

SECTION 32: SCHEDULING

Question 143: Given BCAP's policy consideration, do you agree that proposed rules 32.5.4 and 32.20.5 (restrictions on computer or console games) should be included in the proposed BCAP Code? If your answer is no, please explain why.

<i>Responses received in favour of BCAP's proposal from:</i>	<i>Summaries of significant points:</i>	<i>BCAP's evaluation of those points and action points:</i>
<p>Advertising Association; Archbishops' Council, Church of England; British Board of Film Classification (BBFC); Charity Law Association; Family and Parenting Institute; Christian Concern for Our Nation / Christian Legal Centre; an organisation requesting confidentiality</p>	<p><i>1. Archbishops' Council, Church of England</i> We welcome this proposal as a sensible step to harmonise scheduling for such advertisements. In addition to the evidence presented in the Byron Review (quoted in 32.15), the Children's Society's 'Good Childhood' report (Penguin, 2009) cites research by the US Surgeon General (reported in Anderson et al 2007) which highlights the role that playing violent video games can play in determining their child's behaviour. Avoiding targeting any age-restricted games at children is to be welcomed.</p> <p><i>2. BBFC</i> The BBFC agrees that the responsible marketing of games is fundamentally important if children are to be protected from potentially harmful game content. We believe that where games are classified for older teens or adults, the marketing needs to reflect the classification and not be directed at younger children. Generally we rely on the good sense and corporate responsibility of the publisher. But where an 18-rated game has</p>	<p><i>1.</i> BCAP welcomes the Archbishops' Council's comments.</p> <p><i>2.</i> BCAP welcomes the BBFC's comments and agrees to extend the proposed scheduling restriction to video games which have not yet been classified, but which are expected by the publisher to secure a 15, 16+ or 18-rating.</p>

	<p>significant appeal to children, we may intervene to ensure that the marketing is restricted as far as possible to adults only. For example, before rating for adults only the very violent video game <i>50 Cent Bulletproof</i>, which features the hugely popular hip hop star 50 Cent who has significant appeal to young teenagers, we agreed with its publisher a restrictive marketing strategy for the game, focusing on media with little child appeal. Research we commissioned following the release of <i>50 Cent Bulletproof</i> demonstrated that this approach was effective - there was virtually no underage playing of this game.</p> <p>Research shows that parents are concerned by the same content in films and games: violence, sex, racism, drug use, dangerous activities presented as safe. And films and games are converging. Often, film and game emerge from the same creative vision. Often a game and film are placed on the same disc, and this is increasing as Blu-ray takes off. Against this backdrop of parental concern and media convergence; with child protection the key driver; and given the impact of broadcast advertisements, it makes sense for restrictions on advertising 15 and 18-rated films and DVDs to apply equally to 15, 16+ and 18 rated video games as is proposed under section 32 of the revised BCAP code. All the more so because parents do not understand video games as well as they understand films and DVDs.</p>	
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We therefore support the proposals at 32.5, 32.5.4, 30.20 and 32.20.5 to restrict advertising of 15, 16+ and 18-rated video games to keep them away from programmes aimed at viewers under 16, thereby mirroring the restrictions on broadcast advertisements for 15 and 18-rated films and videos/DVDs.

Video game advertisements are sometimes released and broadcast before a game is classified. In general, games publishers have an accurate idea of both (i) the classification rating they want for a game; and (ii) the rating they are likely to get. With BBFC support, they often use a TBC rating (see examples below for likely 15 and 18-rated games) in the advertisements for these as yet unrated games. Given that the potential for harm and offence arising from such advertisements is virtually identical to that in advertisements for the rated product, it makes sense to apply the same restrictions on broadcast advertisements.

We therefore recommend that the above proposals also apply to video games which have not yet been classified, but which are expected by the publisher to secure a 15, 16+ or 18-rating.

3. Family and Parenting Institute

FPI agrees that rules 32.5.4 and 32.20.5 should be included in the Code. Harmonising the rules on the scheduling of 15+, 16+ and 18+ rated computer or console games and 15- and 18-certificate films is

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BCAP welcomes the Family and Parenting Institute's comments and agrees to extend the scheduling restriction for computer and console games with a 15+, 16+ or 18+ certificate to radio.

