

## SECTIONS 17 & 18: GAMBLING & LOTTERIES

**Question 105:** Given BCAP's policy consideration, do you agree in principle that National Lottery and SLA lottery broadcast advertisements should be regulated by the same rules? If your answer is no, please explain why.

<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; Archbishops' Council, Church of England; Asda; Charity Law Association; IPA; ISP; PAGB; Quaker Action on Alcohol and Drugs; Remote Gambling Association; STV; an organisation requesting confidentiality; three individuals</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>The Charity Law Association said:</i> The Charity Law Association agrees with this approach to ensure consistency of treatment between SLA lotteries and the National Lottery.</p> <p><i>Quaker Action on Alcohol and Drugs said:</i> We agree that broadcast advertisements for the National Lottery and Society and Local Authority Lotteries should be regulated by the same rules. As Quakers we opposed the National Lottery, which encouraged gambling as a method of fund-raising, and was given special status for this reason. Whilst we support many of its social purposes, we prefer to see these achieved by other methods. All lotteries are gambling, though their funds may be put to positive use. We believe that the NL should be regulated as a gambling activity, and that high standards of social responsibility should be common to all.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>BCAP welcomes the comments from the Charity Law Association and Quaker Action on Alcohol and Drugs.</p>
<p><i>Responses received against BCAP's proposal:</i></p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Camelot said:</i></p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>Camelot's response does not make clear any</p>

