

ASA system submission to the Gambling Harm APPG's inquiry into the Gambling White Paper

1. Background and Introduction

- 1.1. This submission is provided by the Advertising Standards Authority (ASA), the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) – the 'ASA system.'
- 1.2. The ASA is the UK's independent advertising regulator. We have been administering the non-broadcast Advertising Code (written and maintained by CAP) for 60 years and the broadcast Advertising Code (written and maintained by BCAP) for 18, with our remit further extended in 2011 to include companies' advertising claims on their own websites and in social media spaces under their control.
- 1.3. The ASA system is the 'one stop shop' for ensuring that UK advertising is legal, decent, honest, and truthful. Our work includes undertaking proactive projects and acting on complaints to tackle misleading, harmful or offensive advertisements. We are committed to evidence-based regulation, and we continually review new evidence to ensure the rules and our application of them remain fit-for-purpose.
- 1.4. As the UK's frontline advertising regulator, the ASA brings together different statutory, co-regulatory and self-regulatory enforcement mechanisms so they appear seamless to people and businesses. Our system involves the active participation of a range of legal backstops in the consumer protection landscape. We work closely with a network of partner regulators including Ofcom, the Gambling Commission, the Information Commissioner's Office, the Medicines and Healthcare products Regulatory Agency, the Financial Conduct Authority and the Competition and Markets Authority.
- 1.5. Through the sharing of information, joined-up enforcement action and referral processes, our partners bolster our regulation and assist us, where necessary, to bring non-compliant advertisers into line. Together, this 'collective regulation' helps to protect people and responsible business from irresponsible ads: ads that mislead, harm or offend their audience.
- 1.6. We also bring together the ad industry and media owners to set, maintain and police high standards. The UK Advertising Codes are drafted and maintained by the industry committees of CAP and BCAP, supported by experts in our Regulatory Policy team. This means businesses have a direct stake and an enlightened self-interest in adhering to the standards they set and creating a level-playing field amongst them. There are multiple checks and balances in place to ensure the committees' development of rules and guidance is transparent, open to scrutiny and adheres to the principles of good regulation. These include calls for evidence and public consultations; mandatory regard to the advice of an expert independent consumer panel; Ofcom signing off on BCAP rule changes; the ASA System's processes being open to judicial review and more besides. All to ensure the system is wholly accountable to everyone with a stake in advertising.
- 1.7. The UK Advertising Codes include rules reflecting specific legal provisions and rules developed through separate regulatory process, which in combination ensure ads don't mislead, harm or seriously offend their audience. The inclusion of the rules in the UK Advertising Codes has enormous benefits for responsible businesses and for consumers, who benefit from the protection the rules afford.
- 1.8. In addition to investigating ads, we also provide a wealth of training and advice services (most of which are free) for advertisers, agencies and media to help them understand their responsibilities under the Codes and to ensure that fewer problem ads appear in the first place. CAP and BCAP provided over a million pieces of advice and training in 2022.

1.9. The ASA system is providing this written submission in response to the Gambling Harm APPG's inquiry into the Gambling White Paper

2. Consultation Question: What further steps should be taken to protect children and young people from gambling advertising?

- 2.1. We acknowledge that the APPG's inquiry is looking to assess the measures set out in the Gambling Regulation White Paper and to make recommendations to Government.
- 2.2. As the frontline regulator for gambling ads across all media (including TV, online, social media, cinema and outdoor spaces) our response is focussed on the APPG's query around gambling advertising.
- 2.3. Our response focuses on the work we've undertaken in recent years to further strengthen gambling advertising regulation and the programme of work we're proposing in response to the White Paper.
- 2.4. In summary, while Government have been reviewing gambling regulation, we've introduced new rules with tougher content restrictions protecting under-18s, been harnessing tech to proactively monitor online gambling advertising, and piloted a new scheme to extend online advertising regulation.
- 2.5. The White Paper's marketing and advertising recommendations are not directed at the ASA. The evidence base outlined in the paper aligns with our understanding from previous reviews.
- 2.6. Following the publication of the White Paper we're exploring policy and enforcement work around incentives and promotions; online targeting; affiliates; and 18–24-year-olds.

