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15 October 2020

Dear Nigel

## **Re: Gambling advertising regulation update**

We're writing to update on recent progress the Advertising Standards Authority (ASA) and the Committees of Advertising Practice (CAP) have made in their work to regulate gambling advertising in the UK.

Like alcohol, gambling is an age-restricted product. It is a recreational activity for large numbers of adults but which carries a potential risk of harm. Strict rules and guidance that have been in place for well over a decade seek to limit under-18s' exposure to gambling advertising across broadcast and non-broadcast media, and protect all audiences from irresponsible advertising messages. We strengthened these protections in 2018 working alongside government during its last gambling review. However, gambling advertising remains a sensitive issue both publicly and for policy makers.

The ASA and CAP continually monitor the evidence relating to gambling advertising and we are actively expanding our approach to meet new challenges. At the forefront of this will be the launch of CAP's consultation on tougher controls for ad content. We include a summary below, alongside details of work the ASA is doing to expand its online monitoring and enforcement functions, and CAP's activities relating to loot box advertising. At the same time, we note Government's commitment to review the Gambling Act 2005 and are keen to signal that the UK's ad regulator stands ready to contribute to the process.

## **Gambling advertising and lockdown**

Firstly, it's worth outlining our activities and observations from the lockdown period. We've been alive to concerns about the potential risks of irresponsible operator behaviour with

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**Chairman** Rt Hon Lord Currie of Marylebone **Chief Executive** Guy Parker  
**ASA Council** Aaqil Ahmed, Tess Alps, Zaid Al-Qassab, Reg Bailey, Tracey Follows, Krystle Fonyonga, Wesley Henderson, Richard Lloyd, Suzanne McCarthy, Kirsten Miller, Nita Patel, Rebecca Rumbul, and Neil Stevenson

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people spending more time at home increasing media consumption. The ASA moved quickly to [warn operators](#) in April that marketing exploiting public unease around lockdown would not be tolerated. We also encouraged people to report references to COVID or the lockdown so we could take prompt enforcement action. Reassuringly, we received no such reports and complaint levels have remained consistent with pre-lockdown levels.

## **CAP consultation on new standards**

CAP will very shortly be publishing a consultation proposing significant new restrictions on the creative content of gambling advertising. This meets CAP's commitment to respond to the [recent findings](#) of the GambleAware research and ensure that the UK Advertising Codes remain up to date with the evidence base in protecting under-18s and other vulnerable groups.

GambleAware's findings provide the first holistic view of the impact of gambling advertising that is subject to the strict standards we impose in the UK. They do not, in our view, radically change the picture of the impact gambling and lottery advertising has on under-18s and vulnerable adults; the evidence suggests the impact continues to be modest, but they point clearly to areas where regulation could be strengthened to enhance protections.

In response, CAP's consultation will propose two key changes:

- Gambling and lotteries advertising is presently prohibited from appealing particularly to under-18s; content that is likely to appeal more to under-18s than to adults. CAP proposes a more restrictive rule to prohibit creative content that appeals 'strongly' to under-18s. '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. This will have a significant effect, in particular, on the acceptability of celebrities like sports personalities and reality TV stars featuring in gambling ads.
- CAP proposes also to strengthen its [guidance](#) to reduce the likelihood of gambling ads appealing irresponsibly to vulnerable adults, principally adults with problem gambling-related issues. It will prohibit approaches that
  - present complex bets in a way that emphasises the skill or intelligence involved to suggest, inappropriately, a level of control over the bet that is unlikely to apply in practice;
  - present gambling as a way to be part of a community based on skill;
  - imply that money back offers create security;
  - use humour or light-heartedness to play down the risks of gambling; and
  - include unrealistic portrayals of winners (for example, winning first time or easily).

## **Monitoring and enforcement online**

At the same time, the ASA continues its work to ensure that gambling operators stick to the existing rules, with online environments at the top of our agenda. In 2018, the ASA

published a new five year strategy, entitled, [More Impact Online](#). The strategy makes a public commitment to strengthening the regulation of online ads building on work to regulate more pro-actively and address risks emerging from newer forms of advertising.

Our latest initiatives involve harnessing the industry's ad tech for our own regulatory purposes. We recently [published](#) the first outputs from our project to deliver automated monitoring activity delivering CCTV-style scrutiny of websites and YouTube channels popular with under-18s. The work:

- involved the monitoring of 50 websites and YouTube channels attracting a disproportionately high child audience;
- found 70 different betting ads from 4 gambling operators appearing on 8 of the websites that were breaches of the Advertising Code; and
- resulted in enforcement action to warn the advertisers to review and, as necessary, amend their practices to ensure they target future ads responsibly.

Over the next 12 months, we will enforce a zero-tolerance policy to gambling ads appearing in children's online environments in breach of the UK Advertising Code, which requires gambling operators to take all reasonable steps to target their advertising away from under-18s.

The ubiquity of online media – in particular, social networks – presents a range of serious challenges. However, the ASA believes the underlying technology used to target advertising for commercial purposes can be used to restrict targeting to meet regulatory objectives. We'll be happy to keep you updated on our progress over the coming months.

### **Loot box advertising**

Noting concerns around loot box advertising – not least from government – we have been examining the need for further regulation of loot box advertising in light of increasing public concerns.

CAP intends to publish a consultation on detailed, formal guidance on how existing rules should be applied to advertising for in-game purchases, including those with a random element. The proposed guidance will include a prohibition on gambling imagery, on the grounds of social responsibility, in order to reflect concerns about the link with problem gambling and the gambling-like nature of some types of loot box. Proposals also include requiring that ads for games containing loot boxes to disclose this fact, and ensuring that the price of in-game purchases is made clear.

We have been in touch with DCMS colleagues regarding the recent loot box call for evidence, and we look forward to seeing the outcome of that work and how it can inform our own.

## Review of the Gambling Act

Going forward, we note Government's [commitment](#) to review the Gambling Act and the potential for advertising to be included within scope. Now nearly 15 years old, a review of the Act is timely.

The ASA and CAP's approach to regulating gambling advertising is grounded in the framework established by the Act. Although advertising is a step removed from actual participation in gambling and direct gambling-related harm, understandably it has been a particular focus for those interested in wider gambling-related impacts. We're therefore keen to engage and contribute our expertise to the process. We hope the brief summaries of ASA and CAP's recent activities set out above reassure you that the UK's advertising regulatory system continues to meet its ongoing commitment to protecting young and vulnerable people, which is at the heart of the work we do.

Please don't hesitate to contact us if you have any questions or would like to know more about the work we're doing in this important sector of advertising.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D A Currie', with a horizontal line underneath.

David Currie  
Lord Currie of Marylebone  
**Chair, ASA**

A stylized handwritten signature in black ink, consisting of several overlapping loops and lines.

James Best  
**Chair, CAP**