

CAP and BCAP Consultation

Responding to the findings of the GambleAware Final Synthesis Report

Annex A – Consultation annex: supporting information



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1. Introduction to the self-regulatory system

1.1. Committee of Advertising Practice (CAP)

CAP is the self-regulatory body that authors [the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing](#) (the CAP Code). Compliance with the Code is mandatory for advertisements in the UK or other advertisements that target UK consumers. The Code is enforced independently by the ASA.

CAP member bodies include organisations that represent advertising, direct and promotional marketing and media businesses. CAP seeks advice on proposed Code changes from an expert consumer panel, the Advertising Advisory Committee (AAC). By practising self-regulation, the marketing community ensures the integrity of the wider industry. Through their membership of CAP organisations, or through contractual agreements with media publishers and other carriers, advertisers are committed to complying with the CAP Code so that marketing communications are legal, decent, honest and truthful, and consumer confidence in advertisements is maintained.

Self-regulation is accepted by the Department for Business, Energy and Industrial Strategy (BEIS) and the Courts as a first line of control for non-broadcast advertising in providing protections for consumers and the industry. The value of self-regulation as an alternative to statutory control is also recognised in European law, including the legislation governing misleading advertising (Directive [2005/29/EC](#) concerning unfair business-to-consumer commercial practices in the internal market, the “Unfair Commercial Practices Directive”). CAP and the ASA are also designated by Ofcom to regulate aspects of advertising in certain on-demand video services under the Communications Act 2003 (as amended).

1.2. Broadcast Committee of Advertising Practice (BCAP)

BCAP is the regulatory body responsible for maintaining the [UK Code of Broadcast Advertising](#) (the BCAP Code) under agreement with the Office of Communications (Ofcom). Ofcom has a statutory duty, under the Communications Act 2003 (as amended), to maintain standards in TV and radio advertisements. In 2004, Ofcom entrusted BCAP and the broadcast arm of the ASA with the regulation of broadcast advertisements in recognition of CAP and the ASA’s successful regulation of non-broadcast marketing communications for over 40 years, and in line with better regulation principles.

The BCAP Code regulates all advertisements on television channels and radio stations licensed by Ofcom and all advertisements on Sianel Pedwar Cymru (S4C) and S4C digital, including teleshopping channels and any additional television service (including television text services and interactive television services). The BCAP Code is enforced against Ofcom-licensed broadcasters, Sianel Pedwar Cymru (S4C) and S4C digital. Broadcasters are required by the terms of their Ofcom licence, and, for S4C, by statute, to adhere to the standards set out in the BCAP Code. BCAP members include broadcasters and trade associations representing advertisers, broadcasters and agencies.

The [Communications Act 2003 \(as amended\)](#) sets out provisions for the regulation of broadcasting and television and radio services, including provisions aimed at securing standards for broadcast advertisements. Under contract with Ofcom, BCAP and the ASA undertake to satisfy section 319 of the Communications Act 2003 (as amended), which requires, among other things, “(h) that the inclusion of advertising which may be misleading, harmful or offensive in television and radio services is prevented”. In addition, section 322

empowers Ofcom to require TV broadcasters to exclude advertisements “from a specified part of a licensed service”.

Under Section 324 of the Communications Act 2003 (as amended), BCAP must consult on proposed Code changes. BCAP strives to ensure that its rule-making is transparent, accountable, proportionate, consistent and targeted where action is needed, in accordance with the Communications Act 2003 (as amended). Ofcom must approve Code changes before BCAP implements them. The Act requires Ofcom to set and, from time to time, review and revise, a Code containing standards for the content of broadcast advertisements carried by TV and radio services licensed under the Broadcasting Acts 1990 and 1996.

Ofcom has contracted out the setting of advertising standards to BCAP under the [Contracting Out \(Functions Relating to Broadcast Advertising\) and Specification of Relevant Functions Order 2004](#). That function is exercised in consultation with and agreement of Ofcom.

1.3. Advertising Advisory Committee (AAC)

CAP and BCAP must seek advice on proposed Code changes from an expert consumer panel, the Advertising Advisory Committee (AAC). The AAC is the independent consumer panel that provides a consumer perspective to its policy work, such as the drafting and interpretation of the UK Advertising Codes. AAC members are independent of the advertising industry and are appointed following public advertisement.