3. The ASA's work during the government's review of gambling regulation

- 3.1. During the period in which Government have been reviewing gambling regulation, the ASA System has proactively undertaken work of its own. The White Paper made several positive references to this work namely the new strong appeal restrictions and the Intermediary and Platform Principles (IPP) pilot.
- 3.2. Our new [rules with tougher content restrictions protecting under-18s](#) came into force in October 2022, further strengthening our commitment to safeguarding under-18s and vulnerable audiences. The Codes recognise that under-18s may still encounter gambling ads in adult media environments. Their content restrictions provide an additional layer of protections to ensure that the gambling ads children do see don't unduly attract their attention and engagement.
- 3.3. The previous rules required that gambling ads must not be of 'particular appeal' to children. The new 'strong' appeal test prohibits content (imagery, themes and characters) that has a strong level of appeal to under-18s regardless of how it is perceived by adults.
- 3.4. This impacts gambling advertisers looking to promote their brands using prominent sports people and celebrities as well as individuals like social media influencers, who are of strong appeal to those under 18. It significantly restricts the imagery and references that gambling ads are allowed to use and should decrease the potential for gambling ads to attract the attention of under-18s in an audience. For example, under the new rule gambling ads are not able to feature:
 - Topflight footballers and footballers with a considerable following among under-18s on social media.
 - Any sportspeople popular with under-18s including those with a considerable under-18 following on social media.

- References to video game content and gameplay popular with under-18s.
 - Stars from reality shows popular with under-18s, such as Love Island.
- 3.5. Alongside the new rules, CAP developed a detailed piece of guidance to bear out the application of the new strong appeal standard, along with consolidating existing advice on the interpretation of the Codes' other rules for under-18s.
 - 3.6. The new rules were introduced ahead of the 2022 men's World Cup and saw a visible and material change in gambling ads that appeared in and around the World Cup, with virtually no examples of ads featuring top flight footballers.
 - 3.7. In December 2022, we published our [first ruling](#) under the new rule. A promoted tweet for Ladbrokes featured the text "Can these big summer signings make the question marks over their performances go away?" The tweet contained an embedded video showing an image reel of Premier League footballers Philippe Coutinho, Jesse Lingard and Kalidou Koulibaly. The ASA found that the ad included individuals who were likely to have strong appeal to under-18s and therefore breached the Code.
 - 3.8. The ASA also investigated if ads that featured an image of Jordi Alba and Sergio Busquets playing for FC Barcelona was of strong appeal to children. While both of these players had not played in the UK, FC Barcelona are considered to be one of the most widely supported and successful clubs in the world. Both of these players have represented Spain, including at the most recent European Championships and World Cup and both have also captained their country. As both of these players have had such successful careers, the ASA considered they were likely to be admired by under-18s and so were likely to be of strong appeal to them, and so the ad breached the Code ([BV Gaming Ltd t/a betvictor](#)).
 - 3.9. In June, the ASA and some of the largest companies in the digital advertising supply chain completed our IPP Pilot, which extended the ASA's role online. The year-long Pilot is the result of a collaboration between the ASA and members of IAB UK. Participating companies in the Pilot were: Adform, Amazon Ads, Google, Index Exchange, Magnite, Meta, Snap Inc., TikTok, Twitter and Yahoo.
 - 3.10. Centred around six '[Intermediary and Platform Principles](#)', its aim was to explore putting on a more formal footing, and bringing consistency to, the ways in which those companies cooperate with the ASA to promote advertisers' awareness of the advertising rules online, including of course rules in the gambling section of the Code, and to help the ASA to secure compliance in cases where advertisers were unwilling or unable to stick to the rules.
 - 3.11. Under the Pilot arrangements, participating companies agreed to volunteer information to the ASA to demonstrate how they operated in accordance with the Principles, with an understanding that different companies would be able to fulfil the Principles in differing ways.
 - 3.12. The ASA used that information, and other intelligence collected over the course of the Pilot, to publish an [interim report](#) in December 2022, the purpose of which was to provide an independent, anonymised, aggregated account of how the participating companies were performing against the Principles up to that point. A final report will be published in autumn 2023, reflecting on the full twelve months of the Pilot.
 - 3.13. By exploring ways to enhance transparency and accountability in online advertising regulation, the IPP Pilot will help the ASA, industry, and other stakeholders to collectively consider whether and where further action could be taken to enhance the ASA's ability to enforce the CAP Code online. In this spirit, a future evaluation of the Pilot may help to inform future policy thinking around online ad regulation.
 - 3.14. In the meantime, the ASA, IAB UK and participating companies remain committed to upholding and supporting the Principles. As part of its commitment to transparency and

