

CAP and BCAP Consultation

Responding to the findings of the GambleAware Final Synthesis Report

Issued: 22 October 2020

*Response from Professor Agnes Nairn, School of Management, University of Bristol
January 21, 2021*

Responses in blue

As one of the co-authors of the GambleAware research I very much welcome this consultation in response to our findings.

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.

Yes, I agree with the proposed amendment that strengthens "particular appeal" to "strong appeal" in the context of gambling advertising.

- 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.

Yes, I agree with the proposed amendment that strengthens "particular appeal" to "strong appeal" in the context of lotteries advertising.

- 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.

No, I consider that the application of this rule as laid out in 6.4.2 and 6.4.2 is not proportionate to the intended purpose of preventing gambling ads from appealing strongly to under-18s nor is the basis for some elements of this proposed application sufficiently justified.

Firstly, there appears to be no provision for including the opinions of under-18s as to what does or does not have strong appeal to them. Without this, any "appeal" regulation is surmise and has no basis in evidence. For example – how will CAP/ASA ascertain what is the "language commonly used by the young but rarely by an older generation; for example, slang or novel words" (BCAP alcohol guidance on "strong appeal" section e) with no input from children or young people?

I suggest two measures to remedy this.

- a) Urgently conduct independent research with a broad demographic range of young people under-18 in order to determine what does and does not have strong appeal to them in this context. In addition, social media research could be used to see what content young people like and share.
- b) Following this research to inform the scope of strong appeal, set up a youth panel within CAP/ASA in order to adjudicate on cases where this rule may have been contravened.

Secondly, the exemptions, considerably weaken this welcome proposal – see below.

- 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.

Exemptions i), ii) and iii) relate to sports and eSports. The GambleAware study highlighted the strong link between youth, gambling and sport. In particular, eSports are unquestionably of strong appeal to under-18s. 93% of UK children play video games for an average of 3 hours a day and eSports is now a valid career choice for young people with eSports degrees now offered by at least 4 UK Universities. Our research (which formed part of the GambleAware study to which this consultation responds) also showed that eSports gambling advertising itself has a strong appeal to children. Of the 9,332 individuals that follow UK based eSport betting accounts, 1,602 (17%) were under 16, and another 6,468 (69%) were aged 16-23. The same is true for those actively engaging with eSports gambling adverts by commenting on, liking or sharing them: 28% were under 16, and 66% were 16-23 years old.

One would therefore expect that if gambling advertising is not to have strong appeal to children then it should not feature eSports or other sports of strong appeal to children (e.g. football). 6.4.4 appears to directly contradict the thrust of the new regulation and blunts its teeth considerably.

6.4.3 states that the proposals “focus principally on imagery, themes and characters. They are not intended to restrict simple text or audio references to, for example, sports, good causes, teams or individuals generally held to be popular with under-18s.” Yet there is no reason or evidence to support the implication that the sports, teams or players themselves somehow don’t have strong appeal whilst “imagery, themes and characters do.” More justification for this is required.

The reasoning given in the consultation document is that without the exceptions in 6.4.4, the regulations would effectively completely preclude the advertising of gambling on eSports and certain other sports and, it is argued, this is not within the CAP remit.

Here we have two sets of regulators seemingly at odds with each other – which is not helpful in protecting children. I would suggest that given the CAP’s desire to prohibit gambling advertising that strongly appeals to under-18s and given the undoubted strong appeal of eSports and other sports, then comment from the Gambling Commission to this proposal to ban all advertising with a strong appeal to children is therefore extremely important and should be included in the consultation response. A joined-up approach is necessary here.

With these exemptions in place, and with no consultation with under-18s, it is hard to see how, in practice, the application of this welcome proposed change in the regulations will go above and beyond the current provision.

Exemptions iv and v in relation to mentioning lotteries and good causes seem reasonable given that there is little evidence of the link between children’s affiliation with a particular charity and their impulse to buy a lottery ticket.

- 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.

No, for two reasons.

1. To my knowledge, fool-proof age verification measures do not exist. It is well known that young people give false ages. This is particularly the case on **social media** where adspend and activity is increasing. **Paid-for ads** are served up to individual profiles which are not easily controlled and **organic ads** can be shared in a way that is certainly outside the control of the ad originator. There is currently no specific provision in the CAP regulations for social media – although the way in which this works is really quite different from other advertising media.
2. If there really are no under-18s in the audience (e.g. a mailing list) then why would an advertiser want to appeal to this age group? It seems rather odd to seek an exemption for a situation that is unrealistic and commercially undesirable.

I would suggest that a precautionary principle be applied where the “strong appeal” regulation simply applies in all contexts. It would seem that no one will really lose out if this is the case but some under-18s could well be protected.

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.

Yes, these are welcome additions. A further addition would be a requirement to clearly marketing communications related to gambling as advertising.

- 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.

No.

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.

Question 3a) is based on the notion that there is a direct relationship between exposure to advertising and behaviour/harm and that there is some quantifiable point (i.e. presumably more than “modest”) at which advertising must be restricted. The same notion is contained in part b) where it is suggested that advertising “in and of itself” can result in gambling advertising-related harms.

The HSSF advertising debate was framed in the same way almost 15 years ago and was just as problematic an approach then. Please see this [analysis by Sonia Livingstone](#) from 2007 that articulates this extremely well. In essence her argument is that:

1. There is no perfect and/or ethical social science experiment that will show cause and effect between advertising (in and of itself) and behaviour/harm
2. These effects are generally *mediated* (e.g. via changes in attitude, emotion or family relationships) or *moderated* (e.g. the effects are different for children and teenagers because synaptic pruning in the latter results in impulsive behaviour)
3. Social science research of this sort will only ever show “modest” effects because advertising is just one influence on behaviours amongst a complex array of others including influences from parents, peers, culture and mores
4. A “modest” effect in statistical terms may in reality affect substantial numbers of children with cumulative effects over their lifetimes
5. Rather than ask the question *does advertising affect behaviour* it is more fruitful to ask *what factors affect behaviour* and amongst those what is the balance of probabilities that advertising has some detrimental effect
6. The precautionary principle should be applied: if there is a possible harm to children then action should be taken
7. Thus, policy must be based on a judgement and a balance of probabilities rather than an expectation of the production of black and white cause-and-effect evidence

In effect, this is what has happened with HSSF advertising. Since 2007 a range of judgements have been made by policy makers with [more stringent measures](#) again proposed by government in 2020 – not on the basis of new black and white evidence but on civic judgements.

In my view, the same argument applies to this current consideration of tightening the regulations for gambling advertising. The GambleAware research highlighted very clearly that (as we would expect) advertising is just one of many influences on gambling behaviour. It also showed that children see a great deal of gambling advertising and that they and their

parents do not receive this favourably. The quantitative research showed a “modest” direct effect which we would expect from social science research and this could result in the possibility of harm to a very large number of children in absolute terms.

Thus, in line with HSSF advertising precedent, question 3 should ask whether given the GambleAware evidence in the round, on balance, and taking the precautionary principle into account, the regulations should further protect 11-17 year olds.

I would argue that they should. Apart from precedent, dramatic changes in the media landscape since 2007 make restrictions more pressing. In 2007 almost all advertising impact research concerned TV advertising, a medium which is relatively easily researched as publicly available data exists to show what adverts were broadcast, at what time and on what channels. In 2021 advertising spend on digital now exceeds that on TV. Tracking this advertising is considerably harder as noted by Guy Parker in his evidence to the House of Lords in February 2020. In particular, as noted above, it is fiendishly hard to know what individual adverts are being served up to children, young and vulnerable people on paid-for social media and how these are shared. I would therefore argue that the precautionary principle should be applied much more strongly in 2021 than in 2007.

One might also ask at what point does the legality of advertising and the rights of advertisers to do so take precedence over the rights of children and young people to be protected from possible harm? The [UN Rapporteur in 2014](#), in considering advertising as an infringement of cultural rights *concluded that, “States should protect people from undue levels of commercial advertising and marketing while increasing the space for not-for-profit expressions. Within the framework of article 19 of the International Covenant on Civil and Political Rights and based on the view that commercial messaging may be granted less protection than other forms of speech, the Special Rapporteur recommends that States regulate the area more effectively.”*

In terms of “further regulatory interventions and what they should be” – I would suggest

1. That the “25% test” be revisited as a way of reducing the volume of advertising seen by young people (see below). We do not need more cause-and-effect evidence to assess this, but a different way of framing the issue.
2. That CAP commit to working in partnership with both the Gambling Commission and government to find ways to reduce advertising volumes.
3. That new regulations for digital advertising and, in particular, social media advertising be investigated. Currently regulations apply “equally online and offline”. However, these two types of media are not equal for a variety of reasons.
 - a. Other media are not directly shared between viewers (thus reaching consumers in an uncontrolled way)
 - b. The digital advertising supply chain is not transparent. The Chief Branding Officer from Procter and Gamble – one of the biggest advertising spenders on the globe reported to the House of Lords inquiry, *Advertising in a Digital Age*,

that “We serve ads to consumers through a non-transparent media supply chain with spotty compliance to common standards, hidden rebates and new inventions like bot and methbot ...we have a media supply chain that is murky at best and fraudulent at worst.”

Whilst it is not transparent, it is hard to regulate and creative solutions need to be found.

- 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.

As noted above, advertising rarely, if ever, results *in and of itself* in harm (or purchase). However, it can and does contribute to that harm in a variety of ways including through mediated and moderated effects. There is no need for further evidence on this phenomenon as it is already exceptionally well documented in decades of books and journal articles that explicate how advertising works. There is no reason to suppose that gambling advertising works in a different way from HSSF advertising or, indeed, advertising for consumer goods. The following provide ample evidence:

1. Vakratsas, D., & Ambler, T. (1999). *How advertising works: What do we really know?* Journal of Marketing, 63(1), 26–43. <https://doi.org/10.2307/1251999>

Co-authored by London Business School’s Tim Ambler this is a review of 250 articles on how advertising works, which illustrates that advertising does not work *in and of itself* or even in some pre-determined hierarchical way but, dependent on context, works along with cognition, affect and experience to achieve its goal.

2. Feldwick, P. (2015) *The Anatomy of Humbug. How to Think Differently About Advertising*. Matador. Written by one of the greats of the advertising industry, this book provides a user-friendly analysis of how advertising works in different ways and in different contexts.
4. Heath, R. (2012) *Seducing the Subconscious. The Psychology of Emotional Influence in Advertising*, London, Wiley-Blackwell. Written by an advertising practitioner turned academic this book draws on psychology and neuroscience to show the implicit (and enduring) effects of advertising on emotional states particularly in relation to brands.
5. Ehrenberg, A., Barnard, N., Kennedy, R., Bloom, H. (2002). *Brand Advertising As Creative Publicity*. Journal of Advertising Research 42(4):7-18 DOI: [10.2501/JAR-42-4-7-18](https://doi.org/10.2501/JAR-42-4-7-18) This article from the late pre-eminent statistician and marketing scholar Andrew Ehrenberg and colleagues reinforces his empirically proven theory that advertising (particularly brand advertising that is so important in gambling advertising) tends to work more as a reminder than a strong call to action. Less

advertising means less reminding and reactivating of powerful brand associations.