1.4. UK Advertising Codes

The UK Advertising Codes (the CAP Code and the BCAP Code) are based on common principles. They seek to protect consumers, while upholding the right of responsible marketers to advertise, ensuring that marketing communications respect the principles of fair competition generally accepted in business. They also ensure advertisements are socially responsible and that harmful marketing communications are prohibited.

The CAP Code is the rule book for non-broadcast marketing in the UK applying to the disciplines of advertising, promotional marketing and direct marketing. A key underlying principle of the Code is media neutrality; the rules apply to marketing communications across all non-broadcast media from the more established, like newspapers and magazines, to new and emerging online media platforms, like social media and native advertising.

The BCAP Code sets out the advertising-related requirements for Ofcom-licensed television and radio broadcast services. It applies to advertisements regardless of whether the service’s main audience is in the UK. Compliance with the Code is a licence condition along with the requirement for broadcasters to ensure they have adequate procedures in place to ensure advertisements comply with the BCAP Code before they go to air.

Section 4 below summarises CAP and BCAP’s rules and guidance that control gambling and lotteries advertising in the UK.

1.5. Advertising Standards Authority (ASA)

The ASA is the independent body responsible for administering the UK Advertising Codes ensuring that the regulatory system works in the public interest.

The ASA receives and investigates complaints about marketing communications from the public and industry. Decisions on investigated complaints are taken by the independent ASA Council and published on the ASA's website. An Independent Review process exists for parties who wish to challenge a ruling when they believe there are substantial flaws in the final decision or process.

If the ASA Council upholds a complaint, the marketing communication must be withdrawn or amended. CAP, BCAP and ASA executive teams conduct compliance work and pro-active monitoring and research to enforce the ASA Council's decisions across sectors in order to maintain a level playing field for advertisers.

1.6. ASA Strategy 2019-2023: More Impact Online

In 2018, the ASA published a new five-year strategy, entitled, [More Impact Online](#). The strategy makes a public commitment to strengthening the regulation of online ads. It builds on work to regulate more pro-actively, including through addressing risks emerging from newer forms of advertising. The strategy strongly focuses on online ads because people are spending more time online, businesses are increasingly advertising online and the pace of technological change online is contributing to people's concerns. Key strands of the strategy include:

- Prioritising the protection of vulnerable people and appropriately limiting children and young people's exposure to age-restricted ads in sectors like food, gambling and alcohol.
- Seeking to work more closely with the large online platforms, inviting their greater engagement in the ASA system and exploring opportunities to engage in and improve their advertising compliance processes; for example, through ensuring that learnings from ASA rulings are applied automatically to analogous ads across their platforms.
- Listening in new ways, including through research, data-driven intelligence gathering and machine learning, to find out which other advertising-related issues are the most important.
- Exploring new technological solutions, including machine learning, to improve regulation.

1.7. Commitment to good regulation

The self-regulatory system is strongly committed to transparent, proportionate and evidence-based regulation, both in the authorship of the Codes and their enforcement. The ASA, CAP and BCAP's [Commitment to Good Regulation](#) sets out six public commitments modelled on the Government's [Regulators' Code](#).

The commitments are to:

- keep regulatory burdens to a minimum;
- engage with you;
- be targeted;
- share information;
- provide advice and training support; and
- be transparent.

1.8. Funding

The entire system is funded by a levy on the cost of advertising space, administered by the Advertising Standards Board of Finance ([Asbof](#)) and the Broadcast Advertising Standards Board of Finance ([Basbof](#)). Both finance boards operate independently of the ASA to ensure there is no question of funding affecting the independence of the ASA's decision-making.

2. Statutory framework for regulating gambling

2.1. Overview

Gambling and its advertising are subject to extensive controls through statutory frameworks, the work of regulatory bodies like the ASA and industry voluntary initiatives.

Gambling is unlawful in Great Britain, unless permitted by:

- the Gambling Act 2005 (as amended) (from here ‘the Gambling Act 2005’);
- the National Lottery etc. Act 1993 (as amended); or
- for spread betting, the Financial Services and Markets Act 2000 (as amended).

There are also separate frameworks for controlling gambling in the Channel Islands and Isle of Man, and Northern Ireland.