	<p>an important step forward. Ensuring that such products may not be advertised in or adjacent to TV programmes, text and interactive content commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 16 is a crucial part of child protection and support for parents.</p> <p>However, FPI would like to see these restrictions extended to radio broadcasts as well. Although we agree that the audio-visual impact of T.V. carries a greater risk, the risk remains to young listening of radio advertising.</p> <p><i>4. An organisation requesting confidentiality</i> We support BCAP's proposed rules related to computer and video games in line with the recommendations of the Byron Review.</p> <p>We welcome this useful clarification with regard to interactive elements of the broadcast service.</p>	
<p><i>Responses received against BCAP's proposal:</i></p> <p>Christian Concern for Our Nation / Christian Legal Centre</p>	<p><i>Summaries of significant points:</i></p> <p><i>1. Christian Concern for Our Nation / Christian Legal Centre</i> Rule 32.5.4. covers scheduling or time restrictions for the under 16s for computer or console games carrying an 18+, 16+ and 15+. This is clearly not age appropriate. In our opinion, in view of concerns over the harmful effect of such video games, only 12+ should be advertised on radio and TV. The other games, films or DVDs should be prohibited. The 12+ rating should be scheduled and timed for</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP considers that it is disproportionate to exclude advertisements for computer or console games that have in themselves been deemed appropriate for children aged 15 or young persons from programming of particular appeal to that age group. It would be out of step with the UK age ratings system and with the recommendation of the Byron Review. If Government considers the findings of the Home</p>

	<p>the under 16s.</p> <p>Yes to rule 32.20.5 as this rule protects children but this rule should extend to the 12+ category in view of the recommendations of the Byron review to make these categories have a statutory rating for the greater protection of children.</p> <p>The Home Affairs Knife Crime Parliamentary Committee recently concluded that:</p> <p>“Evidence to our inquiry supported our view that violent DVDs and video games exert a negative influence on those who watch and play them. Watching or playing such media contributes around 10% of any person's predisposition to be violent. Of particular concern is their influence on individuals who are already predisposed to violence because they grew up in a violent environment. (Paragraph 88)”</p>	<p>Affairs Knife Crime Parliamentary Committee supersede those of the Byron Review, BCAP would still need to make its own assessment of the available evidence on the effect of advertisements for such games, in accordance with better regulation principles.</p> <p>However, were the ASA to consider the contents of an advertisement for a computer or console game too graphic or too violent to be scheduled around programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 16, it could still adjudicate that the advertisement should be kept away from a young audience under rule 32.3, which states that:</p> <p>Relevant timing restrictions must be applied to advertisements that, through their content, might harm or distress children of particular ages or that are otherwise unsuitable for them.</p>
<p>Question 144: Given BCAP's policy consideration, do you agree that proposed rules 32.2.3 and 32.20.4 (betting tipsters) should be included in the proposed BCAP Code? If your answer is no, please explain why.</p>		
<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; Charity Law Association; an</p>	<p><i>Summaries of significant points:</i></p> <p>The respondents listed in the left hand column agreed with BCAP's proposal.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>BCAP welcomes the respondents' comments.</p>

organisation requesting confidentiality		
<p><i>Responses received against BCAP's proposal:</i></p> <p>Archbishops' Council, Church of England</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Archbishops' Council, Church of England</i> In February 2008, the Church of England's General Synod carried a motion expressing its 'grave concern' about the growth in gambling. An increase in gambling opportunities, and further steps towards normalising gambling, risks an increase in problem gambling. In Great Britain today, there are around a quarter of a million problem gamblers. Lifting the prohibition on broadcast advertising for tipsters – especially during difficult economic times – risks broadening the numbers drawn into gambling more than they can afford, lured by the prospects of easy wins; it also risks deepening the problems faced by those already hooked on betting. Indeed, the timing of the proposal, as the country faces the worst economic situation for many years – and more than 2.22 million people are unemployed (as at 12 May 2009) – seems extraordinarily ill-judged.</p> <p>We do not accept that rules prohibiting advertisements for betting tipsters are 'no longer relevant'; indeed, it could be argued that as the wider ban on betting and gaming products was lifted (September 2007), the case for tightly controlling the outlets through which such tipsters can advertise is even more compelling.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>2. Following the liberalisation of gambling advertising under the Gambling Act 2005, gambling may be promoted as a responsible leisure activity. It would be disproportionate for BCAP to maintain a restriction on a service that is ancillary to one that has begun to be promoted under a less restrictive regime. BCAP considers that general provisions such as rule 1.2 ("Advertisements must be prepared with a sense of responsibility to the audience and to society") and 3.1 ("Advertisements must not materially mislead") are adequate to address the potential harm of advertisements for betting tips.</p> <p>The next British Gambling Prevalence Survey by the Gambling Commission will take place in 2010. Until that Survey has concluded, BCAP considers that there is no evidence adequate to determine the impact of the liberalisation of gambling that took place when the Gambling Act came into force in September 2007. When new evidence arises in any area of advertising, BCAP will consider its impact on the Code.</p> <p>BCAP considers that, in combination, requirements for responsible content and</p>

