

Responding to the findings of the GambleAware Final Synthesis Report

Committee of Advertising Practice and Broadcast Committee of Advertising Practice final statement



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Executive summary

Following public consultation, the Committee of Advertising Practice (CAP), author of the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (the CAP Code), and the Broadcast Committee of Advertising Practice (BCAP), author of the UK Code of Broadcast Advertising (the BCAP Code), are introducing new rules further restricting the content of gambling and lotteries advertising to ensure protections for under-18s continue to reflect the available evidence.

Overview

The [consultation](#) responded to GambleAware's [Final Synthesis Report: The impact of gambling marketing and advertising on children, young people and vulnerable adults](#). This is the first dedicated body of evidence looking at circumstances in the UK. While this new evidence does not radically change the picture of the impact advertising on under-18s, several findings pointed to the need for regulatory change to ensure the UK Advertising Codes continue to provide effective protections from gambling advertising-related harms.

CAP and BCAP have decided to introduce new rules that prohibit gambling and lotteries advertising from appealing 'strongly' to under-18s. These add to the Codes' existing, well-established framework of protections that limit under-18s' exposure and prohibit content that might unduly attract their attention and influence them. Introducing a 'strong' appeal-based test extends the scope of prohibited ad content from that which appeals 'particularly' to under-18s (in other words, creative content that is likely to appeal more to under-18s than to adults) to cover content relating to activities of broader appeal, in particular, sport and video games. One key change will be significant new restrictions on references to football and video game-related activities like eSports; both activities in general have very high levels of participation and engagement among under-18s.

From 1 October 2022, marketers will be required to satisfy the ASA that they have assessed the likely appeal of all content included in advertising to ensure it complies with the new rules. CAP and BCAP have developed extensive new guidance to support their implementation.

As part of the consultation, CAP and BCAP have also made a statement on their media placement and scheduling restrictions. This sets out why CAP and BCAP consider it is most effective and proportionate to focus new interventions on further restricting ad content rather than restrictions that focus on under-18s' ad exposure.

Consultation proposals

The [consultation](#) process started in October 2020. It included three questions addressing key themes emerging from the new evidence base and one related to technical information included in the Codes to help users understand how they fit into the wider regulatory framework that controls gambling across the UK.

- [New rules on appeal of ad content to under-18s](#) – The consultation (Question 1) proposed new rules to restrict the creative content of gambling and lotteries ads to further limit their potential to appeal to under-18s by prohibiting creative content that appeals 'strongly' to under-18s. The proposals included several narrow exemptions to allow products related to activities of inherent 'strong' appeal (principally, football and video gaming) to continue to be marketed within strict limits. CAP and BCAP also proposed detailed, new gambling-specific guidance to support the new rules.
- [Revisions to CAP and BCAP's responsibility and problem gambling guidance](#) – The consultation (Question 2) proposed several revisions to the guidance on protecting

adult audiences, [Gambling advertising: responsibility and problem gambling](#). The changes seek to reduce the likelihood of advertising appealing irresponsibly through its content and messaging to vulnerable adults, principally those with problem gambling-related issues.

- Considering the case for new media placement restrictions – The consultation (Question 3) invited comments on CAP and BCAP’s assessment of the GambleAware recommendation for considering new restrictions on the scheduling, placement and targeting of gambling and lotteries advertisements. This included a discussion of the GambleAware recommendation calling for revisions to the ‘25% test’ by which CAP ensures age-restricted ads in non-broadcast media (including gambling and lotteries) are placed only in mixed-age media where adults are the overwhelming majority of the audience (in other words 75% or more).
- Technical updates to the Codes – The consultation (Question 4) also included proposed technical changes to the introductory parts of the gambling sections of the UK Advertising Codes to ensure they are up to date with the underlying legal framework and to improve clarity for Code users. These proposals did not entail a change in advertising policy.

Interim statement

This final statement follows an [interim one](#), published in August, which included the outcomes of the proposals set out under questions 2 and 4. The revised and strengthened responsibility and problem gambling [guidance](#) came into effect when the ASA began considering complaints under it in November. The technical updates to the CAP and BCAP Codes were introduced in alongside the interim statement.

Consultation outcome: appeal of content

There were 27 responses to the consultation in total. The main focus of responses was the proposal under question 1 for the introduction of stricter rules on the appeal of gambling and lotteries advertising.

While several respondents urged more fundamental change (including calls for wide-ranging prohibitions on gambling and lotteries ads), CAP and BCAP conclude that there is a proportionate, evidence-based case for extending protections in line with the proposals. Licensed gambling products are subject to a framework of statutory controls for which the Gambling Commission is responsible; these seek to limit the potential for harm to occur from the use of those products.

In relation to advertising, CAP and BCAP’s role recognises that the underlying legislation allows gambling and lotteries operators to promote their products across a range of media. The UK Advertising Codes mandate standards that focus on preventing gambling advertising-related harms; particularly, where a gambling or lotteries ad unduly attracts the attention of or could influence under-18s. The appeal of content and themes is a key risk that needs to be controlled. CAP and BCAP are satisfied that the new standards will better achieve this responding to the emerging evidence of advertising’s impact.

For gambling advertising, CAP rule 16.3.12 (Gambling) and BCAP rule 17.4.5 (Gambling) will be revised to state:

Marketing communications / advertisements for gambling must not [...] be likely to be of strong appeal to children or young persons, 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 appropriate steps have been taken to limit the potential for an advertisement to appeal strongly to under-18s, this rule does not prevent the advertising of gambling products associated with activities that are themselves of strong appeal to under-18s (for instance, certain sports or playing video games).

CAP / BCAP has published guidance on the application of the rule, including for advertising of gambling products associated with activities that are themselves of strong appeal to under-18s.

For lotteries advertising, CAP rule 17.13 (Lotteries) and BCAP rule 18.5 (Lotteries) will be revised to state:

Marketing communications / advertisements for lotteries must not [...] be likely to be of strong appeal to children or young persons, 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 (for example, good causes benefitting from lottery funds) or features of the product itself (for example, the creative content, gameplay or a prize involved) are of strong appeal to under-18s, a marketing communication / an advertisement for that lottery may depict the subject and/or product, 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.

Lotteries marketing communications / advertisements that solely depict the good causes supported by the lottery may include 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 provided that:

- a) they are directly associated with the lottery good cause (for example, an athlete who has received lottery funding directly);*
- b) there is no explicit encouragement to purchase a lottery product; and*
- c) there is no reference to scratchcards or online instant-win lottery products.*

Lotteries marketing communications / advertisements including product references that comply with rule 17.16.2 [CAP] / 18.7.2 [BCAP] are also acceptable.

Sections [2.3](#) and [2.4](#) of this statement set out how the wording of the proposed rules has been adapted to respond to consultation feedback; they also include a mark-up of changes from the existing wording of the rules. Section [2.5](#) outlines how CAP and BCAP have developed new guidance to support the implementation of the rules (the new guidance is included in [Annex A](#)), and sections [2.6](#) and [2.7](#) confirm the outcome of the consultation's proposals for narrow exemptions to the main principle of the rules. Following on from the decision summarised in section [2.6.3](#) of this statement, the guidance includes details of the narrow exemptions included as part of the rules to ensure that products associated with activities of inherent 'strong' appeal to under-18s can continue to advertise.

Consultation outcome: media placement restrictions

The UK Advertising Codes have long prohibited gambling and lotteries advertisements from being directed at under-18s:

- by being placed in children's media;
- appearing in other media where under-18s make up a significant minority of the audience (more than 25%); or
- using techniques that allow advertising to be directed at specific individuals or groups (like direct marketing or the use of addressable ads in online spaces).

The policy approach balances the legal availability of such products with their age-restricted status limiting the kind of environments in which under-18s might encounter gambling and lotteries advertising. They do not seek to eliminate exposure entirely. Instead, they work in conjunction with strict controls on the creative content of ads to ensure that where children are exposed the impact is minimised.

The consultation did not consider the introduction of a total ban on gambling and lotteries advertising – it is not the role of the advertising regulatory system to prohibit outright that advertising for products legally available in the UK. The question was whether new evidence of gambling advertising-related harm might justify a change to the policy approach summarised above, and whether such an extension would be proportionate given the potential impact on advertisers and media owners.

Although new evidence and arguments were submitted, CAP and BCAP conclude that a case has not been made for change to the balance struck by the '25% test'. There is no substantive suggestion that simple exposure to gambling and lotteries advertising is, of itself, likely to be harmful. CAP and BCAP consider the evidence emerging points to strengthened content restrictions, operating in conjunction with the existing media placement restrictions, as the most targeted, effective and proportionate means of addressing the new concerns identified by the GambleAware research and improving protections for under-18s.

Nevertheless, CAP acknowledge that more can be done within the existing policy framework to consolidate compliance in relation to certain aspects of how addressable ads online are targeted. This recognises the shift in under-18s' media use toward online environments and responds to findings of a recent ASA [monitoring report](#), which suggests there are issues with the way some online gambling and lotteries ads are targeted.

CAP commits to activity in this area in 2022 including further development of its online targeting guidance to make clearer the steps that marketers must take to minimize the risk of gambling and lotteries ads being served to those who are or are likely to be under-18. CAP will report publicly on this work later in the year.

[Section 3](#) of this statement includes a summary of the evaluation of responses and the decision to focus on further content restrictions.

Implementation

The new rules further limiting the appeal of gambling and lotteries advertising to under-18s will come into effect after a six-month period of grace, although marketers are urged to bring new campaigns into compliance as soon as they can. The ASA will begin to consider complaints under the new rules **from 1 October 2022**.

