

Annex 3

Consultation questions

You may respond to some or all of the consultation questions. This Annex is provided in Word format to enable you to copy and paste the questions into a document that should accompany your completed cover sheet, which is made available [here](#). See 'Responding to this consultation' in this Annex.

Section 1: Compliance

Social responsibility

Question 1

Given BCAP's policy consideration, do you agree that rule 1.2 should be included in the proposed BCAP Code? If your answer is no, please explain why.

YES

Other Questions

Question 2

- i) Taking into account BCAP's general policy objectives, do you agree that BCAP's rules, included in the proposed Compliance Section are necessary and easily understandable? If your answer is no, please explain why.

YES

- ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Compliance 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?

NO

- iii) Do you have other comments on this section?

Section 2: Recognition of Advertising

TV advertisement content prohibitions

Question 3

- i) Given BCAP's policy consideration, do you agree that rule 2.1 should replace present TV rules 2.1.2 (b) and 2.2.2 (c), be applied to TV and radio and be included in the proposed BCAP Code? If your answer is no, please explain why.

YES

- ii) Given BCAP's policy consideration, do you agree that rule 2.3 should replace present TV rule 2.2.2 (d), be applied to TV and radio and be included in the proposed BCAP Code? If your answer is no, please explain why.

YES

Extra consideration of rule 2.1.2(a)

Question 4

Given BCAP's policy consideration, do you agree that rule 2.2 should replace present TV rule 2.1.2 (a), be applied to TV and radio and be included in the proposed BCAP Code? If your answer is no, please explain why.

YES

Editorial independence: television

Question 5

- i) Given BCAP's policy consideration, do you agree that present TV rule 2.2.1 should not be included in the proposed BCAP Code? If your answer is no, please explain why.

YES

- ii) Given BCAP's policy consideration, do you agree that present TV rule 2.2.2 (a) should not be included in the proposed BCAP Code? If your answer is no, please explain why.

YES

Impartiality of station presenters and newsreaders

Question 6

- i) Given BCAP's policy consideration, do you agree that radio rule 18, section 2, should not be included in the proposed Code? If your answer is no, please explain why.

YES

- ii) Given BCAP's policy consideration, do you agree that radio station presenters who do not currently and regularly read the news should be exempted from the rule that restricts presenters from featuring in radio advertisements that promote a product or service that could be seen to compromise the impartiality of their programming role? If your answer is no, please explain why.

YES

Other questions

Question 7

- i) Taking into account BCAP's general policy objectives, do you agree that BCAP's rules on the Recognition of Advertising are necessary and easily understandable? If your answer is no, please explain why.

YES, but some sentences are clumsy and long. Are they intended to confuse? (eg p24 2.27 doesn't make sense)

- ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Recognition of Advertising rules that are likely to amount to a significant change in advertising policy and practice and are not reflected here or in Section 32 on Scheduling and that should be retained or otherwise be given dedicated consideration?

NO

- iii) Do you have other comments on this section?

Section 3: Misleading

Puffery and subjective claims

Question 8

Given BCAP's policy consideration, do you agree that rules 3.4 and 3.5 should be included in the Code? If your answer is no, please explain why.

YES

Significant division of informed opinion

Question 9

Given BCAP's policy consideration, do you agree that rule 3.13 should be included in the Code? If your answer is no, please explain why.

YES

Prices claims "from" or "up to"

Question 10

Given BCAP's policy consideration, do you agree that rule 3.23 should be included in the Code? If your answer is no, please explain why.

YES

Estimates of demand

Question 11

i) Given BCAP's policy consideration, do you agree that rule 3.27 should be included in the Code? If your answer is no, please explain why.

YES

iii) Given BCAP's policy consideration, do you agree that rule 3.28.2 should be included in the Code? If your answer is no, please explain why.
YES (you need to change the rule to 3.28.2 – not just 3.28)

Recommended Retail Prices (RRPs)

Question 12

Given BCAP's policy consideration, do you agree that rule 3.39 should be included in the Code? If your answer is no, please explain why.

