

Betting websites featuring individuals under the age of 25: Consultation Evaluation

Question 1:

Do you agree with CAP's proposal to revise CAP Code rule 16.3.14? If not, please explain why.

| Respondent making points <u>in favour</u> of the proposal: | Summary of significant points: | CAP's evaluation: |
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| 1.1 Advertising Association | It is unreasonable that current rules prohibit gambling operators from using images of sportsman and women under the age of 25 to illustrate betting selections on sports betting websites where they are offered for sale. This contradicts the idea of a level-playing field as betting shops are allowed to include images of individual sportsmen and women under the age of 25 to illustrate some selections offered in their shops, while online operators are denied this opportunity in their "virtual shops". | CAP acknowledges the desirability of having proportionate rules that take into account the wider framework governing gambling. However, CAP considers that its primary concern is to ensure that any amendment to rule 16.3.14 is proportionate, targeted and accords with the Code's objective of ensuring the gambling advertising is responsible and protects children, young people and other vulnerable groups. |
| 1.2 Advertising Association | We therefore believe that the proposed amendment is a reasonable response to a practical issue facing responsible gambling operators providing and managing online content which is targeted at over 18s and therefore unlikely to be viewed by those under the minimum legal age for gambling. The concerns raised about the current rules are an unintended consequence of the successful online remit extension and a small adjustment in response to this problem is an example of a smart regulation approach. | CAP agrees. |
| 1.3 Advertising Association | We believe that the proposed amendment will not contravene the requirements in the Gambling Act 2005 which dictate that rules must protect children and other vulnerable persons from being harmed or exploited by gambling. | CAP agrees. |

**1.4 TSE
(Gibraltar) LP
t/a Betfair**

The restrictions imposed on gambling operators by rule 16.3.14 are currently disproportionate in guarding against the risk of gambling marketing communications proving harmful to children and young people. In addition to the protective measures contained within the CAP Code it must be noted that it is a criminal offence to invite a child or young person to gamble under section 25 of the Gambling Act 2005.

Betfair believes the combination of statute, licence conditions and self-regulation which governs the operation of the gambling industry particularly in relation to age restriction and verification procedures provide additional protection to young people. [...]

We have a robust and comprehensive array of age-verification procedures to ensure that young people are not able to gain access to our products and services:

- a) Betfair is fully compliant with the Remote Gambling Association's Codes for Social Responsibility and Age Verification.
- b) Betfair's under-age policy is clear, and information and warnings are carried on our homepages, within advertising and during account registration, making it clear to all consumers that it is illegal for anyone under the age of 18 to open an account or to gamble on Betfair.
- c) Our rigorous age-verification process takes customers through multiple stages to confirm their identity and age.
- d) Funding amount restrictions are imposed and withdrawals are blocked on all accounts until age has been verified and full account suspension is imposed where age cannot be verified from a reliable independent source such as the electoral roll.
- e) We constantly monitor our processes and perform regular random checks on all accounts.
- f) Our website pages are Internet Content Rating Association labelled which allows us to be recognised as a gambling provider, and we encourage our customers to use parental filtering programmes.

In the context of the above measures and the substantial protection offered by other rules of the Code, we believe that the proposed rule amendment will have no negative impact on the wellbeing of children and young people.

CAP notes the stringent requirements governing gambling operators under the terms of their licenses and the efforts of industry to promote responsibility with regard to children and young people.

Although CAP considers that this is an important consideration in its decision to amend rule 16.3.14, it notes that much of the content on betting websites, principally, details of markets and betting selections, can be viewed without age verification by children and young people.

Central to CAP's decision, is the very low likelihood of children viewing betting websites. Although it acknowledges that online gambling and online marketing communications in general can appeal to children through their content or in some cases their placement, it considers, as noted in the consultation document, that sports betting websites are clearly directed and almost exclusively received by an audience that is adult and, to an extent, self-selecting. It is likely to comprise of those who have already made a series of transactional decisions to enquire further, either on the basis of advertising elsewhere or a particular interest in the service offered by the website. This audience is narrow and a large part of it is likely to be made up of returning customers who, by virtue of their holding an account, have already been subject to age verification measures.

Furthermore, CAP would stress that rule 16.3.14 will continue to apply as it previously did to marketing communications that promote betting websites, either on a brand level or through the advertising of particular markets or bets.