6. Pollay, R. (1986). *The Distorted Mirror: Reflections on the Unintended Consequences of Advertising*. Journal of Marketing 50(2):18–36 DOI: [10.1353/asr.2000.0012](https://doi.org/10.1353/asr.2000.0012). The GambleAware research and the research participants emphasise the issue of the “normalisation” of gambling – a phenomenon to which advertising undoubtedly contributes. This seminal article considers how advertising not only reflects society’s values but does so in a distorted fashion. This was, of course, written in an age when advertising was synonymous with mass media and before social media added a new dimension to the mirror that can be held up by messages whether commercial or political
7. L. J. Shrum, Thomas C. O’Guinn, Richard J. Semenik, and Ronald J. Faber (1991) *Processes and Effects in the Construction of Normative Consumer Beliefs: the Role of Television*, in NA - Advances in Consumer Research Volume 18, eds. Rebecca H. Holman and Michael R. Solomon, Provo, UT : Association for Consumer Research, Pages: 755-763. This seminal article deals with TV in general as opposed to TV advertising but it establishes important principles of how mass media normalises beliefs.
8. Bennett, R. (1999). *Sports sponsorship, spectator recall and false consensus*. European Journal of Marketing, 33 (3-4), 291-313
<https://doi.org/10.1108/03090569910253071> As noted elsewhere in this response, the GambleAware research produced important findings about the link between gambling and sport for young people and the normalisation of sports. This paper provides evidence of how sports spectators over-estimate the market share of sponsors. Psychologically this is the same as over-estimating how many people gamble on sports – thus strengthening the “normalisation” argument.

3c) 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.

The basis for rejecting a change to the 25% test appears to be that the association between exposure to gambling advertising and “susceptibility” to gambling for 11-17 year olds is modest and only one influence amongst a range of influences. As noted above, social science research of this sort will only ever show a modest effect and will also capture other effects. BUT where an effect of any sort IS found then it can nonetheless affect a great many children and the precautionary principle should be applied. This is what has happened with HSSF food advertising and, indeed, with smoking and alcohol advertising where there is no evidence to my knowledge that shows a more than modest or indeed direct relationship

between advertising in and of itself and smoking, problem drinking or changes in eating habits which may lead to obesity – but where there is plenty of evidence that advertising is a significant contributory factor.

The focus should therefore be on protecting the **greatest absolute number of children and young people** from potential gambling harms. The 25% rule means that where an advertising medium has an audience of 500,000 with 25% of that audience as children 125,000 children are exposed to gambling advertising. One has to ask why these 125,000 children do not have a right to be protected in the same way as CAP/BCAP which to protect others?

That 21% of the population is accounted for by under-18s is not, in my view, a sound basis for the 25% rule as it does not take into account the absolute number of under-18s that may be affected.

Lowering the bar to 5% would certainly be a step in the right direction. 7.4.2 suggests again that lowering the bar to 10% or 5% is not justified because of the “modest effects” argument. As above, this is not a robust argument. This paragraph also notes that lowering the bar to this extent would have a negative impact on “gambling operators’ advertising freedoms.” As noted above, the question for CAP/BCAP together with the Gambling Commission and government should perhaps be: what trade-off do we as a society want to make between the rights of gambling operators to commercial free speech and the rights of children to be protected from potential gambling harms?

Setting numerical limit. 7.4.2 makes the very good point that tracking absolute audience numbers online and on social media is impractical because of the many differences between the one-to-one versus one-to-many media models. However, this is not a reason for not tackling the issue. If we are unable to track the volume of these audiences then we all need to put our heads together and come up with a solution. As noted above, this points to an urgent need for a new type of regulation to deal with online and, particularly, social media advertising. If CAP/BCAP are serious about protecting children from gambling (and other) advertising-related harms this cannot be dealt with in a one-off consultation but requires a joined-up approach from government, regulators, academics and adtech experts.

In the meantime, I would suggest that the absolute volume of gambling advertising that under 18s might see should be lowered by setting the bar at 5% where possible; setting an absolute number where possible and thought given to substantially revising the CAP/BCAP code to reflect the growing importance of online and social media advertising.

4a) 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.

I agree with all of these amendments. They clarify the existing provision, bring it up to date and address some of the cross-border concerns articulated in the GambleAware research.

The move away from products to marketing communications including brand promotional activity is particularly welcome as it acknowledges the implicit influence of brands as well as the overt influence of an explicit sales message. Given the fast rise of content marketing I would also recommend that content marketing is explicitly mentioned.

The explicit reference to affiliates and tipsters is a valuable clarification.

The new section that clarifies the responsibility of CAP, Gambling Commission and off-shore operators is very helpful as is the detail of how complaints will be jointly addressed

4b) 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.

Yes, as for 4a)

Apricot Investments Limited ('Apricot') writes in response to the Committee of Advertising Practice ('CAP') consultation on new guidance for gambling ads to protect children and young people.

Apricot is the holder of a gambling software licence issued by the United Kingdom Gambling Commission ('UKGC'), licence reference 39073.

We are fully supportive of evidence led actions to reduce gambling related harms, with particular concern for children, young people and vulnerable people. As a member of the Betting and Gaming Council ('BGC') Apricot is involved in a number of initiatives to make gambling marketing safer for all.

Our response to the consultation questions have been outlined below.

Question 1

Whilst Apricot agrees with the intention of the proposed amendments set out in section 6.4.1, we believe that the restrictions are disproportionate.

We perceive the disproportionality to derive from a lack of certainty that the appeal of a particular sports personality will affect the view of gambling for young audiences, and that there are many ways that advertisements can be targeted at specific audiences effectively, but may not qualify given the proposed wording.

Appeal now being defined as "strong" in place of "particular" does not remove the subjectivity of the judgement of advertisements and it is clear that the proof, either for or against a decision of appeal, would remain difficult to ascertain.

The content linked exemption to changes outlined in 6.4.1 does not fully alleviate the issues that licensees and advertisers will face. Given that sports and sports personalities are so closely linked to the product and/or services on offer, we believe that the exemption should go further in allowing for personalities to be utilised when the product and/or service is directly linked to the personality in question e.g. "Salah to score first 7/2".

Apricot would also like to see a further concession or guidance on the pace at which youth culture changes. Given the rise of platforms like Tik Tok, it would be possible for something not of 'strong appeal' to under 18s to become a part of youth culture overnight. This could be anything from an obscure song from the 1960s to a particular phrase from cult film from the 1980s. We are of the opinion that a gambling operator should not forced to pull their advertisement on the basis that some or part of it has become popular with under 18s since the advertisements initial release.

Question 2

We have outlined our comments to each of the proposed changes individually as follows.

"presenting 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"

Given that complexity is a subjective concept to the individual, we believe that this will be a difficult prohibition for licensees to apply. Without, further clarification on "complex" it is likely that licensees will interpret the definition at it's lowest level.

We believe that the guidance should clarify on how "level of control" is defined and/or the metric that is used to determine the level of control.

While we agree with the principle not to mislead customers on their chances of winning, there are sufficient rules that already exist for this purpose.

“presenting gambling as a way to be part of a community based on skill”

Again, we would like to see further clarification on this point within the guidance.

This prohibition could cause issues for poker operators, should references to a “poker community” fall under the proposed wording. Similarly, bingo operators may refer to a community on the basis that the chat functionality enriches the playing experience.

“implying that money back offers create security”

The industry in general already takes the necessary precautions to ensure that advertisements do not depict inaccurate visions of risk or financial stability.

Should this prohibition remain in the guidance, we would like to see further guidance as to how “security” will be defined.

“humour or light-heartedness being used specifically to play down the risks of gambling”

As the existing requirements for gambling advertising is that it must be socially responsible, we believe this new prohibition to be redundant and is likely to bring confusion as to whether advertising can be humorous in general.

Should this remain in the guidance, we would like to see CAP clarify the kinds of humorous depictions that are of concern.

“unrealistic portrayals of winners (for example, winning first time or easily)”

We are of the opinion that CAP could update the existing guidance to reiterate the substantiation requirements in the context of gambling, rather than introduce a new measure that could create confusion.

“Unrealistic” is a vague term in the context of a gambling win, for example, it may seem unrealistic to some people that they could win over a £1m on a progressive jackpot slot game.

Similarly, it is not clear what winning “easily” is intended to include. Would a winning £5 stake on Manchester City to beat Cheltenham Town in the FA Cup be considered an easy win?

We believe that greater clarity will be required in order for licensees to understand what is and is not acceptable under this prohibition.

Question 3

The ScotCen quantitative study (MacGregor et al., 2020) defines ‘susceptibility’ to gambling as follows:

“All respondents were asked whether they thought that they would spend money on gambling in the next year. Those who were not current gamblers were categorised as susceptible to gambling within the next year if they selected the answer ‘definitely yes’, ‘probably yes’ and ‘probably not’, and not susceptible if they opted for ‘definitely not’.”

It is difficult to understand how to interpret the results of the research, as participants who replied ‘probably not’ have been classified to be as susceptible to gambling as those who replied ‘definitely yes’.

There is an important difference between the response of 'probably not' and the responses of 'definitely yes' or 'probably yes'. In order to be able to understand the potential effect of marketing, it is important that we are able to distinguish between the differing responses to this question. The implications on policies would likely be very different if 38% of 'not current gamblers' reported that they definitely would gamble in the next year compared with if they reported they would 'probably not' gamble.

It also would have been beneficial to understand the specific gambling intentions of the respondents i.e. participating in age-appropriate or age-restricted activities.

The ScotCen report does not disclose any results on "the reported exposure to advertising of under-18s who were non-gamblers and their intention to gamble", and therefore it is difficult to understand whether advertising is adversely affecting under 18's who do not gamble.

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.

Apricot agrees with the proposed amendments to the introduction of the gambling sub-section of the CAP and BCAP Codes.

From: - Age Verification Providers Association <avpa@avpassociation.com>
Sent:
To: Age Verification Providers Association
Cc: Policy_ Legislation and Regulation - avpassociation
Subject: 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

Dear

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

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.

It is now technically possible to ensure that all online gambling adverts are seen by only adult audiences.

There is no need to seek to apply qualitative rules about the content of gambling adverts to protect children if those ads are only ever displayed to adults.

While ‘adtech’ techniques can be used to reduce the risk of children seeing gambling ads, they are not sufficiently effective to deliver comprehensive protection to children based on the current architecture of digital advertising.

However, it is extremely straightforward for social media platforms and online advertising networks to implement robust, standards-based, independent age-verification for all their users who claim to be over 18. Age checks can be applied on account opening, and for those who open accounts when below the age of 18, on their 18th birthday as recorded by their claimed date of birth when they opened their account.

This would allow platforms to curate a subset of their user-base which is age-verified as over 18.

Such age checks need to be conducted to the BSI Standard PAS 1296:2018 (to which DCMS is currently sponsoring an upgrade and update process). This will ensure that the recorded age is reliable to a level of assurance commensurate with the risk of harm to children from gambling ads. CAP could specify this level of assurance based on the options within PAS 1296.

Defining the term “robust” by reference to PAS 1296 is essential for the new CAP rules to be effective. Platforms may claim to apply age-assurance, but unless it is to a defined standard, and subject to external audit and certification, the public can have little confidence that these platforms are applying robust age-assurance measures.

Given the high level of revenue platforms secure from gambling adverts, a regulatory requirement will drive them to apply rigorous age-verification to their audience.

This is in the context of age-verification already becoming widely applied in our day-to-day online activities, not least for remote gambling itself, but also for the purchase of age-restricted goods such as alcohol and vaping products. This makes the application of age-verification by social media and advertising platform straightforward, and can often require no action by the end-user at all if they have previously been verified for another purpose, or have already shared sufficient data on which to base an age check. The new online harms legislation will increase the need to widespread age-verification; and already both the Age Appropriate Design Code and the Audio-Visual Media Services Directive are driving the ubiquitous application of age verification for any websites that may pose a risk of harm to the mental or physical well-being of children.

There is simply no need to continue the situation where it is acceptable to allow up to 25% of a gambling ads audience to be children. The rule can feasibly be 0%. By requiring platforms to offer verified adult-only audiences for gambling, this would also give CAP the opportunity to protect children from other forms of harm in a far more straightforward way.

The gambling industry may welcome this as presently it wastes millions of pounds on advertising to children who are not legally permitted to gamble. Allowing their ads to be seen by children also damages their reputation, and adds to pressure for stricter regulations on gambling more generally.