accountability, the ASA and the IAB UK encourage feedback about any aspect of the Pilot with a pledge to respond, as appropriate, on significant comments received.

4. Our proactive monitoring of online gambling advertising

- 4.1. Since we launched our five year strategy, [More Impact Online](#), in 2018 we've focussed on proactive monitoring, particularly around online ads for age-restricted products like gambling.
- 4.2. In the first year of the strategy, we used new Avatar Monitoring technology in the form of child avatars, which simulate children's online browsing activity, to identify ads that children see online. The research is a breakthrough in harnessing technology to provide the ASA with intelligence to help it better protect children and vulnerable groups online.
- 4.3. Over a two-week period:
 - We collected data on the 10,754 times that ads were served to the child avatars across 24 websites and 55 YouTube channels clearly aimed at children.
 - Gambling ads were served to the child Avatars on 11 of the children's websites monitored. Gambling ads were seen by the child Avatars on those 11 children's websites a combined total of 151 times – 1.40% of all ads served to child avatars in children's media during the research.
 - One gambling operator was responsible for 122 of the ad impressions (81% of the 151).
 - No gambling ads were served on any of the open-access YouTube channels.
 - Gambling operators, NetEnt (Viking Video Slot); Evoke Gaming (RedBet); Multilotto UK Ltd; Platinum Garding Ltd (Unibet); and Skill On Net (PlayOjo), all broke the strict advertising rules, which prohibit gambling ads.
- 4.4. The gambling operators accepted their ads broke the rules. In most instances, we were informed that the problems arose due to errors by third-party companies who served the campaigns on behalf of the operators. We instructed the companies to take immediate action to review their online ads, to ensure they are not served to web users aged below 18 years of age through the selection of media or context in which they appear and to put in place measures to ensure this does not happen again.
- 4.5. The 2019 Avatar Monitoring work gave us a springboard to expand our proactive monitoring of online advertising. In 2020/2021, we published the [first](#), [second](#), [third](#) and [fourth](#) reports of our year-long, CCTV-style online monitoring project, which identifies and tackles age-restricted ads appearing in children's media.
- 4.6. Over three-month intervals, we used monitoring tools to capture ads served on a sample of over 50 websites and YouTube channels aimed at under-18s or attracting a disproportionately high under-18 audience. This allowed us to:
 - Identify instances where the ad rules were being broken.
 - Take follow-up action to contact advertisers whose ads broke the rules to secure the removal of the problem ads; and
 - Warn advertisers to review and, as necessary, amend their practices to ensure they target future ads responsibly.
- 4.7. In the first sweep we found 159 ads which broke the rules, of which 70 were gambling ads from four gambling operators which appeared on eight websites. In the second sweep we found 127 ads which broke the rules, of which five were gambling ads from three gambling operators which appeared on six websites and zero YouTube channels. In the third sweep we found 47 ads which broke the rules, of which three were gambling ads from one gambling

operator which appeared on three websites and zero YouTube channels. In the fourth sweep we found 21 ads which broke the rules, of which again three were gambling ads from one gambling operator which appeared on three websites and zero YouTube channels.

