored on a set-top box. Relevant ads for that household are sent to the box. When a Sky AdSmart opportunity is identified during an ad break, the box will choose the most relevant stored ad to play based on the household data held by the box. The ad is then seamlessly inserted into the ad break.

²³<https://www.skygroup.sky/en-gb/article/sky-media-reveals-power-of-addressable-tv-in-five-year-study-amid-successful-expansion-into-virgin-homes>

AdSmart technology allows adult ads to be placed where adults are viewing, avoiding these ads being shown where children's potential exposure could be high.

2. a) Do respondents agree with CAP and BCAP's proposed additions to the Gambling advertising: responsibility and problem gambling guidance? If not, please state why.

Yes we agree that these proposed additions are proportionate in seeking to prevent condoning or encouraging problem gambling behaviours, approaches that trivialise gambling, undue pressure on the audience to gamble and giving erroneous perceptions of the level of risk involved.

This is in line with existing developments in broadcast advertising, where in 2020 operator members of the Betting and Gaming Council (BGC) pledged to relinquish 20% of TV and radio advertising to safer gambling messaging for the foreseeable future.²⁴

2. b) Do respondents consider that there are additional provisions, which might be added to better meet CAP and BCAP's objective of ensuring that its guidance protects vulnerable adults from ad content with the potential for gambling advertising-related harm? If so, please set out the reasons including reference to the evidence base, further information and examples as necessary.

N/A

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.

Yes we agree that the evidence identified by 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.

ASA data suggests that existing broadcast regulation has assisted in reducing children's exposure to gambling adverts on TV and children's media consumption is increasingly shifting online.

In addition to the 25% test and existing BCAP rules that help to limit gambling ads being exposed to or appealing to children - broadcasters employ a range of innovative age verification and ad placement tools to further protect children.

Voluntary rules, adhered to by gambling operators and broadcasters, also help to limit children's exposure. For example, the voluntary ban on advertising sign-up offers (free bets and free money) on TV before 9pm, and the whistle-to-whistle ban on gambling ads on live sport broadcast which saw children's exposure decline dramatically.

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-

²⁴ <https://bettingandgamingcouncil.com/news/responsible-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. 53 CAP's guidance, Media placement restrictions: protecting children and young people, sets out the requirements of the '25% test' in full detail and includes scenarios. CAP and BCAP Consultation 35

N/A

- 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.**

We strongly agree that the 25% test remains appropriate and proportionate.

As set out by CAP/BCAP the regulatory benefits arising from measures to restrict further the media in which, and the audience to which, gambling advertisements may be served, in order to reduce exposure to all age groups are, at best, uncertain. It is therefore unclear what commensurate and proportionate regulatory benefits would be generated by such an intervention.

We note, as set out by CAP/BCAP there is little in the way of evidence to indicate that exposure to gambling advertisements is, in and of itself, likely to cause harm and that gambling advertisers should have the freedom to promote their products in predominantly adult media environments provided that the creative content of the advertisement is unlikely to harm children, young people and other vulnerable groups.²⁵

- 4. a) Do respondents agree with the proposed amendments to the introductory subsection 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.**

N/A

- 5. b) Do respondents agree with the proposed amendments to the introductory subsection 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.**

Yes we agree with these amendments, finding them clear and proportionate.

Sky

January 2021

²⁵<https://www.asa.org.uk/uploads/assets/f939d3c2-42cf-4c2f-82901b688554fdea/CAP-gambling-Oct2020-consultation-document.pdf>

From:

Sent:

To:

Subject:

Verime

CAP and BCAP Consultation: Responding to the findings of the GambleAware Final Synthesis Report

Regulatory Policy Team Committee of Advertising Practice,
Castle House,
37-45 Paul Street,
London,
EC2A 4LS

We are writing in response to the above consultation, and particularly wish to address the following question:

Do respondents agree the rules proposed in questions 1(a) and 1(b) should not apply to advertisements restricted on the basis of robust age-verification measures (set out in section 6.4.5 above), which, for all intents and purposes, exclude under-18s from the audience? If not, please state why.

