



The Committee on Advertising Practice's Code Review Consultation

Response by the Baby Milk Action and the Baby Feeding Law Group June 2009

Introduction – why the promotion of breastmilk substitutes should not be permitted

We are pleased to submit a response to this consultation on behalf of Baby Milk Action, the UK member of the International Baby Food Action Network (IBFAN) and the Baby Feeding Law Group (BFLG), an ad hoc group of 23 health professional and lay organizations.

As members of the Steering Group of the Breastfeeding Manifesto Coalition we also endorse the submission sent in on behalf of the BMC.

Our submission is limited to the issues which are agreed policy positions of the above organizations in relation to all marketing of infant and young child feeding products and to health and nutrition claims.

The BFLG has been working since 1997 to ensure that UK and EU policies are in line with the UN standards - namely the *International Code of Marketing of Breastmilk Substitutes*, the subsequent relevant Resolutions, and the *Global Strategy for Infant and Young Child Feeding*.

In the global context the protection and promotion of breastfeeding is the most cost-effective intervention for child survival and could prevent 13–15% of child deaths in low-income countries.¹ Breastfeeding is also the optimum and natural way to feed all babies, regardless of where they live, and in the light of its importance to child health the *International Code* was adopted as a '*minimum requirement*' to be adopted '*in its entirety*' by ALL countries.

Artificial feeding places an unnecessary burden on the environment. There can be no food more locally produced, more sustainable or more environmentally friendly than a mother's breastmilk - a naturally renewable resource which requires no packaging or transport and results in no wastage. Breastmilk substitutes, in contrast are the product of the dairy industry and a number of industrial processes, which are all high energy consuming and polluting of our environment.

Breastfeeding also provides an ideal window of opportunity for obesity prevention. Exclusive breastfeeding

¹ Jones et al. *How many child deaths can we prevent this year?* The Lancet, Vol 362 July 5, 2003 65-71 Child survival 11

protects against rapid weight gain during infancy and may also help in the development of taste receptors and appetite control. Systematic reviews have demonstrated an association between not breastfeeding and an increased risk of obesity in childhood which is dose dependent, ie babies who are exclusively breastfed for longer are less likely to develop obesity.

Extent of advertising in the UK

Unpublished doctoral research by Nina Berry, from the Centre for Health Initiative, at the University of Wollongong NSW AUSTRALIA, compares the volume of advertising that occurs in magazines in the UK with the USA and Australia. Preliminary reports indicate that despite the UK regulations being in place - there are as many pages of adverts for formula here as there are in these countries where there is no regulation (Australia and New Zealand have voluntary measures which restrict the advertising of infant formula (in Australia infant formula includes follow-up formula))

Indeed it seems that any restriction of the advertising to certain products is ineffective because the baby feeding industry simply extends the range in a process known as line extension to include a product that they can advertise - a standard practice in the advertising industry. This is why the International Code includes all milks marketed for infants and young children (up to the age of three) to be within its scope. Toddler formulas and growing up milks are all advertised using the same advertising and claims and use the same brand identifiers. **What is needed is a comprehensive ban any promotion of brands associated with infant formula milk, including direct marketing, carelines and proprietary ingredient blends.**

In recognition of the health benefits and health savings that can be made, the UK Government has made numerous commitments to increase breastfeeding rates.²

UK International obligations

The UK Government was one of the strongest advocates of Resolution WHA34.22 by which the World Health Assembly adopted the **International Code of Marketing of Breast-milk Substitutes** in 1981. WHA34.22 stressed that adherence to the International Code "*is a minimum requirement and only one of several important actions required in order to protect healthy practices in respect of infant and young child feeding*". The Code, like the UN Universal Declaration of Human Rights, is not a treaty, but an intergovernmental resolution which while not a legally binding instrument as such, nevertheless represents an expression of the

² See Choosing Health, Making Healthy Choices easier, White Paper (2004); NICE Maternal and child nutrition Guidance for midwives, health visitors, pharmacists and other primary care services to improve the nutrition of pregnant and breastfeeding mothers and children in low income households (2008) NICE Maternal and Child Nutrition Programme Modelling the cost effectiveness of interventions to promote breastfeeding (2007). "*peer support which achieves a relatively high increase in breastfeeding rates actually saves the NHS money in the long run, because levels of hospitalisation of babies drop, breastfed babies grow up into healthier children and adults, fewer women develop breast cancer, and less has to be spent on infant formula.*"

collective will of the membership of WHO. It was adopted as a '*minimum requirement*' to be adopted by '*all member states...in its entirety*' for the entire membership of WHO, not just for developing countries. The UK has since endorsed the adoption of the more than 12 subsequent relevant WHA Resolutions that have strengthened and clarified the Code. The health and nutrition rights which the International Code aim to protect were strengthened by the **Convention on the Rights of the Child (CRC)**, which was adopted in 1989 and which the UK has ratified. Governments that have ratified the CRC are legally bound by its provisions and can be held legally accountable for action which hinders the enjoyment of its rights and freedoms. The CRC:

- Stresses the right to protection from commercial exploitation.³
- Recognises the fundamental role that breastfeeding plays in fulfilling the right of every child to the highest attainable standard of health.

The **CRC Committee**⁴ views the *International Code* as a tool to help governments fulfil their obligations to Article 24 of the Convention, and in 2002 called on the UK to implement the Code. In 2008 the UN Committee on the Rights of the Child analysed UK Government and civil society submissions on the state of compliance with the CRC and concluded in its report, issued in October 2008, (paragraphs 58 and 59):

*“ The Committee, while appreciating the progress made in recent years in the promotion and support of breastfeeding in the State party, it is concerned that implementation of the International Code of Marketing of Breastmilk Substitutes continues to be inadequate and that **aggressive promotion of breastmilk substitutes remains common [emphasis added]**. The Committee recommends that the State party implement fully the International Code of Marketing of Breastmilk Substitutes. The State party should also further promote baby-friendly hospitals and encourage that breastfeeding is included in nursery training.”*

The UK is also a signatory to *the European Charter on Counteracting Obesity, the Blueprint for Action to Protect, Promote and Support Breastfeeding, the Global Strategy on Infant and Young Child feeding, the Global Strategy on Diet, Physical Activity and Health, the European Charter on Counteracting Obesity, the Universal Declaration on Human Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of the Child as well as General Comment 12 of the Committee on Economic, Social*

³ Article 24 (1.e) of the CRC calls on States Parties : “To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents”

Article 17 calls for: “the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being.”

Article 32: “States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.”

Article 36 says: “States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.”

⁴ The Committee on the Rights of the Child (CRC) is the body of independent experts that monitors implementation of the Convention on the Rights of the Child by its State parties. It meets in Geneva three times a year.

and Cultural Rights, the ILO Maternity Protection Convention No 183. Also of relevance is the WHO Regional Office for Europe, Food and Nutrition policy for schools, and the EU Strategy for Europe on Nutrition, Overweight and Obesity related health issues COM(2007) 279 FINAL SEC(2007) 707

All the above contain commitments to protect child rights, to protect, promote and support, breastfeeding, and to avoid conflicts of interest.

Responsibility of the media to portray breastfeeding as the norm

Relevant to the BCAP consultation is the UK Government's endorsement of the **European Blueprint for Action on the Protection, promotion and support of breastfeeding in Europe**⁵ This Blueprint is intended as a framework for all EU governments, and specifically addresses the responsibility of media in portraying breastfeeding as the norm.

Page 18 2.Information,education,communication (IEC)

*Adequate IEC is crucial for the re-establishment of a breastfeeding culture in countries where artificial feeding has been considered the norm for several years/generations. IEC messages must be consistent with policies, recommendations and laws, as well as consistent with practices within the health and social services sector. A key objective of IEC activities should be, as highlighted in the CRC, to fulfil the right of all segments of the society to clear, full and unbiased information about breastfeeding. **Breastfeeding is the normal way to feed and bring up infants and young children, and should be portrayed universally as such.** Expectant and new parents have the right to full, correct and optimal infant feeding information, including guidance on safe, timely and appropriate complementary feeding, so that they can make informed decisions.¹⁹*

Page 20 Recommended Objective: To present exclusive breastfeeding for six months and continued breastfeeding up to two years and beyond as the normal way to feed and bring up infants and young children in all written and visual materials relating to or making reference to IYCF and to the role of mothers

Responsibility: All multi-media organisations and commissioning authorities with responsibility for content of books, programmes, etc.

Outputs and outcomes: Information outlining their responsibility disseminated to the multi-media organisations; monitoring measures in place

Risks of self-regulation and the need for independent monitoring.

⁵ *Protection, promotion and support of breastfeeding in Europe: a blueprint for action* <http://www.iblce-europe.org/Download/Blueprint/Blueprint%20English.pdf>

It is critically important that marketing is regulated and independently monitored according to stringent benchmarks. A study done by the **International Food Policy Research Institute** in Washington found that self-regulatory systems in fact fail to limit the extent and impact of marketing. Instead they promote trust in advertising amongst consumers and governments, undermining resolve to bring in legislation needed to protect health. Under self-regulatory systems the volume of advertising increases.

The Baby Feeding Law Group conducts on-going independent monitoring of the baby feeding market using the International Code and Resolutions as a benchmark, and also comparing this to existing UK legislation. The BFLG has produced a series of monitoring reports which have been submitted to the UK Government's Independent Review Panel (IRP) which was convened by the Food Standards Agency to evaluate the effectiveness of the UK Regulations which were revised in 2007.

BFLG and BMA also regularly submit complaints to LACORS and the Trading Standards Home Authorities as an agreed way to raise concerns. However our analysis from the responses from the authorities show that enforcement officers feel there is little they can do because the promotions are outside the scope of the law or test cases are needed to define the law.

The Guidance Notes, presented by the Government as addressing some of the issues not covered by the law, were intended to carry the same weight as the law but are ignored by the companies.

The BFLG reports can be found on the following link:

<http://www.babyfeedinglawgroup.org.uk/resources/review0808.html>

Specific answers

Advertising of Infant formula Follow-on milks

Infant and Follow-on Formula: Non Broadcast Review Question 56 and Broadcast Review Question 85

- i) Do you agree that BCAP has correctly reflected the requirements of Regulation 21(a) of the Infant and Follow-on Formula Regulations (2007) (amended) in BCAP's proposed rule 13.8? If your answer is no, please explain why.
- ii) Do you agree that BCAP has correctly reflected the requirements of Regulation 19 of the Infant Formula and Follow-on Formula Regulations 2007 (amended) in BCAP's proposed rule 13.8.1? If your answer is no, please explain why.
- iii) Do you agree that BCAP has correctly reflected the relevant provisions of the Infant and Follow-on Formula Regulations (2007) (amended) in the proposed BCAP Code? If your answer is no, please explain why.

ANSWER

Yes and No. While we are pleased that the BACP now includes specific reference to the regulations on infant formula and follow-on formula it should also, at the very least refer to the *Guidance Notes on The Infant Formula and Follow-on Formula Regulations 2007 (as amended)* which include a series of provisions relating to the marketing of follow on formula, definitions of advertising⁶ and specific requirements relating to the advertising, appearance, colour scheme etc of follow-on milk promotion. These guidance notes reflect the Agency's view on how the Regulations should be interpreted and were produced to provide advice on the legal requirements of the Regulations.

However, because the UK Government has so far failed to bring the regulations fully into line with the *International Code of Marketing of Breastmilk Substitutes* and subsequent, relevant Resolutions of the World Health Assembly, there are major fault lines running through the regulations and the Guidance Notes. The

⁶ *Guidance Notes on The Infant Formula and Follow-on Formula Regulations 2007 (as amended)*

The term 'advertisement' has not been defined in the Regulations (a definition was given in the previous Regulations). The term 'advertising' is used in the Directive but is not defined. It is considered that any attempt to define the term runs the risk of limiting its scope bearing in mind the wide range of forms that advertising has taken in recent years. Guidance relating to the interpretation of 'advertising' in the context of the Regulations is provided in Appendices I and II. The Agency considers the term "advertising" to mean: Any representation that is made in connection with a trade, business, or company in order to promote, either directly or indirectly, the supply, including sale or transfer, of infant and/or follow-on formula. The above paragraph includes the term "representation". The following list includes some examples of the means by which a representation can be made within the context of advertising. The list is not definitive due to the fact that the nature of advertising is always changing.

- newspapers, magazines, brochures, leaflets, circulars, direct mailings, e-mails, text transmissions, fax transmissions, catalogues, follow-up literature and other electronic and printed material (including advertorials)
- publications for healthcare professionals which are not scientific publications
- posters and other promotional media in public places, including moving pictures
- cinema and video commercials
- non-broadcast electronic media, (refer to Appendix II for further guidance with regard to the internet)
- television and radio broadcast commercials
- correspondence between a trade, business or company and their customers, in writing, orally (including telephone calls and company carelines), electronically or by other means
- press releases and other public relations material and activities that can be accessed by consumers
- tickets, timetables and price lists
- celebrity endorsements in connection with a trade, business, or company
- product placement in websites

BACP could do much to mitigate the harmful effects of the loopholes in the regulations by strengthening its rules as proposed by the BFLG and BMC, and specifically to extend the advertising ban that exists for infant formula to follow-on milks.

The misleading information contained in much advertising of follow-on milks is a major contributory factor to the undermining of breastfeeding and infant health in the UK and globally. It directly undermines the health messages the Government and health professionals are trying to convey to parents.

As mentioned in the BMC submission, the 2005 survey carried out by MORI on behalf of UNICEF UK and the National Childbirth Trust 2005 and the NOP survey for the Department of Health, both showed that parents are being misled by the promotion of follow-on milks which in effect advertises infant formula and projects an image that artificial feeding is safe, healthy and the norm.

In summary, the MORI findings revealed that:

- The majority of women (60%) believed they had seen infant formula advertising even though it's been banned for over ten years
- Around a third said the advertising gave the impression that infant formula milk was 'as good as' or 'better than' breastmilk
- Nearly one in five mothers (17%) who used follow-on milk said they started before their baby was three months old – even though it's unsuitable for children of this age

The definition of 'breastmilk substitute' in the *International Code* refers to "any food being marketed or otherwise represented as a partial or total replacement for breast milk, whether or not suitable for that purpose." The scope attempts to cover all foods targeted at infants and young children and covers far more than infant formula: "The Code applies to the marketing, and practices related thereto, of the following products: breastmilk substitutes, including infant formula; other milk products, foods and beverages, including bottle-fed complementary foods, when marketed or otherwise represented to be suitable, with or without modification, for use as a partial or total replacement of breast-milk; feeding bottles and teats. It also applies to their quality and availability, and to information concerning their use."

OFCOM regulations introduced in April 2007 restrict advertising of unhealthy food products during children's television programming on the principle that children under the age of 16 should be protected from unhealthy food marketing. This principle could and should be used to cover the marketing of follow-on formulas on the basis that the UK Government health policy strongly advocates exclusive breastfeeding of infants up to 6 months and continued breastfeeding alongside appropriate family foods thereafter, and that follow-on formulas (which are breastmilk substitutes for the older baby) are considered not necessary.

UNICEF Position on follow-on milks. In its statement to the *European Parliament Development and Cooperation Committee* UNICEF said: <http://www.babymilkaction.org/press/press23nov00unicef.html>

"The Code applies to ALL BREASTMILK SUBSTITUTES and related products, which include feeding bottles and teats. The Code is not limited to basic infant formula intended for healthy babies born after nine months of gestation and with adequate weight and length for age as many companies would argue. The Code covers special formulae such as those for premature infants, hypoallergenic formulae, lactose free formulae and follow-on formulae (ref 4). It also covers waters, juices, teas, and foods if marketed or in any other way represented as a partial or total replacement for breastmilk. These two principles, universality and the scope including all breastmilk substitutes, cannot be over emphasised given the tendency of the infant feeding industry to attempt to limit the application of the Code."

WHO and UNICEF training materials clearly state:⁷

Which products fall under the scope of the Code?

The Code applies to breastmilk substitutes, including infant formula; other milk products, foods and beverages, including bottle-fed complementary foods, when marketed or otherwise represented to be suitable, with or without modification, for use as a partial or total replacement of breastmilk; feeding bottles and teats. Since exclusive breastfeeding is to be encouraged for 6 months, any food or drink shown to be suitable for feeding a baby during this period is a breastmilk substitute, and thus covered by the Code. This would include baby teas, juices and waters. Special formulas for infants with special medical or nutritional needs also fall under the scope of the Code. **Since continued breastfeeding is to be encouraged for two years or beyond, any milk product shown to be substituting for the breastmilk part of the child's diet between six months and two years, such as follow-on formula, is a breastmilk substitute and is thus covered by the Code.**

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.
- 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.

Answer: No. The ban should not be relaxed and in addition a specific clause should be added that prohibits manufacturers of breastmilk substitutes from carrying out such services.

Use of Health Professionals: Broadcast Code Review , Question 61

The BFLG endorses the BMC concern regarding the proposal to relax rules on the use of health professionals in advertisements. Under the International code and Resolutions and the UK regulations the Government has a responsibility to **provide objective** and consistent information on infant and young child feeding, and to **avoid conflicts of interest in funding of infant feeding programmes**. Health professionals have a duty to provide evidence based information on treatment and products which best meet the needs of their patients.

⁷ WHO, UNICEF Baby Friendly Hospital training materials.
http://www.unicef.org/nutrition/files/BFHI_Revised_Section1.pdf

We are strongly against any further relaxation in the code which may increase the use of health professionals in advertisements of any kind.

The European Food Safety Authority (EFSA) is currently evaluating applications for claims which could appear on the labels of follow-on formulas and baby foods and has already dismissed as unsubstantiated many of the claims currently used in the promotion of infant formula and follow-on formulas.

The BFLG position is that there should be NO HEALTH or NUTRITION claims permitted for any foods for infants and young children.

If an ingredient has been unequivocally demonstrated to be essential and beneficial by an independent review of data (which must contain as large as possible proportion of independently-funded research) it should be a mandatory ingredient in all breastmilk substitutes, not flagged up with a claim for commercial advantage.[3]

There is no health advantage in using a breastmilk substitute compared to breastfeeding, so the basis for a health or nutrition claim is entirely absent. Claims on commercial complementary foods also compete unfairly with fresh, home prepared family foods, continued breastfeeding and sound complementary feeding practices.

Question 86

ii) Given BCAP's policy consideration, do you agree that the Code should allow broadcast food advertisements to include health claims that refer to a recommendation by an association if that association is a health-related charity or a national representative body of medicine, nutrition or dietetics? If your answer is no, please explain why.

No! see above.

CONCLUSION

Given the importance of breastfeeding and appropriate complementary feeding in the long and short term health of children, and the rising rates of obesity and diet-related ill health, UK infants and children must be protected from marketing of all breastmilk substitutes and unhealthy food products, regardless of the medium used.

The CAP should make the following amendments to the Code in order to better protect infants and children from unhealthy food marketing:

- Extend the advertising restrictions that apply to infant formula to follow-on milks, specialised formulas and all products associated with breastmilk substitutes, and feeding bottles, teats, dummies etc
- Ban the use of health and nutrition claims and health professional endorsement in all labelling and marketing of foods and drinks for infants and young children.
- Prohibit **the promotion of any brand or logo associated with infant formula, including direct marketing, carelines and proprietary ingredient blends.**
- prohibit baby feeding companies from seeking direct or indirect contact with pregnant women, mothers, carers of infants and young children and other members of the public (including a clear ban on company 'carelines', pamphlets, mailshots, emails and promotional websites)
- prohibit company-produced or sponsored materials on pregnancy, maternity, infant feeding or care (the Government must provide objective information, avoiding conflicts of interest in funding infant feeding programmes);
- Prohibit TV advertisements for commercial services offering individual advice on consumer or personal problems provided by any company that manufactures, markets or distributes breastmilk substitutes of foods for infants and young children/

would like to thank the Broadcast Committee of Advertising and Practice (BCAP) for the opportunity to comment on the proposed BCAP Code. We make a number of comments in respect of the amendments made to the existing codes and have provided these within the relevant sections of this document. We hope that these comments will assist the BCAP with the development and implementation of the revised BCAP Code.

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.

We consider that the inclusion of rule 1.2 will create confusion as a result of its interpretation. We consider that the term "sense of responsibility" is too subjective and believe that the specific rules detailed throughout the BCAP Code should provide sufficient governance.

We request clarification on this point.

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.

Please refer to response for Question 1.

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?

Please refer to response for Question 1.

iii) Do you have other comments on this section?

No.

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.

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?

No.

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. However we would welcome the inclusion of the 10% minimum requirement within rule 3.23 or alternatively provide direction to where additional information can be accessed regarding this requirement.

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.

ii) 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.

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.