2.2. Gambling Act 2005

Most gambling activity in Great Britain is regulated under a statutory framework established by the Gambling Act 2005, which came into force in September 2007. It is based on three key licensing objectives:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- ensuring that gambling is conducted in a fair and open way; and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Act created a new independent regulator, the Gambling Commission, and gave new powers to local licensing authorities. It introduced a new licensing system that requires operators and key personnel to be licensed by the Commission.

For the first time, remote gambling was brought within the regulatory framework provided for by the Act, with a requirement introduced that those wishing to provide gambling remotely, who had remote gambling equipment used for the provision of such facilities located in Great Britain, must hold operating licences. The Gambling Act 2005 ([Section 327](#)) introduced a broad legal definition of advertising covering remote gambling, non-remote gambling and marketing arrangements such as brand-sharing. It permitted operators to advertise legally and to engage in marketing activities with the aim of stimulating demand.

The [Gambling \(Licensing and Advertising\) Act 2014](#) amended the Act requiring gambling operators providing facilities for remote gambling to consumers in Great Britain require a licence issued by the Commission.

2.3. Gambling Commission

The Gambling Commission is under a duty to pursue, and where appropriate, to have regard to, the licensing objectives, and to permit gambling in so far as it thinks it reasonably consistent with them. The Commission exists to safeguard consumers and the wider public by ensuring that gambling is fair and safe. It has developed an extensive framework of

[Licence conditions and codes of practice](#) (LCCP) in order to uphold the licensing objectives and improve consumer protection.

The Commission's regulatory functions can broadly be categorised as those of licensing, compliance and enforcement. In particular, the Commission has the power to:

- determine applications for operating and personal licences, specify the (general and individual) conditions to be contained in such licences, limit the duration of such licences, and determine applications to vary or renew operating and personal licences;
- undertake activities for the purpose of assessing compliance with the Act and with any licence condition, code of practice or other provision made by or by virtue of the Act, and also for the purpose of assessing whether an offence is being committed under or by virtue of the Act (including the power to request information from operating and personal licence holders under section 122 of the Act, to commence reviews under section 116 of the Act, and to carry out inspections under Part 15 of the Act);
- take regulatory action against an operating or personal licence holder following a review under section 116 of the Act (including the power to issue a formal warning, to attach, remove or amend a licence condition, to suspend or revoke a licence, and to impose a financial penalty), to void a bet and require repayment of any money paid in relation to it, and to investigate and prosecute offences committed under the Act; and
- act against operators who provide facilities for gambling to British consumers without a licence, and those who breach Section 330(1) of the Act by advertising unlawful gambling.

Alongside general requirements for operator behaviour, the LCCP contains a series of social responsibility and ordinary code provisions relating to marketing. It requires that all advertising of gambling products and services should be undertaken in a socially responsible manner and that licensees should comply with the UK Advertising Codes, which apply to the form and media in which they advertise their gambling facilities or services.

2.4. Lotteries

The UK National Lottery may be promoted under the [National Lottery etc. Act 1993](#) (as amended), with the terms of such promotions determined through the Section 5 operating licence to run the National Lottery. This is regulated by the Gambling Commission and contains a number of conditions specifically relating to marketing including a requirement to comply with the relevant industry regulations.

Similar to the regulatory functions noted above, the Commission has the power to undertake activities for the purpose of assessing compliance with any condition of the licence, and to take regulatory action should a breach of any condition be evident.

Some other lotteries, such as society and local authority lotteries are regulated by the Gambling Commission under the relevant provisions of the Gambling Act 2005. Lottery operators are – like other gambling operators – expected to comply with the relevant LCCP provisions around marketing and advertising. These provisions mean that lottery operators must ensure that they have a regard to the principles of the UK Advertising Codes even for types of media that are not explicitly covered.

2.5. Spread betting

A 'spread bet' is a contract for difference and is regulated by the FCA under the [Financial Services and Markets Act 2000](#) (as amended) ("FSMA"), the [Financial Services and Markets Act 2000 \(Financial Promotion\) Order 2005](#) (as amended) and other FCA rules and guidance. Under the FSMA, spread betting may be advertised as an investment.

2.6. Northern Ireland, Channel Islands and Isle of Man

The Gambling Act 2005 applies only in Great Britain: England, Scotland and Wales. Other parts of the UK have their own arrangements for regulating gambling.

