

# *Responding to the findings of the GambleAware Final Synthesis Report: CAP and BCAP's evaluation of responses to Question 2*



## 1. Introduction

Following public consultation, the Committee of Advertising Practice (CAP) and Broadcast Committee of Advertising Practice (BCAP) have decided to revise their advertising guidance, [\*\*\*Gambling advertising: responsibility and problem gambling\*\*\*](#), to introduce further protections for adult audiences, including vulnerable groups, such as those with problem gambling-related issues. These proposals were set out under Question 2 in section 6.7 of the [consultation document](#).

CAP and BCAP have published a separate [regulatory statement](#) setting out the rationale for their decision. The statement provides responses to key comments received during the consultation. This evaluation document should also be read alongside the regulatory statement and the [consultation document](#).

## 2. List of respondents and their abbreviations used in this document

There were 20 responses to the consultation that included comments on Question 2.

This evaluation includes summaries of responses to consultation Question 2; only responses to that question have been included in this table. In line with the timetable set out in the Regulatory Statement, the full consultation responses will be published when the final outcome of the consultation is published later in 2021.

	Organisation / Individual	Abbreviation
1	Apricot	AP
2	BetFred	BF
3	Betsmart Consulting	BC
4	Betting and Gambling Council	BGC
5	BetVictor	BV
6	Betway	BW
7	Bet Index	BI
8	Bournemouth University Responsible Gambling Research Group	BU
9	Camelot	CA
10	Entain	EN
11	Flutter	FL
12	Fundraising Regulator	FR
13	Gambling Health Alliance	GHA
14	Gamesys	GS
15	Incorporated Society of British Advertisers	ISBA
16	Mission and Public Affairs Council of the Church of England	MPAC
17	Money and Mental Health Policy Institute	MMHPI
18	Prof. Agnes Nairn	AN
19	Sky	SK
20	William Hill	WH

### 3. Evaluation of consultation responses

Consultation question 2 sets out CAP and BCAP’s proposals for changes to the *Gambling advertising: responsibility and problem gambling* guidance (see [consultation document](#) section 6.7)

a) Do respondents agree with CAP and BCAP’s proposed additions to the *Gambling advertising: responsibility and problem gambling* guidance? If not, please state why.

	Respondents in agreement with the proposals	Comments	CAP and BCAP’s evaluation
2(a) – 1.1	AN, BC, BF, BV, BU, FL, FR, GHA, MMHPI, SK, WH	These respondents expressed agreement with the proposed changes to the guidance.	
2(a) – 1.2	WH	The respondent agreed with the proposals. They added that, provided the new guidance was enforced in a consistent, proportionate and evidence-based way, it would not have a significant impact on responsible operators.	<p>Although CAP and BCAP are not obliged to consult on guidance, the consultation invited further input from respondents to inform revisions to CAP and BCAP existing guidance, <a href="#">Gambling advertising: responsibility and problem gambling</a>, responding to findings from the GambleAware <a href="#">Final Synthesis Report</a>. As set out in the <a href="#">Regulatory Statement</a> and this evaluation, relevant insights have informed the development of revisions to the guidance. Advertising 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 circumstances, it may deviate from it. Guidance 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.</p> <p>Advertising guidance, combined with ASA rulings as they emerge, provide a strong basis for determining the risks involved in using a particular piece of content in an ad. However, these cannot cover all eventualities. Ultimately, it is for advertisers to take responsibility exercising appropriate caution in developing campaigns where the creative content or marketing approach touches on issues and themes covered by the guidance.</p>

2(a) – 1.3	<b>MMHPI</b>	<p>The respondent welcomed the proposal. They considered the additions to guidance section 4.3 on impulsiveness and urgency were particularly relevant for people with mental health problems, as increased impulsivity was a common symptom of several conditions. They cited research<sup>1</sup> that found many people with mental health problems felt that online gambling adverts were hard to resist when they were unwell. They maintained that that was exacerbated by the short journey from seeing an advert online to making a bet. The respondent considered it important that gambling adverts did not encourage impulsive behaviour or put undue pressure on the audience to gamble. They welcomed further guidance on what that meant in practice.</p>	<p>CAP and BCAP note the respondent's points and accompanying evidence, and consider that they provide support for the proposals to strengthen the <a href="#">Gambling advertising: responsibility and problem gambling</a> guidance.</p> <p>The revised guidance further supports the UK Advertising Codes' rules that aim to protect audiences in general. Ads may legitimately be directed to adults, but gambling advertisers must ensure that ads are responsible and do not contain content that could encourage irresponsible or potentially harmful behaviour, even indirectly. A key emphasis within the guidance is problem gambling, but CAP and BCAP recognise the need to protect the vulnerable across a range of areas, including individuals with mental health concerns (section 4.1 of the guidance specifically references mental health issues as a factor the ASA may consider in relevant cases).</p> <p>The UK Advertising Codes' gambling rules include general responsibility provisions (rules 16.1 and 16.3.1 of the <a href="#">CAP Code</a> and rule 17.3.1 of the <a href="#">BCAP Code</a>). These are the basis upon which parts of the guidance are enforced (principally, guidance section 4). They provide the ASA with the flexibility to take action on new compliance issues as they are identified in complaints or through proactive monitoring. This includes complex issues relating to vulnerability, like those relating to mental health.</p>
2(a) – 1.4	<b>MMHPI</b>	<p>The respondent welcomed the additions to both sections 4.4 and 6.2 of the guidance, with particular regard to the portrayal of winners. The cited research<sup>2</sup> that identified two common reasons why people with mental health problems might gamble. Firstly, for many, online gambling was seen as a means to solve financial problems. They pointed out that people with a mental health problem were more likely to be in problem debt, falling seriously behind on repayments in the last year and symptoms such as difficulty thinking clearly making it harder to weigh up decisions and lead to an unrealistic view of gambling. Secondly, online gambling was described by others as a way to escape poor mental health, providing a short-term means of lifting their mood. The respondent maintained that advertisements that unrealistically depicted gamblers as winning easily or take advantage of someone's own</p>	See 2(a)-1.3 above.