We understand the principle behind the inclusion of rule 3.28.3, however we have concerns surrounding how the inclusion of this rule will impact our ability to promote products that have significant geographical limitations. It is impractical to list all of the countries where certain products are not available.

Therefore we believe this rule should be reconsidered to exclude the reference for geographical limitations to be stated for financial services products.

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.

We welcome the inclusion of rule 3.43 within the BCAP Code, however we believe that it would be beneficial to state that "products and services" must not be an imitation or replica of a product or service, not solely "products".

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.

N/A

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?

N/A

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.

N/A

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?

No.

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.

Yes.

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.

iii) Do you have other comments on this section?

No.

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.

N/A

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.

N/A

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.

N/A

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.

- 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

Yes.

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?

No.

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.

Other questions

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?

Yes.

We welcome the inclusion of the principle for Section 6: Privacy, however to ensure clarity we believe that the principle should state "...Broadcasters should respect an individual's right for his or her private and family life to remain private..."

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?

No.

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.

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 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 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?

No.

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?

No.

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.

N/A

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.

N/A

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.

N/A

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.

N/A

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.

N/A

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.

N/A

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.

N/A

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.

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.

N/A

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.

N/A

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.

N/A

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.

N/A

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.

N/A

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.

N/A

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, in relation to Question 48 only.

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?

No.

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.

N/A

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.

N/A

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.

N/A

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.

N/A

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?

N/A

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.

N/A

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.

N/A

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.

N/A

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.

N/A

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.

N/A

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.

N/A

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.

N/A

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?

N/A

iii) Do you have other comments on this section?

N/A

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.

N/A

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?

N/A

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?

N/A

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.

N/A

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.

N/A

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?

N/A

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?

N/A

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.

N/A

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?

N/A

Other questions

Question 77

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

N/A

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

N/A

iii) Do you have other comments on this section?

N/A

Section 13: Food, Dietary Supplements and Associated Health and Nutrition Claims

Permitted nutrition and health claims

Question 78

Do you agree that BCAP has correctly reflected the requirements of Articles 8(1), 10(1) and 28 of the NHCR in BCAP's proposed rules 13.4 and 13.4.1? If your answer is no, please explain why.

N/A

Giving rise to doubt about the safety or nutritional adequacy of another product

Question 79

Do you agree that BCAP has correctly reflected the requirements of Article 3(b) of the NHCR in BCAP's proposed rule 13.4.4? If your answer is no, please explain why.

N/A

Comparative nutrition claims

Question 80

Do you agree that BCAP has correctly reflected the requirements of Article 9 of the NHCR in BCAP's proposed rules 13.5.1 and 13.5.3? If your answer is no, please explain why.

N/A

Comparison with one product

Question 81

Do you agree that BCAP has correctly reflected the requirements of Article 9 of the NHCR and the guidance from the European Commission in BCAP's proposed rule 13.5.2? If your answer is no, please explain why.

N/A

Prohibitions

Question 82

Do you agree that BCAP has correctly reflected the requirements of Article 12(a) of the NHCR in BCAP's proposed rules 13.6 and 13.6.1? If your answer is no, please explain why.

N/A

Question 83

Do you agree that BCAP has correctly reflected the requirements of Article 3(e) of the NHCR in BCAP's proposed rules 13.6 and 13.6.4? If your answer is no, please explain why.

N/A

Food Labelling Regulations (1996) (FLRs)

Question 84

i) Do you agree that BCAP has correctly reflected the requirements of Article 14 of the NHCR and Schedule 6 Part 1(2) of the FLRs in BCAP's proposed rules 13.6 and 13.6.2? If your answer is no,

please explain why.

N/A

ii) Do you agree that BCAP has correctly reflected the relevant provisions of Regulation (EC) 1924/2006 on Nutrition and Health Claims on Foods in the proposed BCAP Code? If your answer is no, please explain why.

N/A

Infant formula and follow-on formula

Question 85

i) Do you agree that BCAP has correctly reflected the requirements of Regulation 21(a) of the Infant and Follow-on Formula Regulations (2007) (amended) in BCAP's proposed rule 13.8? If your answer is no, please explain why.

N/A

ii) Do you agree that BCAP has correctly reflected the requirements of Regulation 19 of the Infant Formula and Follow-on Formula Regulations 2007 (amended) in BCAP's proposed rule 13.8.1? If your answer is no, please explain why.

N/A

iii) Do you agree that BCAP has correctly reflected the relevant provisions of the Infant and Follow-on Formula Regulations (2007) (amended) in the proposed BCAP Code? If your answer is no, please explain why.

N/A

Health claims that refer to the recommendation of an individual health professional

Question 86

i) Do you agree that BCAP has correctly reflected Article 12(c) of the NHCR in rule 13.6.3? If your answer is no, please explain why.

N/A

ii) Given BCAP's policy consideration, do you agree that the Code should allow broadcast food advertisements to include health claims that refer to a recommendation by an association if that association is a health-related charity or a national representative body of medicine, nutrition or dietetics? If your answer is no, please explain why.

N/A

Other questions

Question 87

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

N/A

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Food, Dietary supplements and Associated Health and Nutrition claims

rules that are likely to amount to a significant change in advertising policy and practice, are not reflected here and should be retained or otherwise be given dedicated consideration?

N/A

iii) Do you have other comments on this section?

N/A

Section 14: Financial products, services and investments

Interest on savings

Question 88

Do you agree that rule 14.7.5 makes clearer the requirement that the nature of the relation between interest rate and variable be stated? If your answer is no, please explain why.

We consider that rule 14.7.5 is not clear and will not provide the outcome intended by BCAP. Interest on some savings products is calculated by reference to an external rate. However a change in the external rate does not automatically trigger a change in the products interest rate. Furthermore if the product interest rate does change it may not change by the same margin as the external rate. Therefore the complexity of some products is not reflected within the wording of rule 14.7.5. We believe that the inclusion of rule 14.7.5 will severely limit our and others ability to promote savings products. In addition The British Bankers Association's Code of Conduct for the advertising of interest bearing accounts S9(b) requires a statement that the rate is subject to variation where applicable. This requirement therefore appears inconsistent with the removal of the existing BCAP rule 9.7(d).

For these reasons we believe the existing rule 9.7(d) should remain without amendment.

Other questions

Question 89

i) Taking into account BCAP's policy consideration, do you agree that BCAP's rules on financial products, services and investments are necessary and easily understandable? If your answer is no, please explain why?

Please refer to our response to Question 88.

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

Please refer to our response to Question 88.

iii) Do you have other comments on this section?

No.

Section 15: Faith, Religion and Equivalent Systems of Belief

Spiritual benefit in return for donations to the advertised cause

Question 90

Given BCAP's policy consideration, do you agree that 15.11, which presently applies to radio advertisements by or that refer to charitable faith-based bodies and that appeal for funds, should also cover those TV advertisements? If your answer is no, please explain why.

N/A

Unreasonable pressure to join or participate or not opt-out

Question 91

Given BCAP's policy consideration, do you agree that 15.2.3 should apply to radio as it presently does to TV? If your answer is no, please explain why.

N/A

Advertisements for charitable purposes that include recruitment or evangelism

Question 92

Given BCAP's policy consideration, do you agree that faith advertisements, which appeal for funds for charitable purposes that include or will be accompanied by recruitment or evangelism, are acceptable if that information is made clear in the advertisement? If your answer is no, please explain why.

N/A

Use in advertisements of sacred or religious music and acts of worship or prayer

Question 93

Given BCAP's policy consideration, do you agree that present radio rules 3.10 and 3.11, of section 3, need not be included in the proposed Code? If your answer is no, please explain why.

N/A

Involving viewers in services or ceremonies

Question 94

Given BCAP's policy consideration, do you agree that present TV rule 10.9 need not be included in the Code? If your answer is no, please explain why.

N/A

Individual experiences or personal benefits associated with a doctrine

Question 95

Given BCAP's policy consideration, do you agree that present TV rule 10.10 should not be included in the Code? If your answer is no, please explain why.

N/A

Counselling

Question 96

i) Given BCAP's policy consideration, do you agree that present TV rule 10.11 should not be included in the Code? If your answer is no, please explain why.

N/A

ii) Given BCAP's policy consideration, do you agree that 15.13 should be included in the Code? If

your answer is no, please explain why.

N/A

Advertisements for products related to psychic or occult phenomena

Question 97

Given BCAP's policy consideration, do you agree to maintain the existing TV and radio requirements on advertisements for products or services concerned with the occult or psychic practices? If your answer is no, please explain why.

N/A

Other questions

Question 98

i) Taking into account BCAP's policy consideration, do you agree that BCAP's rules on Faith, Religion and Equivalent Systems of Belief are necessary and easily understandable? If your answer is no, please explain why?

N/A

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

N/A

iii) Do you have other comments on this section?

N/A

Section 16: Charities

Requirement to identify charities

Question 99

Given BCAP's policy consideration, do you agree that it is proportionate to replace the requirement for advertisements that include reference to a charity to include, in that advertisement, a list of charities that may benefit from donations with proposed rule 16.5.2? If your answer is no, please explain why.

Yes.

Medicine advertisements and donations to charities

Question 100

i) Given BCAP's policy consideration, do you agree that the present TV and radio prohibitions on charity-based promotions in medicine advertisements should be deleted? If your answer is no, please explain why.

N/A

ii) Given BCAP's policy consideration, do you agree that 16.7 should be included in the new code?

If your answer is no, please explain why.

N/A

Complying with Data Protection Legislation

Question 101

Given BCAP's policy consideration, do you agree that it is not necessary to require a broadcaster to obtain an assurance that the advertiser will not disclose data to a third party without the client's consent, and the client's name will be promptly deleted on request? If your answer is no, please explain why.

N/A

Comparisons with other charities

Question 102

Given BCAP's policy consideration, do you agree that the present TV and radio prohibitions on comparisons in charity advertisements should be deleted? If your answer is no, please explain why.

N/A

The right of refund for credit or debit card donations of £50 or more

Question 103

Given BCAP's policy consideration, do you agree that the present radio rule, 3.2.4, should be deleted? If your answer is no, please explain why.

N/A

Other questions

Question 104

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

Yes, in relation to Question 99 only.

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

No.

iii) Do you have other comments on this section?

No.

Section 17: Gambling

Consistency; principle

Question 105

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

N/A

Consistency; age of appeal of content

Question 106

Given BCAP's policy consideration, especially the requirement for consistency in regulation, do you agree it is proportionate to increase the restriction on age of appeal for broadcast National Lottery advertisements from 16+ to 18+? If your answer is no, please explain why.

N/A

Consistency; age at which a person may be featured gambling in a lottery advertisement

Question 107

Given BCAP's policy consideration, especially the requirement for consistency in regulation, do you agree it is proportionate to apply rules 18.6 and 18.7 to all broadcast lottery advertisements? If your answer is no, please explain why.

N/A

Consistency; other lottery rules

Question 108

Given BCAP's policy consideration, do you agree that the rules included in the Lottery Section of the Code are in line with BCAP's general policy objectives (see Part 1 (4) of this consultation document) and should be applied to broadcast advertisements for the National Lottery as they presently are to broadcast advertisements for other lotteries? If your answer is no, please explain why and, if relevant, please identify those rules that should not be applied to advertisements for the National Lottery.

N/A

Participating in a lottery in a working environment

Question 109

Given BCAP's policy consideration, do you agree that lottery advertisements should be able to feature participation in a lottery in a working environment? If your answer is no, please explain why.

N/A

Other questions

Question 110

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

N/A

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

N/A

iii) Do you have other comments on this section?

N/A

Section 19: Alcohol

Sales promotions in alcohol advertisements

Question 111

Given BCAP's policy consideration, do you agree that rule 19.11 should be included in the proposed BCAP Code? If your answer is no, please explain why.

N/A

Irresponsible handling of alcohol

Question 112

Given BCAP's policy consideration, do you agree that rule 19.12 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Yes.

Alcoholic strength

Question 113

Given BCAP's policy consideration, do you agree that rule 19.10 should be included in the proposed BCAP Code? If your answer is 'no', please explain why.

N/A

Alcohol in a working environment

Question 114

Given BCAP's policy consideration, do you agree that rule 19.14 should be included in the proposed BCAP Code? If your answer is no, please explain why.

N/A

Exception for children featuring incidentally in alcohol advertisements

Question 115

Given BCAP's policy consideration, do you agree that rule 19.17 should be included in the proposed BCAP Code? If your answer is no, please explain why.

N/A

Low alcohol exceptions

Question 116

i) Given BCAP's policy consideration, do you agree that it is wrong to exempt television advertisements for low alcohol drinks from the rule that requires anyone associated with drinking must be, and seem to be, at least 25 years old? If your answer is no, please explain why.

N/A

ii) Given BCAP's policy consideration, do you agree that it is wrong to exempt television advertisements for low alcohol drinks from the rule that prevents implying or encouraging immoderate drinking, including an exemption on buying a round of drinks? If your answer is no, please explain why.

N/A

Question 117

i) Given BCAP's policy consideration, do you agree that it is wrong to exempt radio advertisements for low alcohol drinks from the rule that prevents implying or encouraging immoderate drinking, including an exemption on buying a round of drinks? If your answer is no, please explain why.

N/A

ii) Given BCAP's policy consideration, do you agree that it is wrong to exempt radio advertisements for low alcohol drinks from the rule that prevents encouraging excessive consumption via sales promotions? If your answer is no, please explain why.

N/A

iii) Given BCAP's policy consideration, do you agree that it is wrong to exempt radio advertisements for low alcohol drinks from the rule that prevents featuring a voiceover of anyone who is or appears to be 24 or under? If your answer is no, please explain why.

N/A

Other questions

Question 118

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

Yes, in relation to Question 112 only.

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

No.

iii) Do you have other comments on this section?

No.

Section 20: Motoring

References to speeds over 70mph

Question 119

i) Given BCAP's policy consideration, do you agree that it is not justified to maintain a rule that prohibits references to speeds of over 70mph in motoring advertisements? If your answer is no, please explain why.

N/A

ii) Given BCAP's policy consideration, do you agree that rule 20.4 should be included in BCAP's new Code? If your answer is no, please explain why

N/A

The use of fog lights

Question 120

Given BCAP's policy consideration, do you agree that the Code should not grant an exemption from proposed rule 20.2 for advertisements that feature a driver on a non-UK public road or in a non-UK public place using his or her fog lights when visibility is good? If your answer is no, please explain why.

Yes.

Other questions

Question 121

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

Yes, in relation to Question 120 only.

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

No.

iii) Do you have other comments on this section?

No.

Section 22: Premium-Rate Services

PhonepayPlus Code

Question 122

Given BCAP's policy consideration, do you agree that proposed rules 22.1 to 22.6 and 22.8 should be included in the proposed BCAP Code? If your answer is no, please explain why.

N/A

Radio advertisements for telecommunications-based sexual entertainment services

Question 123

Given BCAP's policy consideration, do you agree that proposed rule 23.1 should be included in the proposed BCAP Code? If your answer is no, please explain why.

N/A

Television advertisements for PRS of a sexual nature

Question 124

Given BCAP's policy consideration, do you agree that TV advertisements for PRS of a sexual nature should be allowed on encrypted elements of adult entertainment channels only? If your answer is no, please explain why.

N/A

Question 125

i) Given BCAP's policy consideration, do you agree that the BCAP rule on PRS of a sexual nature should be clarified to make clear that it applies also to TV advertisements for telecommunications-based sexual entertainment services made available to consumers via a direct-response mechanism and delivered over electronic communication networks? If your answer is no, please explain why.

N/A

ii) If your answer is no to question X(i), do you consider the rule should make clear that 'premium-rate call charge' is the only permissible form of payment? If your answer is no, please explain why.

N/A

Question 126

Given BCAP's policy consideration, do you agree that BCAP's rule should not define PRS of a sexual nature as those operating on number ranges designated by Ofcom for those services? If your answer is no, please explain why.

N/A

Question 127

Given BCAP's policy consideration, do you agree that BCAP's rule on TV advertisements for telecommunications-based sexual entertainment services should extend to 'voice, text, image or video services of a sexual nature'? If your answer is no, please explain why.

N/A

Question 128

Given BCAP's policy consideration, do you agree that rule 11.1.2 in the present BCAP Television Code should be replaced by proposed rule 23.2? If your answer is no, please explain why.

N/A

Other Questions

Question 129

i) Taking into account BCAP's general policy objectives, do you agree that BCAP's rules, included

in the proposed Premium-Rate Services section, are necessary and easily understandable? If your answer is no, please explain why?

N/A

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

N/A

iii) Do you have other comments on this section?

N/A

Section 24: Homeworking Schemes

New rules for radio

Question 130

i) Given BCAP's policy consideration, do you agree that rules 24.1 and 24.2.1 should be applied to radio advertisements, as they presently are to TV advertisements? If your answer is no, please explain why.

N/A

ii) Given BCAP's policy consideration, do you agree that it is not necessary to extend to radio the TV ban on advertisements that involve a charge for raw materials or advertisements that include an offer from the advertiser to buy goods made by the homemaker? If your answer is no, please explain why.

N/A

Other Questions

Question 131

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

N/A

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

N/A

iii) Do you have other comments on this section?

N/A

Section 25: Instructional Courses

New rules for radio

Question 132

i) Given BCAP's policy consideration, do you agree that rules 25.1 and 25.2 should be applied to radio advertisements, as they presently are to television advertisements? If your answer is no, please explain why.

N/A

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

N/A

Unrecognised qualifications

Question 133

Given BCAP's policy consideration, do you agree with BCAP's proposal not to include present TV rule 11.5b in the proposed BCAP Code? If your answer is no, please explain why.

N/A

Other questions

Question 134

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

N/A

ii) Do you have other comments on this section?

N/A

Section 27: Introduction and Dating Services

Precautions when meeting people

Question 135

Given BCAP's policy consideration, do you agree that rule 27.4 should be included in the proposed BCAP Code? If your answer is no, please explain why.

N/A

Data Protection

Question 136

Given BCAP's policy consideration, do you agree that it is not necessary to require a broadcaster to obtain an assurance that the advertiser will not disclose data to a third party without the client's consent, and the client's name will be promptly deleted on request? If your answer is no, please explain why.

N/A

Promiscuity

Question 137

Given BCAP's policy consideration, do you agree the proposed BCAP Code provides adequate protection from the potential for harm or offence from advertisements that encourage or condone promiscuity? If your answer is no, please explain why.

N/A

Misleading

Question 138

Given BCAP's policy consideration, do you agree it is not necessary to carry over radio rules 3.14 (a) and (d) into the proposed BCAP Code? If your answer is no, please explain why.

N/A

Location or telephone number

Question 139

Given BCAP's policy consideration, do you agree it is not necessary to carry over radio rule 3.14 (b) into the proposed BCAP Code? If your answer is no, please explain why.

N/A

Other questions

Question 140

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

N/A

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

N/A

iii) Do you have other comments on this section?

N/A

Section 28: Competitions

Competitions

Question 141

i) Given BCAP's policy consideration, do you agree that rule 28.1 should be included in BCAP's new Code? If your answer is no, please explain why?

Yes.

ii) Do you have other comments on this section?

No.

Section 31: Other Categories of Radio Advertisements that Require Central Copy Clearance

18+ rated computer or console games

Question 142

Given BCAP's policy consideration, do you agree that 31.1.4 should be included in the Code? If your answer is no, please explain why.

N/A

Section 32: Scheduling

Computer and console games

Question 143

Given BCAP's policy consideration, do you agree that proposed rules 32.5.4 and 32.20.5 should be included in the proposed BCAP Code? If your answer is no, please explain why.

N/A

Betting tipsters

Question 144

Given BCAP's policy consideration, do you agree that proposed rules 32.2.3 and 32.20.4 should be included in the proposed BCAP Code? If your answer is no, please explain why.

N/A

Live premium-rate services

Question 145

Given BCAP's policy consideration, do you agree that proposed rules 32.2.6 and 32.20.8 should be included in the proposed BCAP Code? If your answer is no, please explain why.

N/A

Restrictions around children's programmes

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.

N/A

Condoms

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.

N/A

Sensational newspapers/magazines/websites

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.

N/A

TV Text and interactive advertisements

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?

Yes.

Liqueur chocolates

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.

N/A

Charities

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.

N/A

Programmes featuring advertisements

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.

Yes.

Detailed advertisements for gambling; Code for Text Services

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.

N/A

Artist separation

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.

Yes.

Exclusion of certain types of advertisement in or adjacent to broadcasts of Parliamentary proceedings

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 in the proposed BCAP Code? If your answer is no, please explain why.

N/A

Other Questions

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?

Yes, in relation to Questions 152 and 154.

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?

No.

iii) Do you have other comments on this section?

No.