	<p>As 10.35 states, the ASA “has upheld many complaints about non-broadcast advertisements” for such services, “mainly because they include misleading claims”. While we note (from 10.37) that there have been few complaints about advertisements carried via interactive TV/TV Text, it seems reasonable to assume that such advertisements were carried on specialist channels where audiences were likely to be aware of the services offered by betting tipsters and the considerable risks associated with their services. Even in light of the proposed rules (outlined in 10.38 as ‘Section 21’), it seems irresponsible for BCAP to propose a blanket lifting of the ban on broadcast advertising, which would lead to such advertisements being aired on mainstream channels (albeit with possible scheduling restrictions outlined in 32.18) and a considerably greater risk of attracting vulnerable consumers with less knowledge of the betting and gaming sector.</p> <p>First, we are opposed to this proposed extension of the ability of betting tipsters to advertise on broadcast outlets. Second, the proposed rules can only be considered to be ‘necessary’ if they are likely to be effective in achieving their objective. Our problem is not with the ‘necessity’ of these principles but with their applicability, in requiring advertisers to refrain from commending their product in particular ways and to seek to prevent effects which may not be within their control. The 14 detailed requirements set out in the proposed</p>	<p>scheduling can ensure that children and the vulnerable are protected while allowing services that are legally entitled to advertise to do so. The rules on age of appeal and protection of the vulnerable to which the Archbishops’ Council has referred were put in place following public consultation in 2006, when they were agreed by stakeholders from government, industry, the not-for-profit sector and the public to secure adequate protection from harm. The ASA has considerable experience in enforcing rules on age of appeal in gambling as well as in other sectors.</p>
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	<p>BCAP Code Section 21 are wide-ranging and carefully formulated, but their application will be difficult and unlikely to achieve the policy objectives set.</p> <p>For example, “(21.2) .must not be likely to be of particular appeal to under 18s”: Despite the expertise of advertisers in targeting particular groups, the concept of “age of appeal” is more elusive than it may seem. Age-related restrictions are always problematic on account of inequalities in development: how much more when the criterion is as notional as the “appeal” of advertisements.</p> <p>Because of the inherent nature of gambling, we have considerable apprehension about the effects of liberalising the law, and question whether the carefully-devised safeguards will achieve their intended purpose of preventing the growth of problem gambling, with its attendant damage to individuals and families.</p> <p><i>2. Christian Concern for Our Nation / Christian Legal Centre</i></p> <p>No, we disagree with any relaxation of the rules. Betting tipsters should remain as a prohibited category to protect the under 18s, scheduling will not provide that protection.</p>	<p>2.</p> <p>BCAP considers that the proposed scheduling restriction is commensurate with that which is imposed on betting services and that it is proportionate to restrict such advertisements in the schedule rather than impose a ban, given the liberalisation of the regime for gambling advertising brought about by the Gambling Act 2005.</p>
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Question 145: Given BCAP's policy consideration, do you agree that proposed rules 32.2.6 and 32.20.8 (premium-rate services) should be included in the proposed BCAP Code? If your answer is no, please explain why.

<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; PhonepayPlus; an organisation requesting confidentiality</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>PhonepayPlus</i> Rule 30.20.8 refers to "premium rate services that cost more than the normal national premium rates (higher rate premium services)". In light of the fact that PhonepayPlus will regulate numbers in the 0871, 2, and 3 ranges from 1st August 2009, which cost between 5 and 10p per minute, we would query where BCAP proposes the threshold between "higher" and "national" premium rate services should sit.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP notes that rule 30.20.8 is a legacy provision that has been rendered obsolete by Ofcom designating 087 services as Controlled Premium Rate services, bringing all PRS at 5p or more a minute within PhonepayPlus's remit, with the exception of ordinary mobile texts, which can sometimes cost up to 12p per text. BCAP considers that the purpose of the rule was to protect children and notes that rule 5.12 in the Children's Section of the BCAP Code states that products or services bought via a direct response mechanism must not be targeted directly at children: it has therefore decided to amend rule 30.20.8 to apply to "Advertisements that promote a product or service and invite consumers to buy that product or service via a direct response mechanism".</p>
<p><i>Responses received against BCAP's proposal:</i></p> <p>Christian Concern for Our Nation / Christian Legal Centre Square1</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Christian Concern for Our Nation / Christian Legal Centre</i> No, rule 32.2. is all that is required to ensure appropriate scheduling for the under 18s. There should be no Phone Pay Plus exceptions which allow for the targeting of people under 18. Parents normally pay such bills not children.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. It is not for BCAP to grant or to deny exceptions to the Code for Premium Rate Services enforced by PhonepayPlus. BCAP will take account of the decisions made under that Code by PhonepayPlus.</p>

Communications	<p>2. Square 1 Communications Square1 agrees with AIME on this:-</p> <p>Square1 generally agrees with these rules which reflect the requirements of the PhonepayPlus Code with the exception of the restrictions suggested on higher rate Premium tariffs. If tariffs are approved by Ofcom it is not considered within BCAP's remit to restrict their use.</p>	<p>2. BCAP has amended the rule on higher rate premium services. The amended rule does not restrict the use, but only the promotion of products and services that are bought via a direct response mechanism. The CPRs ban promotions targeted at children from including a direct exhortation to purchase. It follows that no advertisement inviting consumers to buy a product or service via a direct response mechanism may be targeted at children and the amended rule serves to indicate that to broadcast advertisers.</p>
<p>Question 146: Given BCAP's policy consideration, do you agree with BCAP's proposal to extend the restriction on advertisements for low alcohol drinks, medicines, vitamins and other dietary supplements from around programmes made for children to programmes of particular appeal to audiences below the age of 16? If your answer is no, please explain why.</p>		
<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; Archbishops' Council, Church of England; Christian Concern for Our Nation / Christian Legal Centre; Family and Parenting</p>	<p><i>Summaries of significant points:</i></p> <p>1. MHRA Yes, in the MHRA's view this is consistent with the prohibition on advertising medicines to children in the legislation.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP welcomes the MHRA's comments.</p>