1. Background

1.1 Overview

In October 2020, CAP and BCAP launched a consultation responding to emerging findings from GambleAware's [research](#) on the impact of marketing and advertising. It is a significant addition to our understanding of gambling advertising-related harms. Its findings include evidence which suggests that the creative content of gambling and lotteries advertising compliant with the UK Advertising Codes has more potential than previously understood to unduly influence under-18s.

This section summarises the background to the consultation, including the findings of GambleAware's research, CAP and BCAP's assessment and an outline of the proposals developed in response. For fuller detail, please refer to the [consultation](#) document.

1.2 GambleAware research

GambleAware is [an independent body](#) operating a framework agreement with the Gambling Commission to deliver the [National Strategy to Reduce Gambling Harms](#). Its [Final Synthesis Report: The impact of gambling marketing and advertising on children, young people and vulnerable adults](#), published in March 2020, provides a UK-centric body of evidence for the first time.

The research involved a range of methodologies and focused on those aged 11-24, and vulnerable adults. The [executive summary](#) provides a brief and detailed overview of the findings and, on the basis of the findings, the rationale underpinning recommendations for regulatory change. The Report also makes additional recommendations, which are directed variously at industry, academics, and researchers.

Key findings of particular relevance to CAP and BCAP's role in setting standards for gambling and lotteries advertisements, can be summarised as follows¹.

- There is a significant amount of gambling and lotteries advertising and there has been an evident increase in the volume of and spend on gambling advertising in recent years. Sport is an important context in which exposure to gambling and lotteries advertising is likely to occur.
- Whilst there is little evidence of direct targeting, children, young people and vulnerable adults self-reported high levels of exposure to gambling and lotteries advertising.
- Respondents identified various types of creative content, used in gambling and lotteries advertising, which appealed to them, including, celebrity endorsements, use of characters (for example, animated characters or the use of animals), humour, memorable songs and catchphrases, offers (for instance, free bets or odds boosts), messaging relating to skill and depictions of winners.
- Qualitative research found some evidence of individual ads prompting gambling participation that had not been intended or considered by participants prior to being presented with the gambling ad. Though exposure did not always translate into engagement, it did increase awareness of gambling.
- Advanced statistical analysis shows that for people aged 11-24, who did not currently gamble, exposure to advertising was significantly associated with a likelihood to gamble in the future, after controlling for demographic and other factors.
- The relationship between advertising and current gambling behaviour is multifaceted. Within the statistical analysis, factors which were significantly associated with current

¹ An executive summary of the Final Synthesis Report is available [here](#).

gambling included peer gambling, engagement with marketing activities from gambling operators, brand awareness, parental gambling and age.

The Final Synthesis Report included two recommendations of direct relevance to the UK Advertising Codes. The report urged CAP and BCAP to:

- Consider whether ‘particular appeal’ remains a useful definition for protecting children and young people from the potentially harmful impacts of gambling and lotteries advertising, given that advertising content that appeals to adults may appeal to younger audiences too. Regulators could consider the extent to which features beyond child-friendly images and language are likely to also generate significant interest to children and young people – even if they are not the intended target audience – and how best to accommodate this alongside other aspects of the ad, such as likely exposure.
- Consider whether the ‘25% rule’ remains an appropriate criterion for deciding which gambling and lotteries ads can be legitimately marketed to a mass audience. Based on the findings from this research, further discussion is required to test the assumption that limited harm is caused from exposure to advertising where children and young people make up no more than 25% of the likely audience; and whether this threshold should be reduced and/or expressed as an absolute number rather than a percentage.

1.3 Regulation of gambling and lotteries advertising in the UK

Gambling and lotteries advertising are already subject to an extensive framework of restrictions to protect under-18s and other vulnerable groups.

In setting the advertising rules, CAP and BCAP work under the framework established by the Gambling Act 2005. This legislation liberalised the regime for gambling advertisements. When it came into force in 2007, it removed advertising prohibitions in place for many gambling products and, for the first time, allowed those products to be advertised on TV. With the development of new online platforms, emergence of cross-media advertising and the proliferation of internet-connected consumer devices gambling’s availability, accessibility and visibility has increased.

Advertising regulation plays its part in the system of operator licensing and product standards that are the ultimate responsibility of the Gambling Commission. The Commission takes care of product safety to minimise the possibility of gamblers coming to harm.

The UK Advertising Codes already include strict rules controlling gambling and lottery ads, which can only be placed around media content attracting an exclusive or predominantly adult audience. Scheduling, placement and targeting rules work in conjunction with strict controls on the creative content of gambling and lotteries advertising to limit their impact on under-18s that do see them.

Key indicators provide support for the framework’s effectiveness:

- Underage participation by those aged 11-16 has nearly halved over the past decade and is mainly centred on unregulated activities like play cards or legal play of lotteries and bingo.
- Problem gambling rates among adults have remained broadly consistent during a period when marketing has increased considerably and the range of internet connected consumer devices has improved ease of access to gambling services.
- Children’s exposure to TV ads for gambling and lotteries advertising represents just 2% of their overall TV ad exposure; on average, children see between 2-3 gambling and lotteries ads per week.

- Ad tech-based monitoring and enforcement work suggests that most advertisers are using the tool available through online ad platforms to effectively target ads away from child audiences; breaches of the rules are exceptional and result from some operators' inadequate compliance procedures.

1.4 Assessing the new and emerging evidence

In developing the consultation, CAP and BCAP concluded that the evidence emerging did not suggest that UK gambling and lotteries advertising is inherently harmful or a significant cause of harm. The most prominent findings suggest, at most, a modest impact. Moreover, many of the GambleAware findings align with an existing understanding of the evidence base and several provide further support for the effectiveness of the UK Advertising Codes in controlling gambling and lotteries advertising:

- Underage participation rates are similar to those observed in ongoing Gambling Commission reporting and the activities involved are those not advertised or legal play of lotteries and bingo products.
- GambleAware's online 'avatar' study found no evidence of gambling operators specifically targeting under-18s.
- The qualitative part of the GambleAware research found little evidence of immediate gambling activity prompted by exposure to gambling and lotteries advertising and engagement with gambling, in general, was also found to be low.

CAP and BCAP nevertheless considered that there was a case for action borne out, principally by two of the Final Synthesis Report's key findings. The quantitative part of the research found a significant association between reported exposure to advertising of under-18s, who were non-gamblers, and their intention to gamble; researchers considered this an indicator of their "susceptibility" to gambling. The qualitative part of the research provides several significant insights on the appeal of advertising content both to under-18s and vulnerable adults.

A determining factor supporting the case for regulatory action is that the findings emerge from research that is the first significant body of evidence based on the impact of gambling advertising in a UK context. In other words, the findings are based on gambling and lotteries advertising controlled under the UK Advertising Codes, by operators licensed and regulated by the Gambling Commission.

1.5 Consultation proposals on the protection of under-18s

CAP and BCAP considered the appropriate response was to focus on strengthening restrictions on creative content. The consultation set out proposals for new rules to restrict the creative content of gambling and lotteries ads to further limit their potential to appeal to under-18s. Such advertising is presently prohibited from appealing 'particularly' to under-18s. The proposals were to introduce a more restrictive rule prohibiting 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 proposals also included:

- a commitment to use the consultation to develop new guidance on the interpretation of the 'strong' appeal concept in relation to the range of different content found in gambling and lotteries ads; and
- narrow exemptions for instances where a product of itself was likely to be of 'strong' appeal to under-18s to ensure legally available products can continue to be advertised.

Alongside these proposals for regulatory change, the consultation also invited comments on CAP and BCAP's assessment of the GambleAware recommendation for considering new restrictions on the scheduling, placement and targeting of gambling and lotteries

advertisements. This included a discussion of the specific GambleAware recommendation calling for revisions to the '25% test' by which CAP ensures age-restricted ads in non-broadcast media (including gambling and lotteries) are placed only in mixed-age media where adults are the overwhelming majority of the audience (in other words, 75% or more). The consultation set out the underlying policy rationale for maintaining the present approach and invited respondents to comment.

2. Outcome of Question 1 – Introducing new appeal rules

2.1 Overview

There were 27 responses to the consultation from parties that included gambling and lotteries operators, industry associations, NGOs, academics, media owners, advertising practitioners, other regulators, and a member of the public.

The balance of responses was quite critical, both from industry and non-industry respondents. Although there were some who supported the changes to varying extents, many industry responses questioned the proportionality and need for new restrictions. They also raised a number of concerns about the practicalities of the proposals emphasising the need for the ‘strong’ appeal concept to be borne out by detailed guidance. To an extent, non-industry responses tended to welcome the proposals as an improvement, but several urged CAP and BCAP to go further. For instance, by extending the scope of what would be prohibited by the new rules or introducing more broad-ranging prohibitions on advertising.

Overall, CAP and BCAP conclude that arguments presented do not materially undermine the consultation proposals. Most of the issues raised regarding the practicalities can be addressed effectively through the guidance. Additionally, several amendments to the proposed rules provide further clarity addressing respondents’ most significant concerns.

Accordingly, the Committees can confirm the introduction of new rules prohibiting gambling and lotteries advertising that appeals strongly to under-18s; these are set out in sections [2.3](#) and [2.4](#) below for gambling and lotteries respectively. These are accompanied by limited exemptions to ensure that licensed gambling products that are associated with or have characteristics of ‘strong’ appeal can continue to advertise, and new, dedicated guidance to help industry to comply with the new restrictions.

