

# Gambling Risk Factors Exercise

A Regulatory Statement on CAP and BCAP's call for evidence into risk factors associated with advertising that could lead to gambling-related harms



## Contents

Executive summary .....	3
1. CAP, BCAP and the ASA .....	4
2. Gambling rules and guidance.....	5
3. Call for evidence .....	5
4. Evaluation of responses .....	6
5. Next steps.....	8
Contact us .....	9

## Executive summary

The UK Advertising Codes include extensive rules on the content and placement of gambling advertising, both in the traditional and online media. There are general provisions requiring a sense of responsibility in gambling advertising and they make clear the need to protect vulnerable groups. These are complemented by more focused restrictions intended to prohibit advertising approaches that might unduly appeal, for instance to children or by appealing to peoples' financial worries, or that might encourage problematic gambling behaviours. Guidance is provided to help clarify how these and other gambling rules are likely to apply in practice. Together, the rules and the guidance ensure that gambling ads remain responsible and the public receive the right level of protection.

In 2014, CAP and BCAP [reviewed](#) the available research on gambling, its advertising and their potential for harm. The review endorsed their approach to regulating gambling advertising through content, scheduling and placement restrictions supported by guidance to help clarify how the restrictions apply in practice. However, gaps in the evidence base and the need to be vigilant in this area prompted CAP and BCAP to launch a renewed call for evidence on risk factors associated with gambling advertising with a pledge to address risks that are not presently identified and mitigated by existing rules and guidance.

CAP and BCAP invited submissions from industry bodies, treatment providers, academics, NGOs and other regulators. All potential respondents were provided with a document setting out the aims and objectives of the exercise. CAP and BCAP received nine responses, which they have now considered carefully and in detail. They would like to thank all respondents for providing a range of views, evidence and insights on this important topic. The responses helped inform CAP and BCAP's consideration of the policy risks in this area and sense check that the current advertising rules and regulatory framework remain in the right place. Whilst respondents highlighted some risk factors that are already identified and mitigated by existing rules and guidance, CAP and BCAP consider that no new risk factors were brought to their attention.

CAP and BCAP remain open to considering any new evidence of risks, impacts or potential harms related to the advertising of gambling products or services but consider that responses to the latest call for evidence do not indicate a need to make any changes to the rules or guidance at this time.

# 1. CAP, BCAP and the ASA

## 1.1 The Committee of Advertising Practice

CAP is the self-regulatory body that creates, revises and enforces the CAP Code. The CAP Code covers non-broadcast marketing communications, which include advertisements placed in traditional and online media, sales promotions, direct marketing communications and marketing communications on marketers' own websites. The advertiser has primary responsibility for complying with the CAP Code and compliance is not voluntary. Parties that do not comply with the CAP Code will have their ads removed and could also be subject to adverse publicity resulting from a ruling by the [Advertising Standards Authority \(ASA\)](#) or sanctions including the denial of media space, for example.

CAP's members include organisations that represent the advertising, sales promotion and direct marketing and media businesses. Through their membership of CAP member organisations, or through contractual agreements with media publishers and carriers, businesses agree to comply with the Code so that marketing communications are legal, decent, honest and truthful, and consumer confidence is maintained.

By practising self-regulation, the marketing community ensures the integrity of advertising, promotions and direct marketing. The value of self-regulation as an alternative to statutory control is recognised in EC Directives, including for misleading advertising ([Directive 2005/29/EC](#)). Self-regulation is accepted by the Department for Business, Innovation and Skills and Trading Standards as a first line of control in protecting consumers and the industry.

## 1.2 The Broadcast Committee of Advertising Practice

CAP is the co-regulatory body responsible for maintaining the UK Code of Broadcast Advertising (the BCAP Code) under a contracting-out agreement with the [Office of Communications](#) (Ofcom).

Ofcom has statutory responsibility, under the Communications Act 2003, for maintaining standards in TV and radio advertisements. Ofcom entrusted BCAP and the broadcast arm of the ASA with the regulation of broadcast advertisements in 2004 in recognition of CAP and the ASA's successful regulation of non-broadcast advertisements for over 40 years and in line with better regulation principles.

The BCAP Code regulates all advertisements on television channels and radio stations licensed by Ofcom and all advertisements on Sianel Pedwar Cymru (S4C) and S4C digital, including teleshopping channels and any additional television service (including television text services and interactive television services). The BCAP Code is enforced against Ofcom-licensed broadcasters, Sianel Pedwar Cymru (S4C) and S4C digital. Broadcasters are required by the terms of their Ofcom licence, and, for S4C, by statute, to observe the standards set out in the BCAP Code.