<sup>1</sup> Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020

<sup>2</sup> Holkar M. Debt and mental health: A statistical update. Money and Mental Health Policy Institute. 2019; Holkar M. Seeing through the fog. Money and Mental Health Policy Institute. 2017; Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020.

		hopes of winning could be especially problematic for people with mental health problems.	
2(a) – 1.5	<b>MPAC</b>	The respondent welcomed the proposals but believed the most effective means of preventing harms associated with gambling advertising would be to ban or significantly restrict all (or almost all) gambling advertising following the example of Italy.	<p>The Gambling Commission is responsible for licensing gambling operators and ensuring the provision of their products to customers is compatible with the Gambling Act 2005's requirements that ensure children and young people, and other vulnerable groups are protected. The ASA cannot reasonably prevent the advertising of products that have met these requirements, although advertisers must comply with the UK Advertising Codes' rules on the placement, scheduling and targeting, and content of ads. It is important also to acknowledge that the risks, harms and mitigations associated with gambling advertising differ from those associated with actual participation in gambling. The act of gambling can, in the absence of appropriate safeguards, be harmful to individuals, particularly those whose circumstances put them at risk of problem gambling.</p> <p>CAP and BCAP acknowledge significant public concern over the visibility and availability of gambling products. However, legislation controlling gambling in Britain is largely premised on gambling being a 'legitimate leisure activity'. The Gambling Act liberalised controls on advertising allowing gambling operators more freedom to promote products. The introduction of wide-ranging prohibitions on gambling advertising is an issue for Government should it reconsider the underlying statutory framework for controlling gambling as a product category established by the Gambling Act.</p> <p>Notwithstanding this, as set out in the <a href="#">consultation document</a> (section 3.4), CAP and BCAP consider there is a robust case supporting the effectiveness of present framework in limiting gambling advertising-related harms. The changes considered as part of the consultation are intended to respond proportionately to emerging evidence of the impact of gambling advertising as distinct from the wider question of product regulation.</p>
2(a) – 1.6	<b>BF</b>	The respondent agreed with the proposals maintaining that they brought the CAP and BCAP Codes further into line with the Industry Group for Responsible Gambling's (IGRG) <a href="#">Industry Code for Socially Responsible Advertising</a> .	CAP and BCAP acknowledge the significant voluntary initiatives, centring on the IGRG Code, that have contributed, for instance, to a reduction in the levels of exposure to certain types of gambling advertising on TV and the inclusion of responsibility messaging in gambling ads. While such voluntary initiatives have a role in the wider regulatory environment for gambling, CAP and BCAP must ensure that the UK Advertising Codes remain up to date providing effective, proportionate protections that respond to the latest evidence. As set

			out in the consultation, the regulatory statement and in this evaluation, CAP and BCAP consider that there is a robust case for action increasing restrictions on the creative content of gambling advertising.
2(a) – 1.7	<b>SK</b>	The respondent agreed with the proposals. They considered that they were in line with developments in broadcast advertising. In particular, they highlighted that, in 2020, members of the Betting and Gaming Council pledged 20% of TV and radio advertising to safer gambling messaging for the foreseeable future.	See 2(a)-1.6 above.
	<b>Respondents disagreeing with the proposals</b>	<b>Comments</b>	<b>CAP and BCAP's evaluation</b>
2(a) – 2.1	<b>BW, EN</b>	These respondents expressed disagreement with the proposed changes to the guidance.	
2(a) – 2.2	<b>BW</b>	The respondent disagreed with the proposal. They believed that there were adequate rules already in place to cover the issues raised in the proposed additions to the guidance. They also considered that the proposed additions required further explanation, along with clear examples to ensure a consistent interpretation and application.	<p>The UK Advertising Codes include a range of rules designed to prevent irresponsible messaging and appeals. These are supported by more detailed guidance that identifies advertising approaches and content likely to be problematic. This can reflect ASA rulings interpreting the rules or – as is the case here – work by CAP and BCAP to update guidance in response to emerging evidence and understanding of gambling advertising-related harms.</p> <p>The GambleAware <a href="#">Final Synthesis Report</a> includes relevant findings based in part on the on the ScotSen qualitative research, <a href="#">The Effect of Gambling Marketing and Advertising on Children, Young People and Vulnerable People: Qualitative Research Report</a>, commissioned by GambleAware as part of its research programme. This study highlights aspects and themes of ad content that attracted interest and attention among subjects that included young adults, those with problem gambling and mental health issues.</p> <p>Although the findings are not of themselves decisive, when taken alongside the wider Final Synthesis Report findings, CAP and BCAP consider that action is warranted. Most importantly, insights provided by the research speak largely to existing provisions in the guidance and further established policy aims; to protect vulnerable adults from irresponsible creative content or messages that might encourage harmful behaviour, for instance, by locking into vulnerabilities, such as those relating to problem gambling or risky gambling behaviour.</p>