YES

Subliminal techniques

Question 13

Given BCAP's policy consideration, do you agree that the rule on subliminal advertising is relevant to radio and should, therefore, be apply to radio as well as TV advertisements? If your answer is no, please explain why.

YES

VAT-exclusive prices

Question 14

Given BCAP's policy consideration, do you agree that rule 3.18 should be included? If your answer is no, please explain why.

YES

Tax-exclusive prices

Question 15

Given BCAP's policy consideration, do you agree that rule 3.19 should be included in the Code? If your answer is no, please explain why.

YES

Price offers that depend on other commitments

Question 16

Given BCAP's policy consideration, do you agree that rule 3.22 should be included in the Code? If your answer is no, please explain why.

YES

Use of the word "free"

Question 17

i) Given BCAP's policy consideration, do you agree that rule 3.25 should be included in the Code? If your answer is no, please explain why.

YES

ii) Given BCAP's policy consideration, do you agree that rule 3.26 should be included in the Code? If your answer is no, please explain why.

YES

Geographical restrictions

Question 18

Given BCAP's policy consideration, do you agree that rule 3.28.3 should apply to TV and radio advertisements? If your answer is no, please explain why.

YES

Imitation or replica of competitor's trade mark

Question 19

Given BCAP's policy consideration, do you agree that the proposed amendment in 3.43 correctly reflects the BPRs 4(i) requirement? If your answer is no, please explain why.

YES

Animal testing

Question 20

Given BCAP's Policy consideration, do you agree that rule 5.2.7 should not be included in the Code? If your answer is no, please explain why.

YES

Advertisements for solicitors and advertisements for conditional fee arrangements which claim, 'no win no fee'.

Radio advertisements by or on behalf of solicitors

Question 21

Given BCAP's policy consideration, do you agree that it is not necessary to include in the BCAP Code the requirement for advertisements by or on behalf of solicitors to comply with the Solicitors Code of Conduct? If your answer is no, please explain why?

YES

Radio advertisements for conditional fee arrangements which claim 'no win, no fee'

Question 22

Given BCAP's policy consideration, do you agree that it is not necessary to maintain, in BCAP's proposed Code, a rule that requires advertisements for conditional fee arrangements which claim 'no win, no fee' to suitably qualify if the client is (or may be) required to pay any costs or fees (including those of the other party), such as insurance premiums or disbursements? If your answer is no, please explain why.

NO – spell it out and keep it clear

Other questions

Question 23

i) Taking into account BCAP's policy consideration, do you agree that BCAP's rules in the Misleading Section are necessary and easily understandable? If your answer is no, please explain why?

YES

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Misleading 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?

NO

iii) Do you have other comments on this section?

Section 4: Harm and Offence

Crime and anti-social behaviour

Question 24

Do you agree that rule 4.7 should be included in the proposed BCAP Code? If your answer is no, please explain why.

YES

Protection of the environment – radio

Question 25

Do you agree that proposed rule 4.10 should be included in the proposed BCAP Code? If your answer is no, please explain why.

YES

Harm

Question 26

Taking into account its policy consideration, do you agree with BCAP's proposal not to include in the proposed Code the present radio Harm rule (rule 10, section 2 of the present Radio Code)? If your answer is no, please explain why.

NO –better to have it in and spell it out

Other questions

Question 27

- i) Taking into account its general policy objectives, do you agree that BCAP's rules, included in the proposed Harm and Offence section, are necessary and easily understandable? If your answer is no, please explain why.

YES

- ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Harm and Offence rules that are likely to amount to a significant change in advertising policy and practice, which are not reflected here and that you believe should be retained or otherwise given dedicated consideration?

NO – apart from Question 26

iii) Do you have other comments on this section?

Section 5: Children

Exploitation of trust

Question 28

Given BCAP's policy consideration, do you agree that rule 5.7 should be included in the Code? If your answer is no, please explain why.