The members that make up BCAP include broadcasters and trade associations representing advertisers, broadcasters and agencies. BCAP must seek advice on proposed Code changes from an expert consumer panel, the Advertising Advisory Committee (AAC). In accordance with Section 324 of the Communications Act 2003, BCAP must consult on proposed Code changes. BCAP strives to ensure that its rule drafting is transparent, accountable, proportionate, consistent and targeted where action is needed, in accordance

with the Communications Act 2003. Ofcom must approve Code changes before BCAP implements them.

### 1.3 The Advertising Standards Authority

The ASA is the independent body responsible for administering the Advertising Codes so that all marketing communications are legal, decent, honest and truthful, ensuring that the self-regulatory system works in the public interest.

The ASA receives and investigates complaints from the public and industry. Decisions on investigated complaints are taken by the independent ASA Council. The ASA Council's rulings are published on the [ASA's website](#) and made available to the media. An Independent Review procedure exists for interested parties. If the ASA Council upholds a complaint, the marketing communication must be withdrawn or amended. CAP conducts compliance, monitoring and research to enforce the ASA Council's decisions.

The ASA's work is funded by a levy on the cost of advertising space, administered by the [Advertising Standards Board of Finance](#) (Asbof) and the Broadcast [Advertising Standards Board of Finance](#) (Basbof). These finance boards operate independently of the ASA to ensure there is no question of funding affecting the ASA's decision-making.

Information about the ASA, including the complaint-handling and investigations [procedures](#) and the ASA's [Independent Review procedure](#), is available at [www.asa.org.uk](http://www.asa.org.uk).

## 2. Gambling rules and guidance

In 2014, CAP and BCAP (the Committees) carried out a review which considered the emerging evidence around gambling published since 2007 and what the implications of this might be for the gambling rules in the Codes, which are administered by the ASA.

This review focused on the literature review carried out by Dr Per Binde for the Responsible Gambling Trust in 2013, along with other key research such as advertising exposure data.

The Committees concluded that the literature supported both the current approach underpinning the Codes – that of targeted content restrictions preventing irresponsible appeals to gamble and exposure restrictions prohibiting targeting of gambling advertising at children or young people – and the rules themselves.

On publishing this report, CAP and BCAP acknowledged that this continues to be a highly sensitive area, and reaffirmed their commitment to remain open to any new evidence that might indicate a need to review their rules. In addition to this, the Committees stated their intent to consult experts, industry and other stakeholders to build a more up-to-date picture of risk factors and how they might translate into advertising issues. The objective of this exercise was to produce updated, more detailed guidance to aid the interpretation of the rules, with a particular focus on children and young people's interactions in the online space. In practical terms, CAP and BCAP wanted a better picture of what prohibited approaches, such as portraying gambling as taking priority or as an escape from personal problems, were likely to look like in advertising.

## 3. Call for evidence

To achieve this objective, CAP and BCAP launched a call for evidence around additional risk factors. The Gambling Commission provided support in this process by disseminating

the exercise to a range of relevant stakeholders, including regulators, treatment providers, NGOs and gambling industry bodies.

The call for evidence asked respondents to help inform the Committees' objective to produce enhanced advertising guidance on Gambling Advertising Risk Factors by providing well-evidenced examples of potential links between advertising and gambling-related harm, defined as:

*Advertising content, themes or approaches that are generally irresponsible or might cause, sustain or exacerbate problem behaviours amongst those exposed to a communication: including, behaviours related to problem gambling and under age participation.*

Respondents were asked to propose potential advertising risk factors for problem gambling, and include as much detail as possible, including practical examples of how it might appear in an advertisement, whether it was linked to a specific rule in the CAP or BCAP Codes and what level of risk it posed. Respondents were further asked to provide a rationale and relevant supporting evidence for each proposed gambling advertising risk factor.

## 4. Evaluation of responses

CAP and BCAP received nine responses to their call for evidence from academics, industry, Government bodies, NGOs and sporting bodies.

CAP and BCAP welcome all the input they have received and have carefully analysed all the responses in detail, in order to evaluate how they address the specific questions posed by this exercise. The evaluation table has been published on the CAP website.

In the detailed document setting out the aims and objectives of this exercise, CAP and BCAP clarified their approach for evaluating responses; CAP and BCAP note that some respondents have submitted more general views about gambling advertising, and specific rules within the CAP and BCAP Codes that they consider to be problematic. The Committees note that these points were addressed in their 2014 review and have focused on the specific objective of this exercise; namely to identify specific risk factors which could inform updated guidance on their rules.

Some responses refer to the use of social media by gambling providers as a risk factor for encouraging young people to engage in potentially problematic gambling behaviour, citing supporting evidence which originated in Australia. The Committees are aware that the cultural context and regulatory regime there differ from the UK; Australia has a well-documented prevalence of problem gambling, which is considered in detail in the 2009 Gambling report carried out by the Australian Productivity Commission: <http://www.pc.gov.au/inquiries/completed/gambling-2009/report>.