Verime is already providing rigorous, low cost age-verification to multiple gambling affiliate sites, allowing them to ensure that content which might appeal to under-18s can only be seen by adults. For our solution, users need only submit their mobile phone number, as we then interrogate the records of the mobile networks which already monitor if their subscribers are over 18.

Our age checking systems have been certified as compliant with BSI Standard PAS 1296:2018.

This approach could easily be extended to platforms which wish to deliver any form of gambling advertising. They could simply require new users, and existing users whose reported date of birth indicates they have reached their 18th birthday, to prove their age. That would leave advertisers free to produce content which might otherwise risk being of particular appeal to children.

This is a mechanism which would provide sufficient certainty that users were adults, well beyond the level of confidence offered by the targeting mechanisms on offer by ad platforms at present.

Any platform wishing to carry ads would need to conduct age checks to the BSI standard. The revenue available from the gambling sector would be a strong incentive to apply age checks.

Age assurance mechanisms which do not meet the standard in PAS 1296 will not be rigorous enough to allow CAP to relax the rules on content which may appeal to children as they are not accurate enough, and not seen to be accurate in the way that PAS 1296 compliance demonstrates.

There is a tide of legislation and regulation that is going to require websites to know the age of their users – the Online Harms Bill, the Age Appropriate Design Code and the Audio-Visual Media Services Directive. The latter two are already law, with the ICO and Ofcom respectively intending to enforce from the summer of 2021. CAP could introduce age verification requirements for gambling ads at the same time to minimise any additional regulatory burden.

This would almost completely eradicate the exposure of children to gambling ads, rather than continuing to risk up to a quarter of audiences being underage.

Now the technology is widely available and proven to work, why would CAP and BCAP not make use of it to deliver its longstanding policy goal of protecting children from gambling ads?

Yours faithfully

Verime Limited

** Please respect our privacy by removing unnecessary private or confidential information from the email trail before you forward **

William Hill Plc response to CAP and BCAP Consultation on proposed changes to the rules and guidance on gambling and lotteries advertising

Introduction

William Hill PLC (“**William Hill**”) is one of the world's leading betting and gaming companies, employing c.12,000 people. Its origins are in the UK where it was founded in 1934, and where it is listed on the London Stock Exchange. The majority of its £1.6bn annual revenues are still derived from the UK, where it has a national presence of over 1,400 high street licensed betting offices and is one of the leading online betting and gaming services.

William Hill welcomes the opportunity to respond to the CAP/BCAP consultation on proposals to amend the rules and guidance on gambling advertising. We would strongly endorse the principle that the regulatory rule-book should be periodically subject to an evidence-based review to ensure that it continues to be fit for purpose. We also welcome the commitment to strike a proportionate and effective balance between allowing gambling operators the freedom to advertise to a legitimate adult audience with the responsibilities to protect children, young people and vulnerable adults from the potential harms that could arise from irresponsible gambling advertising.

We agree that there is strong evidence that the UK Advertising Codes are effective and fit for purpose in ensuring that gambling is advertised in a socially responsible way. We have also noted, and agree with, the Government’s view that the existing evidence base does not demonstrate a causal link between exposure to gambling advertising or sponsorship that complies with the current rules and problem gambling in children or adults¹.

Action taken by William Hill to raise standards in relation to marketing compliance

William Hill recognises that ensuring that all licensed gambling operators market their gambling facilities responsibly is a key part of the UK’s regulatory framework for gambling. This framework includes statutory regulation (by the Gambling Commission via the Licence Conditions and Codes of Practice (LCCP), which includes several marketing-related rules), self-regulation (via the CAP/BCAP Codes) and voluntary standards and efforts to raise standards developed under the aegis of industry membership bodies, such as the Betting and Gaming Council (BGC).