			<p>These centre on widely acknowledged areas of risk and potential harm. It is therefore proportionate to draw on insights from the GambleAware research to further inform the various sections of the guidance, principally, by providing further examples of areas of risk and particular marketing approaches or content that should be avoided.</p> <p>See also 2(a)-1.2 above on the approach taken to developing the revised guidance.</p>
	<b>Other responses including comments on specific parts of the proposals.</b>	<b>Comments</b>	<b>CAP and BCAP's evaluation</b>
2(a) – 3.1	<b>Various</b>	<p>Respondents made points about the proposed amendments to CAP and BCAP's guidance; several were critical or requested more information, for instance, on the practical implications of the proposals.</p> <p>The responses are grouped below under the relevant proposed revision to the guidance.</p>	
	<b>Proposal in section 6.6.1 of the consultation document</b>	<b>In guidance section 4.2 on erroneous perceptions of risk and control, proposed additions to the guidance would prohibit: [...] presenting complex bets in a way that emphasises the skill, knowledge or intelligence involved to suggest, inappropriately, a level of control over the bet that is unlikely to apply in practice</b>	
2(a) – 3.2	<b>BGC</b>	<p>The respondent maintained that the GambleAware Final Synthesis Report did not provide sufficient guidance on the proposal. They believed it would cause confusion for advertisers who might interpret it in different ways making it harder for the ASA to enforce. They believed there would be extreme difficulties in applying the concept as the definition of complexity was unclear and was hard to define level of control in practice.</p>	<p>As set out in 2(a)-1.2 above, CAP and BCAP are not required to consult on guidance but have done so in this instance to obtain input from key stakeholders to ensure the guidance revisions have solid basis in the evidence and are clear for practitioners.</p> <p>The GambleAware Final Synthesis Report stated "... ads that used features such as odds boosts or referenced accumulators were seen as particularly attractive to high risk or frequent gamblers. This was apparent in the ads shared by these groups, which appealed to a sense of expertise and knowledge, or sense of community of skill."</p>



			<p>CAP and BCAP consider that these findings add to existing understanding of the potential risks associated with advertising messaging; particularly that which emphasises an individual's control while downplaying risk. Section 4.2 (Erroneous perceptions of risk and control) of the guidance already includes several provisions to address such issues. The GambleAware findings add useful insights, in particular, relating to high risk and frequent gamblers. There are likely risks of gambling advertising-related harm where messages or the general approach taken by a marketer exploit people's self-image or aspirations as a way of bringing success and financial reward.</p> <p>In terms of definitions, the GambleAware report refers to two forms of what the proposal describes as a "complex bet", 'odds boosts' and 'referenced accumulators'. CAP and BCAP's intention is that offers for gambling products that include multiple elements (for example, urging consumers to make multiple selections or take several steps to participate in an offer) should not be promoted with undue emphasis on an individual's skill, knowledge or intelligence. For instance, by placing undue emphasis on how these attributes might lead someone to make a particular selection or choose a more complex product over a straight-forward one. Depictions of someone using such products or generally participating are unlikely to be problematic.</p> <p>CAP and BCAP note concerns over the definition of "a level of control" and therefore have decided to revise the proposed proposal to better align with the existing wording of section 4.2 of the guidance. In addition to this, in response to 2(a)-3.6 below, CAP and BCAP have decided to adopt a more consistent approach amending the wording to apply the provision to complex gambling products beyond betting. The full text of the revised guidance, incorporating the amended proposals is set out in section 3.4 of the <a href="#">Regulatory Statement</a>.</p>
2(a) – 3.3	<b>EN</b>	The respondent requested further guidance, specifically, a definition of "complex bet" and examples that would be deemed to breach this new requirement. They asked whether it would cover accumulators or 'full cover bets'.	See 2(a)-1.2 and 2(a)-3.2, both above.
2(a) – 3.4	<b>BI</b>	The respondent asked for further clarity on the definition of a "complex bet". They considered the text of the proposal was open to a high degree of interpretation and subjectivity. They believed the existing policies were clear that operators must be fair and not mislead. They asked for examples drawing on ASA rulings of what would be acceptable and what would not.	See 2(a)-1.2 and 2(a)-3.2, both above.  Additionally, issues of responsibility are separate from those of general misleading advertising; advertisers must satisfy the rules relating to both. That an ad is not misleading, in a strict sense, does not ensure compliance with responsibility rules in all instances. The

			ASA will consider how ad messaging is likely to affect the audience from the perspective of responsibility (for example, if something encourages risky behaviour) as well as from a consumer protection perspective.
2(a) – 3.5	<b>AP</b>	The respondent asked for further clarity on the definition of a “complex bet”. They considered the term subject and open to different interpretations. They also urged CAP and BCAP to ensure guidance defined “level of control” including any metric that might be used to determine it. The respondent added that they agreed with the principle that ads should not to mislead customers on their chances of winning, but they believe there were sufficient rules already in place.	See 2(a)-1.2, 2(a)-3.2 and 2(a)-3.4 all above.
2(a) – 3.6	<b>GS</b>	The respondent asked what types of gambling the proposal would apply to. They asked if the definition extended to poker, casino games and slingo games. They believed the definition should be broad enough to include such games.	Further to 2(a)-3.2 above, CAP and BCAP consider that the same principle in the proposed provision should apply equally across all gambling products where a complex gambling product is promoted to ensure consistency of protections and fairness between different types of gambling product advertiser. It has therefore amended the final version of the text to be added to the guidance. The full text of the revised guidance, incorporating the amended proposals is set out in section 3.4 of the <a href="#">Regulatory Statement</a> .
	<b>Proposal in section 6.6.1 of the consultation document</b>	<b>In guidance section 4.2 on erroneous perceptions of risk and control, proposed additions to the guidance would prohibit: [...] presenting gambling as a way to be part of a community based on skill</b>	
2(a) – 3.7	<b>FL</b>	<p>The respondent requested more clarification of the definition of a “community based on skill”. They urged CAP and BCAP to consider the challenges to poker operators, which was a game of skill that required a ‘community’ of players to play. They also asked CAP and BCAP to confirm that, given included both elements of chance and skill, accurate portrayals of the degree of control which can be exercised by a poker player would not be affected by the proposal.</p> <p>They noted rules already existed to prohibit suggestions that solitary gambling was preferable to social gambling. They suggested that focusing the proposed change on problematic depictions in advertisements, such as ‘gambling as a way to meet new people’ or ‘replacing social interaction’, might be clearer.</p>	<p>The proposal aims to limit the extent to which gambling ads appeal to people by encouraging them to participate on the basis that they are joining a community based on skill. This applies to advertising for any form of gambling or general brand promotion by an advertiser.</p> <p>Responding to the specific comments relating to online poker, the new provision does not restrict promotion of online poker games on the basis that there are elements of skill involved in participation. For example, it is likely to be acceptable to depict someone playing poker in a way that reasonably shows the skill-element involved. The new provision focuses on messaging that suggests participating can make someone part of a wider community based on this attribute. It does not restrict the use of other general messaging relating to communities (social motives for gambling are acknowledged to be associated with</p>