Section 33: Other comments

Question 157

Do you have other comments or observations on BCAP's proposed Code that you would like BCAP to take into account in its evaluation of consultation responses?

No.

The following question was issued as an addendum. The closing date for responses to this question is 10 July 2009.

Question 158

Given BCAP's policy consideration, do you agree that the evidence contained in the SchARR Review does not merit a change to BCAP's alcohol advertising content or scheduling rules? If your answer is no, please explain why you consider the SchARR Review does merit a change to BCAP's alcohol advertising content or scheduling rules.

N/A

is one of the leading creative advertising agencies in the UK and represents clients across all sectors of commerce. This includes some of the leading names in the following industries: banking, electronics, air travel, charity, clothing and fashion, alcoholic and non-alcoholic drinks, newspapers, confectionary, detergents, foods and male fragrances.

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.

We accept that this follows the equivalent rule in the CAP Code but do consider that the remaining provisions of the BCAP Code adequately cover this point and the new rule is therefore unnecessary.

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?

No.

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

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?

No

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.

It is commonly accepted that 10% is the minimum threshold when referring to "from" price claims. We consider that this should be explicitly stated in the BCAP Code.

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

ii) 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

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.

Not answered

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?

Not answered

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.

Not answered

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?

No

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, in principle, however more clarity would be needed on what the basis of 'Anti-social behaviour' is. Would this be based on the criteria for serving ASBOs for example or some other criteria?

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.

Yes

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

iii) Do you have other comments on this section?

No

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.

i) TV rule 7.3.4

TV rule 7.3.4 Should this read 7.3.3? Yes if our understanding of the removal is correct ie; the removal of this section infers that the use of children in advertising is less restrictive but still protects child actors or audiences with sections 5.1, 5.9 and 5.10

ii) Radio rule 11.11 a), section 2

Yes

iii) Radio rule 11.11 b), section 2

Yes

iv) Radio rule 11.12, section 2

Yes

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?

Yes

iii) Do you have other comments on this section?

We consider some guidance should be given in the area of acceptable familiar objects of unambiguous size that can be used for comparison with children's toys. Obviously an exhaustive list cannot be provided and common sense must prevail but we have found difficulties in having objects approved with the request being that a 'hand' is the preferred comparison. Many commercials do not have children in them and it is extremely difficult to find a mutually agreeable item. If some suggestions were given it may encourage the acceptance of alternative items and ensure that the BCAP Code (including the spirit) is interpreted correctly.

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

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?

No

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.

Not answered

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?

Not answered

iii) Do you have other comments on this section?

Not answered

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.

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 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?

No

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?

No

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.

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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?

Not answered

ii) Do you have other comments on this section?

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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?

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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.

Not answered

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?

Not answered

iii) Do you have other comments on this section?

Not answered

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.

Not answered

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?

Not answered

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?

Not answered

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.

Not answered

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.

Not answered

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?

Not answered

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?

Not answered

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.

Not answered

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?

Not answered

Other questions

Question 77

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

Not answered

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

Not answered

iii) Do you have other comments on this section?

Not answered

Section 13: Food, Dietary Supplements and Associated Health and Nutrition Claims

Permitted nutrition and health claims

Question 78

Do you agree that BCAP has correctly reflected the requirements of Articles 8(1), 10(1) and 28 of the NHCR in BCAP's proposed rules 13.4 and 13.4.1? If your answer is no, please explain why.

Yes

Giving rise to doubt about the safety or nutritional adequacy of another product

Question 79

Do you agree that BCAP has correctly reflected the requirements of Article 3(b) of the NHCR in BCAP's proposed rule 13.4.4? If your answer is no, please explain why.

Yes

Comparative nutrition claims

Question 80

Do you agree that BCAP has correctly reflected the requirements of Article 9 of the NHCR in BCAP's proposed rules 13.5.1 and 13.5.3? If your answer is no, please explain why.

Yes

Comparison with one product

Question 81

Do you agree that BCAP has correctly reflected the requirements of Article 9 of the NHCR and the guidance from the European Commission in BCAP's proposed rule 13.5.2? If your answer is no, please explain why.

Yes

Prohibitions

Question 82

Do you agree that BCAP has correctly reflected the requirements of Article 12(a) of the NHCR in BCAP's proposed rules 13.6 and 13.6.1? If your answer is no, please explain why.

Yes

Question 83

Do you agree that BCAP has correctly reflected the requirements of Article 3(e) of the NHCR in BCAP's proposed rules 13.6 and 13.6.4? If your answer is no, please explain why.

Yes

Food Labelling Regulations (1996) (FLRs)

Question 84

i) Do you agree that BCAP has correctly reflected the requirements of Article 14 of the NHCR and Schedule 6 Part 1(2) of the FLRs in BCAP's proposed rules 13.6 and 13.6.2? If your answer is no, please explain why.

Yes

ii) Do you agree that BCAP has correctly reflected the relevant provisions of Regulation (EC) 1924/2006 on Nutrition and Health Claims on Foods in the proposed BCAP Code? If your answer is no, please explain why.

Yes

Infant formula and follow-on formula

Question 85

i) Do you agree that BCAP has correctly reflected the requirements of Regulation 21(a) of the Infant and Follow-on Formula Regulations (2007) (amended) in BCAP's proposed rule 13.8? If your answer is no, please explain why.

Not answered

ii) Do you agree that BCAP has correctly reflected the requirements of Regulation 19 of the Infant Formula and Follow-on Formula Regulations 2007 (amended) in BCAP's proposed rule 13.8.1? If your answer is no, please explain why.

Not answered

iii) Do you agree that BCAP has correctly reflected the relevant provisions of the Infant and Follow-on Formula Regulations (2007) (amended) in the proposed BCAP Code? If your answer is no, please explain why.

Not answered

Health claims that refer to the recommendation of an individual health professional

Question 86

i) Do you agree that BCAP has correctly reflected Article 12(c) of the NHCR in rule 13.6.3? If your answer is no, please explain why.

Not answered

ii) Given BCAP's policy consideration, do you agree that the Code should allow broadcast food advertisements to include health claims that refer to a recommendation by an association if that association is a health-related charity or a national representative body of medicine, nutrition or dietetics? If your answer is no, please explain why.

Not answered

Other questions

Question 87

i) Taking into account BCAP's general policy objectives, do you agree that BCAP's rules included in the proposed Food, Dietary supplements and Associated Health and Nutrition claims 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 Food, Dietary supplements and Associated Health and Nutrition claims rules that are likely to amount to a significant change in advertising policy and practice, are not reflected here and should be retained or otherwise be given dedicated consideration?

No

iii) Do you have other comments on this section?

No

Section 14: Financial products, services and investments

Interest on savings

Question 88

Do you agree that rule 14.7.5 makes clearer the requirement that the nature of the relation between interest rate and variable be stated? If your answer is no, please explain why.

Yes

Other questions

Question 89

i) Taking into account BCAP's policy consideration, do you agree that BCAP's rules on financial products, services and investments 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 practice, 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?

No

Section 15: Faith, Religion and Equivalent Systems of Belief

Spiritual benefit in return for donations to the advertised cause

Question 90

Given BCAP's policy consideration, do you agree that 15.11, which presently applies to radio advertisements by or that refer to charitable faith-based bodies and that appeal for funds, should also cover those TV advertisements? If your answer is no, please explain why.

Not answered

Unreasonable pressure to join or participate or not opt-out

Question 91

Given BCAP's policy consideration, do you agree that 15.2.3 should apply to radio as it presently does to TV? If your answer is no, please explain why.

Not answered

Advertisements for charitable purposes that include recruitment or evangelism

Question 92

Given BCAP's policy consideration, do you agree that faith advertisements, which appeal for funds for charitable purposes that include or will be accompanied by recruitment or evangelism, are acceptable if that information is made clear in the advertisement? If your answer is no, please explain why.

Not answered

Use in advertisements of sacred or religious music and acts of worship or prayer

Question 93

Given BCAP's policy consideration, do you agree that present radio rules 3.10 and 3.11, of section 3, need not be included in the proposed Code? If your answer is no, please explain why.

Not answered

Involving viewers in services or ceremonies

Question 94

Given BCAP's policy consideration, do you agree that present TV rule 10.9 need not be included in the Code? If your answer is no, please explain why.

Not answered

Individual experiences or personal benefits associated with a doctrine

Question 95

Given BCAP's policy consideration, do you agree that present TV rule 10.10 should not be included in the Code? If your answer is no, please explain why.

Not answered

Counselling

Question 96

i) Given BCAP's policy consideration, do you agree that present TV rule 10.11 should not be included in the Code? If your answer is no, please explain why.

Not answered

ii) Given BCAP's policy consideration, do you agree that 15.13 should be included in the Code? If your answer is no, please explain why.

Not answered

Advertisements for products related to psychic or occult phenomena

Question 97

Given BCAP's policy consideration, do you agree to maintain the existing TV and radio requirements on advertisements for products or services concerned with the occult or psychic practices? If your answer is no, please explain why.

Not answered

Other questions

Question 98

i) Taking into account BCAP's policy consideration, do you agree that BCAP's rules on Faith, Religion and Equivalent Systems of Belief are necessary and easily understandable? If your answer is no, please explain why?

Not answered

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

Not answered

iii) Do you have other comments on this section?

Not answered

Section 16: Charities

Requirement to identify charities

Question 99

Given BCAP's policy consideration, do you agree that it is proportionate to replace the requirement for advertisements that include reference to a charity to include, in that advertisement, a list of charities that may benefit from donations with proposed rule 16.5.2? If your answer is no, please explain why.

Yes

Medicine advertisements and donations to charities

Question 100

i) Given BCAP's policy consideration, do you agree that the present TV and radio prohibitions on charity-based promotions in medicine advertisements should be deleted? If your answer is no, please explain why.

Not answered

ii) Given BCAP's policy consideration, do you agree that 16.7 should be included in the new code? If your answer is no, please explain why.

Not answered

Complying with Data Protection Legislation

Question 101

Given BCAP's policy consideration, do you agree that it is not necessary to require a broadcaster to obtain an assurance that the advertiser will not disclose data to a third party without the client's consent, and the client's name will be promptly deleted on request? If your answer is no, please explain why.

Yes

Comparisons with other charities

Question 102

Given BCAP's policy consideration, do you agree that the present TV and radio prohibitions on comparisons in charity advertisements should be deleted? If your answer is no, please explain why.

Yes

The right of refund for credit or debit card donations of £50 or more

Question 103

Given BCAP's policy consideration, do you agree that the present radio rule, 3.2.4, should be deleted? If your answer is no, please explain why.

Yes

Other questions

Question 104

i) Taking into account BCAP's general policy objectives, do you agree that BCAP's rules included in the proposed Charities 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 Charities rules that are likely to amount to a significant change in advertising policy and practice, are not reflected here and should be retained or otherwise be given dedicated consideration?

No

iii) Do you have other comments on this section?

No

Section 17: Gambling

Consistency; principle

Question 105

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

Not answered

Consistency; age of appeal of content

Question 106

Given BCAP's policy consideration, especially the requirement for consistency in regulation, do you agree it is proportionate to increase the restriction on age of appeal for broadcast National Lottery advertisements from 16+ to 18+? If your answer is no, please explain why.

Not answered

Consistency; age at which a person may be featured gambling in a lottery advertisement

Question 107

Given BCAP's policy consideration, especially the requirement for consistency in regulation, do you agree it is proportionate to apply rules 18.6 and 18.7 to all broadcast lottery advertisements? If your answer is no, please explain why.

Not answered

Consistency; other lottery rules

Question 108

Given BCAP's policy consideration, do you agree that the rules included in the Lottery Section of the Code are in line with BCAP's general policy objectives (see Part 1 (4) of this consultation document) and should be applied to broadcast advertisements for the National Lottery as they presently are to broadcast advertisements for other lotteries? If your answer is no, please explain why and, if relevant, please identify those rules that should not be applied to advertisements for the National Lottery.

Not answered

Participating in a lottery in a working environment

Question 109

Given BCAP's policy consideration, do you agree that lottery advertisements should be able to feature participation in a lottery in a working environment? If your answer is no, please explain why.

Not answered

Other questions

Question 110

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

Not answered

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

Not answered

iii) Do you have other comments on this section?

Not answered

Section 19: Alcohol

Sales promotions in alcohol advertisements

Question 111

Given BCAP's policy consideration, do you agree that rule 19.11 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Yes

Irresponsible handling of alcohol

Question 112

Given BCAP's policy consideration, do you agree that rule 19.12 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Yes

Alcoholic strength

Question 113

Given BCAP's policy consideration, do you agree that rule 19.10 should be included in the proposed BCAP Code? If your answer is 'no', please explain why.

Yes

Alcohol in a working environment

Question 114

Given BCAP's policy consideration, do you agree that rule 19.14 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Yes

Exception for children featuring incidentally in alcohol advertisements

Question 115

Given BCAP's policy consideration, do you agree that rule 19.17 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Yes

Low alcohol exceptions

Question 116

i) Given BCAP's policy consideration, do you agree that it is wrong to exempt television advertisements for low alcohol drinks from the rule that requires anyone associated with drinking must be, and seem to be, at least 25 years old? If your answer is no, please explain why.

Yes

ii) Given BCAP's policy consideration, do you agree that it is wrong to exempt television advertisements for low alcohol drinks from the rule that prevents implying or encouraging immoderate drinking, including an exemption on buying a round of drinks? If your answer is no, please explain why.

Yes

Question 117

i) Given BCAP's policy consideration, do you agree that it is wrong to exempt radio advertisements for low alcohol drinks from the rule that prevents implying or encouraging immoderate drinking, including an exemption on buying a round of drinks? If your answer is no, please explain why.

Yes

ii) Given BCAP's policy consideration, do you agree that it is wrong to exempt radio advertisements for low alcohol drinks from the rule that prevents encouraging excessive consumption via sales promotions? If your answer is no, please explain why.

Yes

iii) Given BCAP's policy consideration, do you agree that it is wrong to exempt radio advertisements for low alcohol drinks from the rule that prevents featuring a voiceover of anyone who is or appears to be 24 or under? If your answer is no, please explain why.

Yes

Other questions

Question 118

i) Taking into account BCAP's general policy objectives, do you agree that BCAP's rules, included in the proposed Alcohol 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 Alcohol section that are likely to amount to a significant change in advertising policy and practice, are not reflected here and should be retained or otherwise be given dedicated consideration?

No

iii) Do you have other comments on this section?

No

Section 20: Motoring

References to speeds over 70mph

Question 119

i) Given BCAP's policy consideration, do you agree that it is not justified to maintain a rule that prohibits references to speeds of over 70mph in motoring advertisements? If your answer is no, please explain why.

Yes

ii) Given BCAP's policy consideration, do you agree that rule 20.4 should be included in BCAP's new Code? If your answer is no, please explain why

Yes

The use of fog lights

Question 120

Given BCAP's policy consideration, do you agree that the Code should not grant an exemption from proposed rule 20.2 for advertisements that feature a driver on a non-UK public road or in a non-UK public place using his or her fog lights when visibility is good? If your answer is no, please explain why.

Yes

Other questions

Question 121

i) Taking into account its general policy objectives, do you agree that BCAP's rules, included in the proposed Motoring 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 Motoring rules that are likely to amount to a significant change in advertising policy and practice, which are not reflected here and that you consider should be retained or otherwise given dedicated consideration?

No

iii) Do you have other comments on this section?

No

Section 22: Premium-Rate Services

PhonepayPlus Code

Question 122

Given BCAP's policy consideration, do you agree that proposed rules 22.1 to 22.6 and 22.8 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Not answered

Radio advertisements for telecommunications-based sexual entertainment services

Question 123

Given BCAP's policy consideration, do you agree that proposed rule 23.1 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Not answered

Television advertisements for PRS of a sexual nature

Question 124

Given BCAP's policy consideration, do you agree that TV advertisements for PRS of a sexual nature should be allowed on encrypted elements of adult entertainment channels only? If your answer is no, please explain why.

Not answered

Question 125

i) Given BCAP's policy consideration, do you agree that the BCAP rule on PRS of a sexual nature should be clarified to make clear that it applies also to TV advertisements for telecommunications-based sexual entertainment services made available to consumers via a direct-response mechanism and delivered over electronic communication networks? If your answer is no, please explain why.

Not answered

ii) If your answer is no to question X(i), do you consider the rule should make clear that 'premium-rate call charge' is the only permissible form of payment? If your answer is no, please explain why.

Not answered

Question 126

Given BCAP's policy consideration, do you agree that BCAP's rule should not define PRS of a sexual nature as those operating on number ranges designated by Ofcom for those services? If your answer is no, please explain why.

Not answered

Question 127

Given BCAP's policy consideration, do you agree that BCAP's rule on TV advertisements for telecommunications-based sexual entertainment services should extend to 'voice, text, image or video services of a sexual nature'? If your answer is no, please explain why.

Not answered

Question 128

Given BCAP's policy consideration, do you agree that rule 11.1.2 in the present BCAP Television Code should be replaced by proposed rule 23.2? If your answer is no, please explain why.

Not answered

Other Questions

Question 129

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

Not answered

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

Not answered

iii) Do you have other comments on this section?

Not answered

Section 24: Homeworking Schemes

New rules for radio

Question 130

i) Given BCAP's policy consideration, do you agree that rules 24.1 and 24.2.1 should be applied to radio advertisements, as they presently are to TV advertisements? If your answer is no, please explain why.

Not answered

ii) Given BCAP's policy consideration, do you agree that it is not necessary to extend to radio the TV ban on advertisements that involve a charge for raw materials or advertisements that include an offer from the advertiser to buy goods made by the homemaker? If your answer is no, please explain why.

Not answered

Other Questions

Question 131

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

Not answered

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

Not answered

iii) Do you have other comments on this section?

Not answered

Section 25: Instructional Courses

New rules for radio

Question 132

i) Given BCAP's policy consideration, do you agree that rules 25.1 and 25.2 should be applied to radio advertisements, as they presently are to television advertisements? If your answer is no, please explain why.

Not answered

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

Not answered

Unrecognised qualifications

Question 133

Given BCAP's policy consideration, do you agree with BCAP's proposal not to include present TV rule 11.5b in the proposed BCAP Code? If your answer is no, please explain why.

Not answered

Other questions

Question 134

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

Not answered

ii) Do you have other comments on this section?

Not answered

Section 27: Introduction and Dating Services

Precautions when meeting people

Question 135

Given BCAP's policy consideration, do you agree that rule 27.4 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Not answered

Data Protection

Question 136

Given BCAP's policy consideration, do you agree that it is not necessary to require a broadcaster to obtain an assurance that the advertiser will not disclose data to a third party without the client's consent, and the client's name will be promptly deleted on request? If your answer is no, please explain why.

Yes

Promiscuity

Question 137

Given BCAP's policy consideration, do you agree the proposed BCAP Code provides adequate protection from the potential for harm or offence from advertisements that encourage or condone promiscuity? If your answer is no, please explain why.

Not answered

Misleading

Question 138

Given BCAP's policy consideration, do you agree it is not necessary to carry over radio rules 3.14 (a) and (d) into the proposed BCAP Code? If your answer is no, please explain why.

Not answered

Location or telephone number

Question 139

Given BCAP's policy consideration, do you agree it is not necessary to carry over radio rule 3.14 (b) into the proposed BCAP Code? If your answer is no, please explain why.

Not answered

Other questions

Question 140

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

Not answered

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

Not answered

iii) Do you have other comments on this section?

Not answered

Section 28: Competitions

Competitions

Question 141

i) Given BCAP's policy consideration, do you agree that rule 28.1 should be included in BCAP's new Code? If your answer is no, please explain why?

Yes

ii) Do you have other comments on this section?

No

Section 31: Other Categories of Radio Advertisements that Require Central Copy Clearance

18+ rated computer or console games

Question 142

Given BCAP's policy consideration, do you agree that 31.1.4 should be included in the Code? If your answer is no, please explain why.

Not answered

Section 32: Scheduling

Computer and console games

Question 143

Given BCAP's policy consideration, do you agree that proposed rules 32.5.4 and 32.20.5 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Not answered

Betting tipsters

Question 144

Given BCAP's policy consideration, do you agree that proposed rules 32.2.3 and 32.20.4 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Not answered

Live premium-rate services

Question 145

Given BCAP's policy consideration, do you agree that proposed rules 32.2.6 and 32.20.8 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Not answered

Restrictions around children's programmes

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.

Not answered

Condoms

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.

Not answered

Sensational newspapers/magazines/websites

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.

Yes

TV Text and interactive advertisements

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?

Yes

Liqueur chocolates

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.

Not answered

Charities

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.

Yes

Programmes featuring advertisements

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.

Yes

Detailed advertisements for gambling; Code for Text Services

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.

Not answered

Artist separation

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.