1.6 Gambling Commission

In 2007, the Gambling Commission imposed code of practice on gambling operators requiring that they comply with advertising codes of practice [...] We expanded this code of practice in 2008 [...] We wanted to extend the code to cover media beyond those explicitly covered in the code without inadvertently outlawing existing uncontroversial practice [...]

For the carve out on 'point of sales advertising material' the discussions centred on the long established practice of displaying posters featuring forthcoming sporting events and betting opportunities in betting shop windows. In some cases these pictures would feature jockeys, footballers and other sportspeople aged under 25. This practice had never caused any concern, and the extension of the code was not intended to outlaw this practice. At the time we did not say anything specifically about the remote environment.

Having now considered the specific point, in our view, photographs used on gambling websites, to illustrate forthcoming sporting events and betting opportunities serve the same purpose as photographs in betting premises. Therefore we consider the term 'point of sale advertising material' on our code of practice to encompass such use of images on websites as well, being the remote equivalent of physical photographs. So where you have a list of betting opportunities on a web page, relating to particular snooker matches, tennis matches or the like, we would not see any problem, with an image of one of the protagonists being used alongside that offer, even if they were aged under 25.

We would however be concerned to see "push" web content – pop-ups, direct marketing emails and like – including images of sportspeople aged under 25 – as we would see these web vehicles as being more akin to broadcast and print advertising which are covered by the advertising codes.

It would be wholly unacceptable for a gambling website to feature images of people aged under 25 engaging in gambling. So we require that casino or bingo websites, whether offering remote gambling or advertising and promoting physical premises, use only images of people clearly aged over 25 to illustrate the gambling opportunities.

CAP notes the underlying issue is the effect of the extension of the online remit of the CAP Code (ORE) on the regulatory framework. This is an important consideration in CAP's decision to make the amendment.

CAP also notes two key distinctions made by the respondent; the distinction between the websites where bets are offered for sale and other online advertising media and the distinction between individuals being featured in the context of being the subject of the bet being offered and individuals engaging in or promoting gambling.

The need to take these distinctions into account was a key objective in the formulation of the proposed amendment to rule 16.3.14. Notwithstanding the evaluation of comments received on the wording of the proposed amendment (see section 2 below), CAP considers that the wording proposed amendment to rule 16.3.14 meets this objective.

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| 1.7 | Institute of Practitioners in Advertising | Since the types of website where such advertisements would typically feature are unlikely to be viewed by children, the potential for harm by this limited relaxation of the rule seems minimal. | CAP agrees. |
| 1.8 | Remote Gambling Association (RGA) | The members of the RGA believe that the current requirement to remove photographs of people who are, or appear to be, under the age of 25 from betting websites is disproportionate. There are a number of factors which cause us to believe this including: | (see the evaluation of comment 1.4 above) |
| | | <ol style="list-style-type: none"> 1. It is illegal to accept bets from people under the age of 18 in the UK. Remote operators advertising in the UK have to abide by strict age verification procedures required by their licence. 2. The requirements of the licences held by our members mean that all operators require customers to open accounts. If the age of the person cannot be verified stakes will be returned and the account is closed. Therefore, no opportunity arises for under 18s to bet on line even if they can view the site's contents. 3. The number of young people (i.e. those under 18 years of age) gambling on line is very small. No independent research has shown that on-line gambling is especially attractive to young people. 4. Betting operators' websites are a retail portal rather than a marketing tool. They do not provide entertainment or seek to detain the customer on the site. | |