Camelot	<p>Society and local authority lotteries (SLAs) are different in scale and character from the National Lottery. There are major differences in audiences, media usage and scale of operation.</p> <p>The National Lottery and SLAs are governed by different legislation. TNL is subject to the National Lottery etc Act 1993 (as amended) and is specifically excluded from most of the Gambling Act 2005, whereas SLAs are specifically subject to the Gambling Act. The special status of TNL has always been recognised by Parliament and upheld by successive governments. For example, the DCMS Decision document on National Lottery Licensing and Regulation, of July 2003, stated that..."the unique support that it (TNL) provides for good causes has led the Government to conclude that it should not be exposed to direct competition that could undermine its role."</p> <p>TNL and SLAs are regulated by different bodies; the NLC and the Gambling Commission respectively. The priorities of the NLC differ from those of the Gambling Commission. The Gambling Commission has a duty to allow gambling to expand and develop in new ways even when new products may compete directly with TNL. By contrast, the NLC's first priority is to ensure that any product developed as part of TNL must be safe for all, not just for children and the vulnerable. This regulatory demarcation was</p>	<p>difference in audience between the National Lottery and SLAs. Nor does it explain why any difference in audience justifies a difference in regulation of advertising.</p> <p>Camelot's response does not explain how the issue of commercial competition between the National Lottery and SLAs has a bearing on the application of provisions for socially responsible lottery advertising. It is, for example, unclear how an exemption for advertising for the National Lottery from social responsibility rules for SLAs would give the National Lottery a commercial advantage. It is also unclear how an exemption from social responsibility rules would be compatible with the National Lottery Etc Act's requirement that National Lottery products be promoted "with all due propriety".</p> <p>General provisions of the BCAP Code apply to all advertisers regardless of the other regulatory regimes to which they may be subject. Advertising by companies that are regulated by the MHRA, Ofgem and Ofcom, for example, must adhere to general provisions on misleadingness, offence and, in the new Code, social responsibility. The application of the BCAP Code to National Lottery advertising is recognised in the National Lottery Advertising and Sales Promotion Code of Practice and compliance with the Code is an ordinary code</p>
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	<p>deliberate and has been successful in delivering a fair and a prosperous National Lottery and a thriving society lotteries sector.</p> <p>The National Lottery has a dedicated regulator to ensure that issues of propriety and player protection – including the conduct of advertising – are properly dealt with as part of a comprehensive system of oversight and regulation. This close scrutiny sets TNL apart from sectors regulated by the Gambling Commission. SLAs are not subject to the same intensity of regulation.</p> <p>The National Lottery is subject to other safeguards, primarily through licence conditions, which include a requirement for an Advertising and Sales Promotion Code (the Lottery Code), which the NLC approves and enforces. The Code is reviewed annually under the terms of Section 5 of the Licence. This is not the case for SLAs, which are wholly regulated by BCAP Codes.</p> <p>The National Lottery has nearly 15 years of experience in mass media advertising and other promotional activities which have been conducted to high standards of propriety. As yet, there is no</p>	<p>provision of the Gambling Commission's principal codes of practice. Children and vulnerable persons are recognised as categories of persons requiring protection by the Gambling Act. It should follow that the level of protection adequate for children and the vulnerable will be more than adequate for less vulnerable people.</p> <p>(See above)</p> <p>(See above)</p> <p>While advertisers of betting and gaming have only had the opportunity to advertise on television since September 2007, SLA advertising has been permitted for more than thirty years. BCAP has</p>
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	<p>such track record within the gambling industry and we believe the approach to TNL should reflect the responsibility it has demonstrated in this area over a prolonged period.</p> <p>The scale of operation of TNL and SLAs is radically different and they have marketing expenditure to match. As a consequence, their requirements of broadcast advertising codes are very different. For example, the question of whether a lottery can or cannot advertise during Coronation Street is likely to be of hypothetical interest only to SLAs, whereas it is a critical question for TNL.</p> <p>SLAs enjoy a number of commercial freedoms which TNL does not. For example, there is no restriction on the frequency of draws held by SLAs in traditional manned retail environments, whereas TNL is limited to hourly draws. SLAs are also able to vend unmanned and TNL is not.</p> <p>Because of the unique status of TNL it is conceivable that at some point it may be desirable to make changes to the Code. While</p>	<p>seen no evidence to suggest that SLA advertising has presented a serious problem for advertising regulators. The National Lottery and SLA lotteries are not distinct in this regard. BCAP's lottery advertising rules take account of the nature of lottery products and the treatments that would be inappropriate if used to promote them.</p> <p>BCAP's scheduling rules are intended to protect children and young people from being exploited by advertisements for gambling products. They are not designed for the purpose of matching any hypothetical level of marketing expenditure. Under the proposed rules, lottery products may not be advertised in or adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to persons below the age of 16. The National Lottery and SLA lotteries operated under this restriction before and after the liberalisation of other gambling products in September 2007.</p> <p>It is not apparent to BCAP that the frequency of draws or supervision of vending are relevant to advertising.</p> <p>Should changes be necessary to the rules on National Lottery advertising, BCAP may consult without prejudice to SLA lotteries.</p>
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	there would need to be a wide consultation, it would be a benefit for BCAP to have the flexibility to change requirements as they affect TNL exclusively. Equally, it could potentially be very frustrating for SLAs to be caught up by Code changes that are designed to impact on National Lottery advertising only, and vice versa.	
Christian Concern for Our Nation & Christian Legal Centre	2. <i>Christian Concern for Our Nation &amp; Christian Legal Centre</i> challenged whether this would represent a relaxation of the gambling rules.	2. BCAP's proposal is that the rules that presently apply to SLA lottery advertisements should also apply to National Lottery advertisements, but that all lottery advertisements should be exempted from the rule that prohibits gambling advertisements from featuring or condoning gambling in the workplace. The proposal maintains all but one of the present rules to which SLA lottery advertisements are subject, but represents a higher level of restriction on National Lottery advertisements that is discussed in the further questions in this section.
STV	3. <i>STV said:</i> STV agrees that the rules between the lotteries should be consistent. STV also understands the ASA requirement to protect children (under 16's). However, the legislation defines the age limit set for the lottery comes from a statutory basis and the age limit set in the advertising rule conflicts with this.	3. See BCAP's evaluation of Camelot's response to question 106 below.
The National Lottery Commission	4. <i>The National Lottery Commission said:</i>	4.