2.2 Summary of the evaluation and outcome

The sections below provide a summary of the consultation proposals, evaluation of responses and confirmation of the outcome. They cover each part of Question 1 in turn; the proposals to:

- (a) introduce a new ‘strong’ appeal-based rule for gambling advertising (see section [2.3](#));
- (b) introduce a new ‘strong’ appeal-based rule for lotteries advertising (see section [2.4](#));
- (c) develop new guidance to accompany new rules (see section [2.5](#));
- (d) include narrow exemptions within the policy to allow for gambling and lotteries products associated with subjects of ‘strong’ appeal to continue to advertise (see section [2.6](#)); and
- (e) include an exemption for ads targeted in ways that exclude under-18s from the audience completely (see section [2.7](#)).

These sections should be read in conjunction with relevant parts of the [evaluation document](#), which provide CAP and BCAP’s more detailed assessment of the significant points raised by consultation respondents (see the links to specific evaluations).

For fuller detail on what CAP and BCAP proposed, including background to the consultation relating to the existing regulatory framework and understanding of the evidence base for the effect of gambling and lotteries advertising, please refer to the [consultation](#) document.

2.3 Introducing a new appeal rule for gambling advertising

2.3.1 Consultation proposals

Consultation question 1(a) asked: *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.*

The consultation invited responses on the over-arching proposal to introduce new restrictions on the appeal of gambling advertising. The proposed rules are set out in the box on the left.

Gambling advertising is already prohibited from appealing particularly to under-18s; in other words, including creative content that is likely to appeal more to under-18s than to adults. CAP and BCAP propose a more restrictive rule: to prohibit creative content that appeals ‘strongly’ to under-18s. ‘Strong’ appeal is distinct from ‘particular appeal’ because it does not rely on a comparison with the likely appeal of a piece of content to adults.

2.3.2 Summary of key responses and evaluations

This question was of particular importance to respondents of all types. An appreciable minority agreed with the proposals, including several gambling operators.

There were similar levels of explicit disagreement from other industry and non-industry respondents. Many respondents gave conditional views on the proposals; a central concern was the importance of any new rules being accompanied by clear and extensive guidance.

Evaluations of significant responses agreeing with this proposal are in section 1(a)–1 of the [evaluation document](#), those expressing disagreement are in 1(a)–2, and other responses in 1(a)–3.

Key industry responses – The following summarises key points and CAP and BCAP’s evaluation:

- (i) *The proposal was disproportionate and excessive unfairly restricting advertising freedoms, for instance, by making it very difficult to promote products, in particular, sports betting or online gaming.*

CAP and BCAP are satisfied that the view of the evidence presented in the consultation document holds. The decision to impose further restrictions responds to the emerging evidence from the GambleAware research; in particular, that advertising compliant with the UK Advertising Codes is likely to have a greater impact than previously thought. The adoption of

Mark-up of proposed changes to 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 children or young persons, 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.

rules based on a 'strong' appeal test develops an existing and well-established policy aim; that of limiting the appeal of gambling ads to under-18s to minimize the potential for ads to attract attention and influence those not of legal age to participate. At the same time, CAP and BCAP have been careful to develop the new rules having regard to proportionality considerations and the need to avoid implementing restrictions that would have the effect of prohibiting advertising of legally available products related to activities with inherent appeal to under-18s. Section [2.6](#) below provides more details of the exemptions and how they have been incorporated into the policy following consultation feedback. Also, see [evaluations](#) 1(a)–2.2 and 1(a)–2.7 for further detail.

(ii) *The changes were unnecessary, as existing standards adequately protect under-18s limiting the appeal of gambling ad content to them. Respondents pointed to the existing rules prohibiting those under 25 from appearing as a key means of limiting appeal to under-18s.*

The extension of restrictions to cover ad content of 'strong' appeal to under-18s will meaningfully strengthen protections. The new rules will cover content relating to a broader range of activities where the level of appeal to under-18s is very significant, in itself, irrespective of a similar strength of appeal among adults (for example, football and content related to video gaming). In relation to the inclusion of persons, existing rules prohibit under-25s from appearing in gambling ads and CAP and BCAP acknowledge that that has the effect of preventing a category of content that has significant potential to appeal to under-18s (for instance, younger sports stars who might give rise to a sense of affinity or aspiration among the young). However, the focus of the emerging evidence on the role of personalities suggests the need for more restrictions on persons aged 25 and over. Such individuals still have the potential to appeal strongly to under-18s unduly attracting their attention or influencing them. See [evaluations](#) 1(a)–2.2 and 1(a)–2.10 for further detail.

(iii) *The only significant challenge from industry over the consultation's view of the evidence related to the ScotSen quantitative study. Respondents noted the definition of 'susceptibility' included those who responded to the study stating they would 'probably not' gamble, as well as those who 'definitely' or 'probably would'; 83% of those 'susceptible' responded 'probably not' and only 0.9% 'definitely would'. They also pointed out there was no follow-up analysis of actual gambling behaviours of the respondents, and the survey did not provide an understanding of specific gambling intentions (for example, lawful play).*

The GambleAware evidence base includes two key areas of evidence that support the need for change, the finding on 'susceptibility' and a qualitative study of the appeal of different kinds of ad content to groups including under-18s. The consultation readily acknowledged the limitations of the new evidence; in particular, the 'susceptibility' finding is an association only and relatively low-level of effect. However, importantly, for the first time, there is evidence of UK advertising compliant with the Codes having effects on under-18s greater than previously understood. See [evaluation](#) 1(a)–3.1 for further detail.

(iv) *Several respondents asserted that CAP and BCAP did not have the powers to severely restrict licensed operators' ability to advertise their products; in particular, sports betting advertising.*

The self-regulatory system has a defined role within the wider framework of controls on gambling allowing it to restrict the placement and content of advertising. Evidence of the need for further restrictions has been carefully weighed against what is permitted in legislation and under the product licensing regime administered by the Gambling Commission. As CAP and BCAP have made clear, where there is a significant potential for restrictions on the creative content of advertising to undermine the viability of promoting a particular type of gambling product, appropriate and proportionate exemptions have been integrated into the policy to allow for some content related to activities subject of a gambling product that of inherent appeal to under-18s to be included in advertising (see section [2.6](#)). See [evaluations](#) 1(a)–2.7 and 1(a)–2.11 for further detail.

(v) *One of the overriding themes of responses was that any new rules on appeal should be accompanied by detailed guidance to assist industry in implementing a ‘strong’ appeal-based restriction. Several industry respondents raised significant concerns over uncertainties the proposals could result in.*

The consultation proposed the development of new, gambling and lotteries-specific guidance providing detailed support for marketers implementing the new restrictions. It is important to note also that the new policy deliberately builds on existing regulatory concepts including restrictions prohibiting content of ‘particular’ appeal to under-18s that advertisers have had to comply with since 2007. As such, CAP and BCAP are satisfied that the approach is proportionate and meets their underlying objective of ensuring the rules are easily understood and implemented. Details of how the new guidance was developed using consultation feedback are summarised in section [2.5](#) below and the new guidance is included in [Annex A](#). See also [evaluation](#) 1(a)–1.2 for further detail.

(vi) *Respondents were concerned that the proposed exemptions were unfairly centred on betting products and that new restrictions might prohibit the use of animation in ads and forcing online gaming operators to place all references to their products behind a sign-in wall.*

The proposals do not prohibit use of animation in general. Such content will be assessed on a case-by-case basis against the criteria set out in the applicable sections of the guidance. However, it is important to note there are already considerable restrictions on its use owing to the appeal, for instance, of certain cartoon-like content linked to childhood. Even though participation in gambling is subject to strict age-verification, it is not acceptable for ads to attract the attention and interest of under-18s through content that appeals unduly to them in media where they might be present in the audience.

The proposals recognised some gambling products are inextricably related to activities upon which a bet is placed (for instance, sports betting). They incorporated exemptions to allow such products to continue to be advertised subject to limits on the kinds of content that can be included in ads.

In evaluating consultation responses, CAP and BCAP acknowledge similar considerations are relevant to other kinds of licensed gambling activity including online gaming products where characteristics of the product itself (such as gameplay, themes or characters) have a similar effect. In response, a further amendment to the proposed exemptions has been made as detailed in section [2.6](#) below. CAP and BCAP would nevertheless remind advertisers that a significant number of online gaming products, although meant for use by adults, include themes and content in ads that can be oriented towards under-18s. As such, the amendment will allow

such products to be advertised but it is not intended to allow content presently prohibited by the ASA under the existing appeal rules. See [evaluations](#) 1(a)–2.12 and 1(d)–2.15 for further detail.

Key non-industry responses – Alongside industry concerns, there were several significant responses from other constituencies, including academics and NGOs. While many welcomed the proposals to strengthen the rules, they expressed concern that the restrictions did not go far enough.

The following summarises key points and CAP and BCAP’s evaluation:

(i) *A respondent asserted that the proposed new ‘strong’ appeal restriction recognised that advertising could be highly suggestive to children even in cases where children are not intended to constitute the primary audience. Respondents were concerned that the proposals were too limited in scope.*

The UK Advertising Codes have long-included dedicated protections for under-18s acknowledging the potential for irresponsible use of ad content that might unduly attract their attention or influence attitudes and behaviour. As set out above, the case for change is based on a recognition that GambleAware’s research suggests gambling advertising in the UK has a greater effect than previously understood. However, the emerging evidence is nuanced and does not suggest that gambling advertising, in general, is fundamentally harmful. In CAP and BCAP’s view, this supports an approach that seeks to extend existing interventions to reduce the appeal of advertising content rather than more fundamental changes; for instance, interventions that aim to radically reduce or eliminate under-18s exposure.

[Section 3](#) of this statement below summarises the evaluation of responses to question 3, which address these considerations in more detail. See [evaluations](#) 1(a)–2.13 and 1(a)–3.20 for further detail.