| | Respondent making points <u>against</u> the proposal: | Summary of significant points: | CAP's evaluation: |
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| 1.9 TSE (Gibraltar) LP t/a Betfair | <p>Although this is outside the scope of the proposal, if it is accepted that there is no or no appreciable risk of harm to children and young people of allowing this limited relaxation on the bases set out on page 12 of CAP's consultation paper, we would invite CAP to consider whether the amendment to rule 16.3.14 should in fact extend to any marketing communication which is sent directly by a gambling operator to an age-verified customer. The effect of this scope extension would not further increase the risk of harm to children or young people as the marketing communications concerned would be seen only by the same self-selecting audience as those contemplated by the rule amendment the subject of CAP's consultation.</p> | <p>CAP notes the respondent's point relating to the similarity between betting websites, as characterized in the amendment to rule 16.3.14 and a direct, targeted form of marketing communication: principally, that strict targeting mechanisms can have a similar, if not more thorough effect, in limiting the exposure of children and young people to marketing communications, as the various stages of filtering an audience through a series of transactional decisions taken on the way to view a betting website. The process initiated by CAP, however, was intended to be narrow, and based on the need to assess a problem brought about by the ORE: the extension of a prohibition on the use of people under the age of 25 on betting websites, which did not exist under the previous regulatory framework. CAP chose to consult publicly in order to assure itself that it might restore the pre-ORE arrangement without causing harm.</p> <p>The respondent's proposal relates to various types of marketing communication that have always been covered by rule 16.3.14 and its predecessors. Although the respondent highlights a valid point, CAP does not consider that it is desirable as part of this process to question the boundaries of rule 16.3.14 and the wider principle of maintaining a restriction on the use of people under the age of 25. CAP is also mindful of the Gambling Commission's response (see comment 1.6), endorsing the proposed amendment to rule 16.3.14 but expressing disquiet at the prospect of any further relaxation.</p> <p>Notwithstanding these concerns, CAP is open to the possibility of exploring the ramifications of targeting mechanisms, such as age-gating, for all-media restrictions aimed at protecting children such as the under-25s rule. However, such work should form part of a separate process not restricted to advertising in the gambling sector.</p> | |

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| <p>1.10 The Methodist Church (also on behalf of the Baptist Union of Great Britain and the United Reform Church)</p> | <p>The CAP code makes reference to objective 3 of the Gambling Act 2005, intended to protect children and other vulnerable groups. Children are early and enthusiastic adopters of technology, including social media. Gambling, gambling advertising and the use of social media to promote gambling and quasi-gambling activities have even increased notably since 2011. As such, children are at specific risk through exposure to the online media. The growing association of sport and gambling advertising is also a particular threat to young people who are susceptible to the presentation of gambling as glamorous, and associated with sporting heroes.</p> | <p>CAP considers that the marketing presence of a gambling operator in social media is highly unlikely to meet the criteria in the amendment limiting its scope to in “marketing communications that appear in a place where a bet can be placed directly through a transactional facility, for instance, a gambling operator’s own website.”</p> |
| <p>1.11 The Methodist Church (also on behalf of the Baptist Union of Great Britain and the United Reform Church)</p> | <p>The proposed exemption would relax controls in an area combining the online environment and sport, which would be all the more dangerous to young people. Even if the safeguards against online betting by minors are sufficient, they can still access the website. The specific use of sporting figures under the age of 25 would represent a move in the direction of attempting to draw young people to online betting.</p> | <p>As noted in the evaluation of comment 1.4 above, although CAP acknowledges that children and young people can still access most of the content on betting websites, they are unlikely to do so. This is owing to the targeted nature of the content, the self-selecting and age verified nature of the audience and the fact that the age verification mechanisms in place make it very difficult for those under the age of 18 to use the services offered.</p> |
| <p>1.12 The Methodist Church (also on behalf of the Baptist Union of Great Britain and the United Reform Church)</p> | <p>This would mark a dangerous precedent. Other sections of the gambling industry would be likely to seek gain exemptions, progressively eroding the purpose of the Under 25 ban. Once websites were allowed to feature people who are or seem to be under 25 in significant roles, this could all too easily be used as grounds to extend advertising through the social media. In short, the March 2011 extension was not anomalous but an appropriate response.</p> | <p>Additionally, as noted in the evaluation of comment 1.10, CAP is satisfied that the restriction on the way in which images of those under the age of 25 will be permitted will exclude approaches that seek to promote a gambling operator, a service offered or gambling in general.</p> <p>CAP does not consider that the proposed amendment represents a precedent that forces it in a particular direction with regard to future calls for regulatory change. CAP is committed to ensuring that children and young people are protected from the potential harms associated with gambling.</p> <p>Rule 16.3.14 is intended to provide enhanced protection to young people and entry-level gamblers to ensure that they are not presented with marketing approaches that with youth appeal. Its other key purpose is to provide clarity for the ASA in judging complaints relating to youth-appeal. However, CAP is also committed to Better Regulation principles and, when considering calls for regulatory change, it will assess the available evidence before coming to a decision.</p> |

1.13 The Methodist Church (also on behalf of the Baptist Union of Great Britain and the United Reform Church)

Supporters of the deregulation in the Gambling Act 2005 believed that liberalising gambling regulation could lead to an increase in gambling participation while limiting problem gambling. This has not happened. Problem gambling has risen. Problem gambling among young people is associated with long-term addiction and financial and social harm.