	<p>The Commission has previously highlighted the clearly established demarcation between the National Lottery and SLAs. Government established discrete arrangements for the regulation of the National Lottery and gambling and these were reaffirmed during the passage of the Gambling Act 2005. This demarcation acknowledges the differing way that the National Lottery and SLAs are licensed and regulated, the controls and commercial freedoms on each and their scale of operation.</p> <p>It is therefore conceivable that at some point in the future it may be necessary to make changes to the lottery section of the Code as a result either of changes in regulatory arrangements or of concerns about the nature of the product and the way it was promoted. In such circumstances, the Commission believes that the Code should retain the flexibility (should circumstances justify it) to apply different provisions to the National Lottery than those applied to SLAs. In particular, neither the National Lottery nor SLAs should suffer tougher provisions solely as a consequence of concerns which are specific to the other product.</p> <p>Whilst the Commission accepts that, in present circumstances, it is reasonable for the same rules to apply in practice to both the National Lottery and SLAs, it does not agree in principle that National Lottery and SLA lottery broadcast</p>	<p>The NLC's response does not explain how the issue of commercial competition between the National Lottery and SLAs has a bearing on the application of provisions for socially responsible lottery advertising. It is, for example, unclear how an exemption for advertising for the National Lottery from social responsibility rules for SLAs would give the National Lottery a commercial advantage: it is also unclear how an exemption from social responsibility rules would be compatible with the National Lottery Etc Act's requirement that National Lottery products be promoted "with all due propriety".</p> <p>Should changes be necessary to the rules on National Lottery advertising, BCAP may consult without prejudice to SLA lotteries.</p>
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	advertisements should automatically be regulated by the same rules.	
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<b>Question 106: Given BCAP's policy consideration, especially the requirement for consistency in regulation, do you agree it is proportionate to increase the restriction on age of appeal for broadcast National Lottery advertisements from 16+ to 18+? If your answer is no, please explain why.</b>		
<i>Responses received in favour of BCAP's proposal from:</i>  Advertising Association; Archbishops' Council, Church of England; Asda; Charity Law Association; Christian Concern for Our Nation & Christian Legal Centre; IPA; ISP; PAGB; Quaker Action on Alcohol and Drugs; Remote Gambling Association; an organisation requesting confidentiality; three	<i>Summaries of significant points:</i>  1. <i>The National Lottery Commission said:</i> In our response to BCAP in November 2007, the Commission stated that it agreed that the minimum age of appeal (for National Lottery advertisement content, or restrictions on the scheduling or placements of advertisements) should be 18.	<i>BCAP's evaluation of those points and action points:</i>  1. BCAP welcomes the NLC's comments.

individuals		
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Responses received against BCAP's proposal:	Summaries of significant points:	BCAP's evaluation of those points and action points:
Camelot	<p data-bbox="521 309 725 341"><i>Camelot said:</i></p> <p data-bbox="521 347 1240 708">In acknowledging BCAP's argument that it would be impractical to ask the ASA Council to distinguish between content of particular appeal to under 16s and content of particular appeal to under 18s, because such an assessment is subjective, on balance the NLC concluded that the minimum age of appeal (for National Lottery advertisement content, or restrictions on the scheduling or placement of advertisements) should be 18.</p> <p data-bbox="521 753 1240 1155">Camelot, on the other hand, took the view that the expansion of the BCAP rules would be disproportionate to the perceived regulatory problem. The principle of proportionality requires that the means used to attain a given end should be no more than what is appropriate and necessary to attain that end. Where consistency of treatment is appropriate, there was sufficient consistency of treatment in the present 'side-by-side' operation of <i>the Lottery Code</i> and the existing BCAP provisions.</p> <p data-bbox="521 1200 1240 1375">National Lottery products can be purchased legally by those who are 16+ and no case has been made or evidence provided to suggest that the current minimum age of 16 has led to any detriment. In seeking to be consistent in its own</p>	<p data-bbox="1252 347 2020 1011">BCAP discussed the minimum age of appeal extensively with government and the National Lottery Commission. Government was sceptical that it would ever be responsible to produce advertisements of particular appeal to under 18s even when 16 and 17 year olds were legally permitted to buy the product in question. Further, BCAP considered it would be impractical to ask the ASA to distinguish between content of particular appeal to under 16s and content of particular appeal to under 18s. The National Lottery Commission noted these points and accepted that the minimum age of appeal for National Lottery advertisements should be 18, as Camelot notes. BCAP notes that Camelot's argument does not respond to the question of how one might distinguish between content of particular appeal to under 16s and content of particular appeal to under 18s.</p> <p data-bbox="1252 1050 2020 1375">In the 2006 gambling advertising consultation evaluation, respondents noted that there was an argument that the age limit should mirror the legal age of play but gambling was a special category activity because evidence indicated that it caused significant harm to a minority and people aged 16-24 were up to three times more likely to be problem gamblers than those aged 25 and over [Gambling Prevalence Study 1999]; the operators of "soft"</p>