The UK leads the world in the provision of age-verification technology. There is a mature, standards-based, audited and certified, open and competitive market in providing robust age checks, which means the cost is not prohibitive – pence not pounds for a check which can then be applied multiple times by the platform across a wide range of age-restricted categories and for multiple advertisers.

This is really not a big step to take. Platforms are on the verge of needing to do this anyway given the range of new regulatory requirements for age-assurance online. CAP has the opportunity to make an enormous difference to the level of technical protection it can offer children from the full range of potential harms from exposing minors to ads intended for adults.

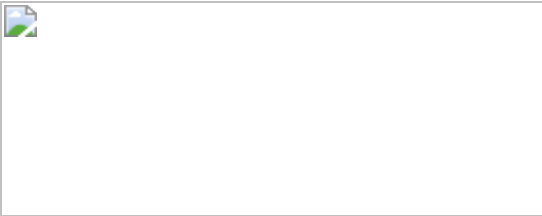
The latest government proposal to completely ban HFSS adverts online would not be necessary if there was independent, standards-based age verification applied before audiences are exposed to age-restricted advertising. Between HFSS and gambling, we may now have reached the tipping point where this is a better answer, enabled by technological advances, than blanket bans.

We would be pleased to speak to you and your colleagues at CAP in more detail about the opportunity that AV technology offers for better child protection measures in advertising practice.

Kind regards,

The Age Verification Providers Association

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REGISTERED ADDRESS: 557B WANDSWORTH ROAD, LONDON, SW8 3JD
GENERAL ENQUIRIES: AVPA@AVPASSOCIATION.COM
MEDIA ENQUIRIES: PRESS@AVPASSOCIATION.COM
WEBSITE: [HTTPS://WWW.AVPASSOCIATION.COM/](https://www.avpassociation.com/)



Content restrictions consultation questions:

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

Agree – subject to further guidance being provided.

While the majority of the explanation is clear, such as imagery, there are some areas that require more specific guidance such as games names – are there any names/ terms that are considered to “strongly appeal”

When a customer is age verified, it is at this point that they have access to the full website content- so would these rules still to a logged in view only or both a logged in and logged out view?

Do respondents consider the intended application of the rules proposed and the guidance to support their application are broadly proportionate to the intended purpose of preventing gambling ads from appealing “strongly” to under 18’s?

Agree – However if the alcohol guidance is to be used, further clarity is required, specifically in the following areas:

- skill needs to be defined, and preferably in line with the Gambling Act. There are many people that believe that Poker is a game of skill but is in fact a game of chance. Bingo is also seen as a social game, so how do these games fit into this definition?
- Further clarity regarding appeal of point d), while it is clear that if something comes back into fashion this is exempt, but what about long-standing things that has broader appeal, such as musicals, which children may be taken to see. Robust guidance on this point will be required to ensure that the guidance works.
- Point e – how will this be future proofed? Language is dynamic and is currently changing at a rate faster than at any time in history. Like with TV programmes, there are terms/ abbreviations that both children/ young persons and adults’ use. How are these terms viewed?
- Point g – In light of the exception, we are of the view that this point should be removed.

Do respondents agree with the proposal to exempt from the rules, certain content inextricably linked to licensed gambling activity or the good causes that benefit from lottery funds?

Agree – Gambling is a legitimate leisure activity and as such there should be provisions to advertise. The close link between sports and gambling are undeniable and will not change. As such there needs to be provision for operators to advertise their brand and the business that they are operational in.

Do respondents agree the rules proposed should not apply to advertisements restricted on the basis of robust age-verification measure which, for all intents and purposes, exclude under 18s from the audience?

Agree – where operators can demonstrate that they took reasonable steps to ensure that age-verification measures have been completed, the “strong appeal” rule should not apply. companies should be allowed to advertise freely within the secure environment provided by verified audiences. It should however be noted that in some circumstances we are reliant upon third parties to complete the age verification and while steps are taken to ensure that

checks are completed, there are people that intentionally try to circumvent these systems and there should be allowances for these instances.

Do respondents agree with CAP and BCAP's proposed additions to the Gambling advertising: responsibility and problem gambling guidance?

Agree – this brings the CAP and BCAP code further in line with the IGRG requirements. However further clarity regarding “risk free” bets is required. Specifically, regarding cashback offers. These are normally offers where the funds can be withdrawn, so it is the gamblers choice if they continue to gamble with those funds or not.

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 potential for gambling advertising-related harm?

No – the proposed changes are significant and if agreed, should be evaluated after a period for impact, before any further changes are considered.

Scheduling placements consultation questions:

Do respondents agree that 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?

Agree – we currently work to a 20% level, which is below the 25% level currently set out within the CAP code but acknowledge that not all operators work to a 20% level. It is accepted that gambling is a legitimate leisure activity, as such it is reasonable to expect that it can be advertised, albeit with responsibility. There is no evidence that problem gambling levels have increased in over 10 years, which is the period when advertising has become more prominent. The current combination of considered content and consideration to the placement of advertisements, has not be proven to have a significant impact on children or young person's disproportionately becoming problem or at risk gamblers.

Respondents are invited to submit further evidence, which suggests that exposure to gambling advertising can, in and of it'self, result in gambling advertising-related harms?

Below are some examples of paid campaigns that we have run, and the demographic research evidenced around those campaigns. You will see in both examples that the U18 audience demographic does not exceed 2% and the 18 – 24 demographic does not exceed 20%

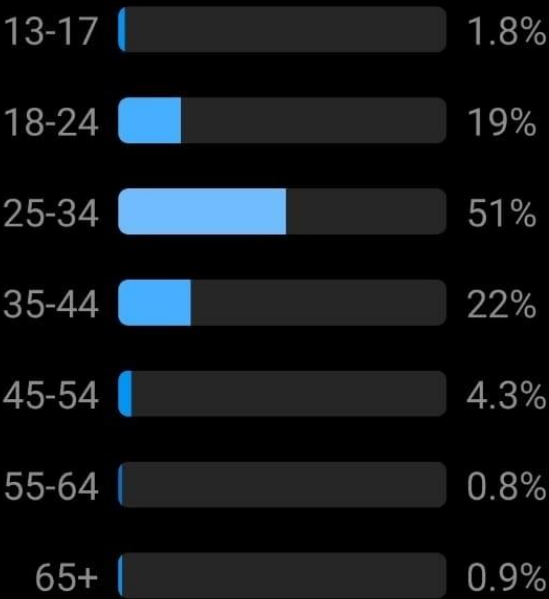
Top Locations

Cities Countries



Age Range

All Men Women





Although CAP considers the Gambleaware evidence does not present a case for change to the 25% “test”, 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?

No – this approach is proven to be effective

Technical updated consultation questions:

Do respondents agree with the proposed amendments to the introductory sub-section of the CAP Code’s gambling rules?

Yes

Do respondents agree with the proposed amendments to the introductory sub-section of the BCAP Code’s gambling rules?

Yes

CAP/BCAP Consultation Response 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.

FI Response

Where there is evidence of a direct link between advertising and gambling harm as a responsible operator we would fully support the introduction of tighter controls. However, the definition and the list of exemptions to this new rule would need to be clearly explained in our opinion.

Our reading of 6.4.4.a) indicates that we would be exempt from applying a strong appeal test to football players that are intrinsically linked with our licensed gambling product. However, point a) appears to us to be directly contradicted by point b) which suggests that the "proposed exemption would not cover advertising featuring of a person or character whose example is likely to be followed by those aged under 18 years or who has a 'strong appeal' to those aged under 18"

If we are unable to feature the very subject of our product then this change will have a material impact on our ability to promote our licenced gambling product.

The 2020 Consultation recognises that it is not the place of CAP, BCAP or the ASA to severely restrict a licensed operator's ability to advertise its products or services so we would be keen to ensure that any change does not materially affect our business.

We would also request clarity regarding whether this control will be in relation to images and copy or just images. For example, as football is the sole topic of our gambling product for the moment would this mean that any mention of any name, of any footballer, that may have a strong appeal to under 18s would be considered to be in breach?

If would also be helpful for an explanation of how "strong" will ultimately be determined.

As an operator we have been trained by the ASA as recently as last May and during those training sessions ASA representatives were unable to bring complete clarity on the use on under 25s in our current advertising. Their continued response to us at the time was that precedence would need to be set by a ruling from the ASA council.

In our opinion this may become another area of enormous subjectivity therefore we would hope clear and concise guidance would be included to support any such change.

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.

presenting 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;

Further clarity on the definition of a "complex bet" is required in our opinion.

If a level of skill is genuinely required in order to get the best outcome of a bet then we would assume it would not be considered inappropriate to reference that within our advertising.

The way this is written at the moment appears to be open to a high degree of interpretation and subjectivity and it would helpful if clear examples of what would be acceptable versus not acceptable could be provided.

Existing codes of practice are already clear that operators must be fair and not mislead so if this revision has been drawn from evidence gleaned by ASA rulings it would helpful to include as many examples of breaches as possible.

presenting gambling as a way to be part of a community based on skill;

We believe that the expression "community based on skill" requires more explanation. Could you please provide specific examples of how you would expect gambling to be presented for it to fall under this category?

Is this a reference to the definition of "game of skill", versus a game of chance?

This could present a problem if a poker community is considered a community based on skill.

Clear guidelines would be required to firmly establish what activities would be captured by this control.

Would communities also relate to “forums” where customers are able to share opinions and hold open discussions. In our business case our forum, in our opinion, enriches customers knowledge in a wholly responsible manner.

implying that money back offers create security;

Adequate social responsibility rules are already in place preventing gambling operators from including any suggestions in their advertising that players will not suffer economic detriment as a result of their gambling already in our opinion.

humour or light-heartedness being used specifically to play down the risks of gambling; and

This area can be highly subjective so again clear examples of good versus bad should be evidenced.

unrealistic portrayals of winners (for example, winning first time or easily).

Clarity would be required in relation to how “easily” is defined here.

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

No comments

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.

BGC Proposed Response

No comment, suggested amendments are clear and we support the changes.

BetVictor Limited's response to the ASA's consultation on stricter rules for gambling advertisements.

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Company Name: BetVictor Limited, **Company Number:** 42734, Registered Office: Suite 23, Portland House, Glacis Road, Gibraltar GX11 1AA, Trading From: Suite 2.01 World Trade Center, Bayside Road, Gibraltar GX11 1AA, **Tel:** +350 2004 1313 **Website:** www.betvictor.com

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6.5. Consultation question 1

6.4.1. Proposed changes to the UK Advertising Codes – The following amendments (coloured and italicised), mirroring the restriction placed on TV ads for alcohol (BCAP Code rule [19.15.1](#)), are proposed to the text of CAP rule 16.3.12 (gambling) and BCAP rule 17.4.5 (gambling):

Marketing communications / advertisements for gambling must not [...] be likely to be of *strong particular* appeal to children³⁷ or young persons³⁸, especially by reflecting or being associated with youth culture. *They must not include a person or character whose example is likely to be followed by those aged under 18 years or who has a strong appeal to those aged under 18.*

Where the subject of a gambling product is inherently of strong appeal to under-18s (for example, certain sports generally held to be popular with under-18s), the content of the marketing communication / advertisement may depict that subject, but it must not feature a person or character whose example is likely to be followed by those aged under 18 years or who has a strong appeal to those aged under 18.

CAP / BCAP has produced guidance on the application of the strong appeal test.

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.

BetVictor Limited ("BVL") agrees with the proposed amendments in principle as a way of minimising exposure to those under 18.

However, BVL would seek further guidance and clarification around:

1. Which sports does the ASA/CAP consider to have 'Strong Appeal' to those under 18 (as we don't anticipate this will change year on year)?
2. Where eSports games are specifically targeted at those over the age of 18+, can imagery from the games be used provided that it isn't presented in a cartoon-like fashion?