William Hill is committed to ensuring that all its marketing activity is socially responsible. It has demonstrated its commitment to initiatives which aim to raise standards in relation to marketing, including, over the last two years:

- **BGC Safer Gambling 10-pledge plan:** William Hill helped shape the 10-pledge action plan which sets out the standards expected of members during the first Covid-19 lockdown in order to address potential impacts on the risk profile of consumers. Actions included significantly increasing the volume of marketing focused on safer gambling messages and closer monitoring of marketing affiliates. William Hill has also used our marketing monitoring tools to identify and report a significant number of unlicensed black market operators marketing to consumers in Great Britain to the Gambling Commission, including

¹ [Government Response to the House of Lords Gambling Industry Committee Report: Social and Economic Impact of the Gambling Industry](#) (December 2020)

those targeting explicitly vulnerable customers who have entered a self-exclusion agreement via GAMSTOP and are therefore prevented from gambling with licensed online operators;

- **Gambling Commission’s “Ad-Tech Challenge”**: launched in January 2020, this initiative has already delivered improvements, including the sharing of negative keyword lists between licensed operators, better and more consistent use of customer data to ensure paid-for ads are targeted away from vulnerable groups across social media platforms, and age-gating YouTube channels and content. These have been codified in an updated version of the Gambling Industry Code for Socially Responsible Advertising which came into force on 1 October 2020;
- **BGC Ad-tech Forum**: an ongoing, collaborative project under which operators, affiliates, social media companies and regulators will review and explore further areas in which new technical capabilities can be used to promote the licensing objective of preventing children and young people and other vulnerable persons from experiencing gambling-related harm;
- **BGC’s “whistle-to-whistle” ban**: since 1 August 2019, BGC members have stopped all TV betting adverts during pre-watershed live sport. A recent analysis of the ban by Enders Analysis for the BGC found that gambling advertising on TV was virtually eliminated during the restricted period, resulting in 109 million fewer views over comparative weekends, and children (4-17 year olds) saw 78% fewer gambling ads over the full duration of the live sports programmes shown before 9pm; and
- **Funding for safer gambling campaigns**: provided substantial funding to support the development and delivery of GambleAware’s Safer Gambling ‘Bet Regret’ broadcast ad campaign which has been designed to help prevent impulsive sports betting.

William Hill has also invested substantially to deliver improvements in relation to its marketing over the last year including:

- the recruitment of additional dedicated Marketing Compliance staff;
- updating and delivering Marketing Compliance Training to all relevant staff;
- consideration and implementation of the additional guidance on “Gambling advertising and “lockdown”” published by the ASA on 7 April 2020; and
- implementing the additional best practice guidance published by the Commission on 12 May 2020, based on its assessment of the additional risks posed to consumers as a result of the Covid-19 lockdown.

Consultation question 1

a) Do respondents agree with the proposed amendments (set out in section 6.4.1 above) to CAP rule 16.3.12 (gambling) and BCAP rule 17.4.5 (gambling)? If not, please state why including details of any alternative approach(es) to achieving CAP and BCAP’s policy aims.

b) Do respondents agree with the proposed amendments (set out in section 6.4.1 above) to CAP rule 17.13 (lotteries) and BCAP rule 18.5 (lotteries)? If not, please state why including any alternative approach(es) to achieving CAP and BCAP’s policy aims.

c) Do respondents consider the intended application of the rules proposed in questions 1(a) and 1(b) and the guidance to support their application (set out in sections 6.4.2 and 6.4.3 above) are broadly proportionate to the intended purpose of preventing gambling ads from appealing ‘strongly’ to under-18s? If not, please state why.

d) Do respondents agree with the proposal (set out in section 6.4.4 above) to exempt from

the rules, proposed in questions 1(a) and 1(b), certain content inextricably linked to licensed gambling activity or the good causes that benefit from lottery funds? If not, please state why.

e) Do respondents agree the rules proposed in questions 1(a) and 1(b) should not apply to advertisements restricted on the basis of robust age-verification measures (set out in section 6.4.5 above), which, for all intents and purposes, exclude under-18s from the audience? If not, please state why.

Response

William Hill welcomes the proposed amendments to CAP rule 16.3.12 and BCAP rule 17.4.5. Provided that clear guidance on the application of the new rules is produced by CAP and BCAP, and the rules are enforced in a consistent, proportionate and evidence-based way, a shift towards a “strong appeal” test would be appropriate in ensuring that marketing for age-restricted gambling products is not targeted at under 18s. We would welcome the publication of significantly more detailed and specific examples, case studies, and training material of marketing approaches that would be likely to breach the new rules in advance of them coming into force, as this will help to increase regulatory certainty, consistency and fairness.