The proposal addresses a set of circumstances, which are virtually unique: where a gambling product is inextricably linked to an individual by virtue of their performance being the subject of a bet. By means of comparison, these are circumstances that could not occur in relation to alcohol, another sector where CAP employs a restriction on people under the age of 25 appearing in marketing communications. Alcohol products cannot be similarly conflated with an individual.

Furthermore, CAP did not intend the ORE to specifically extend the application of rule 16.3.14 to betting websites. The ORE came in response to broader, general concerns about the lack of controls over marketing communications on marketers' own websites. CAP would point out that betting websites, along with all other websites run by gambling operators, were governed by an existing and accepted regulatory framework operated by the Gambling Commission.

CAP notes the respondent's point but would disagree about the strength of conclusions that can be drawn from the available data. It understands that the British Gambling Prevalence Survey 2010 showed that participation in gambling overall had increased – 73% of the population (aged 16 and over) participated in some form of gambling in the past year. Problem gambling prevalence was also shown to increase, although this figure was on the margins of statistical significance. Of the two measures used DSM-IV and Problem Gambling Severity Index (PGSI), DSM-IV problem gambling prevalence was higher in 2010 (0.9%) than in 2007 and 1999 (0.6%) for both years. The PGSI measure did not increase significantly between survey years – estimates were 0.5% in 2007 and 0.7% in 2010.

CAP notes the importance of maintaining protections against problem gambling-related harms that might stem from advertising. Section 16 of the Code is in large part dedicated to addressing such concerns.

While mindful of wider concerns about online marketing for gambling products in general, CAP considers that this issue must be considered in relation to betting websites specifically. CAP is satisfied that the addition of a narrow exemption to Rule 16.3.14 is highly unlikely to result in harm to children or young people.

1.14 The Methodist Church (also on behalf of the Baptist Union of Great Britain and the United Reform Church)

Our denominations would like to see the regulatory codes around gambling show greater recognition of the precautionary principle for vulnerable groups, especially children.

As an evidence-based regulator, CAP is called upon to assess arguments for or against changes to advertising policy to ensure the Codes remain fit for purpose. CAP expects that calls to amend advertising policy are backed by the best supporting evidence available, which in some cases may be a mixture of different types of research, in order to justify why a regulatory intervention is necessary. This is because the CAP Code imposes material and necessary restrictions on all marketers' freedom of speech; CAP must therefore demonstrate that any intervention it takes is proportionate to the harm or risk identified.

CAP also acknowledges that there are instances where evidence is lacking or incomplete, or for other reasons there may be cause to rely on the precautionary principle. However, CAP considers that there must be a good reason to believe that the specific practice may result in harm. That harm must be identified to ensure that any intervention is appropriate to the likelihood of risk or harm so as to ensure intervention adheres to Better Regulation principles and remains proportionate, consistent, accountable and targeted where action is needed.

CAP does not consider it appropriate to resort to the precautionary principle in this case for several different reasons.

Before ORE in March 2011, gambling operators were permitted to include images of those under the age of 25 in a similar manner to that envisaged by the amendment. CAP is unaware of any concerns stemming from this and notes the Gambling Commission, which was previously responsible for regulating marketing communications appearing on betting websites (see comment 1.6 above), endorses the proposal.