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The following amendments (coloured and italicised) are proposed to the text of CAP rule 17.13 (lotteries) and BCAP rule 18.5 (lotteries):

Marketing communications / advertisements for lotteries must not [...] be likely to be of *strong particular* appeal to children³⁹ or young persons⁴⁰, especially by reflecting or being associated with youth culture. *They must not include a person or character whose example is likely to be followed by those aged under 18 years or who has a strong appeal to those aged under 18.*

Where the subject of a lotteries product is inherently of strong appeal to under-18s (for example, good causes involving certain sports generally held to be popular with under-18s), the content of the marketing communication / advertisement may depict that subject, but it must not feature a person or character whose example is likely to be followed by those aged under 18 years or who has a strong appeal to those aged under 18.

CAP / BCAP has produced guidance on the application of the strong appeal test.

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.

BVL agrees with the proposed amendments to lottery marketing and has no alternative approaches to offer.

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Gambling advertising is presently prohibited from including content that is likely to appeal more to under-18s than to adults in other words the 'particular appeal' restriction. CAP and BCAP propose to extend the restriction to include 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.

The following table sets out the existing guidance on 'strong appeal':

| | BCAP alcohol guidance on 'strong appeal' |
|----|---|
| a) | Personalities. Avoid those who are likely to have a strong appeal to the young; for example, pop stars, sportsmen and sportswomen who command particular admiration of the young, television personalities, youth-orientated performers and any person who is likely to have strong influence on the behaviour of the young. |
| b) | Avoid themes that are associated with youth culture; for example, disregard for authority or social norms, teenage rebelliousness, mocking or outwitting authority be it parental or otherwise, immature, adolescent or childish behaviour or practical jokes and any behaviour that seeks to set those under 18 apart from those of an older age group. |
| c) | Teenage fashion or clothing mostly associated with those under 18. |
| d) | Avoid music or dance that is likely to appeal strongly to under-18s. But an advertisement that, for example, features an old recording that, perhaps as a result of its use in the advertisement, becomes popular with the young once again, will not necessarily be challenged. Announcements of alcohol-sponsored events may be made but the emphasis must be on the event, not the alcohol |
| e) | Language commonly used by the young but rarely by an older generation; for example, slang or novel words. |
| f) | Cartoons, rhymes or animation. Avoid those likely to have strong appeal to children and teenagers. Mature themes are likely to be acceptable |
| g) | Caution is needed in the use of all sports. In addition, certain sports have a strong appeal to the young, for example, skateboarding or "extreme sports"; they should be avoided. |
| h) | Avoid puppets or cute lovable animals that are likely to inspire strong affection in the young, adolescent or childish humour must be avoided. |

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.

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BVL agrees that the intended application of the rules proposed and the guidance to support their application are proportionate to the intended purpose of preventing gambling advertising from appealing strongly to those aged under 18. In particular, the guidance outlined in 6.4.3, which focuses on imagery, themes and characters.

Under 18s are vulnerable by nature due to their age and therefore, BVL does not feel that the intended application is disproportionate to the intended purpose. As aforementioned, BVL would require additional guidance on which sports would be deemed of strong appeal to under 18s.

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.

BVL agrees with the exemptions outlines in section 6.4.4 so long as they do not contravene any further codes. BVL believes that these exemptions would maintain the operators' right to commercial freedoms and allow them to market their products in a way that remains socially responsible and minimises potential harm to children. The guidance on exemptions is a welcome supplement to the proposal.

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.

BVL agrees with this proposal but would like to seek clarification around the ASA/CAP's view on age-gating using the social media platforms; would it be sufficient to age-gate using the controls on social media accounts (eg. Facebook and Twitter)?

6.7. Consultation question 2

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6.6.1. Proposed guidance revisions

Based on insights from the GambleAware findings, CAP and BCAP propose several amendments to the guidance. The proposals are based on several of the findings included in Final Synthesis Report section 6.2.3⁴⁴.

The main focus for changes will be guidance section 4, 'Social responsibility, harm and gambling behaviour'. This includes provisions that prevent condoning or encouraging problem gambling behaviours, approaches that trivialise gambling (for example, by giving the impression that the decision to gamble may be taken lightly), undue pressure on the audience to gamble (for example, exhortations to "Bet now") and giving erroneous perceptions of the level of risk involved.

CAP and BCAP propose to add new provisions to cover the following issues identified in their assessment of the GambleAware research:

- In guidance section 4.2 on erroneous perceptions of risk and control, proposed additions to the guidance would prohibit:
 - presenting complex bets in a way that emphasises the skill, knowledge or intelligence involved to suggest, inappropriately, a level of control over the bet that is unlikely to apply in practice;
 - presenting gambling as a way to be part of a community based on skill; and
 - 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).
- In guidance section 4.3 on impulsiveness and urgency further examples of problematic approaches are proposed to be added (for example, time limited offers emphasising the need to participate before the odds change and ads that place emphasis on the immediacy of an event).
- In guidance section 4.4 on trivialization, proposed additions would prohibit:
 - humour or light-heartedness being used specifically to play down the risks of gambling; and
 - unrealistic portrayals of winners (for example, winning first time or easily).
- In guidance section 6.2 on financial concerns additional examples are proposed to be added to urge caution when depicting a winner: the implication that someone won easily or approaches that take advantage of people's hopes of winning themselves (in other words replicating the success).

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.

4.2 BVL agrees with the proposed changes

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4.3 While we agree with limiting the exposure of customers to urgency to bet, BVL are concerned that the addition of those examples would serve to prohibit any advertising on events that are currently taking place (otherwise known as in-play betting). We would like the ASA/CAP provide further clarification on “*the immediacy of an event*” and confirm that the intention of this amendment is to not limit in-play betting marketing.

4.4 BVL agrees with the proposed changes

6.2 BVL is concerned that the term “*implication that someone won easily*” is ambiguous, especially in relation to a single bet or spin. For example, would showing a clip of a cash-out of a bet, or a winning hand in a live casino in isolation imply that the bet was “*won easily*”? Should we consider this statement to be specifically in relation to a marketing campaign where there is an underlying inference that a customer can be reckless when they place their stake?

We do, however, agree that caution around the replication of success should be included in the guidance.

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.

BVL does not wish to add any further provisions to what is outlined in section 6.6.1 of the consultation.

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7.5. 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.

BVL agrees with the CAP’s assessment of the GambleAware research and believes that the findings are not significant enough to warrant a change in the “25% test”.

Given that the research has only found an association between marketing and gambling harm and that no follow up studies have been conducted, BVL does not believe that any change to the test is necessary.

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.

N/A.

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.

BVL believes a proportional approach is an adequate measure. Implementing a numerical test would be very difficult to for operators to forecast when deciding on targeting strategy. The existing measures are robust and are effective at making operators meet their regulatory objective of protecting vulnerable people from the harms of gambling, and the compliant rulings clearly place the responsibility on the operator for obtaining data that supports the 25% rule whenever they plan their marketing campaigns.

The existing measures are also supplemented by additional restrictions from the Industry Group for Responsible Gambling (“IGRG”) Codes.

However, we note that the rise of AdTech has facilitated easier and more precise ‘white list’ targeting of digital marketing campaigns. As the capabilities and integrity of these platforms increase, we would be supportive of more restrictive controls and reductions in the percentage requirement.

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8.5. Consultation question 4

8.3. Proposed technical changes to CAP Code section 16

The table in this section sets out CAP's proposed amendments to the introductory text of its gambling rules in the first column with the proposed changes and the second the existing wording for comparison. CAP Code [section 16](#) is available via this link.

| CAP Code section 16 – Gambling | |
|--|--|
| Proposed introductory text | Existing introductory text to be replaced |
| Principle The rules in this section are designed to ensure that marketing communications for gambling are socially responsible, with particular regard to the need to protect children, young persons and other vulnerable persons from being harmed or exploited. | Principle The rules in this section are designed to ensure that marketing communications for gambling products are socially responsible, with particular regard to the need to protect children, young persons under 18 and other vulnerable persons from being harmed or exploited by advertising that features or promotes gambling. |
| Background "Gambling" for the purposes of this section covers: <ul style="list-style-type: none">• gaming, betting and other activities defined as gambling by the Gambling Act 2005 (as amended); and• spread betting as defined in financial services legislation. Rules on marketing communications for lotteries are set out separately in Section 17. | Background The term "gambling" means gaming and betting, as defined in the Gambling Act 2005, and spread betting. For rules on marketing communications for lotteries, see Section 17. |
| The legal framework for gambling in Great Britain, including the requirements for licensing gambling operators, is set out in the Gambling Act 2005 (as amended). The Gambling Commission regulates commercial gambling and permits gambling on the basis that the licensing objectives to keep gambling safe, fair and crime out, are met. | The legal framework for gambling in Great Britain, including the requirements for licensing operators, is set out in the Gambling Act 2005 (as amended). |
| To advertise in Great Britain, and to advertise remote gambling in Northern Ireland, gambling operators must comply with the relevant licensing requirements set out in statutes. The ASA will refer marketing communications for unlicensed operators to the Gambling Commission. The Gambling Commission's Licence Conditions and Codes of Practice make it a direct requirement on licensed operators to ensure their marketing communications comply with the UK Advertising Codes. The Gambling Act 2005 and Gambling (License & Marketing) Act 2014 apply to Great Britain and Northern Ireland for remote gambling. Specialist legal advice should be sought when considering advertising any gambling product in Northern Ireland, the Channel Islands or the Isle of Man. The ASA will cooperate with the relevant authorities to address complaints relating to these jurisdictions. | The Gambling Act 2005 does not apply outside Great Britain. Specialist legal advice should be sought when considering advertising any gambling product in Northern Ireland or the Channel Islands. |

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| Spread betting may be advertised as an investment under the Financial Services and Markets Act 2000 (as amended) (FSMA), the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (as amended) and other Financial Conduct Authority (FCA) rules and guidance (see Background, Section 14, Financial Products). A "spread bet" is a contract for difference that is a gaming contract, as defined in the glossary to the FCA Handbook. | Spread betting may be advertised as an investment under the Financial Services and Markets Act 2000 (as amended) (FSMA), the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (as amended) and other Financial Conduct Authority (FCA) rules and guidance (see Background, Section 14, Financial Products). A "spread bet" is a contract for difference that is a gaming contract, as defined in the glossary to the FCA Handbook. |
| <p>Scope</p> <p>Unless otherwise stated, the rules in this section apply to marketing communications by:</p> <ul style="list-style-type: none"> • gambling operators licensed in Great Britain that are likely to have the effect of promoting gambling; and • firms authorized to provide spread betting products. <p>This includes marketing by third parties (for example, affiliate marketers) acting on an advertiser's behalf.</p> | <p>The rules in this section apply to marketing communications for "play for money" gambling products and marketing communications for "play for free" gambling products that offer the chance to win a prize or explicitly or implicitly direct the consumer to a "play for money" gambling product, whether on-shore or off-shore.</p> |
| Although they do not apply to marketing communications for non-gambling operators, 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 (see Section 1). | |
| The rules are not intended to inhibit marketing communications by non-gambling operators that aim to counter problem gambling provided they are responsible and unlikely to promote a brand or type of gambling. Safer gambling messaging and marketing by gambling operators must comply with the rules. | These rules are not intended to inhibit marketing communications to counter problem gambling that are responsible and unlikely to promote a brand or type of gambling. |
| Unless they portray or refer to gambling, this section does not apply to marketing communications for non-gambling leisure events or facilities, for example, hotels, cinemas, bowling alleys or ice rinks, that are in the same complex as, but separate from, gambling events or facilities. | Unless they portray or refer to gambling, this section does not apply to marketing communications for non-gambling leisure events or facilities, for example, hotels, cinemas, bowling alleys or ice rinks, that are in the same complex as, but separate from, gambling events or facilities. |
| For the purposes of this section, "children" are people of 15 and under and "young persons" are people of 16 or 17. | For the purposes of this section, "children" are people of 15 and under and "young persons" are people of 16 or 17. |