Institute; Medicines and Healthcare products Regulatory Agency (MHRA); an organisation requesting confidentiality		
<i>Responses received against BCAP's proposal:</i> None	<i>Summaries of significant points:</i>	<i>BCAP's evaluation of those points and action points:</i>
Question 147: Do you agree that television advertisements for condoms should be relaxed from its present restriction and not be advertised in or adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to children below the age of 10? If your answer is no, please explain why.		
<i>Responses received in favour of BCAP's proposal from:</i> Advertising Association; Body and Soul; British Humanist Association; British Naturism; British Pregnancy Advisory Service; Children and Young People's Partnership Board (Northants);	<i>Summaries of significant points:</i> BCAP received many responses to its consultation on the scheduling of condom advertisements. Rather than list individual responses, BCAP provides a bullet point summary of the arguments presented by respondents: <ul style="list-style-type: none"> • It is important that people be presented with relevant information that allows them to make informed decisions • It is vital to promote safe sex • Advertising provides a valuable source of information for those unable to access it elsewhere 	<i>BCAP's evaluation of those points and action points:</i> BCAP welcomes respondents' comments.

<p>Education for Choice; Family and Parenting Institute; Family Planning Association; Independent Advisory Group on Sexual Health and HIV; Institute of Practitioners in Advertising; National AIDS Trust; National Secular Society; Oxford University Student Union; Councillor Lorna Reith; Reproductive Health Matters; Royal College of Midwives; Scottish Trade Union Congress; The Secular Medical Forum; Teenage Pregnancy Independent Advisory Group; Terence Higgins Trust; Voice for Choice; Watford Area Humanists; four organisations requesting</p>	<ul style="list-style-type: none"> • By bringing adverts for condoms more into the mainstream, this change will combat some of the current reticence around talking about and using condoms • treating knowledge of sex related issues as something to be kept hidden encourages attitudes which result in harm • Condoms are the only contraceptive method proven to reduce the risks from all sexually transmitted infections (STIs), including HIV and the human papillomavirus which can cause cervical cancer and cervical cell abnormalities. • For cultural or religious reasons, older people who find themselves once more sexually active outside of a steady relationship may feel the need to conceal this and therefore not buy condoms; reminding them of the dangers of not doing so and the need for condoms is essential. • The proposal could provide opportunities for parents and carers to discuss issues such as sex and relationships 	
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confidentiality		
<p><i>Responses received against BCAP's proposal:</i></p> <p>Archbishops' Council, Church of England; Association of Catholic Women; CareConfidential Pregnancy Crisis and Post-Abortion National Helpline; the Catholic Bishops' Conference of England and Wales and the Linacre Centre for Healthcare Ethics; Catholic Parliamentary Office; Catholics Unplug Your Television; Charity Law Association; Choose Life (After Abortion Recovery Ministry); Christian Concern for Our Nation / Christian Legal Centre; Christian Democratic Party; The Christian</p>	<p><i>Summaries of significant points:</i></p> <p>BCAP received many responses to its consultation on the scheduling of condom advertisements. Rather than list individual responses, BCAP provides a bullet point summary of the arguments presented by respondents:</p> <ul style="list-style-type: none"> • Counselling is preferable to condom provision for young people • Educational and commercial objectives should not be muddled; properly targeted public information campaigns are preferable to advertising as a means of addressing younger viewers on the topic of contraception • Condom advertisements are misleading because they do not state that condoms sometimes fail • Condoms don't protect people's emotions or self-respect • The proposal to relax the restriction on condom advertisements is inconsistent with the proposal that advertisements for low alcohol drinks, medicines, vitamins and other dietary supplements should 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 • Condom advertisements will sexualise 	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>BCAP does not consider that the relaxation of the scheduling restriction will result in the sexualisation of children or that it will promote sexual activity among children. It is a general principle of BCAP's proposed rules on scheduling that special care should be taken when scheduling advertisements that might be unsuitable for children or young persons or the audience of religious programmes. Furthermore, were a condom advertisement shown to promote promiscuity among children by virtue of its content, the ASA could use the provisions for socially responsible advertising to address that. BCAP would also draw respondents' attention to the following rules in Section 5, Children which offer additional, more detailed protection:</p> <p>5.1 Advertisements must contain nothing that could cause physical, mental, moral or social harm to children.</p> <p>5.6 Advertisements must not portray or represent children in a sexual way.</p> <p>5.11 Advertisements must neither directly exhort</p>