We also support the exemptions outlined in this consultation around content to which gambling is inextricably linked, and where robust age-verification measures are in place, which would allow gambling operators to continue advertising appropriately and responsibly.

William Hill already has a range of robust controls in place to ensure that advertising does not appeal to children and young people, and that all reasonable steps are taken to ensure that they are not directed at those aged below 18 years through the selection of media or context in which they appear.

We believe that the measures we have in place are already aligned with the proposed replacement of the “particular appeal” test with a ‘strong appeal’ test, and therefore the proposed changes would be unlikely to have any significant impact on our approach to marketing. Our current framework is not reliant on a comparison with the likely appeal to adults; that is to say that the current controls focus on ensuring that our content appeals only to an adult audience, so the amendments proposed by CAP/BCAP would neither impede us further, nor would they cause us to consider any fundamental changes to our policies and controls.

William Hill also welcome the Government’s commitment, as set out in the recently published Online Harms White Paper², to explore options of greater accountability of online service providers to improve the safety of their users online, with a particular focus on the protection of children and other vulnerable persons. Whilst the scope of that work is significantly wider than gambling, we recognise the Government seeks to establish a framework of transparency, trust and accountability, whereby online service providers would have a degree of responsibility over content served on their platforms that poses a risk of harm.

William Hill fully endorses the principle, as reflected in the current gambling and marketing rules, that licensed gambling operators are responsible for the actions of third parties with whom they contract for the direct provision of any aspect of the licensed activities, including marketing. We

² <https://www.gov.uk/government/consultations/online-harms-white-paper/outcome/online-harms-white-paper-full-government-response>

would equally welcome CAP/BCAP's regard to the degree to which online service providers would be held accountable under the Government's proposals when it considers the balance of responsibility under the proposed amendments to the CAP/BCAP Codes and accompanying guidance, so as to create a level playing field with other aspects of online regulation in relation to harm. We believe that this approach would align with five statutory principles of good regulation: transparency, accountability, proportionality, consistency and targeting.

Consultation question 2

a) Do respondents agree with CAP and BCAP's proposed additions to the Gambling advertising: responsibility and problem gambling guidance? If not, please state why.

b) Do respondents consider that there are additional provisions, which might be added to better meet CAP and BCAP's objective of ensuring that its guidance protects vulnerable adults from ad content with the potential for gambling advertising-related harm? If so, please set out the reasons including reference to the evidence base, further information and examples as necessary.

Response

William Hill agrees that the proposed enhancements to existing guidance on the content of gambling marketing represents a reasonable and proportionate adjustment to existing guidance in the categories of erroneous perceptions of risk and control, impulsiveness and urgency and trivialisation. Providing the new guidance is enforced in a consistent, proportionate and evidence-based way, we do not envisage that it would have a significant impact on the approach responsible operators already take to marketing their gambling products.

Consultation 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.

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.

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.

Response

William Hill agrees that the evidence identified in the GambleAware research of an association between exposure to gambling advertising and “susceptibility” to gambling in the future in relation to those aged 11-17 is, at most, modest. We do not consider that the evidence would provide a sufficiently robust basis for further restrictions on the media in which and the audience to which gambling advertisements may be served.

William Hill has a long and successful track record in meeting the challenges of effectively preventing children and young people from gambling, in both a retail setting and in relation to our online facilities. In our betting shops, we use a ‘Think 21’ approach, requiring colleagues to seek proof of age from any customer who appears to be under 21, and we ask individuals to leave if they are unable to provide proof. Every shop undergoes independent third-party age verification tests and we ensure we maintain a consistently high pass rate.

In relation to our Online facilities, all players are subject to rigorous age verification checks (including both automated checks employing third party data points, and, where necessary, manual checks based on documentation) before being able to gamble. All colleagues receive training to reinforce the importance of compliance in this area at induction, followed by annual refresher training. We have extensive policies, procedures and processes in place to ensure that we do everything we can to protect this vulnerable group.

As is recognised in the Consultation, gambling is a legitimate and heavily regulated activity in the UK and there are strict rules relating to the prevention of illegal gambling by children and young people. In the absence of evidence demonstrating a causal link between exposure to gambling marketing which is in line with the existing detailed rules in place to ensure that such marketing is socially responsible and risks to children and young people, we do not consider that there is a case for significant changes to the existing regulatory framework.