Yes

Exclusion of certain types of advertisement in or adjacent to broadcasts of Parliamentary proceedings

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 in the proposed BCAP Code? If your answer is no, please explain why.

Not answered

Other Questions

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?

Yes

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?

No

iii) Do you have other comments on this section?

No

Section 33: Other comments

Question 157

Do you have other comments or observations on BCAP's proposed Code that you would like BCAP to take into account in its evaluation of consultation responses?

We have seen a proposal from LewisSilkin regarding an appeals process for broadcast commercials and fully endorse that proposal.

The following question was issued as an addendum on 29 May 2009. The closing date for responses to this question is 10 July 2009. The full text of the addendum can be found [here](#).

Question 158

Given BCAP's policy consideration, do you agree that the evidence contained in the SchARR Review does not merit a change to BCAP's alcohol advertising content or scheduling rules? If your answer is no, please explain why you consider the SchARR Review does merit a change to BCAP's alcohol advertising content or scheduling rules.

Responding to this consultation

How to respond

BCAP invites written comments including supporting evidence on the proposals contained in this document, by 5pm on 19 June. Respondents should complete a consultation cover sheet, which is made available [here](#).

When responding, please state if you are doing so as an individual or if you are representing an organisation. Also, please make clear what your individual interest is or who your organisation represents. It will be helpful if you explain fully and clearly why you hold your opinion.

We strongly prefer to receive responses as e-mail attachments, in Microsoft Word format, because that helps us to process the responses.

Please send your response to BCAPcodereview@cap.org.uk.

If you are unable to reply by e-mail, you may submit your response by post or fax (+44 (0)20 7404 3404), marked with the title of the consultation, to:

BCAP Code Review
Code Policy Team
Broadcast Committee of Advertising Practice
Mid City Place
71 High Holborn
London WC1V 6QT

Accessibility

We want our consultation process to be accessible to everyone. If you have particular accessibility needs please contact the Code Policy team and we shall be happy to help.

Telephone: 020 7492 2200

E-mail: BCAPcodereviewquestions@cap.org.uk

Fax: 020 7404 3404

Textphone: 020 7242 8159

Note that we do not need a hard copy in addition to an electronic version. Also note that, other than an automated response to responses received by email, BCAP will not routinely acknowledge receipt of responses.

BCAP has sent written notification of this consultation to the organisations and individuals listed in this annex. We welcome suggestions of others you think should be informed of this consultation.

More information

If you have any questions about this consultation or need advice on the form of response, please contact BCAP's Code Policy team on +44 (0)20 7492 2200 or email us at BCAPcodereviewquestions@cap.org.uk.

Confidentiality

BCAP considers that everyone who is interested in the consultation should see the consultation responses. We shall publish all non-confidential responses on our website, www.cap.org.uk, when we announce the outcome of the consultation.

All comments will be treated as non-confidential unless you state that all or a specified part of your response is confidential and should not be disclosed. If you reply by e-mail or fax, unless you include a specific statement to the contrary in your response, the presumption of non-confidentiality will override any confidentiality disclaimer generated by your organisation's IT system or included as a general statement on your fax cover sheet.

If part of a response is confidential, please put that in a separate annex so that non-confidential parts may be published with your identity. Confidential responses will be included in any statistical summary of numbers of comments received.

Bayer HealthCare

Consumer Care



Code Policy Team
Broadcast Committee of Advertising Practice
Mid City Place
71 High Holborn
London WC1V 6QT

Re: BCAP Code Review Consultation

Bayer is a major manufacturer of over the counter medicines and food supplements in the UK. The ability to effectively market our products is fundamental to our business. As members of PAGB we endorse the need to ensure that advertising is truthful, balanced, and responsible and does not mislead, offend or harm and are fully supportive of the current system of regulatory and self-regulatory controls through the various Advertising Codes of Practice. We welcome the review of the broadcast Advertising Standards Codes and are pleased to note the commitment to ensuring that provisions comply with the principles of better regulation, that they are transparent, accountable, proportionate, consistent and targeted.

Bayer is broadly supportive of the proposed changes particularly the proposal for a single Code covering both TV and radio advertising broadcast media rather than having separate Codes as at present but given the nature of our business we are particularly interested in the proposed changes relating to medicines and food supplements.

Medicines

We support the proposed amendment to allow sales promotions for medicines on radio.

Food supplements

We note that the Code has been updated to bring it into line with the Nutrition and Health Claims Regulation and we fully support the proposals to;

- extend list of target groups to whom vitamins and minerals can be advertised. The list is now much more closely aligned to current research and offers far more scope to enable companies to target supplements to those who are most likely to benefit.
- make it clear that the target groups only apply to claims which are relevant to people who would otherwise have a sub-optimal intake of that nutrient. This allows for the possibility of the European Commission approving claims relating to a higher intake of a particular nutrient for a particular function.
- permit claims that a food supplement can elevate mood or enhance normal performance if they are approved by the European Commission.

5 May 2009

Karen Hackney (PhD)

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INVENTAD IN DEADITE

Bayer HealthCare
Consumer Care



Yours faithfully

A handwritten signature in black ink, appearing to read "K. Hackney". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Karen Hackney
Head of Medical and Regulatory Affairs



INVESTOR IN PEOPLE

Section 19: Alcohol

Sales promotions in alcohol advertisements

Question 111

Given BCAP's policy consideration, do you agree that rule 19.11 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Irresponsible handling of alcohol

Question 112

Given BCAP's policy consideration, do you agree that rule 19.12 should be included in the proposed BCAP Code? If your answer is no, please explain why.

We would like rule 19.12 to be considered carefully as we believe, in certain circumstances, it would be appropriate and right to communicate that a drink may be preferred because of its alcohol content when that content is lower than the average or usual strength.

The current rule states that marketing communications 'must not otherwise imply that a drink may be preferred because of its alcohol content or intoxicating effect.' Clearly, this is logical in relation to the communication of higher than average strength products but it does not seem to be within the spirit of the code when used in relation to lower alcohol products.

Drinks manufacturers are increasingly providing a greater range of lower strength products within their portfolios to promote responsible drinking behaviour. It seems fair and reasonable that the benefits of these lower strength alcoholic products should be communicated to consumers so that they can make an informed choice.

For example, when creating an advertising campaign for a drinks manufacturer with a 2% product we found that the current rules prevented emphasis on the 2% alcohol content. However, the introduction of a 2% product is clearly within the spirit of promoting responsible drinking, in line with Government policy, and it would be in the interests of consumers to communicate and emphasise the lower alcohol content.

Alcoholic strength

Question 113

Given BCAP's policy consideration, do you agree that rule 19.10 should be included in the proposed BCAP Code? If your answer is 'no', please explain why.

Alcohol in a working environment

Question 114

Given BCAP's policy consideration, do you agree that rule 19.14 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Alcoholic strength

Exception for children featuring incidentally in alcohol advertisements

Question 115

Given BCAP's policy consideration, do you agree that rule 19.17 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Low alcohol exceptions

Question 116

- i) Given BCAP's policy consideration, do you agree that it is wrong to exempt television advertisements for low alcohol drinks from the rule that requires anyone associated with drinking must be, and seem to be, at least 25 years old? If your answer is no, please explain why.
- ii) Given BCAP's policy consideration, do you agree that it is wrong to exempt television advertisements for low alcohol drinks from the rule that prevents implying or encouraging immoderate drinking, including an exemption on buying a round of drinks? If your answer is no, please explain why.

Question 117

- i) Given BCAP's policy consideration, do you agree that it is wrong to exempt radio advertisements for low alcohol drinks from the rule that prevents implying or encouraging immoderate drinking, including an exemption on buying a round of drinks? If your answer is no, please explain why.
- ii) Given BCAP's policy consideration, do you agree that it is wrong to exempt radio advertisements for low alcohol drinks from the rule that prevents encouraging excessive consumption via sales promotions? If your answer is no, please explain why.
- iii) Given BCAP's policy consideration, do you agree that it is wrong to exempt radio advertisements for low alcohol drinks from the rule that prevents featuring a voiceover of anyone who is or appears to be 24 or under? If your answer is no, please explain why.

Other questions

Question 118

- i) Taking into account BCAP's general policy objectives, do you agree that BCAP's rules, included in the proposed Alcohol section are necessary and easily understandable? If your answer is no, please explain why.
- ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Alcohol section that are likely to amount to a significant change in advertising policy and practice, are not reflected here and should be retained or otherwise be given dedicated consideration?
- iii) Do you have other comments on this section?

We believe that the current BCAP code is very effective.

We, as an advertising agency, find we are able to work with it well and that the rules are clear and reasonable.

In our view, the current code does a good job protecting the vulnerable and the young from any communications that may encourage harmful or unhealthy consumption.

**Clare Campbell
Beattie McGuinness Bungay**

Betfair Limited's response to the CAP Code Review Consultation

19th June 2009

Introduction to betfair

Betfair Limited (previously The Sporting Exchange Limited trading as Betfair) is a leading provider of gambling products and services. After launching the world's first successful online betting exchange in June 2000, Betfair has grown into a multi-million pound business with an established portfolio of online gaming products comprising of sports betting, poker, casino and games. We now have in excess of two million registered customers with over 50% of all new registrations coming from outside the UK and Ireland. On an average day, we process more than 5 million transactions – more than all the European stock exchanges combined. Founded in London in 1999, we currently hold licences in the United Kingdom, Australia, Austria, Germany, Italy and Malta.

Our strategy for success is simple. We aim to be the service provider of choice by providing the best value, service and protection and we are committed to setting the benchmark standard in innovation, integrity, fairness and consumer protection. Ensuring our advertising and marketing communications are prepared with a due sense of social and professional responsibility is a core component of that strategy. Our success in promoting our principles of innovation, fairness, business integrity and commercial excellence has been consistently recognised.

Betfair was awarded the Queen's Award for Enterprise, in the Innovation category, in 2003 and in the International Trade category in 2008. It was also awarded the CBI Company of the Year award in both 2004 and 2005, the only company to have received the award twice. In the domain of marketing Betfair was awarded the eGaming Industry Review "Offline Marketing Campaign" award in September 2008 for our work on the "Spring Racing 2008" campaign. We were also awarded the Data Strategy 2008 Award for Best Data Quality Service in recognition of our work to use data to make email communications more pertinent to individual customers. We were also proud to be named as "Socially Responsible Operator of the Year" in the eGaming Review Industry Awards for the second time in consecutive years in 2006.

At Betfair, we are committed to innovative yet responsible advertising and as such we welcome this opportunity to respond to CAP's first major review of the Code for five years. We see this as an opportunity to make our contribution to maintaining a regulatory framework which is fit for purpose, ensuring adequate safeguards to protect consumers, yet which enables responsible advertising to develop and flourish. Like CAP, we wish to ensure that the Code delivers a regulatory framework which is: "transparent, accountable, proportionate, consistent, targeted only where regulation is needed and written so that they are easily understood, easily implemented and easily enforced".

Rules on Gambling

We note that with the exception of the revisions to lottery marketing communications, CAP does not propose to make any revisions to the rules that relate to gambling, as set out in revised Rule 16 of the consultation document.

While Betfair respects the enduring principles contained within the Code and values the continuity and consistency that the rules are intended to provide, we are disappointed that CAP has not used the opportunity presented by the consultation to adopt a more comprehensive approach to review the rules on gambling.

In particular, we invite CAP to broaden the scope of the consultation and put forward our proposal for a revision to rule 57.4 (n)

Proposal for an exception to Rule 57.4(n) to allow professionals /celebrities from the gambling world the freedom to promote or endorse gambling products

Under the current rule 57.4 (n) marketing communications for gambling products or services

“must not include a child or a young person. No one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role”.

For the avoidance of doubt, Betfair fully and wholeheartedly supports measures to protect children and young people from being harmed or exploited by gambling. However, while we support rule 57.4(n) in principle, we feel that the absence of an exception to allow young people aged over 18 years but under 25 years and who have achieved professional success in the field of poker the freedom to be able to promote poker or betting products and services is disproportionate to its stated aim. We feel the current provisions are unnecessarily restrictive and amount to an unfair and discriminatory restraint of trade for successful young poker professionals.

Success at poker is widely considered to be dependent to a very large degree on skill and in some countries is treated officially as a sport with national poker federations with their own constitutions and rules. Furthermore, recent court decisions outside the UK have declared tournament poker, in which Annette has made her name, to be a game of skill. It is also widely shown on television, including sports channels such Sky Sports and ESPN. This clearly distinguishes poker from other gaming activities.

The most obvious example of an individual being denied freedom to contract and freedom of commercial expression under the current system is Annette Obrestad, the youngest person to ever win a World Series of Poker bracelet. In 2007, Annette was considered to be one of the best poker tournament players in the world.

Annette Obrestad is widely recognized and respected within the poker community, both on and offline, not on the basis of her age but on the basis of her world-class talent. However, the current rules restricting those aged under 25 from featuring in gambling promotions within the UK prevent Annette from being able to capitalize on her achievements and professional success by entering into lucrative endorsement and promotions relating to her discipline within the UK. Currently aged 20, Annette will need to stay at the top of her game for at least the next five years before she will be entitled to fully capitalize on her considerable potential earning power from advertising and endorsement. If she is unable to maintain her current ranking in her discipline by the time she reaches 25, the commercial opportunities available to her may be lost.

In fact, Annette could even be prevented from earning money after her 25th birthday, because the current rule purports to prohibit people who seem to be under 25. If Annette keeps her youthful looks, she will be prejudiced financially. This may add a layer of sexual discrimination to the age discrimination inherent in the rule, because a 25 year old male professional poker player may more easily take steps to ensure that he looks older than his years by growing a beard for example.

We regard the decision to impose a blanket age-restriction on marketing communications relating to gambling discriminates against young dedicated professionals, like Annette on grounds of age. Annette is an intelligent, responsible, talented adult, who is rightly admired within her field. There is no legal or moral objection to her right to choose to play poker, to exploit her talent as her main source of income and to compete to achieve recognition and success within her chosen field. However, the current lack of flexibility in the Code’s requirements place young professionals like Annette at a disadvantage in relation to world-class sportsmen and women practicing in other disciplines and in relation to players within her own discipline aged over 25.

The Employment Equality (Age) Regulations 2006, which protect not only employees but also contractors delivering services, recognize that there are circumstances where a discriminatory provision, criterion or practice may be justified if it pursues a legitimate aim. However, the Regulations clearly state that in such circumstances the discriminatory

provision, criteria or practice must be proportionate means for achieving this aim.⁸ As we will explain in greater detail below, we believe that this restriction within the CAP code amounts to a restraint of trade upon both professionals and brand-owners, which stifles commercial freedom to an extent that is disproportionate to the stated aim of protecting young people.

By imposing a blanket rule, the Code is preventing young adults aged 18 to 25, who have the legal right to access gambling services, compete in competitions and achieve national and international accolades, from being able to access commercial opportunities arising naturally from their professional success. In imposing such blanket restrictions, CAP has gone beyond the statutory policy of the Gambling Act 2005 and in our view beyond what is reasonable to promote responsible gaming promotions.

The failure to make an exception for professional or award winning poker players to appear in marketing communications regardless of age poses an interference with what is a fundamental human right of freedom of commercial expression for professionals such as Annette to communicate their commercial views and preferences.

The case law of the European Court of Human Rights indicates that all forms of expression merit protection by virtue of Article 10(1) of the Convention. This includes what is commonly known as commercial expression,⁹ being the provision of information, expression of ideas or communication of images as part of the promotion of a commercial activity and the concomitant right to receive such communications.

Clearly the exercise of freedom of expression, like that of other rights and freedoms may be subject to proportionate restrictions in order to secure the enjoyment of rights by others or the achievement of certain objectives in the common good. The protection of children is indisputably a legitimate social aim. However, we believe that in the context of the existing provisions within the Code intended to protect children and young people and the comprehensive industry standards regulating the Gambling Industry, the blanket restriction on gambling marketing communications featuring those aged 18 to 25 regardless of status is disproportionate to this aim.

There is a further anomaly in that advertising for gambling services often feature images of professional sports men and women, albeit as the subject matter for gambling, rather than as gamblers themselves. It is notable, however, that these men and women, particularly Premier League Football players, are role models to children and young people and far better known to them than someone like Annette. Betfair believes that the intention of rule 57.4 (n) in its current form is to avoid the depiction of young people engaged in the activity of gambling and/or playing a significant role in the activity of gambling, rather than in the advertisement itself. Otherwise, any advert for a gambling service that, for example, features Premier League Football players aged 25 or less in a significant role, would be in breach. However, this does not appear to be how the ASA currently interprets the rule.

In addition to rule 57.4 (n) there are a number existing provisions within the CAP Code which recognise children as a group entitled to special protection thereby providing adequate safeguards to ensure that children and young people are protected from being harmed or exploited by advertising that features or promotes gambling.

⁸ S3(1) Employment Equality (Age) Regulations 2006, SI 2006 No.1031

⁹ See for example, Markt Intern Verlag GmbH and Another v. Germany (A/164): (1990) 12 E.H.R.R. 161, paras [25] & [26] ; Groppera Radio Ag v. Switzerland (A/173): (1990) 12 E.H.R.R. 321, para. [55] ; and Casado Coca v. Spain (A/285) : (1994) 18 E.H.R.R. 1, paras [35] & [36]

Rules 57.2 states marketing communications for gambling should be socially responsible, with particular regard to the need to protect children, young persons and other vulnerable persons from being harmed or exploited by advertising that features or promotes gambling; 57.4(b) states marketing communications should not exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons;

57.4 (l) states marketing communications should not should not be likely to be of particular appeal to children or young persons, especially by reflecting or being associated with youth culture; and

57.4 (m) states marketing communications should not be directed at those aged below 18 years (or 16 years for lotteries, football pools, equal chance gaming (under a prize gaming permit or at a licensed family entertainment centre), prize gaming (at a non-licensed family entertainment centre or at a travelling fair) or Category D gaming machines) through the selection of media or context in which they appear.

In addition to the above further measures within rule 57.4 aimed at protecting vulnerable groups more generally provide added protection for children.

As a socially responsible provider of gambling products and services, Betfair fully endorses and supports these measures and also supports the general principle of rule 57.4(n) on the proviso that CAP introduces an exception for professional/celebrity endorsement as proposed above.

In addition to the protective measures contained within the 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, Gambling Commission 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. Like many providers in our industry, we have adopted a rigorous approach to protecting children and young people from exposure to gambling. 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.

Betfair is fully compliant with the Remote Gambling Association's Codes for Social Responsibility¹⁰ and Age Verification.¹¹

Betfair's under age policy is clear and information and warnings are carried on our homepages 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.¹²

Our rigorous age-verification process takes customers through multiple stages to confirm their identity and age.

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.

We constantly monitor our processes and perform regular random checks on all accounts.

¹⁰ <http://www.rga.eu.com/shopping/images/RGA%20SR%20Code%20-%20%20Final%2007.pdf>

¹¹

<http://www.rga.eu.com/shopping/images/Final%20RGA%20AV%20code%2025%20October%202005.pdf>

¹² www.betfair.com

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.

All Betfair employees receive responsible gambling awareness training within their first three months of employment, with further in-depth training programmes provided for customer-facing employees. Refresher training is given annually or more frequently when required. GamCare, the leading authority on the social impact of gambling in the UK, has been instrumental in the development of our training material.

In the context of the measures described above, we feel confident that our proposal to liberate young professionals aged 18 to 25 from the current discriminatory regime by allowing freedom of contract and freedom of commercial expression will have no detrimental impact on the wellbeing of children and young people.

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.

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.

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?

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.

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.

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.

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.

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.

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.

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.

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.

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?

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.

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.

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.

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.

ii) 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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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?

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.

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?

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?

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.

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.

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.

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.

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?

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.

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.

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.

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.

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.

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.

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.

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.

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.

- 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

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.

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.

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.
- 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?
- 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.

Other questions

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.
- 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?
- 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.
- 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?
- 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.

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.

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.

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.

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.

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.

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.

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

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?

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?

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.
- 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.

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.
- 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.

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.
- 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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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?

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.

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.

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.
- 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.

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?
- 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.

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.

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.
- 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.

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.

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.

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.
- 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.

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?

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?

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.

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.

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?

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?

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.

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?

Other questions

Question 77

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

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Weight Control and Slimming 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 13: Food, Dietary Supplements and Associated Health and Nutrition Claims

Permitted nutrition and health claims

Question 78

Do you agree that BCAP has correctly reflected the requirements of Articles 8(1), 10(1) and 28 of the NHCR in BCAP's proposed rules 13.4 and 13.4.1? If your answer is no, please explain why.