<p>Institute; Christian Medical Fellowship; Christian Schools' Trust; Church Society; Cornwall's Community Standards Association; Union of Catholic Mothers; Family Education Trust; First Magherafelt Presbyterian Church; Free Presbyterian Church of Ulster; The Guild of Spiritual Doctors of the Almighty Triune God; Holy Trinity Primary School, Woking; Huddersfield Pregnancy Crisis Centre; Jubilee Life Ministries UK; King's Church International; Society for the Protection of Unborn Children (Leicester Branch); Liverpool Archdiocesan Centre for Evangelisation; Mediamarch;</p>	<p>children</p> <ul style="list-style-type: none"> • Condom advertisements are anti-life propaganda • Advertising does not encourage youngsters to have due regard to moral considerations and the value of family life • The proposal is in conflict with the law on age of consent • One individual objects to the idea of condom advertisements being aired at mealtimes • Condom advertisements will offend parents and people of faith • Condom advertisements will encourage promiscuity and lead to higher rates of teenage pregnancy and sexually transmitted disease • Condom advertisements are inappropriate viewing for children • Condom advertisements demean young people • question the appropriateness of a comparison between condoms and sanitary products for the purpose of advertising regulations. Menstruation is not a moral issue, and sanitary products pose no problems apart from the usual considerations of taste and decency • The proposal will help normalise early sexual activity among children and young people • The proposal will undermine parents' efforts 	<p>children to buy a product or service nor encourage them to ask their parents, guardians or other persons to buy or enquire about a product or service for them.</p> <p>BCAP notes respondents' concerns about children's viewing habits. However, the purpose of rules on scheduling is to act proportionately and target action where it is needed to ensure that products may legitimately be advertised in broadcast media while maintaining adequate protection for children and young persons. As stated in the consultation, the Ofcom Child Media Literacy Audit revealed that 25% of 8 to 11s and 33% of 12 to 15s have digital television in their rooms. Children who watch television or use the Internet in their bedroom are less likely to have parental rules or restrictions on that use than children who use the same devices in the living room. That is partly, but not wholly, accounted for by the fact that solitary users are likely to be older. They also use those devices more. Yet they are less likely to claim to have seen something that concerned them or that they felt was too old for them. BCAP considers that careful scheduling is a proportionate response to that evidence.</p> <p>BCAP considers that many of the arguments presented against the proposal are not comments on the scheduling rule itself. Counselling and public information on sexual health are covered</p>
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<p>Mediawatch-UK; Metropolitan Cathedral of Christ the King Liverpool; Momentum Youth; Options Pregnancy Counselling; Options Pregnancy Counselling Centre, Chichester; Parish Churches of Grain and Stoke; Right To Life; Spring Road Evangelical Church; St Bede, St Pius X and St Raphael Catholic Church; St Michael and Holy Angels West Bromwich petition; Wheatsheaf Christian Community Church; four organisations requesting confidentiality</p>	<p>to bring their children up in the manner they see fit</p> <ul style="list-style-type: none"> • Family Education Trust quotes study from BMJ that found the majority of teenagers who got pregnant had consulted a health professional about contraception in the previous year • Many children will watch programming that is not targeted at them; scheduling restrictions will not protect them from inappropriate advertising • BCAP should apply the spirit of the AVMSD provision that television broadcasts by broadcasters under their jurisdiction should not include any programmes which might seriously impair the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence. • A World Health Organisation report found that condoms, when used correctly and consistently, are effective for preventing HIV infection in women and men and gonorrhoea in men. For other STIs, however, the available data are less complete. Momentum Youth argued that the WHO report demonstrated that showing condoms as protection against STIs was false advertising • Is the proposal preparing the grounds for abolishing the age of consent • Condom advertisements could be used by 	<p>by separate rules in the BCAP Code. BCAP recognises that advertising is merely one means among several to secure the aim of better information on sexual health, but it is not for BCAP to ensure that any particular product or service is promoted in place of another.</p> <p>It is not for BCAP to enter the debate on the relative merits of different approaches to sexual health, teenage pregnancy and sexually transmitted infection, nor is BCAP involved in any attempt to prepare the ground for abolishing the age of consent, which is rightly a matter for Parliament. BCAP considers that the arguments put forward by the Independent Advisory Group on Sexual Health justify a relaxation of the scheduling rule on condoms. That does not mean that BCAP endorses condoms, but only that it considers it is disproportionate to restrict condom advertisements on grounds of taste and decency in the light of concerns about sexual health.</p> <p>If condom advertisements mislead about their efficacy or success in preventing sexually transmitted infections, the provisions on misleading advertising in Section 3 of the BCAP Code provide the ASA with the means to address that. It is not for BCAP to comment on the emotional consequences of sexual activity.</p> <p>BCAP's proposal is not inconsistent with the proposal to extend scheduling restrictions on low</p>
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	paedophiles to groom children	<p>alcohol drinks, medicines, vitamins and other supplements so that they cover not only children's programmes but also programmes that are likely to appeal particularly to persons below the age of 16. The restrictions on low alcohol drinks and medicines derive from statute; they were extended to vitamins and other supplements for reasons of public health. BCAP's proposal to relax the restriction on condom advertising was also made mindful of public health concerns raised by government.</p> <p>While BCAP notes respondents' belief that the proposal will cause offence to some people, it notes that presently, levels of complaint about condom advertisements on television are very low. BCAP considers that the fact that a particular product is offensive to some people is not sufficient grounds for preventing it from being advertised. It was on those grounds that the consultation document compared condoms with sanitary towels, since in both cases objections over taste and decency were found to concern the product itself and not the content of advertisements.</p>
Question 148: Given BCAP's policy consideration, do you agree that it is proportionate to require that special care be taken when scheduling advertisements for sensational newspapers, magazines, websites (or their content)? If your answer is no, please explain why.		
<i>Responses received in favour of BCAP's</i>	<i>Summaries of significant points:</i>	<i>BCAP's evaluation of those points and action points:</i>