(ii) *The scope of the proposed rules should be extended to cover young adults aged 18 to 24 who should be protected from marketing of ‘strong’ appeal to them.*

The Codes already include a range of content restrictions that prohibit encouragement of irresponsible or risky behaviour protecting audiences in general. These are supported by extensive guidance, [Gambling advertising: responsibility and problem gambling](#), which has been further strengthened by this consultation process (see the [interim statement](#) for more details of the outcome of question 2). CAP and BCAP must conform to the underlying legal framework for gambling products set out in the Gambling Act 2005. The Codes cannot unduly restrict gambling advertising that legitimately seeks to reach those who are legally allowed to participate in licensed gambling activities. 18-24s are of legal age to participate in gambling. It is therefore legitimate for advertisers to address ads to them as adults and to include content of appeal to them within the limits set by the rules and guidance protecting audiences in general. See [evaluation](#) 1(a)–3.19 for further detail.

(iii) *Respondents asserted that exposure to gambling advertising normalised participation in gambling and gambling-like activity. A public health approach to reducing harm from gambling should be adopted including tighter restrictions for gambling advertising that aim to de-normalise it.*

CAP and BCAP consider consultation responses do not undermine the stance taken in the consultation, which referred to their more detailed [regulatory statement](#) on the issue of normalisation. It was a known consequence of the Gambling Act 2005 that gambling would become 'normalised', including through greater visibility in environments like advertising. Ultimately, it is the proper place of the UK Advertising Codes to have restrictions in place to address the potential for harm occurring from advertising that 'normalises' irresponsible or potentially harmful gambling behaviour. See [evaluation](#) 1(a)–3.24 for further detail.

(iv) *The proposals were an improvement but CAP and BCAP should consider going further towards a complete ban more in line with tobacco regulation.*

As set out in the consultation, the Gambling Commission is responsible for licensing and ensuring products' compatibility with the Gambling Act 2005. As such, the ASA cannot reasonably prevent the advertising of products that have met those requirements. Legislation controlling gambling in Britain is premised on gambling being a 'legitimate leisure activity', which specifically allows operators to advertise subject to controls that ensure ads are responsible and vulnerable groups are protected. Harms associated with advertising are distinct from those associated with misuse of the gambling products themselves (for instance, by those at risk of problem gambling behaviour). The UK Advertising Codes can only focus on the former. For under-18s, the Codes appropriately limit the environments in which gambling ads can appear and restrict the content of ads under-18s do see to address the potential for advertising to unduly attract their attention and influence them. The question of wide-ranging prohibitions on gambling advertising is one for Government, if it chooses to address concerns over the risks associated with the product itself. See [evaluations](#) 1(a)–3.20 and 1(a)–3.25 for further detail.

2.3.3 Consultation outcome

CAP and BCAP have concluded that the consultation outputs support the introduction of new rules prohibiting gambling advertising that is of 'strong' appeal to under-18s.

CAP rule 16.3.12 (gambling) and BCAP rule 17.4.5 (gambling) will be amended as follows:

Marketing communications / advertisements for gambling must not [...] be likely to be of strong appeal to children or young persons, 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 appropriate steps have been taken to limit the potential for an advertisement to appeal strongly to under-18s, this rule does not prevent the advertising of gambling products associated with activities that are themselves of strong appeal to under-18s (for instance, certain sports or playing video games).

CAP / BCAP has published guidance on the application of the rule, including for advertising of gambling products associated with activities that are themselves of strong appeal to under-18s.

It should be noted that the final text of the rules – specifically, the latter two paragraphs – has been modified from that proposed in the consultation (see the original text of the proposals in section 2.3.1 above). To make the rule clearer and easier to understand, CAP and BCAP have decided to adopt a shorter, principle-level statement in the rule highlighting the limited exemptions for the advertising of gambling products associated with activities or events that are

themselves of strong appeal to under-18s has been added. This links to a section of the new guidance where marketers can find more detail of the circumstances in which they need to comply with the exemptions.

The final text of the exemptions is set out below in section [2.6](#) of this statement and included in the section 15 of the new guidance (see [Annex A](#)).

2.4 Introducing a new appeal rule for lotteries advertising

2.4.1 Consultation proposals

Consultation question 1(b) asked: *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.*

The consultation invited responses on the over-arching proposal to introduce new restrictions on the appeal of lotteries advertising, alongside those for gambling.

As with the gambling proposal, CAP and BCAP’s intention was to extend the scope of their restrictions on the appeal of lotteries advertising from prohibition of content of ‘particular’ appeal to the stricter test of ‘strong’ appeal.

The proposals also reflected the fact the UK Advertising Codes have separate sections for lotteries advertising. This arrangement recognises the differences in the underlying regulatory frameworks, and the risk profile and role of lotteries products in providing funds for good causes.

2.4.2 Summary of key responses and evaluations

There were comparatively few responses on the proposal to adopt a similar, ‘strong’ appeal-based rule for lotteries advertising. A small number of respondents – both industry, and academics and NGOs – agreed with the proposals. An important theme that did emerge was an emphasis on maintaining distinctions between gambling and lottery products in recognition of the differing underlying frameworks, the comparatively lower risk profile of lotteries and the unique role of lotteries in generating funds for good causes.

Evaluations of significant responses agreeing with this proposal are in section 1(b)–1 of the [evaluation document](#), those expressing disagreement are in 1(b)–2, and other responses in 1(b)–3.

There was one key response. A lotteries provider welcomed the continued distinction between lotteries and gambling provided by the separate sections of the UK Advertising Codes. They considered the National Lottery distinct from gambling in general owing to its purpose, regulation and design. They believed that maintenance of the distinction was key to the ability to raise funds for good causes. They asked that CAP and BCAP consider amending the exemption for lottery good cause-related content to allow the use of personalities of ‘strong’ appeal where they were the recipients of lottery support (for example, a significant number of UK Olympians benefit from such funding).

The Codes have separate sections for gambling and lotteries advertising recognising the differing statutory frameworks and levels of risk generally involved, and the role of lottery

Mark-up of proposed changes to 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 children or young persons, 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.

products in providing funds for good causes. However, although lotteries are generally considered lower risk, CAP and BCAP consider that there is a case to introduce the ‘strong’ appeal restrictions. Lotteries ads on TV account for relatively more audience exposure than other categories of gambling ads on TV and the GambleAware research considered lotteries advertising alongside that for gambling more generally.

Nevertheless, CAP and BCAP acknowledge the need for reasonable and proportionate adjustments recognising where lotteries are distinct from other types of gambling. Noting the respondent’s point about good cause advertising, an amendment to the proposed exemption has been made to allow under-25s of ‘strong’ appeal who are the recipients of lottery funding, to feature in some lottery ads. The amendment to the proposals has been made also to better bring the new rules on the appeal of creative content into line with the recent [consultation](#) on changes to the lottery-specific rules restricting the use of the under-25s. These made clearer the scope for lottery operators to feature under-25s in advertising in order to depict the beneficiaries of good causes. The consultation resulted in changes to those rules allowing under-25s to be featured in lotteries ads to illustrate good causes benefiting from lottery funding subject to certain criteria. See [evaluations](#) 1(b)–3.1 and 1(b)–3.3 for further detail.

2.4.3 Consultation outcome

CAP and BCAP have concluded that the consultation outputs support the introduction of new rules prohibiting lotteries advertising that is of ‘strong’ appeal to under-18s.

CAP rule 17.13 (lotteries) and BCAP rule 18.5 (lotteries) will be amended as follows:

Marketing communications / advertisements for lotteries must not [...] be likely to be of strong appeal to children or young persons, 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 (for example, good causes benefitting from lottery funds) or features of the product itself (for example, the creative content, gameplay or a prize involved) are of strong appeal to under-18s, a marketing communication / an advertisement for that lottery may depict the subject and/or product, 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.

Lotteries marketing communications / advertisements that solely depict the good causes supported by the lottery may include 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 provided that:

- a) they are directly associated with the lottery good cause (for example, an athlete who has received lottery funding directly);*
- b) there is no explicit encouragement to purchase a lottery product; and*
- c) there is no reference to scratchcards or online instant-win lottery products.*

Lotteries marketing communications / advertisements including product references that comply with rule 17.16.2 [CAP] / 18.7.2 [BCAP] are also acceptable.

The final text of the rules has been modified from that proposed in the consultation. The final paragraph has been added to the rule to address the issue raised in the key response summarised in section 2.4.2 above and CAP and BCAP’s recent work to clarify their rules on featuring under-25s in lotteries advertising.

The second paragraph has been amended to incorporate and better reflect the exemptions proposed in the consultation (see also [2.5](#) below). Also, noting the points made respondents in relation to question 1(a) relating to products that have characteristics of inherent 'strong' appeal, the rule has been adapted to ensure that products like scratchcards can continue to be advertised.

2.5 Guidance to support the new rules

2.5.1 Consultation proposals

Consultation question 1(c) asked: *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.*

The consultation invited comments on CAP and BCAP’s proposal to use existing BCAP [guidance](#) on alcohol TV advertising as a basis for defining ‘strong appeal’ in detail. This guidance supports BCAP’s rule preventing TV ads for alcohol from appealing ‘strongly’ to under-18s, which has been in place since 2006.

CAP and BCAP committed to producing new, dedicated guidance drawing on consultation outputs to support the application of the new gambling and lotteries rules. Although the Committees are not obliged to consult on the development of guidance, the consultation process provided a useful means of obtaining feedback from key stakeholders to ensure the proposals best meet the underlying policy aim of ensuring the CAP and BCAP’s rules are easily understood and implemented.

Summary of the requirements of BCAP’s guidance on ‘strong’ appeal in relation to alcohol advertising on TV.