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BETVICTOR

| BCAP Code section 17 – Gambling | |
|--|---|
| Proposed introductory text | Existing introductory text to be replaced |
| <p>Principle</p> <p>The rules in this section are designed to ensure that gambling advertisements are socially responsible, with particular regard to the need to protect children, young persons and other vulnerable persons from being harmed or exploited.</p> | <p>Principle</p> <p>The rules in this section are designed to ensure that gambling advertisements are socially responsible, with particular regard to the need to protect under-18s and other vulnerable persons from being harmed or exploited by advertising that features or promotes gambling.</p> |
| <p>Background</p> <p>The legal framework for gambling in Great Britain, including the requirements for licensing gambling operators, is set out in the Gambling Act 2005 (as amended). The Gambling Commission regulates commercial gambling and permits gambling on the basis that the licensing objectives to keep gambling safe, fair and crime out, are met.</p> | <p>Background</p> <p>The legal framework for gambling in Great Britain, including the requirements for licensing operators, is set out in the Gambling Act 2005 (as amended).</p> |
| <p>To advertise in Great Britain, and to advertise remote gambling in Northern Ireland, gambling operators must comply with the relevant licensing requirements set out in statutes. The ASA will advertisements for unlicensed operators to the Gambling Commission. The Gambling Commission's Licence Conditions and Codes of Practice make it a direct requirement on licensed operators to ensure their advertising complies with the UK Advertising Codes.</p> <p>The Gambling Act 2005 and Gambling (License & Marketing) Act 2014 apply to Great Britain and Northern Ireland for remote gambling.</p> <p>Specialist legal advice should be sought when considering advertising any gambling product in Northern Ireland, the Channel Islands or the Isle of Man. The ASA will cooperate with the relevant authorities to address complaints relating to these jurisdictions.</p> | <p>The Gambling Act 2005 does not apply outside Great Britain. Licensees should ensure that specialist legal advice is sought when considering advertising any gambling product or service in Northern Ireland or the Channel Islands.</p> |

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| <p>Spread betting may be advertised as an investment activity under the Financial Services and Markets Act 2000 (as amended) (FSMA), the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (as amended) and in accordance with the Financial Conduct Authority (FCA) Handbook. Spread betting may be advertised on specialised financial stations or channels, in specialised financial programming or on interactive or additional television services (including text services) only (see rule 14.5.4). A "spread bet" is a contract for differences that is a gaming contract, as defined in the glossary to the FCA Handbook.</p> | <p>Spread betting may be advertised as an investment activity under the Financial Services and Markets Act 2000 (as amended) (FSMA), the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (as amended) and in accordance with the Financial Conduct Authority (FCA) Handbook. Spread betting may be advertised on specialised financial stations or channels, in specialised financial programming or on interactive or additional television services (including text services) only (see rule 14.5.4). A "spread bet" is a contract for differences that is a gaming contract, as defined in the glossary to the FCA Handbook.</p> |
| <p>The rules are not intended to inhibit advertisements by non-gambling operators that aim to counter problem gambling provided they are responsible and unlikely to promote a brand or type of gambling. Safer gambling messaging and marketing by gambling operators must comply with the rules.</p> | <p>These rules are not intended to inhibit advertisements to counter problem gambling that are responsible and unlikely to promote a brand or type of gambling.</p> |
| <p>Please refer to Section 32: Scheduling for rules on the scheduling of gambling advertisements.</p> | <p>Please refer to Section 32: Scheduling for rules on the scheduling of gambling advertisements.</p> |
| <p>Definitions</p> <p>"Gambling" for the purposes of this section covers:</p> <ul style="list-style-type: none"> gaming, betting and other activities defined as gambling by the Gambling Act 2005; and spread betting as defined in financial services legislation. <p>Rules for lottery advertising are set out separately in Section 18.</p> | <p>Definitions</p> <p>The term "gambling" means gaming and betting, as defined in the Gambling Act 2005, and spread betting. For rules on lottery advertisements, see Section 18.</p> |
| <p>Unless otherwise stated, the rules in this section apply to advertisements by:</p> <ul style="list-style-type: none"> gambling operators licensed in Great Britain that are likely to have the effect of promoting gambling; and firms authorized to provide spread betting products. <p>This includes marketing by third parties (for example, affiliate marketers) acting on an advertiser's behalf.</p> | <p>The rules in this section apply to advertisements for "play for money" gambling products and advertisements for "play for free" gambling products that offer the chance to win a prize or that explicitly or implicitly direct the consumer to a "play for money" gambling product, whether on-shore or off-shore.</p> |
| <p>Although they do not apply to advertisements for non-gambling operators, 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 (see Section 1).</p> | |
| <p>Unless they portray or refer to gambling, this section does not apply advertisements for non-gambling leisure events or facilities, for example, hotels, cinemas, bowling alleys or ice rinks, that are in the same complex as, but separate from, gambling events or facilities.</p> | <p>Unless they portray or refer to gambling, this section does not apply to advertisements for non-gambling leisure events or facilities, for example, hotels, cinemas, bowling alleys or ice rinks, that are in the same complex as, but separate from, gambling events or facilities.</p> |

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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.

BVL welcomes the proposed amendments to the introductory sub-section of the gambling rules as it has expanded and clarified for all operators and non-operators that should be held accountable. BVL also notes the explicit inclusion of the Isle of Man under the ASA/CAP remit.

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.

Same as above.

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BETVICTOR

CAP and BCAP Consultation

Responding to the findings of the GambleAware Final Synthesis Report

22/01/2021

Confidentiality

Comments provided on behalf of Betsmart Consulting Ltd. All comments are **not** confidential.

However, we would request that any reference to the provider of the comments is declared as “Betsmart Consulting Ltd.” and **not named individuals**.

Please find below the responses to the questions in the consultation paper.

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.

Response:

Betsmart Consulting agree with the suggested changes. However, we believe that it is essential that past, relevant decisions be reviewed in light of the changes to the rules and guidance, and that those previous rulings be used as “worked examples” to show where the updated requirements would change or not change the result and why. We believe this is vital to ensure that the expected impact of the changed rules and guidance is clearly understood by stakeholders.

- 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.

Response:

We agree. We would make the same additional comments to those shown against question 1a)

- 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.

Response:

Yes. Please note comments against questions 1a & b regarding guidance.

- 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.

Response:

Yes.

- 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:

Yes.

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.

Response:

Yes.

- 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:

Nothing to add.

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.

Response:

Yes, agree.

- 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.

Response:

Nothing to add.

- 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:

We believe that clear guidance and advice with examples of what ‘good’ and ‘bad’ looks like are key to effective implementation of the rules. The industry would welcome very precise guidance which would allow all stakeholders to achieve the aims of the revision of the rules and make the most of the GambleAware findings.

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.

Response:

Yes, agree.

- 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.

Response:

Yes, agree.

with the answer to a) above, I suggest we agree to the changes.

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.

Disagree – The BCAP guidance for alcohol advertising, which sets out what we should avoid to prevent breaches of the 'strong appeal' rule: themes associated with youth culture; are all adequately covered by the existing guidance and the application of the rule on 'particular appeal' insofar as it applies to gambling advertising.

- 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.

Not applicable

- 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.

Disagree – We have some concerns with regards to this addition as it is entirely subjective and much like the particular appeal requirement likely to lead to inconsistent interpretation and application. This requirement essentially now puts the onus on the operator to now consider not only whether any particular marketing would in any case appeal to under 18s, but also whether such persons or characters set within are looked up to and 'followed' by those under 18- how is this to be ascertained and applied in practice? In the absence of any clear, black and white guidance on how this is to be consistently assessed and applied by operators, it raises the risk of misapplication/misinterpretation.

- 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.

Disagree – Please refer to answers to questions A and C above. We consider this proposed rule effectively removes our ability to use current sports personalities in our advertising, even if they are the subject of our licensed offering.

- 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.

We agree that the rules proposed in questions 1(a) and 1(b) should not apply to advertisements restricted on the basis of robust age-verification measures. However, we consider that this would be very limited in its application given that the majority of advertising takes place on third party platforms.

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.

Disagree - We believe that there are adequate rules already in place to cover these proposed additions. We, at Betway, take care to ensure we do not mislead our customers, or use claims that cannot be substantiated, nor do we create content that gives an inaccurate perception of the level of risk or use to humour to down play the risks. We consider that the proposed additions require further guidance along with clear examples to ensure a consistent interpretation and application.

- 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.

We do not have any provisions to add.

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.

Agree

- 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.

We have no further evidence to submit at this time.

- 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.

Agree

We agree that the GambleAware evidence does not present a case for change to the 25% test'.

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.

Agree

- 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.

Agree

BGC response to CAP/BCAP consultation on gambling ads

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.

BGC Response

Where there is evidence of a direct link between advertising and gambling harms, both the BGC and our members welcome action to reduce this. The BGC plays a central role, along with the Gambling Commission, to protect children, young people and vulnerable adults, particularly in the online environment and seeks to strike the correct balance between the permitted marketing activities of licensed operators and the potential risks associated with that marketing being seen by the wrong audiences that could lead to harm.

An example of this is the recently adopted changes to the IGRG Code which created new standards on age gating and advertising on search and social platforms. It has also set up the AdTech Forum, a permanent commitment to continuous improvement in harnessing the capabilities offered by advertising technology. The voluntary whistle to whistle advertising ban was introduced in 2019. In its last quarterly review, CAP acknowledged that gambling ads identified in children's media online had dropped significantly from 70 adverts down to 5. In its own 2019 'exposure report', CAP report that the number of children seeing sportsbook gambling ads had fallen to a record low of 0.3 ads per week. Given that the whistle-to-whistle rule was only introduced in August 2019, we can reasonably expect 2020's exposure report to evidence further reduced exposure to gambling ads. Against this backdrop, CAP's desire to move towards a more restrictive regulatory regime for an industry which, for the most part, is meeting and often exceeding the expected standard appears unnecessary.

The BCAP guidance for alcohol advertising, which sets out what advertisers should avoid to prevent breaches of the 'strong appeal' rule: themes associated with youth culture; the use of teenage fashion or clothing; the inclusion of music or dance popular with the under-18s; youth orientated language; cartoons, rhymes or animation; and puppets or cute lovable animals – are all adequately covered by the existing guidance and the application of the rule on 'particular appeal' insofar as it applies to gambling advertising.

Where ‘strong appeal’ really breaks new ground, is the caution that gambling operators would be required to exercise; particularly avoiding sports and the use of personalities in gambling advertising. Betting is intrinsically linked to sports, sports have a universal global appeal. Any restriction on the use of a sports personality under the proposed strong appeal test would therefore have a huge impact on gambling operators. The current particular appeal test and supporting guidance could continue to be effective in restricting advertising content. Restricting the consideration of appeal to solely an under 18 audience, with no reference to the same content’s appeal to an adult audience (as proposed in the strong appeal test), is a step too far.

The exclusion of persons or characters “*whose example is likely to be followed by those aged under 18 years or who has a strong appeal to those aged under 18*” is therefore of particular concern to us and our members.

Whilst we understand CAP and BCAP’s aims, we don’t believe that the effect of this restriction is proportionate and neither do we feel that the content-linked exemption provides enough latitude for gambling advertisers to continue to advertise gambling products which meet the high standards set out in the Gambling Act 2005, and which our members are licensed by the Gambling Commission to sell without severe impediment.

The 2020 Consultation recognises that it is not the place of CAP, BCAP or the ASA to severely restrict a licensed operator’s ability to advertise its products or services. Whilst, of course, any gambling advertising must be socially responsible (a concept which is set out in both the Gambling Commission’s licence conditions and codes of practice (“**LCCP**”) and within the CAP/BCAP Codes), to effectively remove an advertiser’s ability to use current sports personalities in advertising, even if they are the subject of the licensed offering is, we believe, disproportionate.