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| 1.15 Gambling Watch UK | <p>According to the recent comprehensive review of <i>Internet Gambling: Current Research Findings and Implications</i> by Sally Gainsbury of Southern Cross University, Australia (2012), school-aged children and adolescents are engaging in Internet gambling. In fact research from a number of countries, including the UK, suggests that they are engaging in gambling online at higher rates than adults. Gainsbury concludes that, ‘... current age verification measures are not sufficiently effective in preventing underage play... few sites have highly reliable measures to assess the age and identity of the individual actively gambling online at any one time’ (pp. 87, 89). A complication is that many online sites offer ‘practice’ or ‘free play’ games, typically with no age restrictions but often linked to real money sites or games, and assumed by many to be a way of training future customers.</p> <p>The idea, suggested by the Remote Gambling Association, that online gambling is not attractive to under 18-year-olds, and that age verification is strict and robust, is not in line with much of the evidence, nor is the suggestion that the audience for online betting is a narrow one, consisting of people who have already made their decision to engage in this form of gambling.</p> | <p>CAP disagrees. The amendment to the Code does not relate online gambling in general but to a very specific type of website content i.e. websites or portions of websites where betting selections are offered for sale by a direct response mechanism. For the avoidance of doubt, it does not extend to cover other online gaming content, which has been identified in various studies as being potentially of appeal to children. Even if the content, for instance, online casino or other games, were part of the same gambling operator’s website, the amendment to the rule would not extend to that content and any use of an individual under the age of 25 is most likely to breach the amended rule 16.3.14.</p> <p>CAP would emphasise that, whilst studies suggest that some forms of online gambling may be of concern, CAP has seen little evidence to suggest that such concerns attach to betting websites. CAP is also mindful of the fact that, before CAP’s extension of online remit in March 2011, gambling operators were permitted to include images of those under the age of 25 in a similar manner to that envisaged by the amendment.</p> |
| 1.16 Gambling Watch UK | <p>The evidence is that engagement in online gambling is increasing in Britain and internationally and that engagement in online gambling is more strongly associated with problem gambling than engagement in non-online forms of gambling (Gambling Commission, 2012; Griffiths et al., 2011; Gainsbury, 2012). Online gambling is more heavily concentrated amongst younger adults, both in Britain and elsewhere, than is the case for other forms of gambling (Wardle et al., 2011; Gainsbury, 2012). There is evidence, therefore, that online gambling may be particularly dangerous and that young people may be most at risk.</p> | <p>CAP would point out that the amendment is narrow and focused on a specific need arising from CAP’s extension of remit to cover marketer’s own websites. The amendment will not therefore result in the use of individuals under the age of 25 in marketing communications for gambling products in general.</p> |
| 1.17 Gambling Watch UK | <p>Regarding advertising specifically, research has indicated that young people are highly influenced by gambling advertising (Gainsbury, 2012). Amongst reasonable rules regarding the advertising of gambling suggested by Gainsbury (p. 93) is that ‘Gambling advertisements should not feature celebrities popular among youth’. Many sporting celebrities are likely to be in the 18 to 25-year-old bracket. Nor does it seem credible to claim that the suggested modification to the Code would offer no scope for using under-25s to endorse betting products or betting more generally.</p> | <p>CAP acknowledges the potential for children and young people to be influenced by celebrities, who are often regarded as aspirational figures, endorsing a product or brand. This is why the amendment maintains the existing restriction on the use of those under the age of 25 in marketing communications other those defined in the scope of the exemption. Furthermore, the use of such individuals on, for example, a betting website is limited to illustrations of betting selections offered; they may not be used for promotional purposes.</p> |

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| 1.18 | Gambling Watch UK | <p>It is quite widely believed amongst people in public health and in gambling regulation that online gambling represents the greatest challenge to be faced in the next few years in the prevention of problem gambling. However, policy in this area is new territory for all jurisdictions and there remain many gaps in Internet gambling research; for example, what constitute the key risks associated with online gambling and what policies and procedures can be implemented to prevent online gambling-related harms (Gainsbury, 2012). The fluid state of affairs regarding online gambling in Britain is illustrated by the fact that a new Gambling Bill regarding the regulation of online gambling sites is currently under consideration; if it goes through, the effect on online gambling and problem gambling in Britain is uncertain. It would be right to be cautious about other aspects of policy affecting online gambling at this time.</p> | <p>CAP understands that the Gambling (Licensing and Advertising) Bill, presently being considered by parliament, will make significant changes to how remote gambling services are regulated in the UK. It understands that the key change will be the shift to a licensing regime based on the place of consumption.</p> |
| 1.19 | Quaker Action on Alcohol and Drugs (QAAD) | <p>We do not agree with this proposal. We appreciate that it is intended to have limited provenance, but it weakens the principle that betting should not appeal to, or influence children and young people, by using role models who are potentially very close to their own age.</p> | <p>(See evaluation of comment 1.9 above)</p> |
| 1.20 | Quaker Action on Alcohol and Drugs (QAAD) | <p>These websites are <i>viewable</i> by minors, even though age-verification systems are in place for betting itself. It is also the case that websites are becoming more and more available on mobile devices; minors could not be protected from seeing images of young role models associated directly with gambling. Age-verification systems are helpful but not fool-proof.</p> | <p>(See evaluation of comment 1.11 above)</p> |
| | | <p>If these sites are mainly for adult gamblers who know the sport on which they bet, they will know who the players are without needing identification from pictures – and if a sportsperson under 25 is not pictured, adult gamblers are likely to understand why. Team sports such as football and racing can be offered for betting on-line without accompanying images, and this would be no different.</p> | |
| 1.21 | Quaker Action on Alcohol and Drugs (QAAD) | <p>The question of parity and a media-neutral approach is an important issue. If this form of advertising were to occur, other forms of gambling would be likely to want to offer similar images on posters, in newspapers or other marketing communications - or even on television. It is also likely that televisions will be able to be used interactively in a transactional way in the not too distant future. Once the 'no under 25' principle has been breached, it would become more difficult to maintain this principle in other forms of communication.</p> | <p>(See evaluation of comment 1.9 above)</p> |