Under the terms of the [Betting, Gaming, Lotteries and Amusements \(Northern Ireland\) Order 1985](#), advertising non-remote, unlicensed, gaming is an offence. The Gambling Act 2005 and Gambling (License & Marketing) Act 2014 apply also to Northern Ireland for the purposes of controlling remote gambling. Operators must hold a Gambling Commission licence to advertise remote gambling services in Northern Ireland. Responsibility for regulating non-remote gambling advertising rests with the [Northern Ireland Department for Social Development](#).

The Channel Islands and the Isle of Man each operate their own regulatory frameworks¹ for operators based in their jurisdictions. In practice, where an operator based in these jurisdictions promotes services to British consumers, they must hold a Gambling Commission license and comply with the requirements of the Gambling Act 2005. Because the UK Advertising Codes' remit extends to parts of the UK outside Great Britain, advertising of services directed at non-UK consumers is subject to the gambling and lotteries rules.

¹ See the [Alderney Gambling Control Commission](#), [Isle of Man Gambling Supervision Commission](#) and [Jersey Gambling Commission](#).

3. Regulating UK Gambling Advertising

3.1. Overview

Gambling advertising in the UK is subject to significant regulatory controls. Responsibility for regulating the placement and the content of gambling advertising rests with the ASA as it enforces the UK Advertising Codes, and CAP and BCAP as authors of the Codes. As part of the wider framework controlling gambling, the ASA, CAP and BCAP's role is subject to oversight by the Department of Digital, Culture, Media and Sport (DCMS), Ofcom and the Gambling Commission.

3.2. Statutory controls on advertising

The Gambling Act 2005 reserves powers for the Secretary of State for Digital, Culture, Media and Sport to make regulations in non-broadcast advertising regarding the form, content, location and timing of advertising. However, in practice, the framework for regulating gambling advertising relies on codes of practice, including the CAP and BCAP Codes.

Additionally, for broadcast advertising, [section 329](#) of the Gambling Act 2005 states that Ofcom is responsible for setting, reviewing and revising broadcast gambling advertising rules in line with its duties under Section 319 of the Communications Act 2003 (as amended). Because Ofcom has contracted-out the regulation of broadcast advertisements to the ASA system, BCAP exercises that role, but Ofcom retains final approval over the BCAP Code.

3.3. Defining 'gambling advertising'

To deal with new practices, the Gambling Act 2005 introduced a broad legal definition of advertising covering remote gambling, non-remote gambling and marketing arrangements such as brand-sharing. [Section 327](#) defines advertising as:

For the purposes of this Act a person advertises gambling if—

he does anything to encourage one or more persons to take advantage (whether directly or through an agent) of facilities for gambling, with a view to increasing the use of facilities for gambling, he brings them or information about them to the attention of one or more persons, or he participates in or facilitates an activity knowing or believing that it is designed to—

encourage one or more persons to take advantage (whether directly or through an agent) of facilities for gambling, or
increase the use of facilities for gambling by bringing them or information about them to the attention of one or more persons.

The UK Advertising Codes do not cover all the commercial practices envisaged by the definition in the Gambling Act 2005. Practices that are considered "advertising" (for example, sports and other event sponsorship arrangements) but fall outside the scope of the Codes are regulated by the Gambling Commission.

For the non-broadcast media, the CAP Code does not include a definition of "marketing communications". Instead, the [Scope of the code](#) outlines its remit by listing categories of communication to which it applies. It primarily covers marketing communications appearing

in paid-for space. In the traditional media, this includes press and poster advertising; in online media, this includes display advertising, native advertising and affiliate marketing. The CAP Code also covers promotional marketing and direct marketing as marketing disciplines. Additionally, the Code's remit includes:

- marketing communications connected with the sale or transfer of goods and services appearing on a marketer's own website or in third party space under their control (for instance, advertisers' social media accounts);
- marketing communications appearing in video-on-demand services; and
- certain aspects of online behavioural advertising, which is targeted at consumers based on their preferences.

The BCAP Code's [Introduction](#) (see b (ii)) defines advertising in the following way:

“advertisement” means publicity by advertisers, including spot advertisements and broadcaster promotions with advertisers (outside programme time), that is broadcast in return for payment or other valuable consideration to a broadcaster or that seeks to sell products to viewers or listeners. The promotion of broadcasters' own-branded activities, goods and events (such as websites, t-shirts and concerts), which enhance audience involvement and are not designed to make a profit or promote commercial partnerships, are excluded.