	<p>Code, CAP has recommended the creation of a significant inconsistency between its provisions and those of the Lottery Code. This illustrates the pitfalls of dual regulation and of conflating the rules applying to two very different lottery sectors. Should the recommendation be implemented the only way to assure consistency would be for the NLC to drop the age related provisions from its Code entirely.</p> <p>An adequate system for preventing harmful National Lottery advertisements is already in place which operates in the same field and is regulated to a comparable level of detail. There is no mischief that needs solving because there is no evidence that the existing age restrictions applied to TNL are a cause for concern. The whole basis of better regulation is a requirement for a thorough risk assessment. This has not, so far as Camelot is aware, taken place and no risks have been raised to justify change.</p>	<p>gambling like football pools, lotteries and bingo might argue that they should be an exception but those who gambled to excess usually participated in a range of activities.</p> <p>The Lottery Code applies to all marketing for the National Lottery, including point of sale material that is not covered by the advertising Codes. BCAP's rules are relevant to broadcast media only: BCAP, and not the NLC, is the Code owning body for broadcast advertising, as the Lottery Code acknowledges implicitly in its requirement that National Lottery advertising comply with the BCAP Code.</p>
<p><b>Question 107: Given BCAP's policy consideration, especially the requirement for consistency in regulation, do you agree it is proportionate to apply rules 18.6 and 18.7 to all broadcast lottery advertisements? If your answer is no, please explain why.</b></p>		
<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association;</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>The Archbishops' Council, Church of England said:</i> Yes, we support the minimum age of 25 for</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP welcomes the Archbishops' Council's comments. It considers that the lottery advertising rules address the issue of young people's</p>

<p>Archbishops' Council, Church of England; Asda; Charity Law Association; Christian Concern for Our Nation &amp; Christian Legal Centre ; IPA; ISP; PAGB; Quaker Action on Alcohol and Drugs; Remote Gambling Association; one organisation requesting confidentiality; one individual</p>	<p>people featured gambling or playing a significant role, as this establishes a clear demarcation between adolescents and adults. It is worth remarking that imitative behaviour may not be confined to exactly-defined peer groups, and the behaviour of young adults may have an aspirational effect on adolescents. Nevertheless, it makes sense to draw a firm line in the portrayal of gambling behaviour.</p> <p>2. <i>The Charity Law Association said:</i> We agree that, where the good causes of an SLA lottery are featured, it is appropriate to include under 18s in a significant role provided that there is no explicit encouragement by the lottery product. This is particularly of relevance to the numerous charities which are for the benefit of children. However, the Charity Law Association acknowledges that this needs to be balanced with a need for charities not to be seen to promote irresponsible gambling among younger people.</p>	<p>aspirations not only by establishing the minimum age of 25, but also by providing that advertisements for lotteries must not exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of under 18s or other vulnerable persons (rule 18.4) and that advertisements for lotteries must not be likely to be of particular appeal to under 18s, especially by reflecting or being associated with youth culture (rule 18.5).</p> <p>2. BCAP welcomes the Charity Law Association's comments.</p>
<p><i>Responses received against BCAP's proposal:</i></p> <p>Camelot</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Camelot said:</i> We think it is wholly disproportionate to increase the content rules on the age of persons featured in lottery advertisements to 25. Not only does this proposal fail to reflect that lotteries have different</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP favours a 25 age limit on people featured gambling or playing a significant role because by that age, people clearly look and sound more adult than adolescent and that gives more certainty to the advertising industry when creating advertisements</p>

	<p>age limits to those set for other forms of gambling (for which this rule was developed), but it also fails to take account of the fact that the present rules for advertising of TNL in this regard have been in place for nearly 15 years and have not led to any significant public concern or regulatory action.</p>	<p>and to the ASA Council when deciding if an advertisement has breached the Codes. Moreover, it will ensure that children and young people do not identify by age with those playing a significant role or featured gambling. BCAP's considerations about the age of appeal, given above in response to question 106, are relevant to question 107 also.</p>
<p>Christian Concern for Our Nation &amp; Christian Legal Centre</p>	<p>2. <i>Christian Concern for Our Nation &amp; Christian Legal Centre said:</i> Yes, to rule 18.6 but no to rule 18.7. Rule 18.7 exploits the advertising of children as beneficiaries of lottery funds.</p> <p>3. <i>The National Lottery Commission said:</i> The Commission notes that people of 16 years of age are legally allowed to play the National Lottery; an activity that the Commission would argue, and evidence support, inherently poses less risk to young people. It therefore takes the view that imposing an age limit of 25 years old is disproportionate and inconsistent with the differential age limits for participation in Lotteries on the one hand and gambling products on the other, as set by Parliament.</p> <p>The Commission has previously accepted that the</p>	<p>2.</p> <p>BCAP notes that raising money for good causes is the purpose of all legal lotteries and not an incidental benefit of an essentially commercial activity. It therefore considers that it is legitimate for lotteries to feature the beneficiaries of the funds they raise. The rules in Section 5: Children offer additional protection.</p> <p>3. See BCAP's evaluation of Camelot's response.</p>