Marketers should:

- a) *Avoid the use of personalities who are likely to have a strong appeal to the young.*
- b) *Avoid themes that are associated with youth culture.*
- c) *Avoid teenage fashion or clothing mostly associated with those under 18.*
- d) *Avoid music or dance that is likely to appeal strongly to under-18s.*
- e) *Avoid language commonly used by the young.*
- f) *Avoid cartoons, rhymes or animation likely to have strong appeal to children and teenagers.*
- g) *Exercise caution over the use of sports-related content.*
- h) *Avoid puppets or cute lovable animals that are likely to inspire strong affection in the young and adolescent or childish humour.*

2.5.2 Summary of key responses and evaluations

This was an area of significant technical interest among respondents, particularly industry parties, who considered it central to the wider proposals owing to the envisaged guidance’s role in determining the definition and application of the ‘strong’ appeal test.

Evaluations of significant responses agreeing with this proposal are in section 1(c)–1 of the [evaluation document](#), those expressing disagreement are in 1(c)–2, and other responses in 1(c)–3.

Key industry responses – There was some support among industry respondents but several explicit objections (including reiterations of points about proportionality made in relation to question 1(a)). Many industry respondents took a hesitant or critical stance, for instance, reserving judgement over the proposal or setting out a position conditional on further clarity being provided by guidance.

The following summarises key points and CAP and BCAP's evaluation:

(i) *Respondents considered that the proposals were insufficiently clear and the transposition of guidance prepared for the alcohol industry did not take into account the disproportionate effect of preventing content of 'strong' appeal in ads for gambling operators. Respondents feared the introduction of the new rules would create significant uncertainty.*

CAP and BCAP are not obliged to consult on guidance but believed it was appropriate to seek input from the consultation to inform development of new, dedicated guidance. The stated intention was to use the BCAP alcohol guidance as a basis for developing gambling-specific guidance. Alcohol is a relevant product category because it is subject to a legal age restriction on sales. It also shares common rules as the gambling and lotteries sections were developed using the alcohol rules as a basis. The new guidance has been developed using a range of inputs and insights, including from responses and existing guidance. CAP and BCAP are satisfied that it addresses concerns over the need for detailed, gambling-specific support to aid compliance with the restrictions. See [evaluation](#) 1(c)–2.4 for further detail.

(ii) *A significant number of respondents asked CAP and BCAP for clarification on a range of points arising from the proposals; including the definition of 'strong' appeal, how new rules would affect the use of characters, and how content like animations would be treated.*

CAP and BCAP have noted the significant number of points made by respondents asking about the intended application of the new policy in a range of scenarios, including how different types of ad content would be assessed under the 'strong' appeal test. This useful feedback has been used to develop the guidance included in [Annex A](#). Section [2.5.3](#) below sets out how CAP and BCAP developed the guidance and summarises key features. See various [evaluations](#) included in 1(c)–1, 1(c)–2 and 1(c)–3 for points raised by the respondents that have been fed into the guidance development process.

(iii) *A respondent asked how the proposed rule would impact the existing exemption to CAP's rule prohibiting under-25s; the exemption allows for such individuals to appear in ads on websites where they were the subject of the bet offered directly for sale.*

CAP Code rule 16.3.14 includes an exemption for operators' websites from the general prohibition on under-25s featuring in gambling ads. In limited circumstances, it allows the use of such individuals in ads on operators' own websites to illustrate bets that they are the subject of. The consultation set out CAP's view that the proposals would not affect application of rule 16.3.14. Having assessed responses, CAP acknowledges that, while the impact of the restriction will mainly be on the use of personalities aged 25 and above, it does have implications for the exemption in rule 16.3.14.

Noting the emerging evidence's emphasis on persons and characters' influence on under-18s and that operators' sites can be accessed by non-signed-in users, CAP has concluded its new 'strong' appeal rule should take precedence over the existing exemption. It should also be noted the vast majority of references to under-25s on these sites (principally, listings of bets involving named players) do not include imagery. The exemption will still apply where a personality's use meets the terms of the exemptions to the 'strong' appeal rules and in parts of

their websites and apps that are available to signed-in users only as per the exemption for narrowly targeted gambling ads (see [2.7](#) below for further detail).

Section [2.5.3](#) below sets out how CAP and BCAP developed the guidance including new advice on the under-25s rules; the full guidance is available in [Annex A](#). See also [evaluations](#) 1(c)–2.9 and 1(a)–2.10 for further detail.

Key non-industry responses – Non-industry respondents urged that the guidance go significantly further in its definition of 'strong' appeal expanding the scope of the kinds of content subject to the new restrictions. These were based, in part, on more general responses to questions 1(a).

The following summarises key points and CAP and BCAP's evaluation:

(i) *Respondents argued that the rules should include 'emotional appeals' within the scope of 'strong' appeal. They asserted that such appeals could prime thoughts of under-18s through emotional association with other attributes such as success and status. Several respondents believed gambling ads should not depict subjects of interest to under-18s including sports and video gaming activities at all.*

Central to CAP and BCAP's case for change, the GambleAware research suggests that advertising compliant with the UK Advertising Codes has effects on under-18s not previously considered. However, these effects must be assessed with a due sense of proportionality, including the significant support for the effectiveness of the present framework in general and various balancing indicators (principally, falling child participation rates, low levels of engagement with ads and negative views of gambling in general). As set out under the evaluation of response to question 1(a), CAP and BCAP cannot prohibit all references to activities that are the subject of gambling products where the activity itself is of inherent 'strong' appeal to under-18s. See [evaluations](#) 1(c)–3.25 and also 1(a)-2.13 for further detail.

(ii) *A respondent was concerned that the proposals included no provision for the opinions of under-18s in determining questions of 'strong' appeal. The respondent also urged the ASA to set up a youth panel in order to adjudicate on cases involving the new restriction.*

While it might consider insights provided by consumer research, the ASA's role is not to determine definitively the likely appeal or effect of an ad on those who see it. The Codes require that advertisers hold evidence to demonstrate their compliance. The ASA assesses whether the case for compliance presented by an advertiser satisfies the requirements of the Code. Advertisers who are unable to provide a sufficiently robust case that an ad is not likely to be of 'strong' appeal to under-18s risk being found in breach. CAP and BCAP will nevertheless make the ASA will be made aware of the respondent's point. See [evaluation](#) 1(c)–2.3 for further detail.

2.5.3 Consultation outcome

Fulfilling the commitment set out in the consultation document, new guidance for gambling and lotteries advertisers on compliance with the rules that protect under-18s has been developed and is included in [Annex A](#).

The new guidance draws on the BCAP alcohol guidance – set out as a basis for responses in the consultation – and significant consultation feedback. It also incorporates parts of the

existing guidance, [Gambling advertising: protecting children and young people](#), that are still relevant (the existing guidance document will be retired).

This includes guidance on CAP and BCAP's general responsibility provisions as they relate to the protection of under-18s and revised guidance on the application of the under-25s rules in light of the introduction of the new 'strong' appeal rules in line with the response summarised in 2.5.2 above.

As the new 'strong' appeal-based rules are an extension of the existing restriction that prohibits advertising that appeals particularly to under-18s, relevant parts of the existing guidance have been carried over. For example, the advice on unacceptable use of child-oriented animation and animated characters that continues to be unacceptable as the rules move from a 'particular' appeal-based restrictions to a 'strong' appeal-based one.

The guidance also includes significant new detail to help advertisers implement the new rules, including:

- how to identify activities or events associated with gambling products that have elements of inherent 'strong' appeal (see guidance section 13);
- the application of the finalised exemptions for certain types of ad content where a product is associated with an activity or event that is itself of 'strong' appeal to under-18s (see guidance section 15);
- how to assess the appeal of persons and characters to determine their appeal (see guidance section 17); and
- the applicability of the exemption for narrowly targeted media where under-18s can be excluded from an audience (see guidance section 28).

Additionally, responding to specific consultation feedback, CAP and BCAP have developed the [guidance](#) in several ways, most notably:

- Confirming the ASA's approach to enforcement in line with the consultation commitment to it taking a strict line in applying the 'strong' appeal test; this includes the decision to reconsider existing precedent rulings on 'strong' appeal under BCAP's alcohol rules (see guidance section 12).
- Providing further detail on the interaction between the new 'strong' appeal-based restrictions and the existing rules prohibiting the use of those under the age of 25 in ads (see guidance section 8).
- Cautioning marketers over the use content obviously related to video games; from identifiable characters to background content and depictions of gameplay or other product features (see guidance sections 24 and 25).
- Advising care on the presentation of older characters who are of natural appeal to younger children, like grandparents (see guidance sections 22).
- Setting out the approach to the assessment of musical content used in ads; including a tougher approach than the BCAP alcohol guidance to older songs that become popular again (see guidance sections 26).

2.6 Exemptions for activities with inherent ‘strong’ appeal

2.6.1 Consultation proposals

Consultation question 1(d) asked: *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.*

The consultation invited respondents’ views on CAP and BCAP’s proposal to incorporate several exemptions to allow some scope for licensed products associated with activities or themes of ‘strong’ appeal to continue to be advertised.

Unlike alcohol products, some gambling products are inherently linked to activities that are of ‘strong appeal’ to under-18s; for instance, lotteries good causes and bets on the outcomes of sports matches, TV shows and eSports tournaments. Football is an obvious example as it is a key focus of betting products. While not of ‘particular appeal’ to under-18s (in other words appealing more to under-18s than to adults), it appeals strongly across age ranges.

Applying a ‘strong appeal’ test at the level of an activity would effectively prevent the advertisement of related licensed gambling activities.