			<p>lower risk than, for instance, gambling for financial gain) or to the benefits of joining a particular operator's service like features that allow people to socialise with other players, either in person or virtually. The full text of the revised guidance, incorporating the amended proposals is set out in section 3.4 of the <a href="#">Regulatory Statement</a>.</p> <p>In relation the respondent's suggestion in relation to the solitary gambling rules (CAP Code rule 16.3.11, "marketing communications must not [...] suggest that solitary gambling is preferable to social gambling") the issue presented concerns messaging related to skill and is therefore best addressed by the proposal to develop and strengthen existing guidance section 4.2 (Erroneous perceptions of risk and control).</p>
2(a) – 3.8	<b>BGC</b>	The respondent requested more clarification of the definition of a "community based on skill" including examples of what would be covered by the proposal. They asked if it was a reference to games of skill and cited the example of poker. They believed the proposals could present a problem, if a poker community was considered a "community based on skill". They believed that references to poker communities should be covered by the proposal because they existed to enhance the players' experience rather than encourage inappropriate behaviour.	See 2(a)-1.2 and 2(a)-3.7, both above.
2(a) – 3.9	<b>BI</b>	The respondent believed the proposal required more explanation of what activities would be covered including specific examples. They asked whether the reference to the definition of "game of skill" was compared to a game of chance. They considered that that could present a problem, if a poker community was considered a community based on skill. They also asked if the proposal would apply to "forums" where customers were able to share opinions and hold open discussions.	See 2(a)-1.2 and 2(a)-3.7, both above.
2(a) – 3.10	<b>AP</b>	The respondent asked for further clarification on the proposal through guidance. They believed the proposal could cause problems for those offering poker games, if references to a "poker community" were covered by the proposal. They also noted how bingo operators might refer to a community due to their games' chat functionality.	See 2(a)-1.2 and 2(a)-3.7, both above.

2(a) – 3.11	<b>ISBA</b>	The respondent cited bingo as an example and asserted that the sense of community it generated was important to certain groups and was unlikely to be a cause of harm.	See 2(a)-1.2 and 2(a)-3.7, both above.
2(a) – 3.12	<b>EN</b>	The respondent asked for clarification on the definitions of “community” and “skill”, and by what criteria they would be determined. They noted poker operators included facilities for players to comment in a basic chat facility and that the game involved elements of skill. The respondent requested CAP and BCAP confirm if that context classified poker as a skill-based game. They believe that that would ultimately change the way poker was regulated given that as solely skill-based games were not considered gambling under the Gambling Act 2005. The respondent also asked for clarity over whether poker products offering functionality where players could create and manage private poker rooms for selected players such as their friends would be covered by the proposal.	See 2(a)-1.2 and 2(a)-3.7, both above.
2(a) – 3.13	<b>EN</b>	The respondent pointed out that bingo was particularly linked with a sense of ‘community’ amongst players. They added that, typically, online ‘bingo rooms’ provided the ability for players to interact through a moderated chat facility. They noted bingo was considered to combine elements of skill and chance in a retail environment and was purely a game of chance as a digital product. They argued that the proposal did not specifically apply to bingo and sought assurance that bingo on that basis would not be included under the proposed provision.	As set out in 2(a)-3.7, the new provision applies to the content and messaging included in advertising, not on the basis of the nature of a gambling product itself. References to communities (for instance, those that allow socialising) are likely to be acceptable. The focus is on messaging suggesting that someone can participate to become part of a community based on skill.
2(a) – 3.14	<b>GS</b>	The respondent believed the term “community based on skill” required more explanation and specific examples of what would be covered by the proposal. They asked whether it was a reference to the definition of a “game of skill” as opposed to games of chance. They believed that could be problematic, if a poker community was considered a community based on skill. They asked for further clarification but they did not believe references to poker communities should be covered by any new restrictions.	See 2(a)-1.2 and 2(a)-3.7, both above.

	<b>Proposal in section 6.6.1 of the consultation document</b>	<b>In guidance section 4.2 on erroneous perceptions of risk and control, proposed additions to the guidance would prohibit: [...] implying that money back offers create security;</b>	
2(a) – 3.15	<b>BGC</b>	The respondent asked CAP and BCAP to carefully define “security” and to provide examples of promotional mechanics or communication approaches that would potentially be prohibited. They maintained that adequate social responsibility rules were already in place preventing gambling operators from including any suggestions in their advertising that players would not suffer economic detriment as a result of their gambling. They asked for more explanation of the rationale for the proposed change.	<p>The GambleAware Final Synthesis Report included several findings around the impact of offers across the age range studied and in certain groups, particularly, problem gamblers. In line with 2(a)-1.2, CAP and BCAP consider that insights should be added to guidance section 4.2 (Erroneous perceptions of risk and control). The new provision focuses on messaging playing down losing a bet or the level of risk involved; for instance, stating or implying that a bet or offer is low risk, that the outcome and/or decision to bet does not matter, that individuals can make higher risk selections or that individuals are secure because of a feature of an offer, like money being refunded for a losing bet. The new provision builds on existing guidance in the same section cautioning against the implication that an activity or offer is without risk. It is not intended to prohibit particular offer mechanics; the focus is on how they are presented in ads.</p> <p>Noting this and various further responses focusing on the definition of “security”, CAP and BCAP have decided to amend the text of the proposal. It should be noted that CAP and BCAP have also decided to expand the scope of the provisions from “money back offers” to offers more generally in response to points made under question 2(b); see 2(b)-2.1 below. The full text of the revised guidance, incorporating the amended proposals is set out in section 3.4 of the <a href="#">Regulatory Statement</a>.</p>
2(a) – 3.16	<b>ISBA</b>	The respondent asked whether the prohibition on implications that money back offers create security meant the ASA was considering a ban on all such offers.	See 2(a)-1.2 and 2(a)-3.15, both above.
2(a) – 3.17	<b>BI</b>	The respondent believed that adequate social responsibility rules were already in place preventing gambling operators from including any suggestions in their advertising that players would not suffer economic detriment as a result of their gambling.	See 2(a)-1.2 and 2(a)-3.15, both above.
2(a) – 3.18	<b>BF</b>	The respondent considered the proposal brought the UK Advertising Codes into line with the industry’s IGRG code. They asked for further clarity regarding “risk free” bets, specifically, cashback offers. They pointed out that such offers normally	See 2(a)-1.2 and 2(a)-3.15, both above.