	<p>age limit for participants appearing in advertisements might be greater than the statutory age limit for actual participation, and has suggested an age limit of 18 years for Lotteries. This is consistent with its position on age of appeal (see response to Q106 above). However, the Commission accepts that, if the ASA finds it impractical to distinguish between the appearance of 18 and 16 year olds, then an age limit of 21 years might be justified. The Commission would not support an age limit of 25 years.</p> <p>The Commission has no objection to proposed rule 18.7, which reflects existing arrangements.</p>	
<p><b>Question 108: Given BCAP's policy consideration, do you agree that the rules included in the Lottery Section of the Code are in line with BCAP's general policy objectives (see Part 1 (4) of this consultation document) and should be applied to broadcast advertisements for the National Lottery as they presently are to broadcast advertisements for other lotteries? If your answer is no, please explain why and, if relevant, please identify those rules that should not be applied to advertisements for the National Lottery.</b></p>		
<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; Archbishops' Council, Church of England; Asda; Charity Law</p>	<p><i>Summaries of significant points:</i></p> <p><i>The Remote Gambling Association said:</i> Yes, the National Lottery is in competition with other forms of gambling and should be regulated in a comparable way and not under a different set of rules. From a regulatory perspective there is no rationale for treating the National Lottery differently from any other form of lottery. For other reasons the government has conferred a</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>BCAP welcomes the Remote Gambling Association's comments.</p>

Association; ITV plc; Quaker Action on Alcohol and Drugs; Remote Gambling Association; one individual	special status on the National Lottery, but these should have no bearing on the way that its advertising is regulated.	
<p><i>Responses received against BCAP's proposal:</i></p> <p>Camelot; The Christian Concern for Our Nation &amp; Christian Legal Centre</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Camelot said:</i> We support BCAP's general policy objectives as outlined in Part 1 (4) of the consultation document. We note, however, that at 4.x it states that: "<i>BCAP considers that users of the Code should feel confident that the Code does not conflict with the law or otherwise undermine it.</i>"</p> <p>Parliament has consistently separated TNL from other forms of gambling. This separation is not just in terms of regulatory structure, but is also reflected in different regulatory and public policy principles. This is one of the main reasons we have argued in favour of TNL having a stand-alone section in the revised Code rather than being grouped with SLAs. Moreover, a number of BCAP's recommendations for aligning TNL more closely with the rules covering SLAs in effect align all lotteries much more closely with harder forms of gambling. For example, the proposals on age restrictions (see Questions 106 and 107) are identical to the general gambling provisions. This was never Parliament's intention. The</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP considers that the regulatory demarcation between the National Lottery and other gambling products has no bearing on the requirement for social responsibility in advertising. In drawing up its proposal for a lottery advertising section, BCAP invited the Department for Culture, Media and Sport, the NLC, the Gambling Commission and Camelot to inform it of any significant legal or regulatory obstacles to the proposal. No such obstacles were brought to its attention. Nor have BCAP's discussions with government, the NLC and Camelot revealed why an advertising treatment that would be held irresponsible by an SLA lottery advertiser should be assessed differently when it promotes a National Lottery product. As mentioned above, the National Lottery Etc Act requires that National Lottery products be promoted "with all due propriety". The passage Camelot quotes from 'A Safe Bet for Success' discusses ways of maintaining the National Lottery's competitive advantage by continuing to restrict the size of society lotteries, for example, but makes no reference to any attempt to</p>