Giving rise to doubt about the safety or nutritional adequacy of another product

Question 79

Do you agree that BCAP has correctly reflected the requirements of Article 3(b) of the NHCR in BCAP's proposed rule 13.4.4? If your answer is no, please explain why.

Comparative nutrition claims

Question 80

Do you agree that BCAP has correctly reflected the requirements of Article 9 of the NHCR in BCAP's proposed rules 13.5.1 and 13.5.3? If your answer is no, please explain why.

Comparison with one product

Question 81

Do you agree that BCAP has correctly reflected the requirements of Article 9 of the NHCR and the guidance from the European Commission in BCAP's proposed rule 13.5.2? If your answer is no, please explain why.

Prohibitions

Question 82

Do you agree that BCAP has correctly reflected the requirements of Article 12(a) of the NHCR in BCAP's proposed rules 13.6 and 13.6.1? If your answer is no, please explain why.

Question 83

Do you agree that BCAP has correctly reflected the requirements of Article 3(e) of the NHCR in BCAP's proposed rules 13.6 and 13.6.4? If your answer is no, please explain why.

Food Labelling Regulations (1996) (FLRs)

Question 84

i) Do you agree that BCAP has correctly reflected the requirements of Article 14 of the NHCR and

Schedule 6 Part 1(2) of the FLRs in BCAP's proposed rules 13.6 and 13.6.2? If your answer is no, please explain why.

ii) Do you agree that BCAP has correctly reflected the relevant provisions of Regulation (EC) 1924/2006 on Nutrition and Health Claims on Foods in the proposed BCAP Code? If your answer is no, please explain why.

Infant formula and follow-on formula

Question 85

i) Do you agree that BCAP has correctly reflected the requirements of Regulation 21(a) of the Infant and Follow-on Formula Regulations (2007) (amended) in BCAP's proposed rule 13.8? If your answer is no, please explain why.

ii) Do you agree that BCAP has correctly reflected the requirements of Regulation 19 of the Infant Formula and Follow-on Formula Regulations 2007 (amended) in BCAP's proposed rule 13.8.1? If your answer is no, please explain why.

iii) Do you agree that BCAP has correctly reflected the relevant provisions of the Infant and Follow-on Formula Regulations (2007) (amended) in the proposed BCAP Code? If your answer is no, please explain why.

Health claims that refer to the recommendation of an individual health professional

Question 86

i) Do you agree that BCAP has correctly reflected Article 12(c) of the NHCR in rule 13.6.3? If your answer is no, please explain why.

ii) Given BCAP's policy consideration, do you agree that the Code should allow broadcast food advertisements to include health claims that refer to a recommendation by an association if that association is a health-related charity or a national representative body of medicine, nutrition or dietetics? If your answer is no, please explain why.

Other questions

Question 87

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

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

iii) Do you have other comments on this section?

Section 14: Financial products, services and investments

Interest on savings

Question 88

Do you agree that rule 14.7.5 makes clearer the requirement that the nature of the relation between interest rate and variable be stated? If your answer is no, please explain why.

Other questions

Question 89

- i) Taking into account BCAP's policy consideration, do you agree that BCAP's rules on financial products, services and investments are necessary and easily understandable? If your answer is no, please explain why?
- ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed rules that are likely to amount to a significant change in advertising policy and practice, 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 15: Faith, Religion and Equivalent Systems of Belief

Spiritual benefit in return for donations to the advertised cause

Question 90

Given BCAP's policy consideration, do you agree that 15.11, which presently applies to radio advertisements by or that refer to charitable faith-based bodies and that appeal for funds, should also cover those TV advertisements? If your answer is no, please explain why.

Unreasonable pressure to join or participate or not opt-out

Question 91

Given BCAP's policy consideration, do you agree that 15.2.3 should apply to radio as it presently does to TV? If your answer is no, please explain why.

Advertisements for charitable purposes that include recruitment or evangelism

Question 92

Given BCAP's policy consideration, do you agree that faith advertisements, which appeal for funds for charitable purposes that include or will be accompanied by recruitment or evangelism, are acceptable if that information is made clear in the advertisement? If your answer is no, please explain why.

Use in advertisements of sacred or religious music and acts of worship or prayer

Question 93

Given BCAP's policy consideration, do you agree that present radio rules 3.10 and 3.11, of section 3, need not be included in the proposed Code? If your answer is no, please explain why.

Involving viewers in services or ceremonies

Question 94

Given BCAP's policy consideration, do you agree that present TV rule 10.9 need not be included in the Code? If your answer is no, please explain why.

Individual experiences or personal benefits associated with a doctrine

Question 95

Given BCAP's policy consideration, do you agree that present TV rule 10.10 should not be included in the Code? If your answer is no, please explain why.

Counselling

Question 96

i) Given BCAP's policy consideration, do you agree that present TV rule 10.11 should not be included in the Code? If your answer is no, please explain why.

ii) Given BCAP's policy consideration, do you agree that 15.13 should be included in the Code? If your answer is no, please explain why.

Advertisements for products related to psychic or occult phenomena

Question 97

Given BCAP's policy consideration, do you agree to maintain the existing TV and radio requirements on advertisements for products or services concerned with the occult or psychic practices? If your answer is no, please explain why.

Other questions

Question 98

i) Taking into account BCAP's policy consideration, do you agree that BCAP's rules on Faith, Religion and Equivalent Systems of Belief are necessary and easily understandable? If your answer is no, please explain why?

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

iii) Do you have other comments on this section?

Section 16: Charities

Requirement to identify charities

Question 99

Given BCAP's policy consideration, do you agree that it is proportionate to replace the requirement for advertisements that include reference to a charity to include, in that advertisement, a list of charities that may benefit from donations with proposed rule 16.5.2? If your answer is no, please

explain why.

Medicine advertisements and donations to charities

Question 100

- i) Given BCAP's policy consideration, do you agree that the present TV and radio prohibitions on charity-based promotions in medicine advertisements should be deleted? If your answer is no, please explain why.
- ii) Given BCAP's policy consideration, do you agree that 16.7 should be included in the new code? If your answer is no, please explain why.

Complying with Data Protection Legislation

Question 101

Given BCAP's policy consideration, do you agree that it is not necessary to require a broadcaster to obtain an assurance that the advertiser will not disclose data to a third party without the client's consent, and the client's name will be promptly deleted on request? If your answer is no, please explain why.

Comparisons with other charities

Question 102

Given BCAP's policy consideration, do you agree that the present TV and radio prohibitions on comparisons in charity advertisements should be deleted? If your answer is no, please explain why.

The right of refund for credit or debit card donations of £50 or more

Question 103

Given BCAP's policy consideration, do you agree that the present radio rule, 3.2.4, should be deleted? If your answer is no, please explain why.

Other questions

Question 104

- i) Taking into account BCAP's general policy objectives, do you agree that BCAP's rules included in the proposed Charities Section are necessary and easily understandable? If your answer is no, please explain why.
- ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Charities rules that are likely to amount to a significant change in advertising policy and practice, are not reflected here and should be retained or otherwise be given dedicated consideration?
- iii) Do you have other comments on this section?

Section 17: Gambling

Consistency; principle

Question 105

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

Consistency; age of appeal of content

Question 106

Given BCAP's policy consideration, especially the requirement for consistency in regulation, do you agree it is proportionate to increase the restriction on age of appeal for broadcast National Lottery advertisements from 16+ to 18+? If your answer is no, please explain why.

Consistency; age at which a person may be featured gambling in a lottery advertisement

Question 107

Given BCAP's policy consideration, especially the requirement for consistency in regulation, do you agree it is proportionate to apply rules 18.6 and 18.7 to all broadcast lottery advertisements? If your answer is no, please explain why.

Consistency; other lottery rules

Question 108

Given BCAP's policy consideration, do you agree that the rules included in the Lottery Section of the Code are in line with BCAP's general policy objectives (see Part 1 (4) of this consultation document) and should be applied to broadcast advertisements for the National Lottery as they presently are to broadcast advertisements for other lotteries? If your answer is no, please explain why and, if relevant, please identify those rules that should not be applied to advertisements for the National Lottery.

Participating in a lottery in a working environment

Question 109

Given BCAP's policy consideration, do you agree that lottery advertisements should be able to feature participation in a lottery in a working environment? If your answer is no, please explain why.

Other questions

Question 110

- i) Taking into account BCAP's policy consideration, do you agree that BCAP's rules on Gambling and Lotteries are necessary and easily understandable? If your answer is no, please explain why?
- ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed rules that are likely to amount to a significant change in advertising policy and practice and are not reflected here and that should be retained or otherwise be given dedicated consideration?

iii) Do you have other comments on this section?

Section 19: Alcohol

Sales promotions in alcohol advertisements

Question 111

Given BCAP's policy consideration, do you agree that rule 19.11 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Irresponsible handling of alcohol

Question 112

Given BCAP's policy consideration, do you agree that rule 19.12 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Alcoholic strength

Question 113

Given BCAP's policy consideration, do you agree that rule 19.10 should be included in the proposed BCAP Code? If your answer is 'no', please explain why.

Alcohol in a working environment

Question 114

Given BCAP's policy consideration, do you agree that rule 19.14 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Exception for children featuring incidentally in alcohol advertisements

Question 115

Given BCAP's policy consideration, do you agree that rule 19.17 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Low alcohol exceptions

Question 116

i) Given BCAP's policy consideration, do you agree that it is wrong to exempt television advertisements for low alcohol drinks from the rule that requires anyone associated with drinking must be, and seem to be, at least 25 years old? If your answer is no, please explain why.

ii) Given BCAP's policy consideration, do you agree that it is wrong to exempt television advertisements for low alcohol drinks from the rule that prevents implying or encouraging immoderate drinking, including an exemption on buying a round of drinks? If your answer is no, please explain why.

Question 117

- i) Given BCAP's policy consideration, do you agree that it is wrong to exempt radio advertisements for low alcohol drinks from the rule that prevents implying or encouraging immoderate drinking, including an exemption on buying a round of drinks? If your answer is no, please explain why.
- ii) Given BCAP's policy consideration, do you agree that it is wrong to exempt radio advertisements for low alcohol drinks from the rule that prevents encouraging excessive consumption via sales promotions? If your answer is no, please explain why.
- iii) Given BCAP's policy consideration, do you agree that it is wrong to exempt radio advertisements for low alcohol drinks from the rule that prevents featuring a voiceover of anyone who is or appears to be 24 or under? If your answer is no, please explain why.

Other questions

Question 118

- i) Taking into account BCAP's general policy objectives, do you agree that BCAP's rules, included in the proposed Alcohol section are necessary and easily understandable? If your answer is no, please explain why.
- ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Alcohol section that are likely to amount to a significant change in advertising policy and practice, are not reflected here and should be retained or otherwise be given dedicated consideration?
- iii) Do you have other comments on this section?

Section 20: Motoring

References to speeds over 70mph

Question 119

- i) Given BCAP's policy consideration, do you agree that it is not justified to maintain a rule that prohibits references to speeds of over 70mph in motoring advertisements? If your answer is no, please explain why.
- ii) Given BCAP's policy consideration, do you agree that rule 20.4 should be included in BCAP's new Code? If your answer is no, please explain why

The use of fog lights

Question 120

Given BCAP's policy consideration, do you agree that the Code should not grant an exemption from proposed rule 20.2 for advertisements that feature a driver on a non-UK public road or in a non-UK public place using his or her fog lights when visibility is good? If your answer is no, please explain why.

Other questions

Question 121

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

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

iii) Do you have other comments on this section?

Section 22: Premium-Rate Services

PhonepayPlus Code

Question 122

Given BCAP's policy consideration, do you agree that proposed rules 22.1 to 22.6 and 22.8 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Radio advertisements for telecommunications-based sexual entertainment services

Question 123

Given BCAP's policy consideration, do you agree that proposed rule 23.1 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Television advertisements for PRS of a sexual nature

Question 124

Given BCAP's policy consideration, do you agree that TV advertisements for PRS of a sexual nature should be allowed on encrypted elements of adult entertainment channels only? If your answer is no, please explain why.

Question 125

i) Given BCAP's policy consideration, do you agree that the BCAP rule on PRS of a sexual nature should be clarified to make clear that it applies also to TV advertisements for telecommunications-based sexual entertainment services made available to consumers via a direct-response mechanism and delivered over electronic communication networks? If your answer is no, please explain why.

ii) If your answer is no to question X(i), do you consider the rule should make clear that 'premium-rate call charge' is the only permissible form of payment? If your answer is no, please explain why.

Question 126

Given BCAP's policy consideration, do you agree that BCAP's rule should not define PRS of a sexual nature as those operating on number ranges designated by Ofcom for those services? If your answer is no, please explain why.

Question 127

Given BCAP's policy consideration, do you agree that BCAP's rule on TV advertisements for telecommunications-based sexual entertainment services should extend to 'voice, text, image or video services of a sexual nature'? If your answer is no, please explain why.

Question 128

Given BCAP's policy consideration, do you agree that rule 11.1.2 in the present BCAP Television Code should be replaced by proposed rule 23.2? If your answer is no, please explain why.

Other Questions

Question 129

- i) Taking into account BCAP's general policy objectives, do you agree that BCAP's rules, included in the proposed Premium-Rate Services section, are necessary and easily understandable? If your answer is no, please explain why?
- ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Premium-Rate Services 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?
- iii) Do you have other comments on this section?

Section 24: Homeworking Schemes

New rules for radio

Question 130

- i) Given BCAP's policy consideration, do you agree that rules 24.1 and 24.2.1 should be applied to radio advertisements, as they presently are to TV advertisements? If your answer is no, please explain why.
- ii) Given BCAP's policy consideration, do you agree that it is not necessary to extend to radio the TV ban on advertisements that involve a charge for raw materials or advertisements that include an offer from the advertiser to buy goods made by the homemaker? If your answer is no, please explain why.

Other Questions

Question 131

- i) Taking into account its general policy objectives, do you agree that BCAP's rules, included in the proposed Homeworking Schemes Section, are necessary and easily understandable? If your answer is no, please explain why.
- ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Homeworking Schemes 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?
- iii) Do you have other comments on this section?

Section 25: Instructional Courses

New rules for radio

Question 132

- i) Given BCAP's policy consideration, do you agree that rules 25.1 and 25.2 should be applied to radio advertisements, as they presently are to television advertisements? If your answer is no, please explain why.
- ii) Taking into account its general policy objectives, do you agree that BCAP's rules, included in the proposed Instructional Courses section are necessary and easily understandable? If your answer is no, please explain why.

Unrecognised qualifications

Question 133

Given BCAP's policy consideration, do you agree with BCAP's proposal not to include present TV rule 11.5b in the proposed BCAP Code? If your answer is no, please explain why.

Other questions

Question 134

- i) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Instructional Courses 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?
- ii) Do you have other comments on this section?

Section 27: Introduction and Dating Services

Precautions when meeting people

Question 135

Given BCAP's policy consideration, do you agree that rule 27.4 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Data Protection

Question 136

Given BCAP's policy consideration, do you agree that it is not necessary to require a broadcaster to obtain an assurance that the advertiser will not disclose data to a third party without the client's consent, and the client's name will be promptly deleted on request? If your answer is no, please explain why.

Promiscuity

Question 137

Given BCAP's policy consideration, do you agree the proposed BCAP Code provides adequate

protection from the potential for harm or offence from advertisements that encourage or condone promiscuity? If your answer is no, please explain why.

Misleading

Question 138

Given BCAP's policy consideration, do you agree it is not necessary to carry over radio rules 3.14 (a) and (d) into the proposed BCAP Code? If your answer is no, please explain why.

Location or telephone number

Question 139

Given BCAP's policy consideration, do you agree it is not necessary to carry over radio rule 3.14 (b) into the proposed BCAP Code? If your answer is no, please explain why.

Other questions

Question 140

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

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Introduction and Dating Services 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 28: Competitions

Competitions

Question 141

i) Given BCAP's policy consideration, do you agree that rule 28.1 should be included in BCAP's new Code? If your answer is no, please explain why?

ii) Do you have other comments on this section?

Section 31: Other Categories of Radio Advertisements that Require Central Copy Clearance

18+ rated computer or console games

Question 142

Given BCAP's policy consideration, do you agree that 31.1.4 should be included in the Code? If your answer is no, please explain why.

Section 32: Scheduling

Computer and console games

Question 143

Given BCAP's policy consideration, do you agree that proposed rules 32.5.4 and 32.20.5 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Betting tipsters

Question 144

Given BCAP's policy consideration, do you agree that proposed rules 32.2.3 and 32.20.4 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Live premium-rate services

Question 145

Given BCAP's policy consideration, do you agree that proposed rules 32.2.6 and 32.20.8 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Restrictions around children's programmes

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.

Condoms

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.

Draft Body & Soul Response to BCAP Code Review on Condom Adverts

Body & Soul is a leading UK charity providing services to children, teenagers and heterosexuals living with, or affected by HIV. The weekly support sessions ensure their physical, emotional and mental well-being, a service made more urgent and needed by the fact that they are an often marginalized and isolated group. Pioneers in service-led assistance, Body & Soul works in partnership with policy organizations, and continues to press for a more efficient provision of sex education and HIV prevention.

In response to the BCAP's consultation, Body & Soul strongly favours the motion to relax current advertising restrictions of condoms. The benefits of a wider social group having direct access to knowledge on STI and pregnancy prevention cannot be stressed more. HIV education and the promotion of condom usage is a vital component in HIV prevention.

Current trends have seen a stark increase in STI and HIV diagnosis's and teenage pregnancies, in conjunction with a decrease in public knowledge on how HIV can be transmitted. In fact, an estimated 77,400 people were living with HIV in 2007, a quarter of which were unaware of their HIV positive status. In addition, 7,734 people were newly diagnosed with HIV in 2007, highlighting the steady increase in new infections.¹³ This highlights the urgent need for a stronger response to public information on STI prevention and the consistent use of condoms. The National AIDS Trust's recent survey highlights that 21% did not know that unprotected sex between a man and a woman could lead to HIV, and 26% were unaware that unprotected sex between two men could lead to HIV transmission.¹⁴ Sexually transmitted infections remain one of the most pressing concerns amongst young people between the ages of 16 and 24, as this is the age group most at risk of an STI diagnosis.¹⁵

In a time where teenagers are becoming sexually active at earlier ages, and in an environment where public knowledge on HIV transmission is in decline, an effective HIV prevention strategy and sexual health awareness delivery is urgently required. With young people faced with images and language in the media steeped in sexual connotations, the media hold a responsibility to provide a balance to this by increasing knowledge and information on sexual health. These adverts serve only to support the desired ongoing open discussions amongst young people on sexual health issues, with a heavy focus on educating them with accurate safe sex information.

In fact, recent surveys highlight that an overwhelming 90% of young people between the ages of 14 and 24 think that condom adverts should be shown on television. Furthermore, 81% believe this endeavour would encourage fellow youths to use condoms.¹⁶

This survey on young people highlighted that the vast majority considered Sex and Relationship Education (SRE) to be the most effective mode of enforcing condom usage.¹⁷ Higher profiles of

¹³ HIV in the United Kingdom, 2008 Report, HPA www.hpa.org.uk

¹⁴ Public Attitudes Towards HIV 2007, January 2008 Report, NAT
<http://www.nat.org.uk/Media%20Library/Files/PDF%20documents/NAT-MORI-report.pdf>

¹⁵ Sexually Transmitted Infections and Young People in the United Kingdom, 2008, HPA
www.hpa.org.uk

¹⁶ Sexual Health Advocacy and Research Project, 2007, Showing Condoms on TV: What Young People Think, Brook www.brook.org.uk

condom usage, in conjunction with SRE in schools should allow for honest and open discussions on HIV and STI prevention.

Condoms remain the most efficient means to reduce HIV transmission and other sexually transmitted infections.¹⁸ One should equip the general public with adequate resources to allow them to make informed decisions, increasing clarity on options and safety methods.

Body & Soul wholly supports the move to relax restrictions to allow for condom adverts to be shown prior to the 9pm watershed, though protecting the youngest viewers. With rising HIV and other STI prevalences as well as teenage pregnancies, the importance of implementing widely accessible accurate information on condom usage could not come at a more pressing time.

¹⁷ Sexual Health Advocacy and Research Project, 2007, Showing Condoms on TV: What Young People Think, 2007, Brook www.brook.org.uk

¹⁸ Position Statement on Condoms and HIV Prevention, 2009, UNAIDS, UNFPA & WHO

Sensational newspapers/magazines/websites

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.

TV Text and interactive advertisements

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?

Liqueur chocolates

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.

Charities

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.

Programmes featuring advertisements

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.

Detailed advertisements for gambling; Code for Text Services

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.

Artist separation

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.

Exclusion of certain types of advertisement in or adjacent to broadcasts of Parliamentary proceedings

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 in the proposed BCAP Code? If your answer is no, please explain why.