YES

Expensive products of interest to children

Question 29

i) Given BCAP's policy consideration, do you agree rule 5.14 should be applied to advertisements broadcast on all Ofcom-licensed television channels and not only those broadcast to a UK audience? If your answer is no, please explain why.

YES

ii) Given BCAP's policy consideration, do you agree rule 5.14 should define an 'expensive' product of interest to children to be £30 or more? If your answer is no, please explain why.

YES

iii) Given BCAP's policy consideration, do you agree rule 5.14 should be included in the Code? If your answer is no, please explain why.

YES

Competitions

Question 30

i) Given BCAP's policy consideration, do you agree that rules 5.15 adequately replaces rule 11.8, section 2, of the Radio Code? If your answer is no, please explain why.

YES

ii) Given its policy consideration, do you agree with BCAP's proposal to introduce a rule that prohibits advertisements for a promotion directly targeted at children if they include a direct exhortation to buy a product? If your answer is no, please explain why.

YES

iii) Given BCAP's policy consideration, do you agree that rule 5.15 should apply to television and radio advertisements? If your answer is no, please explain why.

YES

iv) Given BCAP's policy consideration, do you agree that rule 5.15 should be included in the Code? If your answer is no, please explain why.

YES

Children as presenters in advertisements

Question 31

Given BCAP's policy consideration, do you agree that these present rules should not be included in the Code? If your answer is no, please explain why.

NO

- i) TV rule 7.3.4
- ii) Radio rule 11.11 a), section 2
- iii) Radio rule 11.11 b), section 2
- iv) Radio rule 11.12, section 2

NO – shouldn't relax rules with children

Children's health and hygiene

Question 32

Given BCAP's policy consideration, do you agree that rule 11.10 b) of Section 2 of the present Radio Code should not be included in the proposed Code? If your answer is no, please explain why.

YES

Question 33

Given BCAP's policy consideration, do you agree that rule 5.4 should be included in the Code? If your answer is no, please explain why.

YES

Other questions

Question 34

i) Taking into account its general policy objectives, do you agree that BCAP's rules, included in the proposed Children section, are necessary and easily understandable? If your answer is no, please explain why.

YES

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Children rules that are likely to amount to a significant change in advertising policy and practice, which are not reflected here and that you believe should be retained or otherwise given dedicated consideration?

NO

iii) Do you have other comments on this section?

Section 6: Privacy

Generic advertising for news media

Question 35

Given BCAP's policy consideration, do you agree that the proposed Code should not require 'generic advertising for news media' to be immediately withdrawn if a complaint is registered that a TV advertisement of that type has featured an individual without his or her prior permission? If your answer is no, please explain why.

YES

Other questions

YES

Prompt delivery

Question 40

Given BCAP's policy consideration, do you agree it is reasonable to extend the period within which orders must be fulfilled from 28 to 30 days? If your answer is no, please explain why.

YES

Protection of consumers' money

Question 41

Given BCAP's policy consideration, do you agree that present radio rule 21.1 f) of section 2 is unnecessarily prescriptive in the light of BCAP's proposed rule 8.3.1? If your answer is no, please explain why.

YES

Personal calls from sales representatives

Question 42

Given BCAP's policy consideration, do you agree that present TV rule 11.2.3 (a) and (b) and present Radio rule 21.1 j) (i)-(ii) of section 2 should not be included in the Code? If your answer is no, please explain why.

YES

Sending goods without the authority of the recipient

Question 43

i) Given BCAP's policy consideration, do you agree that present TV rule 11.2.2(g) should not be included in the Code? If your answer is no, please explain why.

YES

ii) Given BCAP's policy consideration, do you agree that 8.3.7 should be included in the Code? If your answer is no, please explain why.

YES

Other questions

Question 44

- i) Taking into account BCAP's policy consideration, do you agree that BCAP's rules on Distance Selling are necessary and easily understandable? If your answer is no, please explain why.