<p><i>proposal from:</i></p> <p>Advertising Association; Archbishops' Council, Church of England; Charity Law Association; three organisations requesting confidentiality</p>	<p>The respondents listed in the left hand column agreed with BCAP's proposal.</p>	<p>BCAP welcomes the respondents' comments.</p>
<p><i>Responses received against BCAP's proposal:</i></p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Christian Concern for Our Nation / Christian Legal Centre</i> No instead the current radio rule should be extended to TV so that advertisements for sensational newspapers, magazines, websites (or their content) must not be broadcast in or around programming/features aimed particularly at those aged 18 years or around religious programming. It is important there is no relaxation of the rules to protect children and religious sensitivities.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. It is a general principle of BCAP's proposed rules on scheduling that special care should be taken when scheduling advertisements that might be unsuitable for children or young persons or the audience of religious programmes. Both Clearcast and the RACC have the discretion to apply that general principle in such a way that advertisements for sensational newspapers, magazines, websites or their content do not harm children or offend religious sensitivities.</p>
<p>Question 149: Given BCAP's policy consideration, do you agree that the same rules on placement of advertisements should apply to broadcast advertisements behind the red button as to TV Text advertisements?</p>		
<p><i>Responses received in favour of BCAP's proposal from:</i></p>	<p><i>Summaries of significant points:</i></p> <p>The respondents listed in the left hand column agreed with BCAP's proposal.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>BCAP welcomes the respondents' comments.</p>

Advertising Association; three organisations requesting confidentiality		
<i>Responses received against BCAP's proposal:</i> Christian Concern for Our Nation / Christian Legal Centre;	<i>Summaries of significant points:</i> 1. <i>Christian Concern for Our Nation / Christian Legal Centre</i> No because again this seems a lowering of standards and a relaxation of rules.	<i>BCAP's evaluation of those points and action points:</i> 2. BCAP's proposal does not amount to a lowering of standards or a relaxation of rules. It extends to interactive advertisements the standards that already apply to TV Text advertisements. Thereby, it ensures that interactive advertisements are held to explicit standards where previously the same principles only operated according to the custom and practice of broadcasters.
Question 150: Given BCAP's policy consideration, do you agree that the restriction on advertisements for liqueur chocolates is no longer required, given the restriction on HFSS foods around programmes of particular appeal to under 16s? If your answer is no, please explain why.		
<i>Responses received in favour of BCAP's proposal from:</i> Advertising Association; Charity Law Association; Christian Concern for Our Nation / Christian Legal	<i>Summaries of significant points:</i> 1. <i>Charity Law Association</i> Agree. The amount of liqueur in liqueur chocolates is almost minimal and of a very low alcoholic content indeed.	<i>BCAP's evaluation of those points and action points:</i> 1. BCAP welcomes the Charity Law Association's comments.

Centre; an organisation requesting confidentiality		
<p><i>Responses received against BCAP's proposal:</i></p> <p>An organisation requesting confidentiality</p>	<p><i>Summaries of significant points:</i></p> <p>1. An organisation requesting confidentiality No, protect children.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP considers that the rules on HFSS foods effectively mean that liqueur chocolates, products that are very likely to be high in fat, salt or sugar, may not be advertised in or adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 16. BCAP considers children are adequately protected without the restriction on advertisements for liqueur chocolates.</p>
<p>Question 151: Given BCAP's policy consideration, do you agree that it is no longer necessary to restrict advertisements for charities from appearing adjacent to any appeal or community service announcement transmitted in programme time? If your answer is no, please explain why.</p>		
<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; Archbishops' Council, Church of England; Charity Law Association;</p>	<p><i>Summaries of significant points:</i></p> <p>None received.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p>