Other Questions

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

Section 33: Other comments

Question 157

Do you have other comments or observations on BCAP's proposed Code that you would like BCAP to take into account in its evaluation of consultation responses?

Responding to this consultation

How to respond

BCAP invites written comments including supporting evidence on the proposals contained in this document, by 5pm on 19 June. Respondents should complete a consultation cover sheet, which is made available [here](#).

When responding, please state if you are doing so as an individual or if you are representing an organisation. Also, please make clear what your individual interest is or who your organisation represents. It will be helpful if you explain fully and clearly why you hold your opinion.

We strongly prefer to receive responses as e-mail attachments, in Microsoft Word format, because that helps us to process the responses.

Please send your response to BCAPcodereview@cap.org.uk.

If you are unable to reply by e-mail, you may submit your response by post or fax (+44 (0)20 7404 3404), marked with the title of the consultation, to:

BCAP Code Review
Code Policy Team
Broadcast Committee of Advertising Practice
Mid City Place
71 High Holborn
London WC1V 6QT

Accessibility

We want our consultation process to be accessible to everyone. If you have particular accessibility needs please contact the Code Policy team and we shall be happy to help.

Telephone: 020 7492 2200

E-mail: BCAPcodereviewquestions@cap.org.uk

Fax: 020 7404 3404

Textphone: 020 7242 8159

Note that we do not need a hard copy in addition to an electronic version. Also note that, other than an automated response to responses received by email, BCAP will not routinely acknowledge receipt of responses.

BCAP has sent written notification of this consultation to the organisations and individuals listed in this annex. We welcome suggestions of others you think should be informed of this consultation.

More information

If you have any questions about this consultation or need advice on the form of response, please contact BCAP's Code Policy team on +44 (0)20 7492 2200 or email us at

BCAPcodereviewquestions@cap.org.uk.

Confidentiality

BCAP considers that everyone who is interested in the consultation should see the consultation responses. We shall publish all non-confidential responses on our website, www.cap.org.uk, when we announce the outcome of the consultation.

All comments will be treated as non-confidential unless you state that all or a specified part of your response is confidential and should not be disclosed. If you reply by e-mail or fax, unless you include a specific statement to the contrary in your response, the presumption of non-confidentiality will override any confidentiality disclaimer generated by your organisation's IT system or included as a general statement on your fax cover sheet.

If part of a response is confidential, please put that in a separate annex so that non-confidential parts may be published with your identity. Confidential responses will be included in any statistical summary of numbers of comments received.

List of consultees invited to respond

To obtain a variety of opinions, BCAP has invited these individuals and organisations to respond to this consultation:

23RED CENTRAL	AI DATA INTELLIGENCE
23RED LIMITED	AIS GROUP LIMITED
4D INTERACTIVE LTD	ALBANY TRUST
A R M DIRECT LIMITED	ALBION BRAND COMMUNICATION LIMITED
A.T.P. ADVERTISING & MARKETING LIMITED	ALCOHOL CONCERN
A.V. BROWNE ADVERTISING LIMITED	ALCOHOL EDUCATION AND RESEARCH COUNCIL
ABBEY NATIONAL PLC	ALCOHOL FOCUS SCOTLAND
ABBOTT MEAD VICKERS.BBDO LTD	ALCOHOL HEALTH ALLIANCE UK
ABSTRACTS LIMITED	ALCOHOLICS ANONYMOUS
ACTION FOR CHILDREN	ALDI STORES LIMITED
ACTION OF CHURCHES TOGETHER IN SCOTLAND	ALL RESPONSE MEDIA LIMITED
ACTION ON ADDICTION	ALL3MEDIA LTD
ACTION ON SMOKING AND HEALTH	ALLIANCE & LEICESTER PUBLIC LIMITED COMPANY
ADVERTISING PRODUCERS ASSOCIATION	ALLIANCE AGAINST URBAN 4X4S
ADVERTISING STANDARDS AUTHORITY FOR IRELAND	ALTOGETHER DIGITAL LIMITED
ADVERTISING STANDARDS AUTHORITY INC (NEW ZEALAND)	AMBROSE WILSON LTD
ADVERTISING STANDARDS CANADA	AMERICAN EXPRESS
ADVERTISING TRAINING WORKSHOPS	AMERISTAR LIMITED
ADVICE SERVICES ALLIANCE	AMNESTY INTERNATIONAL UNITED KINGDOM SECTION
AGE CONCERN CYMRU	AMS MEDIA GROUP LTD
AGE CONCERN ENGLAND	AN AGENCY CALLED ENGLAND LTD
AGE CONCERN ENTERPRISES LTD	ANGLIAN WINDOWS LIMITED
AGE CONCERN NORTHERN IRELAND	ANIMAL CONCERN
AGE CONCERN SCOTLAND	AOL (UK) LIMITED
AGENCY INSIGHT	ARC INTEGRATED MARKETING LTD
AGENCY REPUBLIC LIMITED	ARCHANT (SERVICES) LTD

ARGOS LTD	BACARDI-MARTINI LTD
ARLA FOODS LIMITED	BANK OF SCOTLAND
ARNOLD CLARK AUTOMOBILES LIMITED	BANKING CODE STANDARDS BOARD
ARTAVIA ADVERTISING LTD	BANNER CORPORATION PLC
ARTICLE 19 RESEARCH AND INFORMATION CENTRE ON CENSORSHIP	BAPTIST UNION OF GREAT BRITAIN
ARTICLE 29 DATA PROTECTIONS WORKING PARTY	BARBOUR INDEX LIMITED
ASDA STORES LIMITED	BARCLAYS BANK PLC
ASPRA	BARKERS COMMUNICATIONS SCOTLAND LTD
ASSEMBLIES OF GOD	BARNARDO'S
ASSOCIATED NEWSPAPERS LIMITED	BARRADALE LEAGAS ARNOLD CAMPBELL LIMITED
ASSOCIATION EUROPÉENNE DES RADIOS	BARTLE BOGLE HEGARTY LTD
ASSOCIATION FOR INTERACTIVE MEDIA AND ENTERTAINMENT LIMITED	BASE ONE LIMITED
ASSOCIATION FOR THE SCIENTIFIC STUDY OF ANOMALOUS PHENOMENA	BATES WELLS & BRAITHWAITE LONDON LLP
ASSOCIATION OF BRITISH INTRODUCTION AGENCIES	BAUER MEDIA
ASSOCIATION OF CHARITY SHOPS	BBC WORLDWIDE LTD
ASSOCIATION OF COMMERCIAL TELEVISION IN EUROPE	BBDO NEW YORK
ASSOCIATION OF THE BRITISH PHARMACEUTICAL INDUSTRY	BCM ADVERTISING LIMITED
ATTINGER JACK ADVERTISING LIMITED	BEACONSFIELD FOOTWEAR LIMITED
AUDIT BUREAU OF CIRCULATIONS LTD	BEATBULLYING LIMITED
AUSTIN WEST MEDIA LIMITED	BEATING EATING DISORDERS
AUTORITE DE REGULATION PROFESSIONNELLE DE LA PUBLICITE	BEATTIE MCGUINNESS BUNGAY LIMITED
AVIVA PLC	BEBO
AVVIO DESIGN ASSOCIATES LIMITED	BEIERSDORF UK LTD.
AWA LTD	BERWIN LEIGHTON PAISNER LTD
AXA SUN LIFE PUBLIC LIMITED COMPANY	BETFAIR LTD
B & Q PLC	BETTER REGULATION COMMISSION
BABY MILK ACTION	BIBLE SOCIETY
	BIG COMMUNICATIONS LTD
	BILLINGTON CARTMELL LTD
	BJL GROUP LTD
	BLOOMBERG U K LTD
	BLUE SAX PUBLISHING LTD

BNL MEDIA LIMITED	BRITISH GAS
BOARD FOR SOCIAL RESPONSIBILITY	BRITISH HEART FOUNDATION
BOCHASANWASI SHRI AKSHAR PURUSHOTTAM SWAMINARAYAN SANSTHA LIMITED	BRITISH HERBAL MEDICINES ASSOCIATION BHMA
BOOTH LOCKETT MAKIN LTD	BRITISH HUMANIST ASSOCIATION
BOOTS UK LIMITED	BRITISH INTERNET PUBLISHERS ALLIANCE
BOSE LIMITED	BRITISH MEDICAL ASSOCIATION
BOURNE LEISURE GROUP LIMITED	BRITISH NATIONAL TEMPERANCE LEAGUE
BOWDEN,SMYTH & PARTNERS LIMITED	BRITISH PREGNANCY ADVISORY SERVICE
BRAHM LTD	BRITISH RED CROSS
BRAND AID LTD	BRITISH RETAIL CONSORTIUM
BRAND REPUBLIC	BRITISH SIKH COUNCIL
BRANDED MOMENTS OF TRUTH LIMITED	BRITISH SKY BROADCASTING LIMITED
BRAY LEINO LTD	BRITISH SOCIETY OF CLINICAL HYPNOSIS
BRILLIANT MEDIA GROUP LIMITED	BRITISH SOCIETY OF COMEDY WRITERS
BRITAIN ISRAEL COMMUNICATIONS AND RESEARCH CENTRE	BRITISH TELECOMMUNICATIONS PLC
BRITISH AIRWAYS PLC	BRITISH VICTIMS OF ABORTION
BRITISH AND IRISH OMBUDSMAN ASSOCIATION	BRITISH VIDEO ASSOCIATION
BRITISH ASSOCIATION FOR APPLIED NUTRITION AND NUTRITIONAL THERAPY	BRITVIC SOFT DRINKS LIMITED
BRITISH ASSOCIATION FOR SHOOTING AND CONSERVATION	BROADCASTERS' AUDIENCE RESEARCH BOARD
BRITISH ASTROLOGICAL & PSYCHIC SOCIETY	BULLDOG COMMUNICATIONS LTD
BRITISH BOARD OF FILM CLASSIFICATION	BULLYING UK
BRITISH BROADCASTING CORPORATION	BUPA HEALTH ASSURANCE LIMITED
BRITISH DEAF ASSOCIATION	BURGERKING LTD
BRITISH DENTAL TRADE ASSOCIATION	BURSON-MARSTELLER
BRITISH DYSLEXIA ASSOCIATION	BUSINESS IN SPORT AND LEISURE
BRITISH EPILEPSY ASSOCIATION	BUTLINS SKYLINE LTD
BRITISH FILM INSTITUTE (BIG SCREEN) LTD	BUTTERFIELD MORRIS BUSHELL LIMITED
BRITISH FRUIT JUICE ASSOCIATION	BYGRAVES BUSHELL VALLADARES & SHELDON LTD
	BYRON ADVERTISING LTD
	C N B C (INTERNATIONAL) LTD
	C&C GROUP

CABINET OFFICE	CHANNEL FOUR TELEVISION COMPANY LTD
CADBURY TREBOR BASSETT SERVICES LIMITED	CHARITIES AID FOUNDATION
CAFOD	CHARITY COMMISSION
CAMELOT GROUP PLC	CHARITY LAW ASSOCIATION
CAMPAIGN	CHARTERED INSTITUTE OF JOURNALISTS
CAMPAIGN AGAINST CENSORSHIP	CHARTERHOUSE ADVERTISING & MARKETING LTD
CAMPAIGN AGAINST DRINK DRIVING	CHEETHAM BELL JWT LIMITED
CAMPAIGN AGAINST POLITICAL CORRECTNESS	CHELtenham & GLOUCESTER PLC
CAMPAIGN AGAINST RACISM AND FASCISM	CHEMISTRY COMMUNICATIONS GROUP P L C
CAMPAIGN FOR PRESS AND BROADCASTING FREEDOM	CHI & PARTNERS LTD
CANCER RESEARCH UK	CHICK SMITH TROTT LTD
CANON (UK) LIMITED	CHIEF RABBI OF THE UNITED HEBREW CONGREGATIONS
CANTERBURY CHRISTCHURCH UNIVERSITY COLLEGE	CHILTERN RADIO PLC
CAPITAL ONE BANK (EUROPE) PLC	CHRISTADELPHIANS
CARAT LIMITED	CHRISTIAN AID
CARDIFF UNIVERSITY	CHRISTIAN BROADCASTING COUNCIL
CARLSON MARKETING GROUP (U.K.) LTD	CHRISTIAN COMMUNICATIONS NETWORK (EUROPE) LTD
CARPETRIGHT PLC	CHRISTIAN PEOPLE'S ALLIANCE
CARPLUS TRUST	CHUMS LIMITED
CARTER GOSLING LIMITED	CHURCH ARMY
CASTLE COVER LIMITED	CHURCH OF SCIENTOLOGY
CATHOLIC HERALD	CHURCHES COUNCIL FOR INDUSTRY AND SOCIAL RESPONSIBILITY
CATHOLIC TRUTH SOCIETY	CHURCHES MEDIA COUNCIL
CBS OUTDOOR LTD	CHURCHES TOGETHER IN BRITAIN AND IRELAND
CDP-TRAVISSULLY LIMITED	CHURCHILL INSURANCE COMPANY LIMITED
CELADOR ENTERTAINMENT	CINEMA ADVERTISING ASSOCIATION
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CEREAL PARTNERS UK	CITY UNIVERSITY OF NEW YORK
CHANEL LIMITED	
CHANNEL 5 BROADCASTING LTD	

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CLAIMS MANAGEMENT REGULATION	COUNCIL OF CHRISTIANS AND JEWS
CLAIMS STANDARDS COUNCIL	CRANFIELD SOFTWARE LTD
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CLEAR MARKETING COMMUNICATIONS LIMITED	CULTURAL DIVERSITY ADVISORY GROUP TO THE MEDIA
CLEARCAST LTD	CURIOUSGROUP LTD
CMS CAMERON MCKENNA LLP	CYPRUS ADVERTISING AGENCIES ASSOCIATION
COCA-COLA GREAT BRITAIN	D C THOMSON & COMPANY LTD
COFACE	DA COSTA & CO. LIMITED
COGENT ELLIOTT LIMITED	DAILY EXPRESS
COLGATE-PALMOLIVE (U.K.) LIMITED	DAILY MAIL
COM & TEL (UK) LTD	DAIRY UK LIMITED
COMET GROUP PLC	DAMARTEX UK LIMITED
COMMISSION SUISSE POUR LA LOYAUTÉ	DANONE LTD
COMMITTEE ON INTERNAL MARKET AND CONSUMER PROTECTION	DATA PUBLISHERS ASSOCIATION
COMMUNICATIONS CONSUMER PANEL	DAVE LIMITED
COMPTON & WOODHOUSE LTD	DAVID GENT LIMITED
CONFEDERATION OF BRITISH INDUSTRY	DDB UK LIMITED
CONRAD ADVERTISING LTD	DE HAVILLAND
CONSEIL DE LA PUBLICITÉ DU GRAND-DUCHÉ DE LUXEMBOURG	DEBENHAMS RETAIL PLC
CONSELHO NACIONAL DE AUTO-REGULAMENTAÇÃO PUBLICITÁRIA	DELANEY LUND KNOX WARREN AND PARTNERS LIMITED
CONSENSUS ACTION ON SALT & HEALTH	DELL CORPORATION LIMITED
CONSERVATIVE CAMPAIGN HEADQUARTERS	DEMOCRATIC UNIONIST PARTY
CONSUMER FOCUS LTD	DEPARTMENT FOR BUSINESS, ENTERPRISE AND REGULATORY REFORM
CONSUMERS FOR HEALTH CHOICE LIMITED	DEPARTMENT FOR CHILDREN, SCHOOLS AND FAMILIES
CO-OPERATIVE INSURANCE SOCIETY LIMITED	DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT
COORS BREWERS LTD	DEPARTMENT FOR CULTURE MEDIA & SPORT
COPELAND & CHARRINGTON LIMITED	
CORPORATE RESPONSIBILITY COALITION	
COTTON TRADERS LIMITED	

DEPARTMENT FOR ENVIRONMENT FOOD AND RURAL AFFAIRS	DOLCE & GABBANA
DEPARTMENT FOR INTERNATIONAL DEVELOPMENT	DOMINO'S PIZZA LLC
DEPARTMENT FOR SOCIAL DEVELOPMENT NORTHERN IRELAND	DONER CARDWELL HAWKINS
DEPARTMENT FOR TRANSPORT	DRAFTFCB
DEPARTMENT OF HEALTH	DSG RETAIL LIMITED
DESIGNATE CREATIVE MARKETING & ADVERTISING	DURHAM EURO OFFICE
DEUTSCHER WERBERAT	E. ON RETAIL LTD
DEWYNTERS LTD	EARTH ADVERTISING
DFS TRADING LIMITED	EASYJET AIRLINE COMPANY LIMITED
DIABETES UK	EASYLIFE GROUP LIMITED
DIAGEO GREAT BRITAIN LIMITED	EAVES (POPPY PROJECT)
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DIALOGUE141	ECUMENICAL COUNCIL FOR CORPORATE RESPONSIBILITY
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DIRECT HOLIDAYS PLC	ELECTRONIC ARTS LTD
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DIRECTORY & DATABASE PUBLISHERS ASSOC	EPILEPSY RESEARCH UK
DISCOVERY CHANNEL	EPSOM DOWNS BUSINESS CENTRE LTD
	EQUALITY & HUMAN RIGHTS COMMISSION
	EQUI MEDIA LIMITED
	EQUINOX COMMUNICATIONS LIMITED
	ERA EUROPE

ERA UK	FARMFOODS LIMITED
ESTÉE LAUDER GROUP	FAWCETT SOCIETY
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EURO RSCG LONDON LIMITED	FIA FOUNDATION FOR THE AUTOMOBILE AND SOCIETY
EUROMONITOR PUBLICATIONS LIMITED	FIAT GROUP AUTOMOBILES UK LTD
EUROPEAN ADVERTISING STANDARDS ALLIANCE	FIELD FISHER WATERHOUSE LLP
EUROPEAN ASSOCIATION OF COMMUNICATIONS AGENCIES	FINANCIAL SERVICES CONSUMER PANEL
EUROPEAN ASSOCIATION OF DIRECTORY AND DATABASE PUBLISHERS	FINDUS LIMITED
EUROPEAN ECONOMIC AND SOCIAL COUNCIL	FIRST CITY ADVERTISING LIMITED
EUROPEAN FEDERATION OF MAGAZINES PUBLISHERS	FIVE BROADCASTING LTD
EUROPEAN FOOD LAW ASSOCIATION	FLYBE LIMITED
EUROPEAN FOOD SAFETY AUTHORITY	FOCUS (DIY) LIMITED
EUROPEAN GROUP OF TELEVISION ADVERTISING	FOOD STANDARDS AGENCY
EUROPEAN MEDICINES AGENCY	FORD MOTOR COMPANY LTD
EUROPEAN NEWSPAPER PUBLISHER'S ASSOCIATION	FOUNDATION FOR ADVERTISING RESEARCH
EUROPEAN PUBLIC HEALTH ALLIANCE	FOUR COMMUNICATIONS GROUP PLC
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EWA LIMITED	FOX MURPHY LIMITED
EXPEDIA.CO.UK	FRIENDS OF THE EARTH LIMITED
EXPRESS GIFTS LIMITED	FUNDRAISING STANDARDS BOARD
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GREENPEACE LIMITED	HINDU FORUM
GREY ADVERTISING LIMITED	HLC GROUP LIMITED
GROUP M WORLDWIDE INC	HM REVENUE AND CUSTOMS
GROUPM UK LTD	HMV RETAIL LIMITED
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GUERRILLA COMMUNICATIONS LTD	HOLMAN ADVERTISING LIMITED
GYRO INTERNATIONAL LIMITED	HOME MARKETING LIMITED
H H & S GROUP LTD	HOME OFFICE
H M TREASURY	HOMEBASE LIMITED
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HALFORDS LTD	HONDA (U.K.) LIMITED
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HAYMARKET BUSINESS PUBLICATIONS LTD	HOUSE OF COMMONS
HBOS PLC	HOUSE OF FRASER (STORES) LIMITED
HEADLINERS	HOUSE OF LORDS
HEALTH COMMITTEE	HOUSES OF PARLIAMENT
HEALTH FOOD MANUFACTURERS ASSOCIATION	HRO'C LIMITED
HEALTHSPAN GROUP LTD	HSBC BANK PLC
HEALTHY DIRECT LTD	HUBBUB COMMUNICATIONS LTD
HEANOR GATE SCHOOL	HUDSON WRIGHT ASSOCIATES LIMITED
	HUET AMINTO LIMITED
	HUMANIST SOCIETY OF SCOTLAND