In practice, this includes TV and radio spot advertising, teleshopping, participation television, and sponsorship. It should be noted that the latter two categories, although covered by the BCAP Code, are regulated by Ofcom rather than the ASA. For gambling, examples include casino teleshopping windows that often appear on channels later in the TV schedule.

3.4. Developing the Codes' gambling and lotteries rules

In 2006, CAP was asked to develop rules to regulate gambling advertising after the coming into force of the Gambling Act 2005. BCAP received a similar request under the framework of its contracting out agreement with Ofcom.

In its letter asking CAP to write the non-broadcast rules, the Gambling Commission stated their expectation “that the CAP Code rules will allow gambling to be advertised only as a responsible leisure or entertainment activity and will reflect the Government's intention”. In particular, the Commission expected the new rules to “prohibit advertising likely to tap into the susceptibilities, weaknesses or aspirations of children and other vulnerable groups and ensure that advertisements do not suggest that gambling can change lives or is a means of making money”.

In their [2006 consultation](#) on the new gambling sections of the Codes, CAP and BCAP outlined their rationale for the formulation of the rules:

The proposed rules establish general principles that apply to all gambling sectors and activities, regardless of the legal age of play, to ensure that all advertisements are socially responsible and that no advertisement harms or exploits children and young persons or vulnerable adults.

This obliged CAP and BCAP to adopt a definition of vulnerable adults. It therefore assumed that that included people who gamble more than they want to, gamble beyond their means

and/or may not be able to make informed or balanced decisions about gambling because of mental impairment, alcohol or drugs.

CAP and BCAP drew from the relevant research available in 2006, but also relied on the input of expert stakeholders to identify marketing approaches or content that might be problematic. Several key themes were identified:

- Appeal to the young
- Escape or thrills (beyond responsible entertainment)
- Self-esteem or self-image
- Control or power
- Loyalty or beliefs
- Excess or irresponsibility
- Misleadingness

Owing to the age restricted nature of gambling products, CAP and BCAP adapted their usual policies for protecting under-age groups and prohibiting explicit targeting of children and young people through the selection of media.

3.5. Development after 2007

Dedicated lotteries rules – CAP and BCAP’s 2006 consultation had also included proposals to regulate the National Lottery under the rules proposed for gambling products. In response to concerns raised during the consultation, they engaged in further dialogue with the industry and stakeholders to ensure that the distinction between the underpinning statutory regimes was clear. Specific lotteries sections reflecting many of the provisions of the gambling sections were subsequently incorporated into the Codes during the 2009 Code Review process, which produced the present editions of the Codes. Although they are separate and have due regard to differences in legal framework and nature of the products involved, the respective sections for gambling and lotteries create a consistent regulatory approach across all forms of gambling advertising.

Depictions of under-25s on operators’ websites – In 2013, CAP considered representations from the industry for a relaxation to its rule on depictions of under-25s. The industry was concerned that the extension of CAP’s remit to cover betting websites restricted their use of images of sportspeople to depict betting options. They highlighted the fact that prior to CAP’s remit extension, Gambling Commission guidance had permitted such depictions. CAP [consulted on proposals](#) that resulted in the introduction of a narrow exemption for such websites on the basis that individuals could be shown to illustrate a bet involving them, but could not be used to promote the gambling operator or gambling in general.

Introduction of expanded advertising guidance – Based upon an assessment of the emerging evidence, CAP and BCAP introduced expanded guidance on the interpretation of the rules protecting:

- [adult audiences](#) (with a particular focus on those with problem gambling issues) in 2018; and
- [children and young people](#) in 2019.

CAP and BCAP guidance plays a key role in informing the ASA’s interpretation of the rules, although the ASA is not bound by guidance and, in rare and exceptional circumstances

only, it may deviate from it. Guidance also sets industry and practitioner expectations of marketing approaches that are likely to be unacceptable. The underlying objective is to ensure that advertising is compliant before it is published or broadcast.

The new guidance set tougher standards on the acceptability of certain advertising content and marketing approaches. For instance, new guidance restricted ads' use of approaches that create an inappropriate sense of urgency (e.g. encouraging people to "Bet Now!" during live events). Section 4.2 below summarises the content of these guidance documents in greater detail.