The Committees acknowledge that international research can offer transferable learnings, and have considered whether the submitted research raises risk factors which could be relevant to the UK market. That research calls for advertising content on social media to be regulated. It also includes data relating to young people (under 18s) seeing gambling promotions on social media, and reports on a survey which indicated that people with gambling problems had reported an increase in problem behaviour as a result of gambling promotions on social media.



The Committees acknowledge that marketing on social media can increase consumer engagement and note that while the “moral dimension<sup>1</sup>” to gambling might make this problematic in itself for some stakeholders, it is nonetheless a legitimate marketing medium. The ASA system has been regulating online marketing communications, including social media content under the control of the marketer, since March 2011 and as such marketing material in this medium must comply with all the rules in the CAP Code. The Committees consider that types of specific harms referenced in this research relating to social media would be prevented by existing rules and guidance, including those that require ads to be socially responsible and those that prevent gambling providers’ advertising from targeting or particularly appealing to children and young people.

Some responses cite evidence around risk factors in “gambling-style social games”, where players might be successful in games with favourable odds that are often free to play, and then progress onto paid-for gambling with significantly less likelihood of winning. Again, the supporting evidence provided for this relates to research carried out in Australia and does not identify any specific risk factors which would fall within the remit of the ASA system. The Committees have had regard to the scoping work<sup>2</sup> carried out by the Gambling Commission on social media and gambling in the UK, and the subsequent statement published in January 2015, which indicated that the potential risks at this stage warrant maintaining a watching brief for regulators, but no further action at this time: <http://www.gamblingcommission.gov.uk/Gambling-data-analysis/Social-media/Social-media-gaming-and-gambling.aspx>

Two responses were submitted from sporting bodies which identify types of bets which are “high risk” in terms of increasing the potential for corruption within sports. While CAP and BCAP recognise the issue these stakeholders seek to address, they consider it to be more relevant to the regulation of sport, rather than a risk factor in problem gambling behaviours.

During this exercise, the Gambling Commission drew the Committees’ attention to a significant piece of research commissioned by local authorities and carried out by Geofutures: “exploring area-based vulnerability and gambling-related harm<sup>3</sup>”. This report goes into significant detail about specific groups of people who have previously been identified as potentially vulnerable to gambling harm, and assesses whether the available evidence supports that definition for each specific group.

Existing CAP & BCAP guidance clarifies that advertisers must protect children, young persons and vulnerable groups from being harmed or exploited by advertising that features or promotes gambling. It goes on to note that although the Gambling Act does not define “vulnerable persons”, in interpreting this provision the ASA will bear in mind those who may be mentally, socially or emotionally immature, those whose judgement is impaired, for example because of alcohol or drug addiction, or those who are at risk of gambling more than they can afford to or want to.

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<sup>1</sup> Gambling is an emotive issue for some people, and there remains a live debate around its proper place in society; not least whether, as a recreational activity, it should be considered a ‘normal’ part of everyday life. This is what Dr Per Binde describes as the “moral dimension” to questions around gambling advertising.

<https://www.cap.org.uk/News-reports/-/media/Files/CAP/Reports%20and%20surveys/CAP%20and%20BCAP%20Gambling%20Review.ashx>

<sup>2</sup> <http://www.gamblingcommission.gov.uk/pdf/Social-gaming---January-2015.pdf>

<sup>3</sup> [http://transact.westminster.gov.uk/docstores/publications\\_store/licensing/final\\_phase1\\_exploring\\_area-based\\_vulnerability\\_and\\_gambling\\_related\\_harm\\_report\\_v2.pdf](http://transact.westminster.gov.uk/docstores/publications_store/licensing/final_phase1_exploring_area-based_vulnerability_and_gambling_related_harm_report_v2.pdf)

The Committees considered the Geofutures report in detail, in order to assess whether it indicated a need for their definition or interpretation of vulnerable people to be widened or elaborated upon in the advertising guidance, and concluded that while that report provides enhanced understanding of what groups might be vulnerable to problem gambling, those vulnerable groups which are well-evidenced are already identified by the existing guidance.

## **5. Next steps**

CAP and BCAP consider that the responses to this call for evidence support their existing guidance, and as such they do not propose to make any amendments to that guidance at this time. However, the Committees acknowledge that this is a highly sensitive area, with new research emerging frequently; they remain open to receiving new information about risk factors and urge stakeholders to share emerging evidence as appropriate.

In addition to maintaining a watching brief on this specific guidance, CAP and BCAP remain alert to developments in the gambling sector and are committed to on-going engagement with other regulators in this field.




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