Question 2:

Do you agree to the wording of the proposed amendment to CAP Code rule 16.3.14? If not, please explain why and include any alternative wording that you consider to be more appropriate.

| | Respondent | Summary of significant points: | CAP's evaluation: |
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| 2.1 | Advertising Association | <p>We support the wording as it achieves a targeted exemption which is only applicable at the point of sale on sports betting websites. We agree that it should not extend to allowing images of sportsmen and women under the age of 25 being featured in other marketing communications covered by the CAP Code. We think it is important that it is clearly stated that other media leading consumers to a betting website remain subject to current rules.</p> | <p>CAP considers that the wording of the amendment is sufficient to make clear its scope of application i.e. to very narrowly defined types of media "where a bet can be placed directly through a transactional facility, for instance, a gambling operator's own website".</p> |
| 2.2 | TSE (Gibraltar) LP t/a Betfair | <p>It is not clear whether the second part of the rule (as amended) will include any person under 25, or whether it is intended to apply only to individuals aged between 18 and 24.</p> <p>The first part of the rule states that under 18s may not be featured in a gambling marketing communication. However, the second part states that, in limited circumstances, "individuals who are, or seem to be under 25 years old" may be featured. We believe this leaves room for doubt as to whether it would be permissible to use the image of an individual who is (for example) 17 years old in the context described in the second part of the rule.</p> | <p>CAP acknowledges the respondent's point and has made amendments to the proposed wording to clarify its intended meaning.</p> |

**2.3 TSE
(Gibraltar) LP
t/a Betfair**

The proposed amendment to rule 16.3.14 states that the relaxation of the rule shall only apply where the individual in question is “used to illustrate specific betting selections where that individual is the subject of the bet offered”.

It is not clear to us how this will be interpreted, and we believe it is necessary to refine this part of the rule amendment to leave no room for uncertainty.

By way of example, does this mean that an image of (for example) Theo Walcott (aged 23) can be used only to illustrate a specific betting market in which he features as a player? Say, a market on Theo Walcott to be the first goalscorer in a particular football match? The proposed revised wording of the rule suggests this extremely narrow interpretation could be the correct one, although this would seem unduly and unnecessarily restrictive.

Does CAP instead intend the wording to mean that Theo Walcott’s image can be used to illustrate any betting market in a match in which he is expected to play? Or to illustrate any betting market in a match in which his team is playing?

Further, could Walcott’s image be used, for example, in a banner which promotes a generic football app, or the live streaming of a forthcoming football tournament?

Finally, would it be permissible under the rule amendment to use Walcott’s image to promote a free bet offer, an enhanced price, or any other marketing promotion offered on a gambling operator’s website?

We believe that all of the above examples should be permissible on the basis that there is no apparent justification of restricting the relaxation of the rule to allow images of under 25s only where those individuals are illustrating specific betting selections in which they are featured or named. We support the notion that under 25s may not be used by gambling operators to endorse either their brand or gambling more generally in marketing communications, whether online or not. However, we would welcome your review of the above wording in order to make it clear that any of the above uses would fall within the scope of the amendment.