		permitted funds to be withdrawn, leaving gamblers to choose if they continued to gamble.	
2(a) – 3.19	<b>AP</b>	The respondent maintained that the industry in general already took the necessary precautions to ensure that advertisements did not inaccurately depict risk or financial stability. If the proposal was to be implemented, the respondent asked for further guidance as to how “security” would be defined.	See 2(a)-1.2 and 2(a)-3.15, both above.
2(a) – 3.20	<b>EN</b>	The respondent asked for an assurance that the proposal was not intended to prohibit money back offers. They believed the proposal would have a direct impact on common offer mechanics, such as 'Fail to Finish' in horseracing, 'Back-up Bets' in football and accumulators (including the offer of 'ACCA Insurance'). They added that 'Money back offers' were promotional mechanics in widespread use across the gambling industry and were widely recognised by customers. They asked how such offers would be assessed under the proposal; for example, would the name 'Back up Bet' in isolation be viewed as implicitly implying the bet provides a level of security to the customer.	As set out in 2(a)-3.15 above, the new provision builds on existing guidance cautioning against the implication that an activity or offer is without risk. It is not intended to prohibit particular offer mechanics focusing on how they are presented in ads. Although it is for the ASA to interpret the guidance when considering an ad in its full context, an emphasis on purchasing “insurance” for the outcome of a bet is likely to have the effect of unduly reducing perceptions of the risks involved.
2(a) – 3.21	<b>GS</b>	The respondent urged CAP and BCAP to carefully define the term “security”. They maintained that adequate social responsibility rules were already in place preventing gambling operators from including any suggestions in their advertising that players would not suffer economic detriment as a result of their gambling. They asked for examples of promotional mechanics covered by the proposal. They noted it was common in industry to offer cashback on losses and deposit matching. They believed that, if done responsibly, such promotions did not create a false representation of financial security.	See 2(a)-1.2 and 2(a)-3.15, both above.
	<b>Proposal in section 6.6.1 of the consultation document</b>	<b>In guidance section 4.3 on impulsiveness and urgency further examples of problematic approaches are proposed to be added (for example, time limited offers emphasising the need to participate before the odds change and ads that place emphasis on the immediacy of an event).</b>	
2(a) – 3.22	<b>BV</b>	The respondent stated that, while they agreed with limiting the exposure of customers to urgency to bet, they concerned that the addition of the examples could prohibit in-play betting. They asked for further clarification on “the immediacy of an event” and	The additions to CAP and BCAP’s guidance develop and strengthen existing provisions relating to inappropriate messaging that might encourage impulsiveness or an undue sense urgency in gambling behaviour. This is commonly understood to be a particular area of risk

		confirmation that the intention of this amendment was to not limit in-play betting marketing.	<p>as reflected by the latest findings in the GambleAware research. It is also notable that consultation responses (see 2(a)-1.3 above) have provided further insights on these risks from the perspective of those with mental health issues.</p> <p>The new provisions relate to the emphasis placed on timescales involved in the availability of a participation opportunity, including offers. They are examples that further bear out existing guidance on how offers should not be presented in such a way that creates an unjustifiable sense of urgency. Simply stating the time of an event is not likely to be a problem; the issue is claims and imagery that place undue emphasis on its immediacy. The new provision does not prohibit offers like live odds or in-play betting.</p>
	<b>Proposal in section 6.6.1 of the consultation document</b>	<b>In guidance section 4.4 on trivialization, proposed additions would prohibit: [...] humour or light-heartedness being used specifically to play down the risks of gambling</b>	
2(a) – 3.23	<b>FL, BGC</b>	The respondents understood that the proposal was not intended as a ban on gambling ads being humorous. They believed there was no evidence that humour in general was a concern and maintained that such action would be disproportionate. They asserted that gambling products were entertainment products and they believed the industry should be permitted to advertise them in an entertaining way. The respondent asked CAP and BCAP to provide a greater degree of clarity specifying the types of depiction of concern.	<p>The GambleAware Final Synthesis Report stated: "...even when there was no specific call to action to place a bet, participants reported that humorous ads aided recall, made gambling seem less serious and therefore more acceptable". Section 4.5 (Problem Gambling Behaviours) of the responsibility and problem gambling guidance already cautions against the use of light-hearted or humorous approaches in ads that could be regarded, even indirectly, as portrayals of problem gambling behaviours. The new provisions expand on this to cover the use of light-hearted or humorous approaches that have the effect of playing down the risks of gambling as part of Section 4.4 (Trivialisation). It is not CAP and BCAP's intention that the new provision will prohibit humorous approaches in general.</p> <p>Marketers should exercise caution over approaches that directly link a humorous character or joke specifically to a decision to participate in a way that trivialises it. For example, they should avoid depictions of humorous or light-hearted ways of making a betting selection and humorous references that make light of the risks associated with participation. The full text of the revised guidance, incorporating the amended proposals is set out in section 3.4 of the <a href="#">Regulatory Statement</a>. See also 2(a)-1.2 above on how CAP and BCAP have developed the guidance revisions.</p>