- 4.8. It is encouraging that the number of gambling ads reduced significantly, from 70 ads in the first sweep to five ads in the second sweep, and three ads in the third and fourth sweeps. We publicly reported the above figures, shared them with relevant industry groups, and took compliance action against any repeat offenders.
- 4.9. In 2021 we published a new [Avatar Monitoring report](#) focusing on age-restricted ads, including for gambling, in mixed-age online media (websites and YouTube channels likely to appeal to both adults and children, but where under-18s make up less than 25% of the audience) to assess whether these ads are being targeted away from child members of the audience.
- 4.10. The Avatars were constructed to reflect the online browsing profile of these age groups, but their automated actions – visiting 250 web pages on both desktop and mobile devices, twice a day – are obviously not indicative of real-world online behaviours.
- 4.11. Our six uniquely age-categorised Avatars received 27,395 ads, published on 250 sites, over a three-week monitoring period. These high figures clearly do not reflect real-world exposure levels to advertising, but the data gave us a good basis for assessing whether age-restricted ads are being targeted away from children in online media attracting a heavily weighted (75%+) adult audience.
- 4.12. In November 2022, we published the [100 Children report](#) examining the prevalence and consequences of under-18s falsifying their age on social media. We directly monitored the devices of 97 under-18s over seven days to examine the circumstances in which they're exposed to age-restricted ads on social media and other online environments.
- 4.13. Our findings suggest that at least 11% of under-18s' social media accounts are registered with a date of birth that falsely suggests the account holder is 18 or older. As a likely consequence, we found that those accounts were served 47% of all the age-restricted ads captured in our study, almost two-thirds more than children registered as under-18.
- 4.14. We captured a total of 11,424 ad impressions and of that total, found that 269 (2%) were gambling ad impressions* served to 41 children. Of those 269 gambling ad impressions:
 - 37 were served by 10 advertisers to nine under-18s with a self-reported registered age of under-18 on social media platforms or through sites likely to attract an audience where more than 25% are under-18.
 - 171 were served by 18 advertisers to 24 under-18s who reported being registered as over-18 on social media platforms or on sites likely to attract an audience where more than 75% are adults.

*Ad impressions provide a measure of the number of times an ad is served.

- 4.15. Our report found that, on average, each child was served 3.7 online ads for alcohol and gambling over the monitored week. Of these, 0.7 ads related to ads likely to breach the targeting rules, and 3.0 ads were not, on the face of it, in breach of the targeting rules. Whilst not directly comparable to TV (owing to significant differences in sample size, the profile of the sample, the time frame of the study and many other methodological differences) the ASA's latest TV advertising exposure report found that children aged 4-15 saw, on average, 3.0 TV ads for the same products per week. To the best of our knowledge, few if any of the TV ads were in breach of the relevant scheduling rules.

- 4.16. The ASA expects advertisers and their agencies to use a combination of targeting tools, and to not rely entirely on age data, to ensure they're doing everything they can to serve their age-restricted ads to an adult audience and away from a child audience.

5. The Gambling White Paper's position on the evidence base

- 5.1. Overall, the evidence base highlighted in the White Paper aligns with our understanding of it from previous reviews. There have been few shifts in the underlying metrics and indicators of gambling harm and the picture in relation to advertising's role remains consistent. There is no significant new evidence that suggests advertising's impact is greater than previously understood.
- 5.2. Given the evidence base, the White Paper takes a proportionate approach to gambling regulation, recognizing the need to balance the fact that gambling is a legal and legitimate form of entertainment with the need for interventions to protect groups who are at risk of harm.
- 5.3. The White Paper concludes that there is some high-quality evidence linking exposure and participation (particularly for those in at-risk groups) but finds little evidence of a causal link with harms. The White Paper is particularly forthright on the impact of TV advertising, concluding that compliant ads are unlikely to pose an undue risk of harm. In terms of enforcement, it noted that data suggested a good standard of compliance with the Advertising Codes.
- 5.4. The White Paper did not find evidence of harm from gambling advertising to which volume restrictions (as opposed to scheduling, placement, or content restrictions) are likely to be an appropriate response.
- 5.5. The White Paper agrees with the ASA's position on 'normalisation': That gambling is widely recognised as a legitimate leisure pursuit subject to a strict product licensing regime; gambling operators can promote gambling provided their advertising complies with the UK Advertising Codes. The ASA's role is to prevent gambling advertising that 'normalises' irresponsible or potentially harmful gambling behaviour.
- 5.6. The White Paper's marketing and advertising-related recommendations are not directed at the ASA system. The proposed changes are to be carried out through Gambling Commission-led processes and voluntary arrangements with industry, media owners, and sports governing bodies.
- 5.7. However, we still have our part to play. The White Paper provides a strong indication of where concerns over gambling advertising-related harm continue, and this is where we'll commit to focusing our policy and enforcement work as outlined in the below sections.