HUTCHISON 3G UK LIMITED	IPC MEDIA LIMITED
IBM UNITED KINGDOM LIMITED	ISOBEL ADVERTISING LIMITED
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IGAMING BUSINESS	ITV NETWORK LIMITED
IKEA LIMITED	ITV PLC
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INSTITUTE OF ALCOHOL STUDIES	KASTNER & PARTNERS IN LONDON LIMITED
INSTITUTE OF COMPLEMENTARY MEDICINE	KAYE SCHOLER LLP
INSTITUTE OF FUNDRAISING	KELLOGG MARKETING AND SALES COMPANY (UK) LIMITED
INSTITUTE OF SALES PROMOTION	KENTUCKY FRIED CHICKEN (GREAT BRITAIN) LIMITED
ISTITUTO CIVIL DA AUTODISCIPLINA DA PUBLICIDADE	KIA MOTORS (UK) LIMITED
INSTORE	KINDRED AGENCY LIMITED
INTERACTIVE ADVERTISING BUREAU	KINETIC WORLDWIDE LIMITED
INTERACTIVE DIGITAL SALES LTD	KING ALFRED SCHOOL
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INTERNATIONAL CHAMBER OF COMMERCE UK	KIRKHAM MOTTE LTD
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LAVERY ROWE ADVERTISING LIMITED	LOVELLS LLP
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LITTLEWOODS GAMING LIMITED	MARKS & SPENCER P.L.C.
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LIVERPOOL VICTORIA LIFE COMPANY LIMITED	MARTIN TAIT REDHEADS LTD.
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LOCAL AUTHORITIES COORDINATORS OF REGULATORY SERVICES	MATALAN RETAIL LTD.
LOCAL BETTER REGULATION OFFICE	MATTERS MEDIA LIMITED
	MAZDA MOTORS UK LIMITED

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MCCANN-ERICKSON ADVERTISING LTD	MORTIMER WHITTAKER O'SULLIVAN LIMITED
MCDONALD'S RESTAURANTS LTD	MOSTLY MEDIA LIMITED
MEC INTERACTION	MOTHER LIMITED
MEDIA BY DESIGN LIMITED	MRC HUMAN NUTRITION RESEARCH
MEDIA CAMPAIGN LIMITED	MUSLIM COUNCIL OF BRITAIN
MEDIA GUARDIAN	NATIONAL ALLIANCE OF WOMEN'S ORGANISATIONS
MEDIA PLANNING LTD	NATIONAL ASSOCIATION FOR GAMBLING CARE,
MEDIA TRUST	NATIONAL ASSOCIATION OF SCHOOLMASTERS AND UNION OF WOMEN TEACHERS
MEDIABILITY LIMITED	NATIONAL CHILDREN'S BUREAU
MEDIACOM EDINBURGH LTD	NATIONAL CONFEDERATION OF PARENT TEACHER ASSOCIATIONS
MEDIACOM HOLDINGS LIMITED	NATIONAL CONSUMER FEDERATION
MEDIACOM NORTH LTD	NATIONAL CONSUMER RIGHTS PROTECTION BOARD
MEDIAEDGE:CIA MANCHESTER	NATIONAL COUNCIL OF WOMEN
MEDIAEDGE:CIA UK LIMITED	NATIONAL FAMILY AND PARENTING INSTITUTE
MEDIA-MARKETING.CO.UK. LTD	NATIONAL FEDERATION OF SPIRITUAL HEALERS
MEDIAVEST (LEEDS) LIMITED	NATIONAL HEART FORUM
MEDIAVEST (MANCHESTER) LTD	NATIONAL KIDNEY FEDERATION
MEDIAVISION (MANCHESTER) LIMITED	NATIONAL MEDIA MUSEUM
MEDIAWATCH	NATIONAL SECULAR SOCIETY
MEDICINES AND HEALTHCARE PRODUCTS REGULATORY AGENCY	NATIONAL SOCIETY FOR THE PREVENTION OF CRUELTY TO CHILDREN
MERCEDES-BENZ UK LIMITED	NATIONAL TRUST
MERLE LTD	NATIONAL UNION OF JOURNALISTS
METEORITE MARKETING LIMITED	NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY
MICROSOFT LIMITED	NATIONWIDE BUILDING SOCIETY
MIDASPLAYER.COM LTD	
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MINISTRY OF DEFENCE	
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NESTLE WATERS UK LIMITED	ONE WORLD BROADCASTING TRUST
NETTO FOODSTORES LIMITED	ÖNSZABÁLYOZÓ REKLÁM TESTÜLET
NEW HUMANIST	OPTICAL EXPRESS LIMITED
NEW MEDIA AGE	ORANGE PERSONAL COMMUNICATIONS SERVICES LIMITED
NEW TESTAMENT CHURCH OF GOD	ORKLA FOODS
NEWS GROUP NEWSPAPERS LIMITED	OSBORNE CLARKE
NEWS GROUP NEWSPAPERS LTD	OSTERREICHISCHER WERBERAT
NEWSQUEST (BRADFORD) LTD	OXFAM
NEXUS/H UK LIMITED	OXFORD COLLEGE OF MARKETING LTD
NHS CONFEDERATION	P&O CRUISES LTD
NISSAN MOTOR (GB) LIMITED	PAGAN FEDERATION
NITRO LTD	PALING WALTERS LIMITED
NOISE ABATEMENT SOCIETY	PANASONIC UK LTD
NOKIA UK LIMITED	PARAMOUNT PICTURES UK
NORTHERN & SHELL PLC	PARAMOUNT UK PARTNERSHIP
NORTHERN FILM SCHOOL	PARTNERS ANDREWS ALDRIDGE LIMITED
NORTHERN IRELAND ASSEMBLY	PARYS COMMUNICATIONS LIMITED
NORTHGATE HIGH SCHOOL	PD 3 LIMITED
NOTTINGHAMSHIRE COUNTY COUNCIL	PEARL & DEAN CINEMAS LTD
NOW GROUP UK LTD	PERIODICAL PUBLISHERS ASSOCIATION LTD
NPOWER LIMITED	PEUGEOT MOTOR COMPANY PLC
NPOWER RENEWABLES LIMITED	PHD MEDIA LIMITED
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OFCOM TELEVISION AND RADIO LICENCEES	PHONEPAYPLUS LIMITED
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PREMIUM RATE ASSOCIATION LTD	RADIOCENTRE LIMITED
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PRINCIPLES COMMUNICATIONS LTD	RAPP LIMITED
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PROCTER & GAMBLE TECHNICAL CENTRES	RAW MEDIA LTD
PROCTER & GAMBLE UK	RDF MEDIA LIMITED
PRODUCERS' ALLIANCE FOR CINEMA AND TELEVISION LIMITED	REACHOUT TRUST
PROFERO LIMITED	READER OFFERS LIMITED
PROLIFE ALLIANCE	RED CIRCLE TECHNOLOGY LTD
PROXIMITY LONDON LTD	RED CONSULTANCY
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PSYCHIC TV LTD	REFORM LIMITED
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PUBLIC LTD	REKLAMNY SOVET ROSSII
PUBLICIS LTD	REKLAMOS BIURAS
Q RADIO NETWORK	REMOTE GAMBLING ASSOCIATION
QUAKER ACTION ON ALCOHOL AND DRUGS	RENAULT U.K. LIMITED
QUAKERS	RE-SOLV
QUANTUM MEDIA SERVICES LIMITED	RESPONSE DIRECT PUBLISHING LTD
QUIET STORM LIMITED	RIAS PLC
QUIT	RIDGE ADVERTISING (MARKETING) LTD
QVC	RIPON COLLEGE
R H ADVERTISING LTD	RIVIERA TRAVEL LIMITED
R.A.C. MOTORING SERVICES	RMG CONNECT LTD
R.O. EYE LTD	ROBSON BROWN LIMITED
	RODGERS & RODGERS LTD

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ROYAL & SUN ALLIANCE INSURANCE GROUP PLC	SCOTTISH FRIENDLY ASSURANCE SOCIETY LIMITED
ROYAL BOROUGH OF KINGSTON-UPON-THAMES	SCOTTISH HEALTH ACTION ON ALCOHOL PROBLEMS
ROYAL COLLEGE OF GENERAL PRACTITIONERS	SCOTTISH NATIONAL PARTY
ROYAL COLLEGE OF PAEDIATRIC & CHILD HEALTH	SCOTTISH NEWSPRINT USERS ASSOCIATION
ROYAL HOLLOWAY COLLEGE	SCREWFIX DIRECT LTD
ROYAL MAIL GROUP PLC	SELECTIVE MARKETPLACE LTD
ROYAL NATIONAL INSTITUTE OF BLIND PEOPLE	SEQUENCE (UK) LIMITED
ROYAL NATIONAL LIFEBOAT INSTITUTION	SETANTA SPORT LTD
ROYAL SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS	SEVEN SEAS LTD
ROYAL TELEVISION SOCIETY	SHED PRODUCTIONS LIMITED
RUBICON DRINKS	SHELL CHEMICALS LTD
RULEBOOK CONSULTING LTD	SHELL INTERNATIONAL LIMITED
RUSSELL, CHARLES	SHIFT
SAAB GREAT BRITAIN LTD	SHOP DIRECT HOME SHOPPING LIMITED
SAATCHI & SAATCHI LTD	SIKH MISSIONARY SOCIETY UK
SAATCHI SAATCHI FALLON UK GROUP	SILVERMERE PARTNERSHIP
SAGA GROUP LIMITED	SIMPLY SUPPLEMENTS
SALVATION OF GOD MINISTRY CHERUBIM AND SERAPHIM CHURCH	SIMPLYHEALTH ACCESS
SAMARITANS	SINN FÉIN
SAMSUNG ELECTRONICS (UK) LIMITED	SKILLSET
SASS BRAND COMMUNICATIONS LTD	SKILLSTRAIN LIMITED
SAVE THE CHILDREN FUND	SLOVENSKA OGLASEVALSKA ZBORNICA
SCHMIDT UK LTD	SMART ENERGY UK LTD
SCHOOL FOOD TRUST	SMARTS LTD/ IAS B2B PLC
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SCOTTISH & NEWCASTLE UK LTD	SNACK, NUT AND CRISP MANUFACTURERS ASSOCIATION
	SOCIAL DEMOCRATIC AND LABOUR PARTY
	SOLAR HOME ENERGY LTD
	SOLD OUT ADVERTISING LTD

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SOMERFIELD STORES LIMITED	SUNSPOT TOURS LIMITED
SONY COMPUTER ENTERTAINMENT UK LIMITED	SUSTAIN: THE ALLIANCE FOR BETTER FOOD & FARMING
SONY ERICSSON MOBILE COMMUNICATIONS INTERNATIONAL AB	SUZUKI GB PLC
SONY MUSIC ENTERTAINMENT (UK) LTD.	SYNERGYSTA LTD
SONY PICTURES DIGITAL INC	SYZYGY UK LTD
SONY PICTURES HOME ENTERTAINMENT LTD	T.C.S. MEDIA (NORTH) LIMITED
SONY PICTURES RELEASING UK	T.C.S. MEDIA (PLANNING & BUYING) LIMITED
SONY UNITED KINGDOM LIMITED	TALKBACK PRODUCTIONS LIMITED
SOUK COMMUNICATIONS LTD	TANGIBLE FINANCIAL LTD
SOUTH TYNESIDE TRADING STANDARDS	TARGET MEDIA LTD
SOUTHBANK CENTRE	TARGETBASE CLAYDON HEELEY
SPECSAVERS OPTICAL GROUP LTD	TBWA\LONDON LIMITED
SPIRIT ADVERTISING	TBWA\MANCHESTER LIMITED
SPRING HARVEST	TDA (THE DIRECT AGENCY) LTD
SPRINGDOO MEDIA LTD	TEAM SAATCHI
SQUARE 1 COMMUNICATIONS LTD	TEAMSPIRIT LTD
ST LUKE'S COMMUNICATIONS LIMITED	TELEFONICA O2 UK LIMITED
STANLEY CASINOS LIMITED	TELEGRAPH MEDIA GROUP LTD
STAPLES UK LIMITED	TELETEXT LTD
STARCOM MEDIAVEST GROUP UK	TEQUILA LONDON LIMITED
STARLAND ENTERTAINMENTS	TERENCE HIGGINS TRUST
STEPHENSON HARWOOD	TESCO PERSONAL FINANCE LIMITED
STICHTING RECLAMENCODE (SRC)	TESCO STORES LIMITED
STIRLING MEDIA RESEARCH INSTITUTE	THE A & S LEISURE GROUP LIMITED
STONELY TRAINING	THE ADVERTISING ASSOCIATION
STONEWALL EQUALITY LIMITED	THE ADVERTISING STANDARDS BOARD OF FINANCE LIMITED
STRATTONS LTD	THE ADVERTISING STANDARDS BUREAU
STV INTERNATIONAL LTD	THE ANIMAL PROCEDURES COMMITTEE
SUE RYDER CARE	THE ASSOCIATION FOR TELEVISION ON-DEMAND LIMITED
SUN INTERNATIONAL	

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 THE ASSOCIATION OF PROFESSIONAL
 ASTROLOGERS INTERNATIONAL
 THE ASTROLOGICAL ASSOCIATION
 THE AUTOMOBILE ASSOCIATION LIMITED
 THE BAPTIST TIMES LTD
 THE BINGO ASSOCIATION
 THE BLUE CROSS TRADING COMPANY LIMITED
 THE BOARD OF DEPUTIES OF BRITISH JEWS
 THE BOOK PEOPLE LIMITED
 THE BOOTS COMPANY PLC
 THE BOYS' BRIGADE UK
 THE BRADFORD GROUP
 THE BRIDGE
 THE BRITISH ACADEMY OF FILM & TELEVISION
 ARTS
 THE BRITISH CASINO ASSOCIATION
 THE BRITISH COMPLEMENTARY MEDICINE
 ASSOCIATION
 THE BRITISH DIABETIC ASSOCIATION
 THE BRITISH DIETETIC ASSOCIATION
 THE BRITISH INSTITUTE OF HUMAN RIGHTS
 THE BRITISH NUTRITION FOUNDATION
 THE BRITISH PSYCHOLOGICAL SOCIETY
 THE BRITISH SOFT DRINKS ASSOCIATION LTD
 THE BRITISH YOUTH COUNCIL
 THE BROADCASTING, ENTERTAINMENT,
 CINEMATOGRAPH AND THEATRE UNION
 THE BUDDHIST SOCIETY
 THE CAMPAIGN FOR HOMOSEXUAL EQUALITY
 THE CAPTIVE ANIMALS PROTECTION SOCIETY
 THE CARPHONE WAREHOUSE LIMITED
 THE CATHOLIC CHURCH IN ENGLAND AND
 WALES

THE CHILD ACCIDENT PREVENTION TRUST
 THE CHRISTIAN INSTITUTE
 THE CHURCH OF ENGLAND
 THE CHURCH OF ENGLAND CHILDREN'S
 SOCIETY
 THE CHURCH OF ENGLAND NEWSPAPER
 THE CHURCH OF IRELAND BOARD FOR SOCIAL
 RESPONSIBILITY
 THE CHURCH OF SCOTLAND
 THE COMMUNICATIONS AGENCY LTD
 THE COMMUNICATIONS UNIT LIMITED
 THE COMMUNITY PRACTITIONERS' AND
 HEALTH VISITORS' ASSOCIATION
 THE COMPLEMENTARY AND NATURAL
 HEALTHCARE COUNCIL
 THE CONSUMER COUNCIL FOR NORTHERN
 IRELAND
 THE CO-OPERATIVE GROUP LTD
 THE COSMETIC, TOILETRY AND PERFUMERY
 ASSOCIATION LIMITED
 THE COUNCIL FOR ACADEMIC FREEDOM AND
 ACADEMIC STANDARDS
 THE DAIRY COUNCIL
 THE DIRECT MARKETING ASSOCIATION (UK)
 LIMITED
 THE DIRECT MARKETING COMMISSION
 THE DIRECT SELLING ASSOCIATION LTD
 THE ECONOMIST GROUP
 THE ENTERPRISE DEPARTMENT LIMITED
 THE ETHICAL SOCIETY
 THE ETHNIC MINORITY FOUNDATION
 THE EUROPEAN FEDERATION OF
 ASSOCIATIONS OF HEALTH PRODUCT
 MANUFACTURERS

THE EUROPEAN FORUM FOR RESPONSIBLE DRINKING

THE EVANGELICAL ALLIANCE

THE FAMILY PLANNING ASSOCIATION

THE FEDERATION OF SYNAGOGUES

THE FINANCIAL SERVICES AUTHORITY

THE FINANCIAL TIMES LIMITED

THE FOOD AND DRINK FEDERATION

THE FOOD COMMISSION (UK) LTD

THE FREEDOM ORGANISATION FOR THE RIGHT TO ENJOY SMOKING TOBACCO LIMITED

THE GATE WORLDWIDE LIMITED

THE GREEN PARTY

THE GROCER

THE HEALTHCARE COMMISSION

THE INSERT & LEAFLET TEAM LIMITED

THE INSTITUTE FOR RELIGION, ETHICS & PUBLIC LIFE

THE INSTITUTE OF CONSUMER AFFAIRS

THE INSTITUTE OF PRACTITIONERS IN ADVERTISING

THE INSTITUTE OF SALES PROMOTION LIMITED

THE ISLAMIC SOCIETY OF BRITAIN

THE J D A GROUP LTD

THE JJ GROUP LTD

THE KENNEL CLUB LIMITED

THE LEITH AGENCY LIMITED

THE LIBERTARIAN ALLIANCE

THE LOTTERIES COUNCIL

THE MARKETING SOCIETY LTD

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THE METHODIST CHURCH

THE MOBILE BROADBAND GROUP

THE MOBILE MARKETING ASSOCIATION (UK) LIMITED

THE MUSLIM COLLEGE

THE NATIONAL ASSOCIATION OF CITIZENS ADVICE BUREAUX

THE NATIONAL ASSOCIATION OF HEAD TEACHERS

THE NATIONAL ASSOCIATION OF PRESS AGENCIES

THE NATIONAL COUNCIL FOR VOLUNTARY ORGANISATIONS

THE NATIONAL COUNCIL OF WOMEN

THE NATIONAL FEDERATION OF WOMEN'S INSTITUTES OF ENGLAND, WALES, JERSEY, GUERNSEY AND THE ISLE OF MAN

THE NATIONAL FILM AND TELEVISION SCHOOL

THE NATIONAL LOTTERY COMMISSION

THE NATIONAL SOCIETY FOR EPILEPSY

THE NATIONAL UNION OF STUDENTS INTERNATIONAL CENTRE LIMITED

THE NATIONAL UNION OF TEACHERS

THE NEONATAL SOCIETY

THE NEWSPAPER PUBLISHERS ASSOCIATION LTD

THE NEWSPAPER SOCIETY

THE NUTRITION SOCIETY

THE OFFICE OF COMMUNICATIONS

THE OPEN UNIVERSITY

THE ORCHARD CONSULTANCY

THE ORGANIC FOOD FEDERATION

THE ORION PUBLISHING GROUP LIMITED

THE OUTDOOR ADVERTISING ASSOCIATION OF GREAT BRITAIN

THE PEOPLES DISPENSARY FOR SICK ANIMALS
THE PORTMAN GROUP
THE PRESCRIPTION MEDICINES CODE OF
PRACTICE AUTHORITY
THE PRESS ASSOCIATION LIMITED
THE PROPAGANDA AGENCY LIMITED
THE PROPRIETARY ASSOCIATION OF GREAT
BRITAIN
THE RADIO ACADEMY
THE READERS DIGEST ASSOCIATION LIMITED
THE RED BRICK ROAD LIMITED
THE RESPONSE TEAM LTD
THE ROLEX WATCH COMPANY LIMITED
THE ROYAL ASSOCIATION FOR DISABILITY AND
REHABILITATION
THE ROYAL BRITISH LEGION
THE ROYAL COLLEGE OF PSYCHIATRISTS
THE ROYAL NATIONAL INSTITUTE FOR DEAF
PEOPLE
THE ROYAL SOCIETY FOR THE PREVENTION OF
ACCIDENTS
THE RUNNYMEDE TRUST
THE SALVATION ARMY
THE SATELLITE AND CABLE BROADCASTERS'
GROUP
THE SCOTSMAN PUBLICATIONS LTD
THE SCOTT TRUST
THE SCOTTISH GOVERNMENT
THE SIMKINS PARTNERSHIP
THE SOCIETY OF EDITORS
THE SOCIETY OF MOTOR MANUFACTURERS
AND TRADERS LIMITED
THE SPIRITUALIST ASSOCIATION OF GREAT
BRITAIN
THE SWATCH GROUP (UK) LIMITED