2(a) – 3.24	<b>AP</b>	The respondent believed, given existing social responsibility restrictions, the proposal would be redundant and likely to bring confusion over whether advertising could be humorous in general. If the proposal was adopted, they urged CAP and BCAP to provide clarity over the kinds of humorous depiction of concern.	See 2(a)-1.2 and 2(a)-3.23, both above.
2(a) – 3.25	<b>BI</b>	The respondent believed the proposal could be highly subjective and requested examples to support guidance.	See 2(a)-1.2 above.
2(a) – 3.26	<b>EN</b>	<p>The respondent asked for further explanatory guidance on Section 4.4 (Trivialisation) and Section 4.5 (Problem Gambling Behaviours) of the existing guidance. They maintained that the requirements of those sections had proven difficult to correctly interpret, particularly with respect to the content of broadcast TV and video-on-demand adverts. They welcomed clear direction on the use of humour and light heartedness so they could adequately strike the balance between developing novel, innovative and engaging adverts as a provider of entertainment services, whilst ensuring compliance with regulatory obligations.</p> <p>The respondent cited the example of one of their campaigns, Gala Bingo’s “Bingo like a Boss”, which included humorous scenes featuring the main character playing a guitar riff with her feet or cutting her boyfriend’s hair into an outrageous style. They asked whether such approaches would be restricted under the proposals.</p>	Section 4.4 (Trivialisation) of the responsibility and problem gambling guidance does not refer presently to the use of humour and light-heartedness to play down the risks of participation; as set out in 2(a)-3.23 (above) the consultation concludes that such provisions should be added.
2(a) – 3.27	<b>GS</b>	The respondent noted use of humour was common in gambling advertising. They asked CAP and BCAP to explain why the proposal focused on it in the proposal. They believed current rules and guidance sufficiently prevented all scenarios of inappropriate enticement to gambling or suggestions that the decision to gamble should be taken lightly. They asked for examples of approaches that were not already covered by existing guidance.	See 2(a)-1.2 and 2(a)-3.23, both above.



	Proposals in section 6.6.1 of the consultation document	<p>In guidance section 4.4 on trivialization, proposed additions would prohibit: [...] unrealistic portrayals of winners (for example, winning first time or easily).</p> <p>In guidance section 6.2 on financial concerns additional examples are proposed to be added to urge caution when depicting a winner: the implication that someone won easily or approaches that take advantage of people’s hopes of winning themselves (in other words replicating the success).</p>	
2(a) – 3.28	<b>BGC</b>	<p>The respondent said the gambling industry used a number of measures to eliminate the risk of unrealistic portrayals of winners being featured in advertising by ensuring that all mentions of real life wins and other statistics were accurate. They believed the proposal’s use of the term such as “unrealistic” was vague and would not increase protections. They believed existing guidance should be updated to reiterate substantiation requirements in the context of gambling and include illustrative examples. They also questioned what winning “easily” was intended to encompass asking for examples to be provided in guidance.</p>	<p>The GambleAware Final Synthesis Report found that the depiction of winners (in particular, those who were considered by respondents to be ‘people like me’) was particularly impactful. Section 6.2 (Financial concerns) of the responsibility and problem gambling guidance already includes provisions that restrict ads that suggest gambling can be a solution to financial concerns, an alternative to employment or a way to achieve financial security. The existing wording refers to the rewards of gambling; the new provision will expand this to include depictions of winners. A related provision will be added to guidance section 4.4 covering depictions of winners that might trivialise gambling.</p> <p>The new provision extends the existing ones on trivialization and unduly emphasizing financial motivations for gambling and portraying the rewards of gambling in a reasonable and indicative way. It focuses on how advertising represents winners recognising the distinction between presenting a large prize or reward (like a jackpot) that can be won, and depicting someone who has won it or is in the act of participating to win it. The guidance does not prohibit either approach in general but advertisers should avoid messaging or content relating to winners that emphasises how little effort, time or outlay is required to win a significant amount or prize.</p> <p>It should also be noted that issues of responsibility are separate from those of general misleading advertising; advertisers must satisfy the rules relating to both. That an ad is not, in a strict sense, misleading does not ensure compliance with responsibility rules in all instances. The full text of the revised guidance, incorporating the amended proposals is set out in section 3.4 of the <a href="#">Regulatory Statement</a>.</p>
2(a) – 3.29	<b>AP</b>	<p>The respondent believed CAP and BCAP could update existing guidance to reiterate the substantiation requirements in the context of gambling, rather than introduce a new measure that could create</p>	<p>See 2(a)-1.2 and 2(a)-3.28, both above.</p>

		<p>confusion. They considered “unrealistic” a vague term in the context of a gambling win. For example, they pointed out that it might seem unrealistic to some people that they could win over a £1m on a progressive jackpot slot game. They believed that it was not clear what winning “easily” was intended to cover; for example, they asked whether winning with a £5 stake on Manchester City to beat Cheltenham Town in the FA Cup would be considered an ‘easy’ win. They urged CAP and BCAP to provide greater clarity to allow advertisers to understand what would be restricted under the proposal.</p>	
2(a) – 3.30	<b>BV</b>	<p>The respondent was concerned that the term “implication that someone won easily” was ambiguous, especially in relation to a single bet or spin. They asked for clarification on the example of would showing someone cash-out a bet, or a winning hand in a live casino. They asked whether the intended focus was an underlying message that a consumer could be reckless when they place their stake.</p>	See 2(a)-1.2 and 2(a)-3.28, both above.
2(a) – 3.31	<b>BI</b>	<p>The respondent requested clarity on the definition of “easily” winning.</p>	See 2(a)-1.2 and 2(a)-3.28, both above.
2(a) – 3.32	<b>EN</b>	<p>The respondent asked for further clarification, including examples, of what would be covered by the proposal. They asked whether it related solely to actual individuals who had won or more broadly, for example, to promotional videos that showed slot gameplay.</p>	See 2(a)-1.2 and 2(a)-3.28, both above.
2(a) – 3.33	<b>GS</b>	<p>The respondent summarised the measures they took to ensure portrayals of winners were accurate, including keeping records of historic wins. They considered the term “unrealistic” vague and had the potential of making the new restriction unintentionally wide capturing claims relating to winners that could be substantiated. They also believed the proposal did not add to existing protections. They believed existing guidance could be updated reiterating substantiation requirements in the context of gambling and including illustrative examples rather than new provisions under the proposal that could create confusion.</p> <p>Similarly, the believed it was unclear what winning “easily” was intended to cover and urged CAP and BCAP to provide clarification including examples. They asked if the intention was to avoid referring to maximum wins or wins based on maximum stakes, or</p>	See 2(a)-1.2 and 2(a)-3.28, both above.