The Gambling Commission is responsible for licensing gambling operators and ensuring their provision of products is compatible with the Gambling Act 2005’s requirement to ensure children and young people remain protected. The ASA could not reasonably prevent entirely the advertising of products that have met these requirements.

2.6.2 Summary of key responses and evaluations

This question was also a significant focus for many respondents. Industry respondents tended to question whether the proposed exemptions were sufficient and asked for more clarity on how they would work in practice. Non-industry responses expressed concern the exemptions undermined the overall proposals for tougher restrictions on the appeal of creative content.

Evaluations of significant responses agreeing with this proposal are in section 1(d)–1 of the [evaluation document](#), those expressing disagreement are in 1(d)–2, and other responses in 1(d)–3.

The exemptions to the ‘strong’ appeal rules proposed in the consultation document:

a) It is proposed that the ‘strong appeal’ rule would not apply to:

- i) the activity which is the subject of the licensed gambling activity (for example, football and eSports) in general terms;*
- ii) generic depictions of these subjects (for example, balls and other sporting equipment, stadia or depictions of players and play) provided that they are not presented in a manner that might ‘strongly’ appeal to under-18s (for example, using cartoon-style graphics);*
- iii) content that specifically identifies a subject of the licensed gambling activity (for example, the logos of an eSports game, sports team, sports tournament, or other event);*
- iv) depictions of good causes benefitting from lottery funds (for example, holiday activities arranged for disadvantaged children) or references to lottery prizes; and*
- v) material relating to an advertiser’s brand identity (for example, logos or livery).*

b) For the avoidance of doubt, 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: doing so would be banned by the proposed new rule. Moreover, if an ad took advantage of one or more of the exemptions (i)-(v), the ad could not include any other factor which, judged in whole and in context, would be likely to render the ad of ‘strong appeal’ to under-18s.

Key industry responses – Industry respondents reiterated criticisms over proportionality and the effectiveness of the status quo (as summarised under question 1(a) above), although there was some level of support for the principle of incorporating exemptions into the policy. There were also calls for the scope of exemption proposed relating to the use of persons and characters to be expanded.

The following summarises key points and CAP and BCAP’s evaluation:

(i) *Several respondents believed the prohibition on personalities was unfair and called for an exemption to allow personalities to be used when the gambling product was directly linked to them. One respondent called for a specific exemption of this kind on TV for well-known sports personalities who were not of ‘particular’ appeal to under-18s.*

Noting the GambleAware evidence’s focus on the importance of personalities in terms of impact on under-18s, CAP and BCAP consider that extending the limited exemption for the use of persons undermines the key basis of their proposals. The proposals strike a reasonable balance to allow products like ‘goal scorer bets’ to be advertised with text or audio references to a specific player alongside generic footballing imagery. The guidance accompanying the new ‘strong’ appeal rules sets out the criteria on which all personalities will be judged (see section 17 of the guidance included in [Annex A](#) in particular). A blanket exemption for certain categories is not appropriate as the ASA must assess on a case-by-case basis. See [evaluations](#) 1(a)–3.17 and 1(a)–3.18 for further detail.

(ii) *Some respondents were concerned that casino and bingo-led operators were disadvantaged by the proposals that exempted the subject of products (for example, a sport being bet on), but not the products themselves.*

As summarised under question 1(a) above, CAP and BCAP acknowledge this concern and have amended the wording of the proposed exemptions to the rules accordingly (see section 2.3 above and also confirmation of the finalised exemptions in section 2.6.3 below).

(iii) *A respondent pointed out some brand identities were substantially built around animation. A blanket restriction would clearly impact widely on the brand’s operation, beyond the issue of advertising.*

The respondent’s point is addressed in the proposals by the exemption covering “material relating to an advertiser’s brand identity (for example, logos or livery)”. This allows advertisers to include identifiers like logos, although it would not extend to brand ambassadors like equity brand characters, which will be assessed by the ASA under the criteria defining ‘strong’ appeal set out in the relevant parts of the guidance (see, in particular, section 15 of the guidance included in [Annex A](#)). See [evaluation](#) 1(c)–2.21 for further detail.

Key non-industry responses – NGO and academic respondents were generally opposed as they considered the exemptions weakened the proposal significantly.

The following summarises key points and CAP and BCAP’s evaluation:

(i) *Respondents asserted that the Final Synthesis Report highlighted the strong link between youth, gambling and sport, and, in particular, they believed eSports were unquestionably of ‘strong’ appeal. They asked for further justification of the proposal’s focus on imagery, themes and characters. They considered there was little basis for the implication that the sports, teams or players themselves were not themselves of strong appeal.*

As set out under question 1(c) (see section [2.5](#) above), CAP and BCAP cannot impose restrictions that would, for all intents and purposes, prohibit the advertising of licensed products. The new rules add materially to the protections afforded by content restrictions. However, the exemptions included in the policy allow a balance between the strength of new evidence for further action and proportionality considerations. See [evaluations](#) 1(d)–2.3, 1(d)–2.4 and 1(d)–2.5 for further detail.

(ii) *One respondent questioned why CAP and BCAP could not prohibit all content of strong appeal, like that relating to football. They believed the Gambling Commission should explain why it could not allow CAP and BCAP to prohibit all advertising of ‘strong’ appeal to children to ensure a joined-up response.*

The Gambling Commission is constrained by the same considerations that the ASA and CAP are. The underlying framework permits advertising that meets standards set out in the Codes. CAP and BCAP have nevertheless made the Commission aware of the respondent’s point. See [evaluation](#) 1(d)–2.4 for further detail.

2.6.3 Consultation outcome

CAP and BCAP have decided to introduce exemptions, in line with those proposed, as part of the new guidance supporting the new rules restricting advertising of ‘strong’ appeal to under-18s.

As detailed in [2.3.3](#) above, the finalised gambling rules include a shorter, principle-level statement in the rule highlighting the limited exemptions for the advertising of gambling products associated with activities or events that are themselves of ‘strong’ appeal to under-18s. This links to a section of the new guidance (see section 15 in [Annex A](#)) where marketers can find more detail of the circumstances in which they need to comply with the exemptions.

The text of the proposed exemptions has been developed to make clearer their application. There are several more significant changes to the substance of the exemptions, but CAP and BCAP are satisfied that these bear out the policy intention rather than materially change the policy proposal:

- CAP and BCAP recognise that, along with gambling and lotteries products which are associated with activities of inherent ‘strong’ appeal to under-18s (for instance, bets on sports or a lottery for a particular good cause), there are other kinds of licensed gambling activity including online gaming products where characteristics of the product itself (such as gameplay, themes or characters) are likely to have a similar effect. The

exemptions have been amended to ensure CAP and BCAP's original intent is applied consistently to all types of product (see Exemption A below).

- Following on from this, the exemption allowing for generic depictions where associated activities are of inherent 'strong' appeal have been expanded to reflect a broader range of gambling and lotteries products than just betting (see Exemption B below).
- As set out in [2.4.3](#) above, the exemptions in the finalised lotteries rules have been expanded with more scope for the inclusion of persons (including under-25s) of strong appeal to illustrate good causes benefiting from lottery funding in some lotteries ads.
- The exemption relating to the use of persons and characters in ads for gambling and lotteries products of inherent 'strong' appeal has been amended to make clearer the limited scenarios in which persons or characters can be used. It also reflects changes to the exemption included in the lotteries rules (see Exemption F below).

The exemptions will be set out in section 15 of the new guidance which the principle included in the gambling rules (see [2.3](#) above) specifically refers. Advice on compliance with the exemptions relevant to the lotteries rules (see [2.4](#) above) are also included in this part of the guidance. The final version of the exemptions state:

- **Exemption A: products in general terms** – Advertising for gambling and lottery products associated with activities of 'strong' appeal may promote the licensed product in general terms. The subject a product is associated with or its characteristics are not bases alone upon which the ASA will conclude that an ad is of 'strong' appeal. Ads for such products must still comply with the strong appeal rules, except where an exemption set out in this section of the guidance is applicable.

Marketers should also note the rules 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.

- **Exemption B: generic depictions** – Advertising for gambling products that have characteristics likely to be of 'strong' appeal to under-18s (like certain online games) may include generic depictions or references to the creative content or gameplay of the product. Similarly, advertising for gambling products associated with a subject of 'strong' appeal may include generic depictions of the subject of the gambling product. Examples of acceptable generic depictions include:
 - using suitable actors or computer-generated imagery to depict playing a sport held to be of 'strong' appeal to under-18s;
 - depicting generic equipment associated with the sport or activity like a ball, goalposts, a piece of kit, a bat or racket;
 - employing stylized depictions (for instance, blurred or long focus shots) or computer-generated imagery to depict something relating to a named event held to be of 'strong' appeal to under-18s, like a non-specific trophy, stadium or arena; and
 - using suitable actors or computer-generated imagery to depict the act of playing an online game held to be of 'strong' appeal to under-18s (for instance, holding a device, selecting a generic feature like pressing the 'play' button, or expressing disappointment or approval over their performance).

The generic depictions allowed by this exemption must be suitable and not, of themselves, likely to appeal strongly to under-18s (for instance, because they invite obvious comparisons with video games or online games popular with under-18s or use cartoon-style graphics likely to appeal strongly to under-18s).