6. Incentives and Promotions

- 6.1. The White Paper instructs the Gambling Commission to review the design and targeting of incentives such as free bets and bonuses to ensure there are clear rules and fair limits on re-wagering requirements and time limits, so they do not encourage excessive or harmful gambling.
- 6.2. The proposal is based on evidence that suggests those at heightened risk are more susceptible to such marketing, which tends to be directed at those who play more frequently. Commission research found that a third of people spent money in response to seeing advertising in the past year, and among that group, direct marketing was the most likely to prompt individuals to increase the amount of money that they spend gambling, or restart gambling after taking a break. Similarly, 31% of respondents who had received a promotional offer stated that free bets or bonus offers encouraged them to gamble more than they wanted to. This figure rose to 77% for those classified as 'problem gamblers'.

- 6.3. The Gambling Commission's review relates to operator business practices under their licenses but will impact on advertising indirectly (since certain types of promotion may be prohibited). We consider it essential to work with the Commission to ensure that it understands the potential consequences for the Codes, and to develop CAP and BCAP's eventual response to the Commission's conclusions. We have already begun discussions with the Commission on this issue.

7. Online targeting

- 7.1. Government has asked advertisers to do more on targeting, using the functionality available to automatically exclude people who are showing signs of being harmed or whose online profile is not clearly discernible as being someone over 18. The White Paper also proposes steps to get platforms to expand on good practices it has identified, by making one-click opt-outs of gambling content, safer targeting of algorithmic recommendations, and integrated signposting to support more widely available. Findings from the ASA's 2021 Avatar report (that ads were being served to child avatars at a similar frequency to adult ones on mixed-audience websites) were cited as part of the reasoning for seeking further improvement.
- 7.2. In October 2022, CAP [introduced updated guidance](#) for age-restricted product categories strengthening even further the requirements for what advertisers need to do to ensure ads are not targeted at under-18s. They must use all the targeting tools available to them on a social network platform or in the open programmatic display marketplace to prevent inadvertently targeting their ads at under-18s, including those falsely registered or incorrectly inferred to be 18 or older. This includes both ad targeting tools provided directly by the platform (based on their platform users' interests and browsing behaviour), and tools that restrict under-18s' access to marketers' own social media content.
- 7.3. At the start of next year, we'll be undertaking a review of our online targeting guidance. The White Paper's recommendations to platforms over targeting of under-18s will be something we consider in that review process.
- 7.4. Our ASA's 'Tech 4 Good' initiative will include a strand exploring how online targeting technologies should be used to protect vulnerable adults. The concept of targeting restrictions to protect adults is different to those for under-18s, as adults in general are a legitimate audience for targeting gambling ads. There will be a need for in-depth work to explore the extent that advertisers can limit addressing ads to certain individuals and to develop appropriate means of setting standards to that effect.

8. Affiliates

- 8.1. The White Paper concluded that there is not a basis to extend licensing to affiliates, signalling satisfaction with the present arrangements of such marketers being subject to the gambling rules and liability resting with the licensed operator they are associated with. However, we're alive to the potential risks in this area and are exploring the possibility of carrying out data science-assisted enforcement work around affiliates.

9. 18-24s age category

- 9.1. The White Paper strongly suggests that the 18-24 age category should be the focus of dedicated protections, notably the proposal to introduce lower staking limits for members of this group. CAP and BCAP are exploring the possibility of policy measures to address the particular susceptibilities of the 18-24 age group.

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