We perceive this lack of proportionality exists as: (a) it cannot be stated with certainty that the appeal of a particularly sports personality to a child or young person will affect their view of gambling; and (b) there are many ways in which ads can be targeted at audiences very effectively, but which may not qualify for the age-verification exemption given it’s ‘highly robust’ metrics.

The word “strong” being included in the description also means that the new proposal greatly increases the degree of subjectivity and it is clear that the proof points would be very difficult to ascertain. If a case was raised, how would you prove that the content of an ad is not of strong appeal? This lack of clarity around subjectiveness will create a chilling effect on operators who wish to advertise using personalities as it is fundamentally unclear what form that due diligence they should take.

The content-linked exemption goes some way to help to address the issue of sports being inextricably linked with gambling products and services. However, where the content-linked exemptions stops short, is that personalities are often also inextricably linked to the licensed gambling activity: for example, “2/1 Salah to score first” or “8/1 Ronaldo hat trick against Barcelona”.

To add the following to the ‘strong appeal’ rule:

*They must not include a person or character whose example is likely to be followed by those aged under 18 years or who has a strong appeal to those aged under 18. Where the subject of a gambling product is inherently of strong appeal to under-18s (for example, certain sports generally held to be popular with under-18s), the content of the marketing communication / advertisement may depict that subject, **but it must not feature a person or character whose example is likely to be followed by those aged under 18 years or who has a strong appeal to those aged under 18;***

does curtail a licensed operator from advertising products which it is licensed to offer. Whilst the guidance might suggest that the text itself can be included “*the proposals are not intended to restrict simple text or audio references to, for example, sports, good causes, teams or individuals generally held to be popular with under-18s*” the effect of this rule would be to remove images completely, which has a significant impact on our members’ ability to advertise effectively.

Given that this type of advertising is already prevented from being targeted at children or young persons through the use of selected media, then this means there is nowhere to advertise this sort of offer other than to already age-verified, existing, customers.

Whilst it seems completely sensible to introduce the age-targeting exemption to mitigate the fact that certain content, which is deemed unsuitable for children or young persons, is not able to be seen by that protected audience, the robustness of the age-verification exemption, means that it is of limited use. Any restriction should work within the possibilities on offer from third party advertising platforms which are already used by our members.

The 2020 Consultation might suggest that the age-verification exemption already in place for the ‘particular appeal’ rule is widely applied. It is not. It is able to be used only where children and young persons have been entirely removed from the audience by the use of operator-standard verification tools; there is no margin for error.

Given that the overwhelming majority of advertising will take place on third party platforms and not using an operator’s own data and will be targeted at prospective customers and not existing customers, whilst we and our members welcome the inclusion of the age-verification exemption, we are also clear that, as set out, it is of very limited application.

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.

BGC Response

We have set out our comments and questions to each individual proposed change.

presenting 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;

The Final Synthesis Report does not give particular guidance on this, with enhanced odds and free bets called out separately. Without further guidance we believe that this new requirement may cause confusion across the industry and operators may interpret the requirement differently which may result in the ASA being in a weaker position in regard to taking action.

There is extreme difficulty in applying this type of concept. The first is the definition of complexity given that everyone will view complexity in a different way. This would lead to

interpreting the definition of complexity as the lowest level – those who understand it the least become the benchmark for deciding on the level of complexity. The second is that it is hard to define the level of control “in practice”. It is assumed that control here is the control over the outcome of the bet.

presenting gambling as a way to be part of a community based on skill;

We believe that the expression “community based on skill” requires more explanation. Could you please provide specific examples of how you would expect gambling to be presented for it to fall under this category? Is this a reference to the definition of “game of skill”, differentiating games of chance? This could present a problem if a poker community is considered a community based on skill. Could you please provide us with guidelines on what would be captured? We do not believe that references to poker communities should fall foul of any new restrictions because they exist purely to enhance the players’ experience rather than entice them or incentivise them to gamble in an inappropriate way. They should be treated in the same way as our bingo chat communities which are another example of how a community can enrich play in a fun yet responsible manner.

implying that money back offers create security;

Security is an expression that would need to be carefully defined as the industry needs to understand what it would capture. Adequate social responsibility rules are already in place preventing gambling operators from including any suggestions in their advertising that players will not suffer economic detriment as a result of their gambling but we are keen to understand the rationale for the proposition that more could be done to alleviate any growing concerns. We would like to ask for some examples of promotional mechanics or communication approaches that would potentially be prohibited. As an industry we already take necessary precautions to ensure that we do not create any inaccurate perceptions of risk or, on the contrary, financial stability.

humour or light-heartedness being used specifically to play down the risks of gambling; and

We assume that this is not intended as a ban on gambling ads being humorous at all - there is no evidence that using humour in gambling advertising in general should be a concern and such action would be entirely disproportionate. CAP must then be clear exactly what types of depiction of humour or light-heartedness are a concern and in what specific contexts. Gambling products are entertainment products, and we should be permitted to advertise them in an entertaining way providing this is done in a socially responsible manner.

unrealistic portrayals of winners (for example, winning first time or easily).

Across the industry our members use a number of measures to eliminate the risk of unrealistic portrayals of winners being featured in our advertising by ensuring that all mentions of real life wins and other statistics are true and readily proven. However, using terms such as “unrealistic” is too vague in our opinion. We do not believe that there is anything that should be covered by “unrealistic” that isn’t captured by “false” already. If the rationale behind the change is to introduce more clarity, we believe that the current guidance should merely be updated to reiterate substantiation requirements in the context of gambling and include illustrative examples rather than introduce new measures that could create further confusion. This description also has the potential of making the new restriction unintentionally wide because the definition of “unrealistic” is too broad and could capture claims that can be substantiated. It is

unclear what winning “easily” is intended to encompass – we would like to ask for some more clarity and examples of potential claims that this would be aimed at?

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.

BGC Response

The CAP/BCAP consultation refers to a finding from a qualitative report regarding ‘susceptibility’ to gambling and its relationship with marketing. All respondents were asked whether they thought that they would spend money on gambling in the next year. Those who were not current gamblers were categorised as susceptible to gambling within the next year if they selected the answer ‘definitely yes’, ‘probably yes’ and ‘probably not’, and not susceptible if they opted for ‘definitely not’.

Thus respondents who answered that they would ‘probably not’ gamble in the next year are classified as equally ‘susceptible to gambling’ as those who answered that they definitely would gamble; and this raises a number of issues of interpretation.

There is clearly an important qualitative difference between the responses ‘definitely yes’/ ‘probably yes’ and the response ‘probably not’. If we are to understand the potential effect of marketing, it is important to be able to distinguish between how respondents answer this question.

Detailed disclosure of responses to this critical question was not available from either the consultation document, the Ipsos Mori Final Synthesis Report or the original ScotCen study. We were however able to obtain the survey responses from the original study. This revealed that 83% of the survey respondents classified as ‘susceptible to gambling’ stated that they would “probably not” gamble in the following year while just 0.9% stated that they “definitely” would gamble. This is shown in the table below.

| Susceptibility to gamble in the future. Source: ScotCen | | | |
|---|-------------------------------|----------------------------|------------|
| Do you think you will spend money on gambling in the next year? | Will not gamble in the future | Might gamble in the future | Total |
| Definitely no | 338 | 0 | 338 |
| Probably no | 0 | 192 | 192 |
| Probably yes | 0 | 35 | 35 |
| Definitely yes | 0 | 2 | 2 |
| Total | 338 | 229 | 567 |

Looked at another way, just 6.2% of all non-current gamblers said that they would ‘probably’ gamble in the next year; and just 0.4% said that they would ‘definitely’ gamble in the next year. Analysis of the detailed survey results puts an entirely different complexion on the matter compared with the way that susceptibility is described in the Ipsos MORI synthesis report.

It seems plausible that a number of ‘not current gamblers’ are on the cusp of the legal age to gamble (e.g. 15 year-olds for lotteries and 17 year-olds for most other activities) – and this may affect their intentions with regard to possibly gambling in the “next year”.

The ScotCen survey does not allow us to understand specific gambling intentions – i.e. which activities respondents thought they might participate in. We therefore cannot understand whether respondents intended to participate in an age-appropriate or age-restricted activity.

The ScotCen report highlights the relationship between self-reported ‘susceptibility’ and a range of advertising effects:

- Awareness of marketing
- Participation in marketing
- Brand awareness
- Recall of age limits
- Recall of health warnings
- Parent/carer/peer engagement with gambling

These survey results however combine data from children (11-15), young persons (16-17) and young adults (18-24). The ScotCen report does not disclose any results on “the reported exposure to advertising of under-18s who were non-gamblers and their intention to gamble”; although table 7-f in the annex to the report indicates that the relationship between ‘susceptibility’ and brand awareness may be stronger with 18 to 24 year-olds than it is with 11 to 17 year-olds.

The CAP/BCAP consultation refers to a finding from the quantitative report (MacGregor et al., 2019) regarding ‘susceptibility’ to gambling and its relationship with marketing

“The qualitative part of the research provides several significant insights on the appeal of advertising content both to under-18s and vulnerable adults.”

The publication of the Young People and Gambling Survey 2020 also sheds some new light on the effect of gambling advertisements on children. The survey results show that 7% of participating schoolchildren (11-16 years) claimed to have been prompted to gamble by an advertisement. The more detailed disclosure provided in 2020 allows us to check this finding against reported gambling behaviours. This reveals that of all the children who claimed to have been prompted to gamble, just 15% were past-year online gamblers (and 21% had gambled online ever). This indicates that the proportion of schoolchildren who claim to have gambled in

consequence of seeing an advertisement can – mathematically speaking - be no higher than 1%.

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.

BGC Response

We have no comment to offer.

Consulting on stricter rules for gambling ads

Dr Elvira Bolat, Bournemouth University

Written evidence submitted by *Dr Elvira Bolat*, on behalf of Bournemouth University's Responsible Gambling Research Group, to the *Committee of Advertising Practice (CAP)* and the *Broadcast Committee of Advertising Practice (BCAP)* call for evidence into *Consulting on stricter rules for gambling ads* on 22nd January 2021.

We are submitting our response and evidence to the consultation on stricter rules for gambling ads due to the research group's¹ track record and expertise in investigating:

- Marketing and communication practices of the UK's gambling operators, including transparency of responsible gambling messages and communication with the customers;
- The utilisation of online gambling data to characterise, predict gambling behaviour through data-driven goal setting, social norm approaches and design patterns;
- Children's and young adults' experiences with gaming and gambling.

Executive Summary

Our response and evidence are based on the following key arguments:

- The marketing communication/advertisement content should not depict subjects of interest to children and young people, including sports and video gaming activities.
- The definition of 'strong appeal' needs to be expanded to include i.e. the use of childlike/over-exaggerated cartoons and fantasy elements.
- BCAP gambling guidance on 'strong appeal' has to be expanded with the following changes: use of music, include all sports and Esports in the group of themes associated with youth culture, avoid connecting to the video game market explicitly (e.g., loot boxes and Esports) and keep advertising as grounded to depicting real-life scenarios with age-appropriate people and themes (above 18).
- Advertising of the lottery must be less family related or suggested.
- Regulation around social media communication and marketing practices of gambling operators has to be considered further as our evidence suggests that social media posts, which are easily accessible by children and young people, often do not include any responsible gambling, warning messages. All social media posts published by the gambling operators are promotional. Hence, stricter rules for gambling social media advertising are required as high exposure to gambling marketing and type behaviour normalises gambling behaviour for children.
- Any evidence involving children's participation should be considered a sufficient argument for further regulatory interventions.