- **Exemption C: logos and other identifiers** – Advertising for gambling products associated with a subject of ‘strong’ appeal may include content that specifically identifies a subject of the gambling activity (for example, the logo of a sports team, sports tournament, eSports game, or other event). This allows for content that performs a similar role to a visual or audio reference.
- **Exemption D: branding** – Advertising for gambling and lottery products associated with activities of ‘strong’ appeal may include content relating to an advertiser’s brand identity (for example, logos or livery). This is a specific exemption covering material relating specifically to an advertiser’s brand identity (for example, brand logos or livery). This does not, however, extend to equity brand characters, which will be assessed by the ASA under the criteria defining ‘strong’ appeal set out in the guidance.
- **Exemption E: lottery prizes and good causes** – The lotteries rules state: *Where the subject of a lotteries product (for example, good causes benefitting from lottery funds) or features of the product itself (for example, the creative content, gameplay or a prize involved) are of strong appeal to under-18s, a marketing communication / an advertisement for that lottery may depict the subject and/or product, 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.*

This allows for lotteries product ads to depict the good causes benefitting from lottery funding, like sporting activities for disadvantaged children. It also allows the depiction of large prizes (like cash jackpots) and other items likely to appeal strongly to children that may sometimes be prizes in smaller lotteries (like bikes or games consoles).

- **Exemption F: certain persons and characters** – Gambling advertisements may use of persons or characters associated with gambling subjects of ‘strong’ appeal to under-18s, like football, where marketers can satisfy the criteria set out in the sections below covering the application of the ‘strong’ appeal test to persons and characters. When a person or character is used to illustrate that subject, their association with the subject is not a basis alone for the ASA to find the ad in breach of the ‘strong’ appeal rules; see sections 16-18 below for more detail on how the appeal of persons and characters will be assessed and scenarios relating to this exemption.

The lotteries rules recognise that lotteries are a means of raising funds for good causes. The rules distinguish between, on the one hand, lottery advertising that promotes lotteries products directly, which must not feature under-25s in a significant role and, on the other hand, good cause-related lottery advertising where there is no explicit encouragement to purchase a lottery ticket, which can feature under-25s as or representative of the primary beneficiaries of the lottery. For good cause-related lottery advertising, persons who have ‘strong’ appeal to under-18s may feature where they are the direct beneficiaries of lottery funding.

2.7 Exemption for highly robust targeting

2.7.1 Consultation proposals

Consultation question 1(e) asked: *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.*

The consultation invited responses on CAP and BCAP's proposal that the new 'strong' appeal rules be applied in line with the ASA's existing policy allowing ads to feature content that would be otherwise prohibited in media where under-18s can be excluded from the audience with a very high degree of confidence.

The ASA's [established position](#) relates to the application of the 'particular' appeal-based rules. Gambling ads that are of 'particular' appeal to under-18s and that are 'freely accessible' breach the rules. However, if highly robust targeting methods are used to the effect of excluding under-18s from the audience, the ad can include content likely to appeal particularly to under-18s. Given this age group's absence from the audience, it is proportionate for the protection to be set aside.

2.7.2 Summary of key responses and evaluations

Evaluations of significant responses agreeing with this proposal are in section 1(e)–1 of the [evaluation document](#), those expressing disagreement are in 1(e)–2, and other responses in 1(e)–3.

Key industry responses – Notwithstanding comments on other parts of the proposals, industry respondents tended to agree with the proposed exemption. However, respondents made a variety of requests for clarification on its scope and application

The following summarises key points and CAP and BCAP's evaluation:

(i) *Respondents asked for further clarity on how the ASA would apply the policy especially in relation to third parties involved in delivery of ads.*

The ASA will expect marketers to provide evidence demonstrating that the systems used to identify an audience are robust enough to exclude under-18s from the audience. In practice, the exemption will be for media environments where advertisers can direct ads to known, age-verified recipients. Approaches based on data derived from gambling license requirements on age verification are likely to be acceptable. See [evaluation](#) 1(e)–1.2 for further detail.

(ii) *Respondents asked for clarification on the acceptability of age-gating on social media platforms and other sources of marketing data.*

More general marketing data, such as that inferred from user behaviour online are unlikely to be considered sufficiently robust to meet the requirements of this exemption. Other sources of marketing data may also be acceptable where robust means of age verifications have been employed; for instance, marketing lists validated by payment data or credit checking. See [evaluation](#) 1(e)–1.4 for further detail.

Key non-industry responses – NGO and academic respondents cast doubt on the capacity of age-verification and targeting to keep ads away from under-18s. Responses from age-verification providers urged CAP to adopt a strict new requirement for all gambling advertising to be targeted on the basis of age-verification.

The following summarises key points and CAP and BCAP’s evaluation:

(i) *Several respondents disagreed with the proposals because they believed there were no fool-proof age-verification systems. They noted evidence of children giving false ages on social media platforms, how ads served to individual profiles were not easily controlled and that organic content could be shared outside the control of the advertiser.*

The policy requires marketers to demonstrate that the systems used to identify an audience in line with the exemption are robust in excluding under-18s from the audience. Simply serving ads based on self-declared ages or on the basis of data inferred from user behaviour is unlikely to satisfy the ASA. Ultimately, where a reasonable case has not been made, the ASA may consider an advertiser in breach of the Code. See [evaluation](#) 1(e)–2.2 for further detail.

(ii) *Respondents argued that age-verification and targeting approaches were ineffective in circumstances where under-18s had access to adults’ devices and social media accounts.*

While it is not possible to control for scenarios involving shared use of devices fully, there are extensive protections in place. Ads must not appear in or around content for under-18s or content where under-18s are likely to comprise more than 25% of the audience. If a child views content for children on an adult’s device, these exposure restrictions apply irrespective of the adult’s browsing history or interests. While under-18s might have some access to a parent/guardian’s online accounts, it is unlikely to be protracted or significant (in other words, such that it would result in them being exposed to the range of advertising adults see). Moreover, the scope of the exemption includes only a narrow range of media where ads can be addressed directly to known individuals or others whose age can be verified to a very high degree of confidence. Under-18s using an adult’s device are unlikely to be served gambling advertising including content of ‘strong’ appeal during casual browsing or app use. See [evaluations](#) 1(e)–2.2 and 1(d)–3.2 for further detail.

(iii) *Respondents considered that online age-verification processes were not robust enough to prevent under-18s accessing gambling activities. Although they acknowledged loot boxes were not covered by the legal definition of gambling, a respondent believed that using a parent’s card and identification online was a potential loophole for under-18s to engage in gambling activity. They highlighted research that found one in ten young gamers had used their parent’s debit or credit card to purchase loot boxes.*

In relation to under-age participation, Gambling Commission data on underage participation suggests that very little of the participation among 11-16s involves gambling activities subject to the age verification requirements. Operator licenses have very strict requirements triggered when accounts are opened; including validation against the payment details provided. Lootboxes, as the respondent noted, are not categorised as gambling for the purposes of the Gambling Act 2005 and are therefore not subject to mandatory age-verification of customers before they gamble. CAP and BCAP are satisfied that basing the exemption to a large degree on the licensing framework is a robust and effective means of ensuring under-18s are excluded

from the audience of advertising falling under the exemption. See [evaluation](#) 1(e)–2.3 for further detail.

(iv) *Respondents that provided age-verification services asserted that it was now technically possible to ensure that all online gambling adverts were seen by only adult audiences removing the need to apply rules on the content of gambling ads to protect children. While ‘ad tech’ techniques could be used to reduce the risk of children seeing gambling ads, they were not sufficiently effective. The respondent believed it was straightforward for social media platforms and online advertising networks to implement robust, standards-based, independent age-verification for all their users. They pointed out that such age checks could be conducted to the BSI Standard PAS 1296:2018.*

In response to consultation question 3 (see [section 3](#) of this statement below), CAP and BCAP consider that there is no substantive case for new interventions that aim to dramatically reduce the media spaces where exposure to gambling ads might occur. The underlying policy of reducing exposure through placement and targeting restrictions, and content restrictions limiting the impact of ads under-18s do see remains proportionate to the evidence base. The ASA will assess the effectiveness of approaches to age-verification against the requirements set out in the guidance accompanying the new rules. This includes the verification standards referred to by the respondents. In principle, such approaches offer the potential for compliance with these requirements. See [evaluation](#) 1(e)–3.4 for further detail.

2.7.3 Consultation outcome

CAP and BCAP have concluded that the ASA’s policy allowing advertisers to include content that would be otherwise prohibited in media where under-18s can be excluded from the audience with a very high degree of confidence should be applied to the new rules.

Noting industry feedback on the matter, the new guidance includes a dedicated section with advice on how the ASA’s application of the policy (see sections 28-30 of the guidance included in [Annex A](#)).

3. Outcome of Question 3 – Media placement restrictions

3.1 Overview

CAP considers the policy allowing gambling and lotteries ads to be served to predominantly adult audiences only remains appropriate and proportionate to the evidence base of advertising's impact. The '25% test' is part of range of media placement and targeting restrictions that work in conjunction with controls on creative content to restrict appeal to under-18s. The policy recognises that under-18s consume media that is not directed at them explicitly. Even when a large majority – up to 75% – of the audience is adult, restrictions on gambling advertising still apply. This remains the most effective means of responding to the evidence base for harm.

CAP's stance also recognizes that legislation does not prevent under-18s seeing ads for sensitive product categories. The Gambling Act 2005 explicitly relaxed controls on gambling advertising allowing operators to advertise for the first time on TV and to use advertising to stimulate demand for gambling. CAP would therefore require a robust justification for restricting sensitive product category advertisers' freedom of commercial expression. For products subject to legal age restrictions, there is a solid basis restricting the placement and targeting of ads for those products as they may be directed toward those not of legal age to purchase them.

Although new evidence and arguments were submitted, CAP has not been presented with robust evidence that simple exposure to gambling and lotteries ads is likely, of itself, to be a cause of harm, which could not be addressed by less restrictive means; principally, through restrictions on the creative content of ads to limit their appeal. The evidence suggests that certain kinds of advertising content (the GambleAware evidence highlighted the use of personalities like sportspeople and celebrities) have more of an impact than previously understood. Accordingly, the consultation focuses new interventions controlling content rather than ad placement as the most targeted, effective and proportionate means of improving protections for under-18s.