Christian Concern for Our Nation / Christian Legal Centre; four organisations requesting confidentiality		
<i>Responses received against BCAP's proposal:</i> None	<i>Summaries of significant points:</i>	<i>BCAP's evaluation of those points and action points:</i>
Question 152: Given BCAP's policy consideration, do you agree that it is proportionate to delete the requirement that advertisements for products and services that feature in advertisement compilation programmes should not appear in or adjacent to those programmes? If your answer is no, please explain why.		
<i>Responses received in favour of BCAP's proposal from:</i> Advertising Association; three organisations requesting confidentiality	<i>Summaries of significant points:</i> The respondents listed in the left hand column agreed with BCAP's proposal.	<i>BCAP's evaluation of those points and action points:</i> BCAP welcomes the respondents' comments.
<i>Responses received against BCAP's proposal:</i> Christian Concern for Our Nation /	<i>Summaries of significant points:</i> 1. <i>Christian Concern for Our Nation / Christian Legal Centre</i> No there is a need to properly maintain boundaries between programmes and advertisements.	<i>BCAP's evaluation of those points and action points:</i> 2. BCAP considers that the rules in Section 2, Recognition of Advertising, ensure that the boundary between programmes and

Christian Legal Centre;		advertisements is maintained.
Question 153: Given BCAP's policy consideration, do you agree that it is no longer necessary to restrict detailed TV text advertisements for gambling to full advertising pages devoted solely to such advertisements? If your answer is no, please explain why.		
<i>Responses received in favour of BCAP's proposal from:</i> Advertising Association; two organisations requesting confidentiality	<i>Summaries of significant points:</i> The respondents listed in the left hand column agreed with BCAP's proposal.	<i>BCAP's evaluation of those points and action points:</i> BCAP welcomes the respondents' comments.
<i>Responses received against BCAP's proposal:</i> Christian Concern for Our Nation / Christian Legal Centre;	<i>Summaries of significant points:</i> 1. <i>Christian Concern for Our Nation / Christian Legal Centre</i> No, it is still important that gambling advertisements are kept separate from editorial content to protect the young and vulnerable.	<i>BCAP's evaluation of those points and action points:</i> 1. BCAP notes that, under the proposed Scheduling rules, TV text advertisements for gambling must not: <ul style="list-style-type: none"> - be directly accessible from programmes commissioned for, principally directed at or likely to appeal particularly to children - be directly accessible from advertisements that are adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to children - appear on editorial pages (text or interactive) that are likely to be of particular appeal to a significant audience of

		<p>children.</p> <p>BCAP considers that those placement restrictions, combined with the content rules for gambling advertisements, ensure that children and the vulnerable are protected.</p>
<p>Question 154: Given BCAP's policy consideration, do you agree that it is no longer necessary to maintain 'the artist separation rule'? If your answer is no, please explain why.</p>		
<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; four organisations requesting confidentiality</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>An organisation requesting confidentiality</i> [The respondent] endorses this significant relaxation. Historically artist separation has been especially onerous for TV broadcasters and in the absence of any obvious and clear benefit to consumers we welcome the deletion of the current rule. The duty of Ofcom to promote media literacy and publication of the increased literacy quotient throughout UK society reveals that prescriptive rules in this area are no longer necessary. We agree it is sensible to retain the rule for children's programmes given BCAP is mindful of its statutory responsibility to ensure under 18s are protected.</p> <p>2. <i>STV</i> STV welcomes this change to the rules. Indeed, STV would like to take the opportunity to explore the possibility of extending the current methods of advertising in the UK to mirror those practiced by Member States in the European Union. Namely, telepromotion.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP welcomes the respondent's comments.</p> <p>2. BCAP considers that this is not relevant to the proposal. BCAP notes STV's intent to take this up with Ofcom.</p>

	<p>The European Union is bound by the same regulations as the UK in that advertising and editorial must remain separate. The European courts held that telepromotion – which is a form of advertising based on the interruption of a game show by slots devoted to the presentation of one or more products or services, where the programme presenter momentarily swaps their role in the games in progress, for one as ‘promoters’ of the goods or services which are the object of the advertising presentation – accords with the Television Without Frontiers Directive.</p> <p>The removal of the artist separation restriction creates an exciting opportunity for the further development of advertising on television which would bring it in line with its counterparts in Europe and STV would welcome further discussion on this matter. STV appreciates that any discussions will require input from Ofcom.</p>	
<p><i>Responses received against BCAP's proposal:</i></p> <p>Christian Concern for Our Nation / Christian Legal Centre;</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Christian Concern for Our Nation / Christian Legal Centre</i></p> <p>No, because this rule should be maintained to protect both the young and vulnerable. The proposal is just to delete the rule without any substitute rules for child protection. On balance it would be best to maintain this rule to avoid confusion between programmes and advertising, so that a well known performer is not in a</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1.</p> <p>BCAP disagrees. The proposal is precisely that the artist separation rule should be maintained with reference to children's programmes. BCAP considers that the rules in Section 2, Recognition of Advertising, ensure that the boundary between programmes and advertising is maintained where programmes for young persons and adults are concerned.</p>