Detailed Response

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.*

Answer:

¹ <https://www.bournemouth.ac.uk/research/projects/responsible-gambling-projects>

No, we disagree. The proposed amendments focus on the use of individuals, characters, and objects explicitly known to appeal to Children and Young People (CYP). The proposed amendments focus on the rational aspect of advertising appeals, where facts, logic, and reasoning are employed in creative planning and execution. By leaving creative freedom to integrate the interests of CYP within gambling advertising content, there is scope to employ emotional appeals where children and young adults are an implicit target audience and the probabilities of CYP to resonate with the content presented in such advertising is high. As in alcohol advertising,² exposure to gambling advertising may prime thoughts about gambling through emotional association with other attributes such as success, potential, and status (please see the detailed response to consultation question 1c). The emotional aspect of the advertising appeal is not captured fully within the proposed amendments and the current BCAP alcohol guidance on 'strong appeal'. **Hence, marketing communication/advertisement content should not depict subjects of interest to CYP; this includes any sports and video gaming activities**

However, we agree with the BCAP alcohol guidance on 'strong appeal', which defines broadens the content to include imagery, text, and music. This also includes the style of advertising not appealing to CYP, for example, the use of childlike/over-exaggerated cartoons and fantasy elements. **We suggest that this definition is explicitly mentioned within the proposed amendments**, in addition to the already specified use of individuals, characters and objects.

Overall, the current version of the amendments leaves room for various creative approaches to appeal to CYP in explicit or implicit ways via integration of subjects (i.e. sports, Esports, and video gaming), excitement, humour, 'regular folks' - individuals and characters (that are not always seen as of a direct appeal to CYP), dream, status, fantasy elements, and other creative approaches - many such references and creative narratives are and can be considered to be 'ageless' and, hence, of interest to a wider audience including adolescents and children. Therefore, we propose:

- The following change:

*"Where the subject of a gambling product is inherently of strong appeal to under-18s (for example, sports generally held to be popular with under-18s), the content of the marketing communication/advertisement may **not** depict that subject **and** it must not feature a person or character whose example is likely to be followed by those aged under 18 years or who has a strong appeal to those aged under 18."*
- Include the following aspects in the BCAP gambling guidance on 'strong appeal' (this is in addition to existing guidance around BCAP alcohol guidance on 'strong appeal'):
 - Make necessary changes regarding the use of music. As many music-streaming platforms and music-integrating social media platforms³ are in demand today and primarily consumed by children and young people (e.g., Apple Music, Spotify, TikTok) any music can be seen as popular and appealing to CYP (please see detailed recommendation listed in response to consultation question 1c).
 - The recommendation to avoid themes associated with youth culture needs to be expanded to include all sports and Esports. Alternatively, where the caution regarding sport is articulated a much more detailed description should be included to cover any sport because all sports may be of interest to young people.
 - To avoid similarities to videogames/video game type styles and cartoon childlike/over-exaggerated cartoons and fantasy elements.

² Gunter, B., 2014. Chapter 5: Alcohol Advertising and Young People. Retrieved from: <https://link.springer.com/content/pdf/10.1057%2F9781137313256.pdf>

³ Nolsoe, E., 2020. Streaming services and video platforms popular with kids. YouGov. Retrieved from: <https://yougov.co.uk/topics/media/articles-reports/2020/07/02/streaming-services-and-video-platforms-popular-kid>

- Avoid connecting to the video game market explicitly (e.g., loot boxes and Esports)
- Keep advertising as grounded to depicting real-life scenarios with age-appropriate people and themes (above 18). In other words, there should be clear boundaries between adverts for adults and CYP, so that those in the adverts for adults clearly look above 18.

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.

Answer:

Yes, we agree with most of the proposal. However, in lottery advertising, the boundaries for emotional appeal are broadened as including parents or grandparents can create a social climate of gambling normalisation. Social attitudes and parental modelling⁴ should be carefully considered in gambling advertising in general and the lottery in particular. Pro-gambling attitudes are likely formed within the family - sport and the lottery are considered family entertainment and socialisation activities and directly linked to gambling. Hence, **we agree with the proposed amendments but would like to highlight the need for further changes in the current BCAP guidance on 'strong appeal'. Such as advertising of the lottery to be less family related.**

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.

Answer:

As mentioned in the response to consultation question 1(a), the emotional category of the advertising appeal is not captured fully within the proposed amendments and within the current BCAP alcohol guidance on 'strong appeal'. The emotional aspect of advertising appeal is quite often hard to regulate, but such advertising effectively manipulates emotional response. This can be achieved via strong imagery (i.e., status/cartoon), impactful text, and powerful music - elements that might not always be explicitly CYP-oriented. Excitement is a primary emotional response and can deliver an appeal using imagination, humour and sound⁵.

In particular, youth appeal in advertising is a creatively challenging area where, e.g., older adults' use may trigger interest amongst CYP - such creative and professional techniques in the advertising industry should be carefully considered. A great example of such creative outputs is the commercial for Snickers, where the elderly, mature actor is used to present health and psychology-related issues many older people experience. Such a creative narrative can attract CYP who wish to stay youthful or encourage the desire of those transitioning into adulthood to grow up and join in with adult activities. Youth appeal is often evident in advertising for older adults' services and products, e.g., medication and vitamins. Likewise, careful consideration is also important to reduce the appeal of doing activities associated with young adulthood, as adolescents particularly may be more sensitive to advertising of mimicking adult status and want to do the activities seen as 'grown-up'. Consideration needs to be taken to ensure it does not appeal to them as an activity they could engage in to be 'grown up' rather an activity which is not for their age group. This particular aspect is not articulated in section 6.4.2.

⁴ Sklar, A. and Derevensky, J.L., 2011. Way to play: Analyzing gambling ads for their appeal to underage youth. *Canadian Journal of Communication*, 35(4). Retrieved from: <http://youthgambling.mcgill.ca/en/PDF/Publications/2010/WaytoPlay.pdf>

⁵ Sklar, A. and Derevensky, J.L., 2011. Way to play: Analyzing gambling ads for their appeal to underage youth. *Canadian Journal of Communication*, 35(4). Retrieved from: <http://youthgambling.mcgill.ca/en/PDF/Publications/2010/WaytoPlay.pdf>

A 'potential' appeal is often seen as mainly aimed at an audience of CYP where aspects of imagination and the future are depicted⁶. Such creative visions can be quickly executed via 1) a storyboard that does not include human actors and 2) music integration. Hence, we would like to express strong support for incorporating these elements within the currently proposed guidance on 'strong appeal'. **However, as many music-streaming platforms and music-integrating social media platforms⁷ are in demand today and primarily consumed by children and young people (e.g., Apple Music, Spotify, TikTok) we recommend removing this sentence:**

Section 6.4.2. point d) "... ~~But an advertisement that, for example, features an old recording that, perhaps as a result of its use in the advertisement, becomes popular with the young once again, will not necessarily be challenged.~~"

Highlighting the importance of understanding of the audiences which use these applications, many will contain a diverse age range.

With CYP having increasing exposure and experience of the adult world via gaming and unregulated content, there is scope to include seemingly adult-oriented advertising content and appeal to CYP^{8,9}. Hence, many adult references today appeal and are of interest to CYP. **Loot boxes and in-game items, status, the importance of financial means, social gambling activities within games such as Minecraft, Fortnite, Roblox, and others lead to normalisation of gambling amongst adolescents and therefore convert children into indirect and possibly direct target audiences for gambling products¹⁰.** Creative solutions such as status appeals and contrasting appeal which might not involve human actors and target services and products aimed at adults can appeal to CYP who aspire to grow-up and be successful. In particular, since loot boxes and Esports have created an overlap between gaming and gambling, advertising must take particular care not to blur these boundaries¹¹. Therefore, we recommended (as mentioned previously) that references and connections to video gaming/ and video game 'type' approaches should be avoided.

Financial means are often seen as a path to achieving status and success - linking back to the potential and imagination appeals. It is important to note that such associative responses can be created and achieved via implicit creative content - meaning much content in the gambling industry could be classified as potentially 'ageless' and hence of interest and appeal to CYP. This study¹² shows that **many gambling marketing adverts "can be assumed to have strong appeal to adolescents" despite them not being a target audience for such advertising. Hence, it is essential to expand the currently proposed guidance on 'strong appeal'.**

In addition, we recommend adding further examples around erroneous perceptions of risk and control as to ensure preventing gambling ads from appealing 'strongly' to under-18s. While such preventive measures apply to all target audiences and are previously addressed, more attention should be given to CYP category. This is because in the process of their cognitive development, younger children may be more prone to cognitive

⁶ Sklar, A. and Derevensky, J.L., 2011. Way to play: Analyzing gambling ads for their appeal to underage youth. *Canadian Journal of Communication*, 35(4). Retrieved from: <http://youthgambling.mcgill.ca/en/PDF/Publications/2010/WaytoPlay.pdf>

⁷ Nolsoe, E., 2020. Streaming services and video platforms popular with kids. YouGov. Retrieved from: <https://yougov.co.uk/topics/media/articles-reports/2020/07/02/streaming-services-and-video-platforms-popular-kid>

⁸ Sklar, A. and Derevensky, J.L., 2011. Way to play: Analyzing gambling ads for their appeal to underage youth. *Canadian Journal of Communication*, 35(4). Retrieved from: <http://youthgambling.mcgill.ca/en/PDF/Publications/2010/WaytoPlay.pdf>

⁹ Parrado-González, A. and León-Jariego, J.C., 2020. Exposure to gambling advertising and adolescent gambling behaviour. Moderating effects of perceived family support. *International Gambling Studies*, pp.1-17. Retrieved from: https://www.tandfonline.com/doi/full/10.1080/14459795.2020.1712737?casa_token=tHOrjV55yYoAAAAA:kORbPg7KNShHT26DE6aZXcjW4C9j5rnTs7o1jKnFCYj4hNav7lSfEc7Qz_Vry6oVpwKTvKcWHM7e

¹⁰ S Zendle, D. and Cairns, P., 2018. Video game loot boxes are linked to problem gambling: Results of a large-scale survey. *PloS one*, 13(11), p.e0206767. Retrieved from: <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0206767>

¹¹ Delfabbro, P., & King, D. L., 2020. Gaming-gambling convergence: evaluating evidence for the 'gateway' hypothesis. *International Gambling Studies*, 1-13. Retrieved from: <https://doi.org/10.1080/14459795.2020.1768430>

¹² Sklar, A. and Derevensky, J.L., 2011. Way to play: Analyzing gambling ads for their appeal to underage youth. *Canadian Journal of Communication*, 35(4). Retrieved from: <http://youthgambling.mcgill.ca/en/PDF/Publications/2010/WaytoPlay.pdf>

biases regarding luck and skill due to their limited cognitive ability¹³. Evidence suggests that children tend to misunderstand odds advertising¹⁴.

We welcome the consideration of the endorsement appeal and its impact on children and young people that are articulated within the proposed amendments. However, endorsements and individuals and characters' use require additional details due to the current scope being vague and open to interpretation. Athletes are listed explicitly in the BCAP alcohol guidance on 'strong appeal'. However, online influencers seem to primarily have a stronger impact on younger audiences¹⁵. The appeal to CYP can be influenced by the reach and use of social media platforms - particularly use of social media platforms that widely appeal to and are used by CYP¹⁶, e.g., YouTube, Instagram, Snapchat, TikTok, Twitch. Currently, such aspects are not included in the current scope of the assessment of a personality (section 6.4.3.). So-called 'regular' celebrities, online influencers who might be considered 'regular folks' with relatively smaller reach (nano and micro-influencers) have a substantial impact on CYP¹⁷. Particularly, ensuring the age appropriateness of those who are advertising is essential. For example, some influences may look under 18 and younger than their actual age. Further, adolescents will often look up to young adults as role models. Therefore, careful consideration is needed to avoid young adults being role models for CYP. One way to overcome this is to make sure those in adverts do not have a young following.