Steps to reduce significantly the media spaces in which exposure to age-restricted ads might occur (for example, by the introduction of a 5% test) would involve restrictions in media that are overwhelmingly adult-oriented, thus fundamentally changing the underlying policy approach of delivering proportionate regulation that balances the legitimate commercial freedoms to Gambling Commission-regulated gambling operators, and the appropriate protections that should be afforded to under 18s.

Nevertheless, CAP acknowledge that more can be done within the existing policy framework to consolidate compliance in relation to online targeting of addressable ads as suggested by a recent ASA [monitoring report](#). This committed to further activity in 2022 including development of CAP's online targeting guidance to improve advertisers' use of ad tech-driven targeting technology. The report found that, in some predominantly adult media, profiles that should be identifiable as children were served ads for sensitive product categories including gambling.

3.2 Consultation proposals

Consultation question 3(a) asked: *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 3(b) invited respondents to submit further evidence, suggesting that exposure to gambling advertising could, in and of itself, result in gambling advertising-related harms. Question 3(c) invited respondents' views of whether there was a better way for CAP to meet its policy objective of balancing advertising freedoms for gambling operators and necessary protections for under-18s.

The consultation set out CAP and BCAP's view of the emerging evidence from the Final Synthesis Report and their assessment of the present approach to scheduling and media placement restrictions.

The finding of an association between levels of ad exposure and intention to gamble among non-gamblers aged 11-17 was of obvious concern. However, as set out above, CAP and BCAP noted that the measure used to determine whether respondents intend to gamble in the next 12 months was highly sensitive (those responding that they would 'probably not' gamble in the next 12 months were categorised as 'susceptible') and there was no indication of whether intentions translated into gambling behaviour. Furthermore, other findings from the report highlighted other factors associated with "susceptibility" to gamble, like the influence of parents and peers on shaping knowledge and behaviour.

CAP and BCAP considered that the association identified between exposure to gambling advertising and "susceptibility" to gambling for people aged 11-17 was, at most, modest and, when considered in the light of GambleAware findings on the appeal of different types of content and messaging, did not support the case that exposure to the multiplicity of different gambling advertisements is equally impactful. There was, therefore, little in the way of evidence to indicate that exposure to gambling advertising is, in and of itself, likely to cause harm.

3.3 Summary of key responses and evaluations

Evaluations of significant responses agreeing with this proposal are in section 3(a)–1 of the [evaluation document](#), those expressing disagreement are in 3(a)–2, and other responses in 3(a)–3. Responses to the further limbs of the question are in 3(b)–1 and 3(c)–1.

Key industry responses – Industry respondents generally supported the view set out in the consultation. Arguments built on various points in relation to question 1 with the submission of some new evidence to support CAP's case for no new interventions on placement restrictions for one-to-many non-broadcast ads.

As set out under the summary of key evaluations for question 1(a), the emerging evidence suggests that advertising compliant with the UK Advertising Codes is likely to have more impact than previously understood. While this is a basis for action on ad content, the evidence must be treated with appropriate caution. It is not significant enough to suggest that more fundamental change is necessary; including measures to dramatically reduce the places where under-18s may be exposed to gambling advertising.

Existing rules already have a significant impact on exposure ensuring that gambling advertising appears only in overwhelmingly adult media environments. Although evidence from the Final Synthesis Report and other sources suggest under-18s are exposed at some level of significance (notably, findings on recalled exposure and levels of brand awareness), other evidence (for example, low participation and ad engagement rates and a generally negative attitude to gambling in general) presents a balancing picture. The most targeted, effective and proportionate approach is to focus new interventions on advertising content likely to attract the attention of under-18s. See [evaluation](#) 3(a)–1.4 for further detail.

Key non-industry responses – NGO and academic respondents urged CAP to go further and consider changing its underlying policies on ad placement. The key response to question 3(a) focused on the basis for interpreting the evidence emerging from the GambleAware research.

The respondent considered that question 3(a) was based on the notion that there was a direct relationship between ad exposure and behaviour or harm, and that there was some quantifiable point at which advertising must be restricted (if an effect was considered more than “modest”). They believed the same point applied to question 3(b) and the suggestion that advertising “in and of itself” could result in gambling advertising-related harms. They cited evidence related to advertising restrictions for food and soft drinks that are high in fat, salt or sugar (HFSS); in particular, the view that there was no perfect and/or ethical social science experiment that would show cause and effect between advertising and behaviour or harm.

The respondent noted that Government policy makers had recently proposed further restrictions on HFSS advertising, which, they maintained, were based on civic judgements rather than evidence of cause and effect. The respondent considered that the quantitative research showed a “modest” direct effect, which could be expected from social science research and could result in the possibility of harm to a very large number of children in absolute terms. They considered CAP and BCAP should have asked 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.

CAP and BCAP acknowledge the limitations of evidence relating to the impact of advertising and what it might be expected to reveal. The evidence here has been considered carefully and in its wider context with a broad view on what constitutes gambling advertising-related harm (see [consultation](#) section 4.3. ‘Understanding ‘gambling advertising-related harm’ for further detail). The absence of solid evidence of causation is not a barrier to action as evidenced by the decision to introduce new, stricter controls on ad content as part of this process.

It is important to note the UK Advertising Codes’ already place very significant restrictions on gambling and lotteries advertising. The question for this process was therefore not whether to intervene, but what the appropriate extent of interventions restricting advertisers’ commercial freedoms should be. As set out above, a case has not been made substantively that all gambling advertising has an equivalent impact on under-18s and that that is likely to result in gambling advertising-related harms. The evidence suggests that certain kinds of advertising content have more of an impact than previously understood. Accordingly, the outcome of the consultation therefore focuses new regulatory interventions on content rather than ad placement. Alongside proportionality and evidence-based considerations, the impact of such interventions is likely to be, at best, uncertain. In online environments a significant proportion of advertising is delivered using various types of ‘ad tech’; on a ‘one-to-one’ rather than a ‘one-to-many’ basis.

Building on this final point, CAP and BCAP accept that more can be done to improve the efficacy of online targeting within the present framework of the rules. A recent ASA [monitoring report](#) suggests there are issues with the way some online gambling and lotteries ads are targeted. In response, CAP commits to activity in this area in 2022 including further development of its online targeting guidance to make clearer the steps that marketers must take to minimize the risk of gambling and lotteries ads being served to those who are or are likely to be under-18. Better enforcement of existing restrictions is the most effective and proportionate means of consolidating protections in online media.

Finally, in relation to the relevance of HFSS advertising, although the two areas share commonalities, there are important differences, not least that HFSS products can legally be sold to children. Moreover, much of the key evidence base around HFSS advertising relates to the effects of ‘acute’ advertising exposure; frequently for products of direct interest to children

and/or advertising using techniques designed to appeal to them. Controls on gambling advertising are already much stricter as they prohibit addressing of advertising to under-18s in any way. See [evaluation](#) 3(a)–2.2 for further detail.

Respondents also cited several pieces of additional evidence as requested under question 3(b). However, these submissions do not, in CAP and BCAP’s view, challenge their position set out in the consultation and above. See [evaluations](#) 3(a)–2.6, 3(b)–1.1, and 3(b)–1.2 for further detail.

Responses to question 3(c) urged that the precautionary principle should be applied noting the 25% test meant that, where an advertising medium had an audience of 500,000 up to 125,000 children could, in theory, be permissibly exposed to gambling advertising. Respondents urged adoption of an absolute exposure limit, lowering the threshold to 5% or a combination of the two measures.

CAP holds to the view set out in the consultation document that, alongside proportionality and evidence-based considerations, the impact of strengthening the 25% restriction to further limit the media in which gambling ads may be placed is likely to be, at best, uncertain.

- Given the stratification of online content and how it is often directed at specific audience demographics, it is not clear that moving from 25% to 20%, or even 15%, would dramatically reduce exposure levels. In other words, there are unlikely to be a significant number of websites, magazines the like that would be newly prohibited from displaying gambling ads by moving the threshold to 20% or 15%.
- Setting a numerical limit on the number of the under-18s in an audience (either as a replacement for the ‘25% test’ or in combination with it) is impractical given the significant differences between media audiences, how advertising appears, and inconsistent current approaches to audience measurement. For example, some media like video-on-demand or cinema include advertising, which appears to the audience watching at the point it is shown. Other media like websites or influencers’ posts on a video sharing platform are available over a significant period for audiences to search for and consume the content.

3.4 Consultation outcome

A case has not been made substantively that all gambling advertising has an equivalent impact on under-18s. Steps to reduce significantly the spaces in which exposure might occur would involve restrictions in media that are strongly and overwhelmingly adult-oriented, thus fundamentally changing the underlying policy approach of appropriately limiting but not seeking to eliminate under-18s’ exposure. Given the nature of the evidence, there is little basis to consider that this would significantly improve protections, but the impact on advertiser’s freedoms would be significant.

Nevertheless, as stated, CAP acknowledge that more can be done within the existing policy framework to consolidate compliance in relation to online targeting of addressable ads. CAP will report publicly on this work in 2022.

4. Implementation

4.1 New rules on the appeal of gambling and lotteries advertising

The new rules prohibiting gambling and lotteries advertising likely to appeal strongly to under-18s will come into effect after a six-month period of grace, although marketers are urged to bring new campaigns into compliance as soon as they can. Accordingly, the ASA will begin to consider complaints using the guidance **from 1 October 2022**.

CAP and BCAP commit to review the implementation of the new rules after 12 months.

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