		whether the focus was the manner of winning, for example, winning in the first spin or within the first two spins, or winning a large amount with a very small stake. The respondent believed their present approach to depictions of winners complied with existing guidance and questioned why the proposal was needed.	
2(a) – 3.34	<b>CA</b>	The respondent said there was a requirement for them to promote the National Lottery and raise money for good causes. That included reporting and depicting winners which helped to drive what they termed ‘win belief’ leading to sales and fulfilling their duty to maximise returns to good causes. In order to do this responsibly, the respondent maintained that they ensured stories of winners were represented in a factually accurate manner.	<p>Although lotteries are acknowledged to be lower risk products than other forms of gambling, they were prominent in many of the findings set out in the GambleAware Final Synthesis Report. Lotteries often involve significant jackpot prizes that can attract considerable attention. As set out in 2(a)-3.28 above, while the changes do not prohibit depictions of winners, marketers should exercise caution. Telling the story of someone who has won, for instance, a large lottery prize, is unlikely to be a problem in general terms (for example, the winner explaining what they might do with their prize). However, advertisers should avoid messaging or content relating to winners that emphasises how little effort, time or outlay is required to win. They should also be careful not to exaggerate the likelihood of someone replicating the success of a winner depicted.</p> <p>Additionally, CAP and BCAP consider it appropriate for the guidance to apply to lotteries in line with the present approach of the guidance. Although the guidance focuses on gambling advertising, as many of the lotteries rules are similar to those in the gambling sections, the ASA may draw insights from it to inform its interpretation of the lottery rules where appropriate (see guidance section 2 ‘Scope’).</p>
	<b>Other responses</b>		
2(a) – 3.35	<b>AN</b>	The respondent asked for the addition of a requirement to clearly label marketing communications related to gambling as advertising.	That consumers should be able to recognise advertising is a basic principle of the UK Advertising Codes. To a significant extent, this reflects underlying consumer protection law including the relevant requirements of the Consumer Protection from Unfair Trading Regulations 2008. The ASA cannot mandate that advertisements are labelled with disclosures as a matter of course. There has to be a basis to conclude that consumers are unlikely to be able to recognise that a specific ad is marketing. CAP has <a href="#">extensive policies</a> on the application of its recognition rules to different kinds of media.

Consultation question 2 sets out CAP and BCAP’s proposals for changes to the *Gambling advertising: responsibility and problem gambling guidance* (see [consultation document](#) section 6.7)

b) Do respondents consider that there are additional provisions, which might be added to better meet CAP and BCAP’s objective of ensuring that its guidance protects vulnerable adults from ad content with the potential for gambling advertising-related harm? If so, please set out the reasons including reference to the evidence base, further information and examples as necessary

	Responses	Comments	CAP and BCAP’s evaluation
2(b) – 1.1	<b>AN, GHA, BV, BC</b>	Several respondents indicated that they had no further points on additional provisions that CAP and BCA might consider.	
2(b) – 1.2	<b>BF</b>	The respondent did not propose additional provisions believing the proposed changes were significant. They urged CAP and BCAP to evaluate their impact after a period, before any further changes are considered.	As a matter of course, CAP and BCAP review significant new regulatory interventions after an appropriate period following implementation, usually 12 months. A review assesses the effectiveness of new interventions in meeting the underlying regulatory objectives and consider issues such the ease with which practitioners have understood and been able to implement them. CAP and BCAP will report publicly on any significant findings; for instance, if there is a need to amend any of the restrictions or issue further clarification or revised guidance. Section 5 of the <a href="#">Regulatory Statement</a> details the arrangements for implementation.
	<b>Submissions of further information on additional provisions</b>	<b>Comments</b>	<b>CAP and BCAP’s evaluation</b>
2(b) – 2.1	<b>MPAC</b>	The respondent welcomed the proposal to add “implying that money back offers create security (for example, because they give gamblers the chance to play again if they fail or that a bet is ‘risk free’ or low risk)” to the revised guidance. They believed the same logic could be applied more broadly to inducements to bet, for example, offers of money ‘free’ or in ‘credit’ form. They maintained that research <sup>3</sup> indicated such inducement bets “increased electrodermal activity while viewing the advertisements [which] was associated with greater severity of gambling-related harm ... as well as greater ratings of desire for most advertisements. Rating of	CAP and BCAP acknowledge the respondent’s points and have amended the proposal accordingly. They note the evidence cited in relation to promotional offers; in particular, that which involved laboratory-based testing of subject’s reactions to different types of offer incentivising gambling participation. Although relatively small-scale and not wholly representative of real-world conditions, the study did identify an association between electrodermal activity while viewing the advertisements and greater severity of gambling-related harm. CAP and BCAP consider that the study provides further evidence to support the need to control messaging relating to

<sup>3</sup> Lole, Lisa; Alex M.T. Russell; En Li, Hannah Thorne; Nancy Greer; Nerilee Hing, Interest in inducements: A psychophysiological study on sports betting advertising, International Journal of Psychophysiology, Volume 147, 2020, pp. 100-106,