3.6. Industry responsibility initiatives

In addition to the UK Advertising Codes, the gambling industry has a range of voluntary measures that set standards beyond the requirements of CAP and BCAP's rules. The Industry Group for Responsible Gambling's [Gambling Industry Code for Socially Responsible Advertising](#) includes provisions such as:

- a requirement that gambling advertising should not be shown before 9pm on TV (this has been in place since 2007, but was recently extended to remove an exemption for ads appearing around live sports programming); and
- standards for the inclusion of responsibility and safer gambling messaging.

The latest edition of the code includes new commitments that sponsored or paid-for social media advertisements must be targeted only at those age 25 and above.

This industry code is not enforced as part of the ASA system but adherence to it is a requirement of the Gambling Commission's LCCP. It provides useful, additional standards that seek to address areas of particular public concern.

4. Rules and guidance

4.1. Rules on gambling and lotteries advertising

The UK Advertising Codes each include dedicated sections for Gambling and Lotteries advertisements. The rules across non-broadcast and broadcast are closely aligned for both types of product creating a common basis of protections. This section provides a summary narrative of the key rules.

At a principle level, gambling and lotteries advertising must be socially responsible (CAP 16.1) and must not portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm (CAP 16.3.1/17.1; BCAP 17.3.1/18.2.1). Additionally, ads must not exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons (CAP 16.3.2/17.12; BCAP 17.4.4/18.4). These rules provide significant discretion for the ASA to take action against problematic ads beyond the more specific rules summarised in this rest of this section of the annex. For example, CAP and BCAP's guidance on gambling advertising relies on these general principles to support several of provisions (see section 4.2 below).

The specific rules focus on irresponsible messaging for audiences in general. Ads must not suggest that gambling can:

- provide an escape from personal, professional or educational problems such as loneliness or depression (CAP 16.3.3/17.2; BCAP 17.3.2/18.2.2); or
- enhance personal qualities, for example, that it can improve self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration (CAP 16.3.6/17.6; BCAP 17.3.6/18.2.6).

The rules recognise in particular how financial vulnerabilities or aspirations present a particular risk owing to the nature of gambling products. Ads must not suggest that gambling can be a solution to financial concerns, an alternative to employment or a way to achieve financial security (CAP 16.3.4/17.3; BCAP 17.3.3/18.2.3).

The rules cover specific, irresponsible encouragements for people to gamble or abstain, or to start gambling in the first place. Ads must not:

- suggest peer pressure to gamble nor disparage abstention (CAP 16.3.7/17.5; BCAP 17.3.5/18.2.5);
- portray gambling in a context of toughness or link it to resilience or recklessness (CAP 16.3.9/17.8; BCAP 17.3.8/18.2.8); or
- suggest gambling is a rite of passage (CAP 16.3.10/17.9; BCAP 17.3.9/18.2.9).

Protecting people susceptible to problem gambling behaviours is another important role of the codes. Specific rules prohibit ads that portray gambling as indispensable or as taking priority in life, for example, over family, friends or professional or educational commitments (CAP 16.3.5/17.4; BCAP 17.3.4/18.2.4), or suggest that solitary gambling is preferable to social gambling (CAP 16.3.11/17.10; BCAP 17.3.10/18.2.10).

Protection of children and young people is the other core function of the rules recognising the legal age restrictions on most gambling products and the inherent vulnerabilities of the young. There are three key restrictions; ads must not:

- be likely to be of particular appeal to children or young persons, especially by reflecting or being associated with youth culture (CAP 16.3.12/17.13; BCAP 17.4.5/18.5);
- include a child or a young person, or anyone under 25 years old playing a significant role (CAP 16.3.14/17.15; BCAP 17.4.6/18.6 & 18.7); or
- be directed at under-18s through the selection of media (CAP 16.3.13/ 17.14; relevant BCAP scheduling provisions in [section 32](#) of the Code).

4.2. Advertising guidance

The UK Advertising Code rules are supported by detailed guidance that elaborates on the principles and provisions set out in the rules. This guides ASA decision making on individual cases, although the ASA is not bound by it strictly. Guidance reflects ASA rulings as they interpret the rules in specific cases. CAP and BCAP have also recently carried out dedicated evidence reviews to ensure their guidance effectively counters potential risks identified by the evolving evidence base.