William Hill therefore agrees that the evidence is not sufficient to warrant a change to the “25% test” and believes that the current position represents a proportionate approach to balancing advertising freedoms and protecting under-18s.

Consultation question 4

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.

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.

William Hill strongly endorses the proposed addition to the existing CAP and BCAP rules to make clear that the ASA may draw on the principles established in the rules to assess whether ads for products likely to encourage gambling (for example, betting tipsters) meet the standards required by the general social responsibility provisions of the Code.

Businesses such as tipsters are not subject to statutory regulation by the Gambling Commission, and this leaves significant scope for their marketing to be socially irresponsible in ways in which were

they to be regulated, they would very likely breach the LCCP, and be subject to regulatory action, up to and including the suspension or revocation of an operating licence for repeated or serious breaches of the CAP Code.

We consider that there is significant scope for irresponsible marketing of gambling-related products in this area. The ASA has, over the last five years, found several tipster and gambling advice services to have breached several aspects of the CAP Code and in some cases repeatedly breached the same rules³. It is important that in the interests of consumer protection and fairness all gambling-related products are subject to the same rules relating to responsible marketing for gambling, and that it is recognised that tipster services pose a greater risk of non-compliance with the CAP Code on the basis that they are not subject to statutory regulation.

Concluding remarks

Overall, it is our view that the evidence presented in this consultation demonstrates that the existing framework is a sufficiently solid foundation and does not require amendments beyond the proportionate adjustments proposed.

In addition to the above, we would like to highlight the risks that overly restrictive rules on marketing by licensed gambling operators could potentially have the unintended consequence of incentivising consumers to use unlicensed black-market gambling providers.

The Gambling Commission recently recognised that the risk of unlicensed gambling has increased due to the shift from land-based to online gambling⁴. Over the last eight months, William Hill has identified and reported a substantial number of black-market gambling sites marketing their services to UK consumers. This work demonstrates not only the prevalence of these operators, but also their disregard for the spirit and the letter of the CAP Code and other regulatory rules and principles, with little to no player safety provisions in place. We have shared the outcome of this work with the Gambling Commission and would be happy to engage with CAP directly if this would be helpful.

We would also draw CAP's attention to a report on the findings of a study on channelization in Sweden⁵, which provides an example of the challenges faced in another jurisdiction by licensed operators when exposed to fierce competition from unlicensed alternatives. In Sweden, restrictions were recently imposed on online gambling, and the report highlights (among other concerns) how unlicensed operators often outperform licensed ones in terms of attractiveness of bonus schemes, a critical element of marketing in terms of acquisition.

Additional published research from BonusFinder⁶ details the findings from several studies conducted in 2020 using Google Trends data to analyse player behaviour in Sweden. The research found that searches for unlicensed casino brands targeting Sweden have grown by 305%, while searches for the terms "casino utan licens" (Casinos without License), "casino utan svensk licens" (Casinos without Swedish License) and "casino utan spelpaus" (Casino without Spelpaus - the Swedish self-exclusion tool) have risen by 710%. The report further cites that searches for "online casino" have seen a 173% increase in the period, revealing a clear trend that the growth in demand for unlicensed gaming is rapidly outpacing the regulated sector in Sweden.

³ See, for example, ASA adjudications against Paul Coleman for irresponsible marketing of tipster services in June 2015 (ASA Complaint ref: [A15-298680](#)) and in June 2020 (ASA Complaint ref: [A20-1061180](#))

⁴ Page 53, [National Strategic Assessment 2020](#) (November 2020), Gambling Commission website

⁵ ["The Degree of Channelization on the Swedish Online Gambling Market"](#) (April 2020)

⁶ ["Unlicensed offshore gaming: a growing threat for Sweden's online industry"](#) (December 2020)

William Hill has demonstrated a commitment to continue to raise standards in relation to its marketing and does not consider that the threat of the black market should be used as a justification for the lowering of regulatory standards. However, any proposals for more intrusive restrictions or prohibitions on the responsible marketing of licensed, heavily regulated gambling products would be likely to increase the appeal of illegal unlicensed gambling providers.

William Hill Plc
22 January 2021