	<p>Government has always been explicit that the regimes applied to TNL and to the gambling sector should differ. In ‘A Safe Bet for Success’, published in 2002, it says:</p> <p><i>“5.3 – While the National Lottery clearly involves gambling, the unique support which it provides for good causes has led the Government to conclude that it should not operate on the same playing field as other kinds of gambling.”</i></p> <p>We are therefore concerned that an unintended consequence of ‘tidying up’ the new Code would be to blur the clear distinction that has always existed between TNL and the gambling sector. This may not conflict with the law but we think it breaches and undermines its spirit.</p> <p>2. <i>The Christian Concern for Our Nation &amp; Christian Legal Centre said:</i> We oppose any relaxation of the rules.</p> <p>3. <i>The National Lottery Commission said:</i> The Commission supports BCAP’s general policy objectives as set out in Part 1(4) of the consultation document.</p> <p>As set out at paragraph 1.5 above, the Commission does not believe that the case has</p>	<p>secure an advantage for the National Lottery by allowing advertising that appeals to young persons or encourages gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm.</p> <p>2. The only change proposed by BCAP that amounts to a relaxation is discussed in question 109 below.</p> <p>3. While advertisers of betting and gaming have only had the opportunity to advertise on television since September 2007, SLA advertising has been permitted for more than thirty years. BCAP has seen no evidence to suggest that SLA advertising has presented a serious problem for advertising regulators. The National Lottery and SLA lotteries</p>
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	<p>been made for the extension of provisions in respect of the National Lottery on the basis of evidence, risk or better regulation. The Commission believes that the better regulation principle of proportionality is as relevant as the principle of consistency, and notes that:</p> <ul style="list-style-type: none"> <li>the National Lottery has been advertising National Lottery products for well over ten years and has been subject to both BCAP and CAP general requirements and a detailed Code of Practice which is approved by the Commission;</li> </ul> <p>there have been few, if any, issues arising as a result of National Lottery advertising and that players have been properly protected during this period.</p>	<p>are not distinct in this regard. CAP's lottery advertising rules take account of the nature of lottery products and the treatments that would be inappropriate if used to promote them.</p> <p>The Lottery Code applies to all marketing for the National Lottery, including point of sale material that is not covered by the advertising Codes. BCAP's rules are relevant to broadcast media only: BCAP, and not the NLC, is the Code owning body for broadcast advertising, as the Lottery Code acknowledges implicitly in its requirement that National Lottery advertising comply with the BCAP Code.</p>
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**Question 109: Given BCAP's policy consideration, do you agree that lottery advertisements should be able to feature participation in a lottery in a working environment? If your answer is no, please explain why.**

<i>Responses received in favour of BCAP's proposal from:</i>	<p><i>Summaries of significant points:</i></p> <p><i>The National Lottery Commission said:</i> Yes. This recognises the fact that National Lottery syndicates have operated in working environments for many years, with no detriment to players or employers.</p>	<i>BCAP's evaluation of those points and action points:</i>
Advertising Association; Asda; Charity Law Association		
<i>Responses received</i>	<i>Summaries of significant points:</i>	<i>BCAP's evaluation of those points and action points:</i>