YES

- 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

Question 36

- i) Taking into account its general policy objectives, do you agree that BCAP's rules, included in the proposed Privacy section, are necessary and easily understandable? If your answer is no, please explain why.

YES

- ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Privacy rules that are likely to amount to a significant change in advertising policy and practice, which are not reflected here and that you believe should be retained or otherwise given dedicated consideration?

NO

- iii) Do you have other comments on this section?

Section 7: Political and Controversial Issues

Reflecting the Act

Question 37

- i) Given Ofcom's practical application of the present rule, do you agree that it is appropriate to reflect 321(3) of the Communications Act 2003 in BCAP's proposed rule on Political and Controversial Issues? If your answer is no, please explain why.

YES

- ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Political and Controversial Issues rules that you consider are likely to amount to a significant change in advertising policy and practice, which are not reflected here and that you believe should be retained or otherwise given dedicated consideration?

NO

- iii) Do you have other comments on this section?

Section 8: Distance Selling

Substitute products

Question 38

- Given BCAP's policy consideration, do you agree that rule 8.3.4 should be included in the Code? If your answer is no, please explain why.

YES

Cancellation within seven days

Question 39

- Given BCAP's policy consideration, do you agree that rule 8.3.6a should be included in the Code? If your answer is no, please explain why.

practice and are not reflected here and that should be retained or otherwise be given dedicated consideration?

NO

iii) Do you have other comments on this section?

Section 9: Environmental Claims

New rules for television

Question 45

i) Given BCAP's policy consideration, do you agree that it is justifiable to take the approach of the present Radio Code and provide detailed rules on environmental claims in a dedicated section of the BCAP Code? If your answer is no, please explain why.

YES

ii) Taking into account BCAP's general policy consideration, do you agree that BCAP's rules on Environmental Claims are necessary and easily understandable? If your answer is no, please explain why?

YES

Life cycle of the product

Question 46

Do you agree that, provided the claim is thoroughly explained and does not mislead consumers about the product's total environmental impact, it is reasonable to allow a claim about part of an advertised product's life cycle? If your answer is no, please explain why?

YES

Other Questions

Question 47

i) 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?

NO

ii) Do you have other comments on this section?

Section 10: Prohibited Categories

The acquisition or disposal of units in collective investment schemes not authorised or recognised by the Financial Services Authority

Question 48

i) Given BCAP's policy consideration, do you agree that unregulated collective investment schemes should be a prohibited category of broadcast advertisement, with the caveat that, if a broadcaster can demonstrate compliance with COBS 4.12, BCAP may grant an exemption? If your answer is no, please explain why.

YES

ii) Do you agree that rule 10.1.9 should be included in the new BCAP Code? If your answer is no, please explain why.

YES

Betting tips

Question 49

i) Given BCAP's policy consideration, do you agree that the ban on TV and radio advertisements for betting tips should be relaxed? If your answer is no, please explain why.

NO - gambling is damaging so rules shouldn't be relaxed

ii) Given BCAP's specific policy objectives to protect under 18s and the vulnerable and to prevent misleading and irresponsible claims in betting tipster advertisements, do you agree that BCAP's proposed rules are necessary and easily understood? If your answer is no, please explain why.

NO – complex wording

Private investigation agencies

Question 50

i) Given BCAP's policy consideration, do you agree that the ban on TV advertisements for private investigation agencies should be relaxed? If your answer is no, please explain why.

YES

ii) Given its specific policy objective, do you agree that BCAP's proposed rule 29.2 is necessary and easily understood? If your answer is no, please explain why.

YES

Question 51

Given BCAP's policy consideration, do you agree that proposed rule 29.1 should be included in the proposed BCAP Code? If your answer is no, please explain why.

YES

Commercial services offering individual advice on personal or consumer problems

Question 52

i) Given BCAP's policy consideration, do you agree that the ban on TV advertisements for commercial services offering individual advice on consumer or personal problems should be relaxed? If your answer is no, please explain why.