		<p>desire was, likewise, positively associated with gambling-related harm.”</p> <p>The respondent noted inducement bets had also been found<sup>4</sup> to be “subject to numerous terms and conditions which were complex, difficult to find, and obscured by legalistic language. Play-through conditions of bonus bets were particularly difficult to interpret and failed basic requirements for informed choice. Website advertisements for inducements were prominently promoted but few contained a responsible gambling message”. They cited<sup>5</sup> the example of ‘request-a-bet’ products that were heavily used during the 2018 World Cup, which had been challenged by campaigners and academics. They maintained that those types of bets often relied on complex combinations that appear to sports fans achievable but rarely pay out.</p>	<p>erroneous perceptions of risk or control with regard to offers and inducements to participate.</p> <p>The full text of the revised guidance, incorporating the amended proposals is set out in section 3.4 of the <a href="#">Regulatory Statement</a>. See also 2(a)-3.15 above.</p>
2(b) – 2.2	<b>MPAC</b>	<p>The respondent pointed out that the All-Party Parliamentary Group on Gambling-Related Harm had, in 2019, highlighted the capability of firms to ‘knit’ online data about those who suffered from gambling-related harm with adverts for addictive products. They pointed to newspaper coverage<sup>6</sup> of gambling companies being accused of using third-party companies to harvest data in order to ‘target people on low incomes and those who have stopped gambling. The respondent urged more guidance on the use of data harvesting and vulnerable adults.</p>	<p>Gambling advertising can be directed legitimately at those aged 18 and over. The UK Advertising Codes protect adult audiences (including vulnerable individuals) through strict content controls, such as those being strengthened by this part of the consultation process.</p> <p>Although there are no dedicated rules on targeting similar to those that require advertisers to limit the exposure of under-18s, the ASA can take action against irresponsible use of targeting technology in relation to vulnerable adults under the general rules on responsible gambling advertising. In 2018, it <a href="#">banned a sponsored search ad</a> served in response to a search term likely to relate to someone seeking help over gambling issues. The ASA will consider and take action as appropriate in any future cases brought to its attention where advertisers have inappropriately used targeting techniques (particularly, online) in ways that are likely to direct ads specifically at vulnerable groups.</p>
2(b) – 2.3	<b>BU</b>	<p>The respondent believed concerns about under-18s relevant to other parts of the consultation were applicable to young adults aged 18-25 and, in particular, students. They believed the guidance should include further examples relating to impulsiveness, urgency and financial concerns. They maintained that gambling problems</p>	<p>CAP and BCAP note respondents’ concerns around financial-related risks associated with students and gambling. This speaks to existing policy aims of ensuring gambling advertising does not encourage irresponsible behaviour or contain potentially harmful messaging. CAP and BCAP have added a reference to students as a group at</p>

<sup>4</sup> Hing, N., Sproston, K., Brook, K., and Brading, R., (2017). The Structural Features of Sports and Race Betting Inducements: Issues for Harm Minimisation and Consumer Protection. *Journal of Gambling Studies*. 33.

<sup>5</sup> Newall, P., Walasek, L., Kiesel, R., Ludvig, E., and Meyer, C. (2019). Betting on intuitive longshots.

<sup>6</sup> Busby, The Guardian, 2017. ‘Revealed: how gambling industry targets poor people and ex-gamblers’.

		<p>rarely occurred in isolation and were often at the root of financial difficulties<sup>7</sup>. They cited newspaper coverage<sup>8</sup> that stated “nearly 10% of UK students report having used student loan money to gamble at least once”. The respondent considered that financial situation and finding money to pay for necessities were the primary reasons for students to gamble<sup>9</sup>. They added that the popularity of online sports betting was increasing, and marketing played a role especially during live sporting events and online broadcasting. They highlighted a study<sup>10</sup>, which reported high engagement rate with online sports betting marketing amongst 18-25 year olds and a high positive correlation between seeing sports betting advertising and sports betting–related attitudes. They also cited research<sup>11</sup> on loot boxes, which suggested susceptibility for university students with regards to experiencing it as gambling. Additionally, they highlighted evidence<sup>12</sup> of how the transition to university and the surrounding circumstances of receiving student loans could result in a vulnerable time for students at risk of gambling.</p>	<p>heightened risk of vulnerability in the revised section 6.2 of the guidance. The full text of the revised guidance, incorporating the amended proposals is set out in section 3.4 of the <a href="#">Regulatory Statement</a>.</p>
2(b) – 2.4	<b>GC</b>	<p>The respondent urged CAP and BCAP to include in the guidance specific instructions on ‘do’s and don’ts’, definitions and illustrative examples. They also urged more emphasis on targeting and filtering. They believed the restrictions already in place protected the under-18s appropriately and that the emphasis should be placed on increasing clarity and understanding of the current rules as well as enhancing and widening the accompanying guidance in the absence of a robust set of rulings to guide the advertisers. They believed the present circumstances had led to significant confusion for advertisers. They also urged that greater emphasis be placed on the advertisers and platform owners to ensure effective targeting and filtering measures were in place as a prerequisite to hosting gambling advertisements.</p>	<p>The proposals in this part of the consultation relate to protections for adult audiences. Gambling advertising can be directed legitimately at those aged 18 and above. Although there are protections for vulnerable adults in instances where targeting has been used irresponsibly (see 2(b)-2.2 above), the onus is on gambling operators to ensure that the content of their ads is responsible and does not feature content that could encourage potentially harmful behaviour, including indirectly.</p>

<sup>7</sup> Davies, 2020. The Guardian. [‘UK gambling addiction much worse than thought, says survey’](#).

<sup>8</sup> Weale, 2019. The Guardian. [‘Levels of distress and illness among students in UK ‘alarmingly high’](#).

<sup>9</sup> Young Gamers and Gamblers Education Trust, 2019. [How gaming & gambling affect student life](#).

<sup>10</sup> Killick, E.A. and Griffiths, M.D., 2020. A Thematic Analysis of Sports Bettors’ Perceptions of Sports Betting Marketing Strategies in the UK. International Journal of Mental Health and Addiction, pp. 1-19.

<sup>11</sup> Hodge, S., Vykoukal, V., McAlaney, J. and Ali, R. (submitted). What’s in the Box? Exploring Loot Boxes in games and parallels with gambling with a UK sample.

<sup>12</sup> Hodge S. and Johnson, L., 2020. [The digitally resilient student](#). The Psychologist.