At a basic level, CAP’s intends the amendment to allow the use of images of the people under the age of 25 to illustrate a betting selection. Clearly, in team sports in particular, a player can be the direct subject of bets on his or her performance or the indirect subject of wider bets on the team’s performance.

It will be for the ASA to assess cases on a case-by-case basis, however, CAP considers that the further from the individual’s context as the subject of the bet, the greater the likelihood of a breach of the revised rule. For instance, an approach using an image of a football player in action used to promote a betting brand or a wider promotional offer is highly likely to be problematic, whereas the same image used to promote a bet featuring that player is not.

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| 2.4 Gala Coral Group | <p>We would encourage CAP to consider extending the above rule to allow the use of under 25s imagery on promotional pages that are accessible only via gambling websites. Without this, the proposed rule allows the use of an image to illustrate website odds relating to an under 25 player, but prevents the use of that image to illustrate offers relating to them elsewhere on the website. This would seem to be illogical. We believe that extending the rule to allow this second website only scenario would be in keeping with the supporting evidence in the consultation and would help achieve a more consistent approach.</p> | CAP disagrees for the reasons outlined in the evaluation of comment 1.9 above. |
| 2.5 Gambling Commission | <p>We would, however, suggest that the draft of the amended code be adjusted in such a way that it is clear that any images of under 25 sportsmen and women show the individuals within their sporting context e.g. on the football pitch in their professional sporting kit, and not within a gambling context, e.g. in a casino or bookmaker's shop. Similarly, bets on the winners of television competitions, such as X-Factor or Strictly Come Dancing would depict them performing or dressed for performance. We acknowledge that you have gone some way towards capturing this point but would like to suggest some alternative wording: [...]</p> <p style="padding-left: 40px;">‘Individuals who are, or seem to be under 25 years old may be featured playing a significant role only in marketing communications that appear in a place where a bet can be placed directly through a transactional facility, for instance, a gambling operator’s own website. The individual may only be used to illustrate specific betting selections where the individual is the subject of the bet offered and the image used must show them in the context of the bet and not in gambling context.’</p> | CAP acknowledges the respondent’s point and has made amendments to the proposed wording to clarify its intended meaning. |
| 2.6 Institute of Practitioners in Advertising | <p>With the clarification in the second sentence of the proposed amendment, the wording seems to narrow the scope of the amendment sufficiently.</p> | (See the evaluation of comments 2.2 and 2.5) |

2.7 Gambling Watch UK

A further concern about the proposed revision to the Code concerns the variety of ways in which online gambling can be conducted and the likelihood that this will change rapidly in the future in a way that is difficult to predict. Although the large majority of online gambling may be conducted currently through personal computers connected to the Internet, online operators are developing gambling opportunities for other platforms including mobile gambling undertaken on remote wirelessly connected devices, interactive television and gaming consoles (Gainsbury, 2012). The proposed additional paragraph to the Code is loosely worded in that respect.

CAP took into account the likelihood of further technological developments that will lead to new platforms used by gambling operators. It considers, however, that, in this respect, the amendment is appropriately worded to narrow the potential future scope of the amendment to platforms that are highly similar to betting websites i.e. they are targeted at those aged over 18, their audience is likely to be self-selecting and they offer only age verified services.

The respondent's example of a mobile app fits this model in that such a platform must be downloaded, the process of which would ensure self-selection of the audience, followed up by the effect of age-verified membership to secure the service against use by those under the age of 18.

Additionally, interactive television services are covered under the UK Code of Broadcast Advertising (the BCAP Code), which is entirely separate to the CAP Code.

2.8 Quaker Action on Alcohol and Drugs (QAAD)

The distinctions between different media are converging in various ways; on-line website can include film or other animated material. We are concerned that, in the proposed wording, 'illustration' could include material other than pictures i.e. sports people under 25 in action, or even speaking to encourage gambling. This should not occur, particularly in view of the points made above.

CAP is mindful that the primary focus of the amendment is on images of individuals. However, the wording of the rule is such that it would cover the *featuring* of an individual in a marketing communication. CAP is satisfied that this is sufficient to cover a variety of representations including animations and moving images or even solely audio-based content.

Furthermore, CAP would point out that there is no proposal to allow those under the age of 25 to be featured to promote gambling in general, betting operators or any other offer beyond that of bet which the individual in question is subject.