YES

ii) Given BCAP's specific policy objectives, do you agree that BCAP's proposed rule 26.2 is necessary and easily understood? If your answer is no, please explain why.

YES

Question 53

Given BCAP's policy consideration, do you agree that proposed rule 26.1 should be included in the proposed BCAP Code? If your answer is no, please explain why.

YES

Pornography

Question 54

i) Given its policy consideration, do you agree with BCAP's proposal to relax the present prohibition on TV advertisements for pornography products and allow them to be broadcast on encrypted elements of adult entertainment channels only? If your answer is no, please explain why.

NO – children can access adult channels

ii) Given its specific policy objective, do you agree that BCAP's proposed rules are necessary and easily understood? If your answer is no, please explain why.

NO – this is a complex issue

iii) Given BCAP's policy consideration, do you agree that advertisements for R18-rated material should be permitted to be advertised behind encrypted elements of adult entertainment channels only but that the content of those advertisements themselves must not include R18-rated material or its equivalent? If your answer is no, please explain why.

NO – shouldn't be on at all

Offensive weapons and replica guns

Question 55

Given its policy consideration, do you agree with BCAP's proposal to strengthen the present prohibition on TV advertisements for guns by prohibiting advertisements for offensive weapons and replica guns? If your answer is no, please explain why.

YES

Question 56

Given its policy consideration, do you agree with BCAP's proposal to extend the present radio exception to the rule for references to clay pigeon shoots in advertisements only if they are promoted as part of a wider range of outdoor pursuits? If your answer is no, please explain why.

YES

Breath-testing devices and products that purport to mask the effects of alcohol

Question 57

Given its policy consideration, do you agree with BCAP's proposal to extend to radio the present TV ban on advertisements for breath-testing devices and products that purport to mask the effects of alcohol? If your answer is no, please explain why.

YES

Other Questions

Question 58

i) Taking into account its general policy objectives, do you agree that BCAP's rules, included in the proposed Prohibited Categories section, are necessary and easily understandable? If your answer is no, please explain why.

YES - disagree with pornography

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Prohibited Categories rules that are likely to amount to a significant change in advertising policy and practice, which are not reflected here and that you believe should be retained or otherwise given dedicated consideration?

NO

ii) Do you have other comments on this section?

Section 11: Medicines, Medical Devices, Treatments, and Health

Services including clinics, establishments and the like offering advice on, or treatment in, medical, personal or other health matters

Question 59

Given BCAP's policy consideration, do you agree that rule 11.9 should be included in the proposed BCAP Code? If your answer is no, please explain why.

YES

Medicinal claims

Question 60

Given BCAP's policy consideration, do you agree that rule 11.4 should be included in the proposed BCAP Code? If your answer is no, please explain why.

YES

The use of health professionals in advertisements

Question 61

i) Given BCAP's policy consideration, do you agree that, unless prevented by law, it is not necessary to maintain the present prohibition on the use of health professionals in TV advertisements for products that have nutritional, therapeutic or prophylactic effects and in radio advertisements for treatments? If your answer is no, please explain why.

YES

ii) Given BCAP's policy consideration, do you agree that rules 11.6, 11.7 and 11.8 should be included in the proposed BCAP Code? If your answer is no, please explain why.

YES

Family planning centres

Question 62

- i) Given BCAP's policy consideration, do you agree that it is necessary to maintain a rule specific to post-conception advice services and to regulate advertisements for pre-conception advice services through the general rules only?

NO – should keep existing rule, not become more liberal

- ii) Given BCAP's policy consideration, do you agree that rule 11.11 should be included in the proposed BCAP Code? If your answer is no, please explain why.

NO – not needed

Hypnosis-based procedures (including techniques commonly referred to as hypnotherapy), psychiatry, psychology, psychoanalysis or psychotherapy

Question 63

Given BCAP's policy consideration, do you agree that rule 11.10, supported by rule 11.9, should be included in the proposed BCAP Code? If your answer is no, please explain why.