	programme and then in an advertisement adjacent to that programme.	
Question 155: Given BCAP's policy consideration and the view of the Parliamentary authorities, do you agree that it is suitable to maintain rule 32.14 (exclusion of certain types of advertisement in or adjacent to broadcasts of Parliamentary proceedings) in the proposed BCAP Code? If your answer is no, please explain why.		
<i>Responses received in favour of BCAP's proposal from:</i> Advertising Association; Charity Law Association; Christian Concern for Our Nation / Christian Legal Centre; three organisations requesting confidentiality	<i>Summaries of significant points:</i> None.	<i>BCAP's evaluation of those points and action points:</i>
<i>Responses received against BCAP's proposal:</i> None.	<i>Summaries of significant points:</i>	<i>BCAP's evaluation of those points and action points:</i>
Question 156: i) Taking into account BCAP's general policy objectives, do you agree that BCAP's rules, included in the proposed Scheduling Section are necessary and easily understandable? If your answer is no, please explain why?		

<p>ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Scheduling 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>iii) Do you have other comments on this section?</p>		
<p><i>Responses received from:</i></p> <p>Archbishops' Council, Church of England; Charity Law Association; Christian Concern for Our Nation / Christian Legal Centre; four organisations requesting confidentiality</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Archbishops' Council, Church of England</i> It is unclear how the proposed specific regulations concerning post-conception advisory services are further affected by any scheduling restrictions, if at all. It is inappropriate for such advertisements to be aired adjacent to programmes aimed at under 16s (for the broad reasons outlined in the associated subject of Q147), but it is unclear if this is made specific in any of the regulations.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. Ofcom and BCAP have identified some outstanding matters for further discussion on the proposal for post-conception advice services. Both parties agree that this should not delay the launch of new Broadcast Advertising Code.</p> <p>Pending the conclusion of BCAP's discussions with Ofcom, the regulatory position for advertisements for post-conception advice services will remain unchanged. This means that radio advertisements will only be acceptable for family planning centres approved by a Local Health Authority, the Central Office of Information or another appropriate NHS body. On TV, advertisements for non-commercial post-conception pregnancy advice services will continue to be permitted – subject, of course, to them complying with all appropriate rules in the Code - and advertisements for commercial post-conception advice services offering individual advice on personal problems will not be acceptable.</p>

	<p><i>2. Christian Concern for Our Nation / Christian Legal Centre</i></p> <p>i) Whilst scheduling may help to avoid inappropriate advertisements, it is far more important to consider the need for outright bans which properly protect the young and vulnerable. Many teenagers have their own TVs and the watershed of 9pm appears to be out of date. This should be increased to 10pm or even 11pm at night. Further research needs to be undertaken on scheduling by seeing what time young people do actually watch TV or listen to the radio in relation to different age categories. It is doubtful how much protection is provided by scheduling and much more emphasis needs to be placed on extending, not relaxing, advertising prohibitions to provide proper protection.</p>	<p>BCAP intends to make a separate regulatory statement on this subject at the earliest opportunity.</p> <p>2.</p> <p>i) BCAP disagrees. The purpose of rules on scheduling is to act proportionately and target action where it is needed to ensure that products may legitimately be advertised in broadcast media while maintaining adequate protection for children and young persons and ensuring that the boundary between programmes and advertising is maintained. Research has been done into use of media by children and young people, and BCAP's consultation draws attention to it. As stated in the consultation, the Ofcom Child Media Literacy Audit revealed that 25% of 8 to 11s and 33% of 12 to 15s have digital television in their rooms. Children who watch television or use the Internet in their bedroom are less likely to have parental rules or restrictions on that use than children who use the same devices in the living room. That is partly, but not wholly, accounted for by the fact that solitary users are likely to be older. They also use those devices more. Yet they are less likely to claim to have seen something that concerned them or that they felt was too old for them. BCAP considers that careful scheduling is a proportionate response to that evidence.</p>
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	<p>ii) Radio scheduling includes special care on scheduling of family planning products but TV has no rules. All pre- conception and post-conception advice services and products should be banned. Condom advertising before 9pm and 7pm for channel 4 is totally inappropriate and should be a prohibited category as should the morning after pill.</p>	<p>ii) See BCAP's response to point 1 above. Condom advertising is considered under question 147 above. On the morning after pill, it is a general principle of BCAP's proposed rules on scheduling that special care should be taken when scheduling advertisements that might be unsuitable for children or young persons or the audience of religious programmes. Both Clearcast and the RACC have the discretion to apply that general principle in such a way that advertisements for products that might be unsuitable for a particular audience are kept away from programming targeted at that audience.</p>
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