Our preliminary research¹⁸ around social media content analysis posted by the UK's gambling operators shows that social media enables gambling companies to integrate athletes and influencers in their marketing and communication content through sharing and affiliate arrangements easily accessible and of interest to adolescents. Another study¹⁹ that focuses on the impact of such advertising on children found that **adolescents' exposure to gambling advertising directly affects their gambling frequency, leading to problem gambling. High exposure to gambling marketing and type behaviour normalises gambling for children.**

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.

Answer:

Yes, we agree with most of the proposal. However, **we recommend the Committee of Advertising Practice considers applying the strong appeal rule to the licensed gambling activities (i.e., football, and eSports).**

Sport is an important part of youth culture which means inclusion of sport-related content, individuals and characters can create immediate appeal to CYP²⁰. **Recently it has been suggested that similar considerations**

¹³ Derevensky, J. L., Gupta, R., & Della Cioppa, G., 1996. A developmental perspective of gambling behavior in children and adolescents. *Journal of gambling studies*, 12(1), 49-66. Retrieved from: <https://link.springer.com/article/10.1007%2F801533189>

¹⁴ Newall, P. W., Moodie, C., Reith, G., Stead, M., Critchlow, N., Morgan, A., & Dobbie, F., 2019. Gambling marketing from 2014 to 2018: A literature review. *Current Addiction Reports*, 6(2), 49-56. Retrieved from: <https://link.springer.com/article/10.1007/s40429-019-00239-1>

¹⁵ Smit, C.R., Buijs, L., van Woudenberg, T.J., Bevelander, K.E. and Buijzen, M., 2020. The impact of social media influencers on children's dietary behaviors. *Frontiers in psychology*, 10, p.2975. Retrieved from: <https://www.frontiersin.org/articles/10.3389/fpsyg.2019.02975/full>

¹⁶ OfCom, 2019. Children and parents: Media use and attitudes report 2019. Retrieved from: https://www.ofcom.org.uk/_data/assets/pdf_file/0023/190616/children-media-use-attitudes-2019-report.pdf

¹⁷ De Veirman, M., Hudders, L. and Nelson, M.R., 2019. What is influencer marketing and how does it target children? A review and direction for future research. *Frontiers in Psychology*, 10, p.2685. Retrieved from: <https://www.frontiersin.org/articles/10.3389/fpsyg.2019.02685/full>

¹⁸ Bournemouth University Responsible Gambling Research Group, 2021. Transparency in Responsible Gambling Messaging and Communication: A Content Analysis of the UK's Gambling Operators' Websites. Technical report. Available from: https://livebournemouthac-my.sharepoint.com/:w:/g/personal/ebolat_bournemouth_ac_uk/EU7NdLrxKhFCqQ60ubJqQ3oB1Jj-JwbnrRA7jIDAzoADTw?e=sJorTr

¹⁹ Parrado-González, A. and León-Jariego, J.C., 2020. Exposure to gambling advertising and adolescent gambling behaviour. Moderating effects of perceived family support. *International Gambling Studies*, pp.1-17. Retrieved from: https://www.tandfonline.com/doi/full/10.1080/14459795.2020.1712737?casa_token=tHOrjV55yYoAAAAA:kORBPg7KNSHT26DE6aZXcjW4C9j5rnTs7o1jKnFCYj4hNav7lSfEc7Qz_Vry6oVpwKTvKcWHM7e

²⁰ Sklar, A. and Derevensky, J.L., 2011. Way to play: Analyzing gambling ads for their appeal to underage youth. *Canadian Journal of Communication*, 35(4). Retrieved from: <http://youthgambling.mcgill.ca/en/PDF/Publications/2010/WaytoPlay.pdf>

are required for Esports as well as traditional sport.²¹ Evidence suggests²² that exposure to gambling advertising amongst adolescents is greatest during live sport events. Many sports are considered to be family-friendly leisure activities making this subject 'ageless' content that may appeal to CYP irrespective of the actual messaging and imagery. Such gambling advertising might not directly influence children to gamble^{23,24} but to form favourable attitudes towards gambling which can be nurtured and manipulated by the high saturation of gambling marketing across social media plus other emotional appeals linked to CYP. **Although targeting has been considered within the consultation document, it is essential to note that CYP quite often have access to adults' devices and social media accounts, which challenges the notion of age-based targeting preventing the exposure of adolescents to gambling marketing and advertising.**

- 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.*

Answer:

No, we disagree and recommend for the rules 1(a) and 1(b) to be applied to advertisements restricted on the basis of robust age-verification measures.

Age-verification and age-targeting approaches to marketing do not account for circumstances where CYP have access to adults' devices and social media accounts, which challenges the notion of age-based targeting preventing adolescents' exposure to gambling marketing advertising. **Hence, the 'strong appeal' test and above recommendations for additional changes should be applied to any social media marketing/advertising of gambling products and services, including those that adopt the highly robust targeting methods and target the age-verified individual's social media accounts.**

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.*

Answer:

Yes, we agree with the proposed additions - a strong addition to the Gambling advertising, very much needed and critical.

- 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.*

Answer:

²¹ Jenny, S. E., Manning, R. D., Keiper, M. C. and Olrich, T. W., 2017. Virtual(ly) athletes: where eSports fit within the definition of "Sport". *Quest*, 69(1), 1-18. Retrieved from: https://www.tandfonline.com/doi/full/10.1080/00336297.2016.1144517?casa_token=KT2lw-ZW-KOAAAAA%3A5IJN8W-y6Z9Tqk-eVLECoISkRsnQj5kmRgGK5qOdiFR6i-6ShZt0gJUXaovBdw3LhbEzHbkz8DdE

²² Parrado-González, A. and León-Jariego, J.C., 2020. Exposure to gambling advertising and adolescent gambling behaviour. Moderating effects of perceived family support. *International Gambling Studies*, pp.1-17. Retrieved from: https://www.tandfonline.com/doi/full/10.1080/14459795.2020.1712737?casa_token=tHOrjV55yYoAAAAA:kORbPg7KNShHT26DE6aZXcjW4C9j5rnTs7o1jKnFCYj4hNav7ISfEc7Qz_Vry6oVpwKTVKcWHM7e

²³ Sklar, A. and Derevensky, J.L., 2011. Way to play: Analyzing gambling ads for their appeal to underage youth. *Canadian Journal of Communication*, 35(4). Retrieved from: <http://youthgambling.mcgill.ca/en/PDF/Publications/2010/WaytoPlay.pdf>

²⁴ Parrado-González, A. and León-Jariego, J.C., 2020. Exposure to gambling advertising and adolescent gambling behaviour. Moderating effects of perceived family support. *International Gambling Studies*, pp.1-17. Retrieved from: https://www.tandfonline.com/doi/full/10.1080/14459795.2020.1712737?casa_token=tHOrjV55yYoAAAAA:kORbPg7KNShHT26DE6aZXcjW4C9j5rnTs7o1jKnFCYj4hNav7ISfEc7Qz_Vry6oVpwKTVKcWHM7e

We would like to highlight that **concerns related children and young people, identified and discussed in Consultation Question 1 (1a and 1c), are very much applicable to the young adults' category, those aged 18-25, in particular students. Further examples around impulsiveness, urgency and financial concerns are very much needed.** Gambling problems rarely, if ever, occur in isolation and often lie at the root of financial difficulties²⁵. As reported by the Guardian²⁶, “nearly 10% of UK students report having used student loan money to gamble at least once”. Financial situation and finding money to pay for necessities is the primary reason for students to gamble.²⁷ Moreover, the popularity of online sports betting is increasing, and marketing plays a role in sports betting especially during live sporting events and online broadcasting. A *Thematic Analysis of Sports Bettors' Perceptions of Sports Betting Marketing Strategies in the UK* study²⁸ reports high engagement rate with online sports betting marketing amongst 18-25-year-olds and a high positive correlation between seeing sports betting advertising and sports betting-related attitudes. Our research with loot boxes suggested susceptibility for university students with regards to experiencing it as gambling²⁹. Additionally, it was highlighted how the transition to university and the surrounding circumstances of receiving student loans can make this a vulnerable time to students at risk of gambling.³⁰

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.*

Answer:

No, we disagree. We understand that there is a reluctance to strongly consider research conducted by GambleAware due to relatively low response rates. However, we emphasise that carrying out gambling-related research with people aged 11-17 and younger requires consideration of such research's ethical implications, particularly since this group are underage for the activity. Much research where children are needed to assess current gambling advertising samples means the ultimate exposure of CYP to gambling advertising, particularly with evolving technology such as TikTok. **Hence, any evidence involving children's participation should be considered a sufficient argument for further regulatory interventions. Comparisons can also be made to how CYPs have reacted to gambling type features like loot boxes, as susceptibility has been demonstrated for this age group.**³¹

- 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.*

Answer:

²⁵ Davies, 2020. Guardian. Retrieved from: <https://www.theguardian.com/uk-news/2020/may/19/uk-gambling-addiction-yougov-research>

²⁶ Weale, 2019. Guardian. Retrieved from: <https://www.theguardian.com/education/2019/mar/05/levels-of-distress-and-illness-among-students-in-uk-alarmingly-high>

²⁷ Young Gamers and Gamblers Education Trust, 2019. How gaming & gambling affect student life. Retrieved from: https://www.ygam.org/wp-content/uploads/2020/07/FINAL-research_full_report-PRINT-READY-5.pdf

²⁸ Killick, E.A. and Griffiths, M.D., 2020. A Thematic Analysis of Sports Bettors' Perceptions of Sports Betting Marketing Strategies in the UK. *International Journal of Mental Health and Addiction*, pp.1-19. Retrieved from: <https://link.springer.com/article/10.1007/s11469-020-00405-x>

²⁹ Hodge, S.E., Vykoukal, V. McAlaney, J. and Ali. R. (submitted). What's in the Box? Exploring Loot Boxes in games and parallels with gambling with a UK sample.

³⁰ Hodge S, and Johnson, L. 2020. The digitally resilient student. *The Psychologist*. Retrieved from: <https://thepsychologist.bps.org.uk/digitally-resilient-student>

³¹ Kleinmann, Z., 2012. My son spent £3,160 in one game. BBC news. Retrieved from: <https://www.bbc.co.uk/news/technology-48925623>

We have completed the website content analysis of thirty-three UK-licensed gambling operators³² and are in the process of completing social media content analysis of gambling operators' posts published across multiple social media platforms such as Twitter, Facebook, YouTube, Instagram and blogs³³. Our results confirm that social media posts, which are easily accessible by anyone, including CYP, often do not include any responsible gambling warning messages, apart from the age restriction/warning icon (18+) embedded in multimedia content (i.e. image, gif, video), within the text-based posts. It is also evident that all social media posts published by the gambling operators are promotional. Hence, **stricter rules for gambling social media advertising are required.**

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.*

Answer:

Yes, we agree. In particular we welcome (1) the inclusion of any gambling products and “*general brand promotional activity even where products are not directly referenced*”; and (2) ability for “*ASA to apply principles from the gambling rules to advertising for non-gambling operators where it is likely to have the effect of promoting gambling*”.

- 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.*

Answer:

Yes, we agree.

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³² Bournemouth University Responsible Gambling Research Group, 2021. Transparency in Responsible Gambling Messaging and Communication: A Content Analysis of the UK's Gambling Operators' Websites. Technical report. Available from: https://livebournemouthac-my.sharepoint.com/:w/g/personal/ebolat_bournemouth_ac_uk/EU7NdLrxKhFCqQ60ubJqQ3oB1Jj-JwbnrRA7jDAzoADTw?e=sJorTr

³³ Bournemouth University Responsible Gambling Research Group, 2021. Transparency in Responsible Gambling Messaging and Communication: A Content Analysis of the UK's Gambling Operators' Social Media Posts. Technical report: work-in-progress. Available from: https://livebournemouthac-my.sharepoint.com/:w/g/personal/ebolat_bournemouth_ac_uk/EeKdZOWhXbVHiFWcyLrhMsYBGObekC5IzLvlxSyGahAgg?e=RA4y2V

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