[Gambling advertising: responsibility and problem gambling](#) includes protections for audiences in general including specific prohibitions on content that pose a risk to those with problem gambling issues. In particular, the guidance responded to new insights from an evidence review adding provisions to:

- restrict ads that create an inappropriate sense of urgency (e.g. encouraging people to “Bet Now!” during live events);
- curb the trivialisation of gambling (e.g. encouraging repetitive play);
- prevent approaches that give an erroneous perception of the risk or control (e.g. “Risk Free Deposit Bonus”);
- provide greater detail on problem gambling behaviours and associated behaviours that should not be portrayed, even indirectly;
- prevent undue emphasis on money-motives for gambling; and
- provide greater detail on vulnerable groups like problem gamblers that marketers need to work to protect

[Gambling advertising: protecting children and young people](#) elaborates on the key protections for children with specific focus on the restrictions on advertising content of ‘particular appeal’. It builds on existing guidance resources on targeting covering all media, including social networks and other online platforms, prohibiting:

- placement of gambling ads in media for under-18s or where under-18s comprise more than 25% of an audience; and
- targeting of groups of individuals who are likely to be under 18 based on data about their online interests and browsing behaviour.

The guidance also includes an extensive list and consolidated list of unacceptable types of content that are likely to be of ‘particular appeal’ to children; including animated characters (e.g. ‘cute’ animals, pirates or fairy-tale characters) and overall themes and imagery that are child-oriented (e.g. child-like fantasy worlds).

5. Enforcement

5.1. ASA's role

Through its enforcement of the UK Advertising Codes, the ASA plays the central role in maintaining standards. The ASA considers complaints from members of the public and industry alike. All complaints are assessed against the relevant Code on an equal basis to determine whether the regulatory action is warranted; there is no minimum threshold for the number of complaints about a particular issue before action is taken. The ASA will launch an investigation if it believes the complaint has merit and will aim to ensure that non-compliant advertising is changed or withdrawn.

Information about the ASA, including the [complaint-handling](#) and the [Independent Review](#) process, is available via the links provided.

5.2. Enforcement and sanctions

The vast majority of advertisers and broadcasters agree to follow [ASA rulings](#). For those that are having difficulty doing so, CAP provides advice to support their compliance with the UK Advertising Codes. However, for the small minority of advertisers who are either unable or unwilling to work with the ASA and CAP, they may be subject to sanctions.

One of the most persuasive sanctions is bad publicity – an advertiser's reputation can be badly damaged if it is seen to be ignoring the rules designed to protect consumers.

For non-broadcast advertisements, sanctions are co-ordinated through CAP, whose members are trade associations representing advertisers, agencies and media. For example, CAP can issue [Ad Alerts](#) to its members, including the media, advising them to withhold services such as access to advertising space. In online media, where marketers who refuse to amend problem ads on their own websites or in other non-paid-for space online under their control, their [name and details of the problem with their advertising](#) may be featured on a dedicated section of the ASA website, designed to [appear in search engine results](#) when a consumer searches for a company's website. If necessary, the [ASA can also place an online advertisement appearing in response to search engine requests](#), which forewarn web users about an advertiser's wilful non-compliance under the Code.

For broadcast advertisements, the responsibility to withdraw, change or reschedule a commercial lies with the broadcasters. Broadcasters are required by a condition of their broadcast licences to enforce ASA rulings. If they persistently run ads that fall foul of the Broadcast Advertising Code, broadcasters risk being referred by the ASA to Ofcom, which can impose fines and even withdraw their licence to broadcast.

5.3. Backstops

In the vast majority of instances, self-regulatory enforcement mechanisms are sufficient to ensure compliance with the Codes. Where they are not, the ASA has relationships with statutory and sectoral regulators including Trading Standards and Ofcom. For gambling advertising, the ASA has an enhanced backstop in that it can refer instances of non-compliance to the Gambling Commission. The ASA and the Gambling Commission have a memorandum of understanding establishing common principles for case handling, information sharing and referrals for action under license conditions.


5.4. Pre-clearance

Broadcasters are required as a condition of their licenses to pre-clear advertising before it is aired to ensure compliance with the BCAP Code. Clearance services for most TV advertisements are provided by [Clearcast](#) and for radio advertisement clearance services are provided by [Radiocentre](#). The pre-clearance process ensures that most compliance requirements are addressed in the development stages of the ad creative.

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