<p><i>against BCAP's proposal:</i></p> <p>Remote Gambling Association; Quaker Action on Alcohol and Drugs</p>	<p>1. <i>The Archbishops' Council, Church of England said:</i> No, we would prefer to see the current broadcast prohibition maintained, but with a possible exemption for the National Lottery due to its special status and role in donating significant sums to good causes (i.e. keep the status quo). While we also note (17.44) that syndicates have operated in some workplaces for many years, there are a great number of workplaces where they do not, and also a range of workplaces in the context of which it would be inappropriate to show employees engaging in such activities.</p> <p>2. <i>Christian Concern for Our Nation &amp; Christian Legal Centre said:</i> No, as SLA lotteries are different and national lotteries are unique and may appeal to people who otherwise would not gamble.</p>	<p>1. BCAP's proposal for an exemption to the rule on featuring or condoning gambling in a working environment is based not on the purpose of lotteries, all of which exist to raise funds for good causes, but on the apparent lack of detriment in featuring workplace lottery syndicates in advertising. While it may be true that there are workplaces or situations in which gambling behaviour might appear inappropriate, BCAP considers that the potential harm of that treatment is adequately caught by the rule that states lottery advertisements must not portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm. BCAP does not consider that, in the circumstances described, it would be any more or less inappropriate for people to be featured playing the National Lottery than a society lottery. BCAP has, however, amended its proposal in response to another comment (see point 4 below).</p> <p>2. BCAP notes that the policy underpinning the gambling rules is that advertisements may promote gambling as a responsible leisure activity. That lotteries may appeal to people who otherwise would not gamble is not in itself a reason to prohibit particular advertising treatments for lotteries. As stated above, the rules provide that lottery advertisements must not portray, condone or</p>
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	<p>3.  <i>Quaker Action on Alcohol and Drugs said:</i>  We do not agree that SLA lottery advertisements should be able to feature lottery participation in a working environment. The National Lottery was allowed an exemption from the general prohibition because of its special status, and the general trend of the changes proposed in this document is to remove that. We do not disagree with this, but we would like standards to be rounded up, not down.</p> <p>We accept that there are many work-based syndicates for lottery play, but believe that gambling should not be encouraged in non-gambling environments. This general principle was accepted within the Gambling Act of 2005, though National Lottery gambling was one of the de facto exceptions. Now that the NL special status in advertising is being reconsidered, we would prefer to see the general gambling safety principle observed. If lotteries are enabled to be portrayed in the working environment, other gambling sectors may press for the same standard to apply to them. The normalization of gambling in non-gambling venues goes against the spirit of the Act and we disagree with it in principle.</p>	<p>encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm.</p> <p>3.  BCAP acknowledges the arguments put by Quaker Action on Alcohol and Drugs. It would not support the extension of the exemption to other forms of gambling, but considers that participation in lotteries is already a social norm in a way that other forms of gambling in non-gambling venues are not. BCAP notes that lotteries are exempt from the section on provision of facilities for gambling in the Gambling Act 2005 and does not consider that the proposed exemption goes against the spirit of the Act, nor has the Gambling Commission indicated otherwise. As stated above, the rules provide that lottery advertisements must not portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm. BCAP considers that this rule should adequately address the concerns raised by Quaker Action on Alcohol and Drugs, but it has amended its proposal in response to another point (see point 4 below).</p>
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	<p>4.  <i>The Remote Gambling Association said:</i>  We believe that the current rules would preclude other gambling operators from featuring gambling in a working environment and it is unclear why lotteries should be treated any differently. Presumably the policy objective here is not to encourage people to gamble while they are working and that must hold true for lotteries as much as any other gambling products. Again this is especially true when an increasing number of lottery products are available online. There is a case for reviewing whether a restriction of this kind should apply to any gambling products or whether there could be flexibility in its application (for instance, in clearly humorous situations), but while it is in place it should apply across the piece.</p>	<p>4.  BCAP notes that an increasing number of lottery products are available online and that those products may carry some of the same risks as other forms of solitary gambling. BCAP's proposal to exempt lottery advertisements from the rule on working environments was based on an acknowledgement of the social, low-risk nature of workplace lottery syndicates. BCAP has decided to reintroduce the rule but indicate a narrower scope, to catch the potential harm identified by the RGA:</p> <p><b>18.10</b> Advertisements for lotteries must not condone or feature gambling in a working environment (an exception exists for workplace lottery syndicates and gambling premises).</p>
<p><b>Question 110:</b></p> <p>i) Taking into account BCAP's policy consideration, do you agree that BCAP's rules on Gambling and Lotteries are necessary and easily understandable? If your answer is no, please explain why?</p> <p>ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed rules that are likely to amount to a significant change in advertising policy and practice and are not reflected here and that should be retained or otherwise be given dedicated consideration?</p> <p><b>Do you have other comments on this section?</b></p>		
Responses received from:	Summaries of significant points:	BCAP's evaluation of those points and action points:

<p>Advertising Association; Asda; Betfair; Charity Law Association; Christian Concern for our Nation &amp; Christian Legal Centre; IG Index plc; one individual response</p>	<p>1. The Advertising Association, Asda and the Charity Law Association agreed that BCAP's rules on Gambling and Lotteries were necessary and easily understandable.</p> <p>2. Christian Concern for Our Nation &amp; Christian Legal Centre said it was important to ensure that there was no relaxation of the rules in order to protect the under 18s and the vulnerable from gambling addiction.</p> <p>3. Betfair called for an exception to the present and proposed rule that states gambling advertisements must not feature anyone who is, or seems to be, under 25 years old gambling or playing a significant role (rule 17.4.6 in the new Code) that would allow professionals or celebrities from the gambling world the freedom to promote or endorse gambling products. Betfair points to the example of Annette Obrestad, currently aged 20 and a former World Series of Poker winner. The ASA is presently investigating a complaint about a Betfair advertisement in which Annette Obrestad appears.</p>	<p>1. BCAP welcomes the respondents' comments.</p> <p>2. The only relaxation proposed by BCAP is to the rule on featuring or condoning gambling in the workplace. BCAP does not consider that the points raised against that proposal warrant reinsertion of the rule on featuring lottery participation in working environments. The proposal does not otherwise represent a relaxation and in some key ways outlined in the consultation, it strengthens the rules on National Lottery advertising.</p> <p>3. BCAP does not consider that the present restriction breaches the Employment Equality (Age) Regulations 2006.</p> <p>BCAP conducted a full public consultation on the rules for gambling advertising in 2006. The rules met with the approval of DCMS, the Gambling Commission, Ofcom, and a wide range of public respondents. BCAP is content that the rules are within the spirit of the Gambling Act 2005 and that they represent a proportionate restriction on freedom of expression in line with Article 10(2) of the European Convention on Human Rights.</p>
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	<p>Betfair believes that the present restriction may breach the Employment Equality (Age) Regulations 2006, amounting to a restraint of trade upon both professionals and brand-owners and a breach of Article 10 of the European Convention on Human Rights. Betfair acknowledges that the exercise of the freedom of expression may be subject to proportionate restrictions to achieve a common good, but believes that the restriction is disproportionate to the aim of protection of children and young persons. They also believe that the restriction goes beyond the “statutory policy” of the Gambling Act 2005.</p> <p>Betfair suggests that the ASA enforces the restriction inconsistently, because it believes that the ASA has not upheld complaints about advertisements that feature Premiership football players who are under 25.</p> <p>Betfair believes that other content and scheduling provisions in the gambling advertising rules should be sufficient to protect children and the vulnerable. It points to the strict age verification procedures it operates to ensure that children and young persons may not gamble using Betfair’s website.</p>	<p>The ASA has not considered any complaints about Premiership footballers in gambling advertising. BCAP notes that the non-broadcast advertising rules do not apply to point of sale material and that the Gambling Commission considers that the 25 age restriction need not be extended to point of sale material under its codes of practice. It may be that betting shops feature Premiership football players who are under 25 in their point of sale material, but that is not a matter for the ASA.</p> <p>BCAP considered arguments about the sufficiency of age verification procedures in its evaluation of responses to the gambling consultation in 2006, but did not consider they detracted from the need to include provisions on content and scheduling of advertisements to ensure that children and young persons were protected. It maintains its position now.</p>
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	<p>4. IG Index plc re-sent the Spread Betting Association's response to BCAP's 2006 consultation on gambling advertising and called for the restrictions on spread betting to be lifted.</p> <p>5. One individual called for all advertisements for gambling and lotteries to be banned because they encouraged debt.</p>	<p>4. In 2006, BCAP evaluated the points made by the Spread Betting Association. It explained that, because spread betting is a higher risk product where losses can exceed the initial stake and to an extent unknown when the bet is placed, BCAP considers spread betting advertisements should be limited to specialist financial channels/stations or programmes. A further consideration is that the power and impact of broadcast media and the technical constraints on the amount of detail that can be properly communicated and understood warrant greater restrictions on where and when spread betting ads can appear than under the non-broadcast CAP Code. BCAP's evaluation remains the same and it considers that IG Index's response does not merit a change to the present rules.</p> <p>5. As stated above, the policy underpinning the gambling rules is that advertisements may promote gambling as a responsible leisure activity. The rules provide that lottery advertisements must not portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm. No gambling advertisement may encourage behaviour that would lead to debt without breaching the Code:</p> <p><b>18.2</b> Advertisements must not:</p> <p><b>18.2.1</b> portray, condone or encourage gambling</p>
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	<p>6.  <i>The National Lottery Commission said:</i>  The Commission does agree that BCAP's rules in relation to Lotteries are easily understandable with the exception of rule 18.8 – '<i>Advertisements for lotteries must not exploit cultural beliefs or traditions about gambling or luck</i>'. It is not clear to the Commission what type of imagery or messaging this would cover, and specifically whether general references to the concept of luck would be prevented.</p>	<p>behaviour that is socially irresponsible or could lead to financial, social or emotional harm</p> <p><b>18.2.3</b> suggest that participating in a lottery can be a solution to financial concerns, an alternative to employment or a way to achieve financial security. Advertisers may, however, refer to other benefits of winning a prize</p> <p>6.  The NLC has made this point in correspondence with BCAP before. BCAP replied that it had produced guidance on the rule in question that made clear to what the rule referred. BCAP assured the NLC at the time that it was neither the intent nor the likely interpretation of the rule that general references to the concept of luck should be prevented. Rather, the rule was held to warn against the use of cultural symbols and systems such as horoscopes if those symbols relate to an existing, strongly and communally held belief.</p>
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