YES

Remote personalised advice

Question 64

- i) Do you think the additional requirement, that advice must be given in accordance with relevant professional codes of conduct should be extended to TV, in rule 11.13? If your answer is no, please explain why

YES

- ii) Do you think the additional requirement, that advice must be given in accordance with relevant professional codes of conduct should be extended to TV, in rule 12.3 in the Weight Control and Slimming Section? If your answer is no, please explain why.

YES

Radio: sales promotions in medicine advertisements

Question 65

Given BCAP's policy consideration, do you agree with BCAP's proposal to delete radio rule 3.4.28? If your answer is no, please explain why.

NO - exposes public to misuse

Anti-drugs and anti-AIDS messages

Question 66

Given BCAP's policy consideration, do you agree with BCAP's proposal to delete the radio rule on anti-AIDS and anti-drugs messages from BCAP's proposed Code? If your answer is no, please explain why.

NO – new proposed rule is too vague and open to abuse

Other questions

Question 67

i) Taking into account BCAP's general policy objectives, do you agree that BCAP's rules, included in the proposed Medicines, Medical Devices, Treatments and Health Section are necessary and easily understandable? If your answer is no, please explain why.

NO – the wording is complex and vague, with liberal proposals

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Medicines, Medical Devices, Treatments and Health 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?

iii) Do you have other comments on this section?

Section 12: Weight Control and Slimming

Irresponsible use of a weight-control or slimming product or service

Question 68

Given BCAP's policy consideration, do you agree that 12.4, which presently applies to TV advertisements for weight control or slimming products or services, should equally apply to those advertisements on radio? If your answer is no, please explain why.

YES

Dietary control and weight-loss surgery

Question 69

Given BCAP's policy consideration, do you agree that broadcast advertisements for establishments offering weight control or slimming treatments are acceptable only if they make clear that dietary control is necessary to achieve weight loss? If your answer is no, please explain why?

YES

Question 70

Given BCAP's policy consideration, do you agree that advertisements for establishments that provide immediate weight loss surgery are acceptable but those must not refer to the amount of weight that can be lost? If your answer is no, please explain why?

YES

Calorie-reduced or energy-reduced foods and drinks

Question 71

Given BCAP's policy consideration, do you agree that a broadcast advertisement for a calorie-reduced or energy-reduced food or drink may be targeted at under 18s, provided the advertisement does not present the product as part of a slimming regime and does not use the theme of slimming or weight control? If your answer is no, please explain why.

YES

Safety and efficacy of slimming or weight control products or services

Question 72

Given BCAP's policy consideration, do you agree that, before it is advertised, the safety and efficacy of a slimming or weight control product must be assessed by a qualified independent medical professional or another health specialist professional? If your answer is no, please explain why.

NO – protect consumer with medical advice only

Establishments offering medically supervised treatment

Question 73

Given BCAP's policy consideration, do you agree that advertisements for overseas clinics and other establishments offering medically supervised treatments are, in principle, acceptable if they are run in accordance with broadly equivalent requirements to those established by the Department of Health's National Minimum Standards Regulations? If your answer is no, please explain why?

YES

Targeting the obese

Question 74

Given BCAP's policy consideration, do you agree it is justified to allow advertisements for non-prescription medicines that are indicated for the treatment of obesity and that require the involvement of a pharmacist in the sale or supply of the medicine to target people who are obese? If your answer is no, please explain why?

YES

Rate of weight loss

Question 75

Given BCAP's policy consideration, do you agree that rule 12.9 should include a rate of weight loss that is compatible with generally accepted good medical and dietary practice? If your answer is no, please explain why.

YES

Very Low-Calorie Diets (VLCDs)

Question 76

Given BCAP's policy consideration, do you agree that rule 12.14.4 should reference 'Obesity: the prevention, identification, assessment and management of overweight and obesity in adults and children' (2006) published by the National Institute for Health and Clinical Excellence' and not Government COMA Report No.31, The Use of Very Low Calorie Diets? If your answer is no, please explain why?

YES

Other questions

Question 77