THE TERRENCE HIGGINS TRUST
THE THEOSOPHICAL SOCIETY ENGLAND
THE TIMES
THE TRADING STANDARDS INSTITUTE
THE UNION ADVERTISING AGENCY LTD
THE UNION OF LIBERAL & PROGRESSIVE
SYNANGOGUES
THE UNITED FREE CHURCH OF SCOTLAND
THE UNITED KINGDOM'S DISABLED PEOPLE'S
COUNCIL
THE UNITED REFORMED CHURCH
THE UNIVERSITY LIBRARY
THE WALKER AGENCY LIMITED
THE WALT DISNEY COMPANY LTD
THE WELSH ASSEMBLY GOVERNMENT
THE WINE AND SPIRIT TRADE ASSOCIATION
THINKBOX LIMITED
THIRD SECTOR
THOMAS COOK RETAIL LIMITED
THOMPSON & MORGAN LIMITED
TIGER ASPECT PRODUCTIONS LIMITED
TIME WARNER LIMITED
TISCALI UK LTD
T-MOBILE (UK) LIMITED
TOBACCO MANUFACTURERS' ASSOCIATION
TOGETHER AGENCY
TOMBOLA LIMITED
TOP UP TV
TOTAL MEDIA GROUP LIMITED
TOUCHDOWN INTEGRATED MARKETING LTD
TOYOTA(G.B.) PLC
TOYS 'R' US LTD
TRADING STANDARDS

TRAIDCRAFT PLC	VIRGIN ATLANTIC AIRWAYS LIMITED
TRANSPORT FOR LONDON	VIRGIN HOLIDAYS LIMITED
TRINITY MIRROR PLC	VIRGIN MEDIA LIMITED
TULLO MARSHALL WARREN LTD	VIRGIN MOBILE TELECOMS LTD
TV SHOPPING DIRECT LIMITED	VIRGIN MONEY LIMITED
TWENTIETH CENTURY FOX	VISA INTERNATIONAL
TWENTYSIX LONDON LTD	VIZEUM UK LIMITED
TWININGS	VODAFONE UK LIMITED
UBER AGENCY LIMITED	VOICE LIMITED
UK ADVERTISING & MARKETING SERVICES	VOICE OF THE LISTENER AND VIEWER
UK FILM COUNCIL	VOLKSWAGEN GROUP UNITED KINGDOM LTD
UK INDEPENDENCE PARTY	VOLVO CAR UK LIMITED
UK MEN'S MOVEMENT LIMITED	WAA LIMITED
UK MUSIC	WALKER MEDIA LIMITED
ULTRAVOX HOLDINGS LIMITED	WARE ANTHONY RUST LTD
UNILEVER BESTFOODS UK LTD	WARL GROUP LIMITED
UNILEVER UK LTD	WARNER BROS DISTRIBUTORS (UK) LTD
UNIVERSAL MCCANN INTERACTIVE	WCRS LTD
UNIVERSAL MCCANN LONDON	WDMP KF LIMITED
UNIVERSAL MCCANN MANCHESTER	WELSH FOURTH CHANNEL AUTHORITY
UNIVERSAL PICTURES (UK) LIMITED	WELSH LOCAL GOVERNMENT ASSOCIATION
UNIVERSITY OF EAST LONDON	WEST MIDLANDS LABOUR OFFICE
UNIVERSITY OF EDINBURGH	WESTMINSTER DIET AND HEALTH FORUM
UNIVERSITY OF GREENWICH	WFCA INTEGRATED LIMITED
UNIVERSITY OF LONDON	WHICH?
UTV RADIO (GB) LTD	WHIPPET UK LTD
VAUXHALL MOTORS LTD	WICKES BUILDING SUPPLIES LTD
VCCP LIMITED	WIEDEN & KENNEDY UK LTD
VEHICLE CERTIFICATION AGENCY	WILKINSON HARDWARE STORES LIMITED
VIACOM BRAND SOLUTIONS LIMITED	WILLIAM HILL ORGANIZATION LIMITED
VICTORIA TRAVEL SERVICE LIMITED	WM MORRISON SUPERMARKETS P L C
VIDEO REKLAMOS STUDIJA	WOMEN'S AID FEDERATION

WOO COMMUNICATIONS
WORKING LUNCH
WORLD DEVELOPMENT MOVEMENT
WORLD FEDERATION OF ADVERTISERS
WORTH LTD
WUNDERMAN LTD
WWAV RAPP COLLINS EDINBURGH
WWAV RAPP COLLINS MEDIA LTD
WYATT INTERNATIONAL LTD
YAHOO! EUROPE LIMITED
YAKULT UK LIMITED
YELL LTD
YOUNG MINDS TRUST
YOUTH FOR CHRIST
ZED MEDIA LTD
ZENITHOPTIMEDIA SERVICES LTD
ZENTRALE ZUR BEKÄMPFUNG UNLAUTEREN
WETTBEWERBS
ZEST ST LIMITED
ZINC ADVERTISING LTD
ZURICH FINANCIAL SERVICES

Please note that BCAP welcomes responses from all other interested parties.

According to need, we will endeavour to provide copies of this document in alternative formats upon request.

Please contact us at:
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E consult@cap.org.uk

The Broadcast Committee of Advertising Practice (BCAP) is the industry body responsible for writing and enforcing the UK's TV and radio advertising Codes to ensure that all broadcast advertisements are legal, decent, honest and truthful.

To find out more about the work of the Committee or to subscribe to our quarterly advertising industry e-mail newsletter, visit our website at:
www.cap.org.uk

Dear Sirs

I am a Solicitor at Bond Pearce LLP. I have read through the two consultation papers that you have published for the CAP and BCAP codes and have the following comments.

Broadcast CAP consultation response

Question 17 - New Rules 3.25 and 3.26

Advertisements must not describe an element of a package as "free" if that element is included in the package price.

We believe that the wording around the use of "free" as it currently stands is ambiguous. We believe that CAP should specifically include provision and rules regarding "buy one get one free" offers and introductory offers. This issue is something that all retailers and advertisers require a clear set of rules on. Whilst there is a CAP help note on the topic, not including provision within the rules for such an important issue would be a lost opportunity.

Question 18 - New rule 3.28.3

advertisements must state restrictions on the availability of products, for example, geographical restrictions or age limits.

We believe that the inclusion of this rule will make it very difficult for national retailers with 100+ stores to advertise offers on a national scale where they cannot guarantee availability in every store. The wording of the clause as it stands does not go far enough to explain the extent to which a geographical restriction applies. Would a statement to the effect of: "Not available in all stores see www.website.co.uk for more details" suffice? Added to this will including a small statement such as "available in 80% of stores" suffice? This is certainly a clause that requires further explanation.

Non Broadcast CAP consultation response.

Question 3 - New rule 3.10

Qualifications must be clear to consumers who see or hear the marketing communication only once.

Whilst we understand the reasoning behind and agree with the inclusion of rule 3.10, we believe that it does not explain in enough detail what is meant by a communication only being seen once. Does this include very small adverts such as online Google search results where the amount of space to include information is very limited. There are always a number of qualifications that in most cases are obvious to consumers. We believe that online adverts which allow people seeing the advert to click through to a further website where more information will be provided should be given a certain amount of leniency. For example, broadband providers are supposed to include a qualification whenever stating the speed of their "up to" service. With the implementation of this rule, it will seemingly be impossible for them to advertise the "up to" speed on a small confined advert.

Question 4 - New Rule 3.28.3

marketing communications must state restrictions on the availability of products, for example, geographical restrictions or age limits.

We believe that the inclusion of this rule will make it very difficult for national retailers with 100+ stores to advertise offers on a national scale where they cannot guarantee availability in every store. The wording of the clause as it stands does not go far enough to explain the extent to which a geographical restriction applies. Would a statement to the effect of "Not available in all stores see www.website.co.uk for more details" suffice? Added to this will including a small statement, such as: "available in 80% of stores" suffice? This is certainly a clause that requires further explanation.

Question 9

Further considerations. CAP have decided not to make any major changes regarding the use of the word "free" in advertising. The code currently states.

Consumers' liability for costs should be made clear in all material featuring "free" offers. An offer should be described as free only if consumers pay no more than:

a) the minimum, unavoidable cost of responding to the promotion, eg the current public rates of postage, the cost of telephoning up to and including the national rate or the minimum, unavoidable cost of sending an e-mail or SMS text message

b) the true cost of freight or delivery

c) the cost, including incidental expenses, of any travel involved if consumers collect the offer.

We believe that the wording around the use of "free" as it currently stands is ambiguous. We believe that CAP should specifically include provision and rules regarding "buy one get one free" offers and introductory offers. This issue is something that all retailers and advertisers require a clear set of rules on. Whilst there is a CAP help note on the topic, not including provision within the rules for such an important issue would be a lost opportunity.

If you wish to discuss any of the above, please do let me know.

Kind Regards

For all queries, please contact: Cathy Keeler, Deputy Chief Executive

tel: 01484 559909, email: ckeeler@brake.org.uk

About Brake

Brake is an independent national road safety charity, dedicated to stopping the eight deaths and 79 serious injuries that happen on UK roads every day and caring for people bereaved and seriously injured in road crashes.

Brake carries out research into road users' attitudes on a range of road safety issues, including driver attitudes and behaviour; aspects of learning to drive; training and testing; traffic law and its enforcement; and charges and penalties for traffic offences.

Brake delivers road safety education to thousands of people in their local communities each year, through educational resources and educational workshops delivered by trained volunteers. This allows the organisation to collate additional information on the attitudes and self-reported behaviour of drivers.

Brake also provides services for road safety and fleet safety professionals. These include news bulletins and information sheets, workshops and conferences that disseminate international research and information on effective policies and best practice initiatives.

Summary of Brake recommendations on drink-driving

On the issue of drink-driving, Brake is campaigning for the introduction of a lower drink-drive limit, to eliminate any ambiguity over the dangers of drinking and driving. It has also urged the Government to dramatically step up levels of enforcement of drink-drive laws by empowering police to carry out random, targeted, and 'blanket' testing and providing more resources for traffic policing, so that there are sufficient numbers of officers to carry out a significantly higher number of tests.

In addition to these measures, there is an urgent need for more education about the dangers of drink-driving, especially in connection with the problem of drivers potentially being unsafe to drive the morning after drinking alcohol. According to the Department

for Transport, one in five drivers caught drink-driving are caught 'the morning after'. A 2004 Brake survey showed that more than a quarter of drivers (28%) admitted that in the past 12 months they had risked driving the morning after drinking a lot of alcohol the night before.¹⁹

Brake's response to specific questions from the consultation paper

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.

Brake agrees that BCAP's priorities should be to prevent the promotion of products that have the potential to cause harm to the audience and prevent socially irresponsible advertising. As such, it shares BCAP's concerns about products that purport to mask the effects of alcohol and agrees that such products could not be advertised in a socially responsible way.

Brake also shares the concern that *irresponsible* advertising of breath-testing devices could encourage some drivers to use such devices to drink up to the drink-drive limit before driving. However, it does not share BCAP's conclusion that breath-testing devices *could not* be advertised responsibly. Given widespread public ignorance on the dangers of driving the morning after drinking alcohol and surveys showing many drivers dangerously underestimate the time that is needed for alcohol to leave their bodies, *responsible* advertising leading to more widespread use of personal breath-testing devices the morning after drinking could contribute to improvements in road safety.

According to research by manufacturers, consumer breath testing devices can increase road safety and awareness of the risks of morning after drink driving. For example, in a survey by AlcoSense, which manufactures personal breath testing equipment, 52% of respondents said that using an AlcoSense device had persuaded them not to drive the morning after drinking, when otherwise they would have taken to the road, unaware that they were still affected by alcohol. AlcoSense estimates that its devices have prevented many thousands of drink drivers from taking to the road.

As such, Brake believes that breath testing devices should be considered separately from products that purport to mask the effects of alcohol and recommends that BCAP considers a partial relaxation of the current ban on advertising breath testing devices (but not products that purport to mask the effects of alcohol), **within clearly defined**

¹⁹ The Brake and Green Flag report on safe driving, part one: Fit to Drive? (Brake, 2004)

rules. These rules should stipulate that advertising of such products is clearly based on promoting the devices as aids to understanding when alcohol has cleared from a person's system. They should not be promoted as devices which measure whether a person is over the legal drink-drive limit or not.



Breastfeeding Manifesto Coalition Coaliton Response: CAP BCAP Advertsising Code Reviews

The Breastfeeding Manifesto is made up of the following organisations:

Association of Breastfeeding Mothers • Association for Infant Mental Health UK • Association of Radical Midwives • Baby Feeding Law Group • BabyGroe • Baby Milk Action • Best Beginnings • Biological Nurturing • Birthlight • BLISS • Bosom Buddies • Breast Cancer Care • Breastfeeding

Network • Child friendly Places • Child Growth Foundation • Community Practitioners' and Health Visitors' Association/Unite • Emergency Nutrition Network • Fatherhood Institute • Friends of the Earth • Independent Midwives Association • La Leche League • Lactation Consultants of Great Britain • Little Angels • Maternity Action • Midirs • NCT • National Obesity Forum • Royal College of General Practitioners • Royal College of Midwives • Royal College of Nursing • Save the Children UK • Soil Association • The Baby Café • The British Dietetic Association • The Food Commission • The Royal College of General Practitioners • The Royal College of Paediatrics and Child Health • The United Kingdom Association for Milk Banking • Unicef UK • Unison • WOMB Programmatic Research Group • Women's Environmental Network •

We are writing to contribute to the above consultation on behalf of the Breastfeeding Manifesto Coalition. All of these organisations have signed up to the Breastfeeding Manifesto which is supported by over 250 MPs, many MSPs, AMs and MEPs from across the political spectrum.

The Coalition's core aims are to promote a society that encourages and supports women to breastfeed for as long as they wish, ensures parents are supported to make informed decisions about how to feed their babies, and raises awareness among the public of the significant health benefits associated with breastfeeding. .

We welcome the opportunity to respond to this consultation. Breastfeeding is key to tackling inequalities in health. It reduces the infant mortality rate, incidence of obesity, and breaks the cycle of deprivation. This consultation is very timely; in recent years, a series of changes have been set to tackle the predominance and nature of the advertising of follow on formula in the UK.

Objective 7 of the Manifesto is: Adopt the World Health Organisation International Code of Marketing of Breast Milk Substitutes and subsequent Resolutions. This Code, now 26 years old, was put in place following global concern that baby feeding decisions should be based on information free from commercial influence. The Coalition has been campaigning vigorously to get the Code implemented fully into UK legislation since its inception. The marketing of formula milk has been shown to undermine breastfeeding and thus infant health. Therefore it is important that marketing is controlled to the standards set out in the WHO International Code and subsequent resolutions.

The BMC welcomes the opportunity to respond to this consultation and our comments on a number of the specific proposals are set out below.

Infant and Follow-on Formula: Non Broadcast Review Question 56 and Broadcast Review Question 85

The BMC welcomes that proposed rule 13.8.1 ('Advertisements must not confuse between infant formula and follow-on formula'). This is essential to avoid potential risks to infant health resulting from use of an age-inappropriate product, but also to ensure that advertising of follow-on formula is not used to promote infant formula.

However, in order to truly avoid any confusion rule 13.8.1 needs to go further and ban the advertising of follow on formula completely. If the advertisement of follow on formula continues the confusion between infant formula and follow-on formula is unavoidable due to the intrinsic similarity between the two products. Indeed, before the adoption of the International Code, all formula milks were known simply as 'infant formula' and manufacturers commonly marketed them for different stages of a baby's development, normally differentiated by a number – 1, 2 or 3 depending on the age of the baby. 'Follow-on formula' is a name which emerged in the early 1980s to replace the 3rd stage formulas. However, since it continues to replace the milk component of the diet for babies over 6 months of age, it is clearly a breastmilk substitute and essentially performs the same function as normal infant formula.

A survey carried out in 2005 by MORI on behalf of UNICEF UK and the National Childbirth Trust found that 60% of the 1000 new mothers and pregnant women interviewed said that they had seen or heard advertising for infant formula in the previous 12 months (the majority on TV or in magazines). Given that advertising outside the health care system is prohibited under the existing Regulations and straightforward advertising for infant formula inside the health care system (permitted by current regulations) is now rare, the advertisements in question must have been for follow-on formula.

A similar survey carried out in 2005 by NOP for the Department of Health found that 39% of the 2000 new mothers and pregnant women interviewed had seen adverts for infant formula, with another 7% saying that they had seen adverts for formula milk but did not know what type of milk was being advertised. A quarter of interviewees thought that there was no difference between infant and follow-on formula, with a further 16% saying that they did not know.

This is evidence that confusion between the two products exists in the UK.

Use of Health Professionals: Broadcast Code Review , Question 61

The BMC has strong concerns regarding the proposal to relax rules on the use of health professionals in advertisements. Advertising by its very nature does not give independent and unbiased information but instead is a mode of persuasion to increase sales. Health professionals have a duty to provide evidence based information on treatment and products which best meet the needs of their patients. Parents also need clear accurate information on how best to feed their child and they often rely on and trust health professionals to provide this. By using health professionals in advertisements parents may infer that the product is best for their child when there may be no evidence to suggest that this is the case. This may have a detrimental affect on a child's health and the trust parents have with health professionals. We are strongly against any further relaxation in the code which may increase the use of health professionals in advertisements of any kind.

End

Breastfeeding Manifesto Coalition

June 2009

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.

No comment on questions 1 - 27

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.

Rule 5.7 – we agree that this should be included.

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.
- 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.
- 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.

No comment

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.
- 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.

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.

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.

No comment

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.

- 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 comment

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.

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.

Rule 5.7 – we agree that this should be included.

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.

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?

iii) Do you have other comments on this section?

They are understandable

<CUT> No comment on questions 35 - 51

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.

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.

1) A restriction needs to be introduced to exclude companies who are not able advertise their products under this code, thinking particularly of the infant feeding industry where this section could be used as a loophole to allow brand awareness.

2) Agree it is easily understood

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.

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.

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.

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.

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.

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.

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.

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.

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?

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.

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.

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.

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.

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?

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.

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.

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.

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.

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.

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.

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.
- 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.

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?

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?

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.

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.

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?

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?

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.

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?

Other questions

Question 77

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

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Weight Control and Slimming 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 13: Food, Dietary Supplements and Associated Health and Nutrition Claims

Permitted nutrition and health claims

Question 78

Do you agree that BCAP has correctly reflected the requirements of Articles 8(1), 10(1) and 28 of the NHCR in BCAP's proposed rules 13.4 and 13.4.1? If your answer is no, please explain why.

Giving rise to doubt about the safety or nutritional adequacy of another product

Question 79

Do you agree that BCAP has correctly reflected the requirements of Article 3(b) of the NHCR in BCAP's proposed rule 13.4.4? If your answer is no, please explain why.

Comparative nutrition claims

Question 80

Do you agree that BCAP has correctly reflected the requirements of Article 9 of the NHCR in BCAP's proposed rules 13.5.1 and 13.5.3? If your answer is no, please explain why.

Comparison with one product

Question 81

Do you agree that BCAP has correctly reflected the requirements of Article 9 of the NHCR and the guidance from the European Commission in BCAP's proposed rule 13.5.2? If your answer is no, please explain why.

Prohibitions

Question 82

Do you agree that BCAP has correctly reflected the requirements of Article 12(a) of the NHCR in BCAP's proposed rules 13.6 and 13.6.1? If your answer is no, please explain why.

Question 83

Do you agree that BCAP has correctly reflected the requirements of Article 3(e) of the NHCR in BCAP's proposed rules 13.6 and 13.6.4? If your answer is no, please explain why.

Food Labelling Regulations (1996) (FLRs)

Question 84

i) Do you agree that BCAP has correctly reflected the requirements of Article 14 of the NHCR and Schedule 6 Part 1(2) of the FLRs in BCAP's proposed rules 13.6 and 13.6.2? If your answer is no, please explain why.

ii) Do you agree that BCAP has correctly reflected the relevant provisions of Regulation (EC) 1924/2006 on Nutrition and Health Claims on Foods in the proposed BCAP Code? If your answer is no, please explain why.

Infant formula and follow-on formula

Question 85

i) Do you agree that BCAP has correctly reflected the requirements of Regulation 21(a) of the Infant and Follow-on Formula Regulations (2007) (amended) in BCAP's proposed rule 13.8? If your answer is no, please explain why.

ii) Do you agree that BCAP has correctly reflected the requirements of Regulation 19 of the Infant Formula and Follow-on Formula Regulations 2007 (amended) in BCAP's proposed rule 13.8.1? If your answer is no, please explain why.

iii) Do you agree that BCAP has correctly reflected the relevant provisions of the Infant and Follow-on Formula Regulations (2007) (amended) in the proposed BCAP Code? If your answer is no, please explain why.

i)

ii) **Partly yes, though we see no mention of the guidance notes which accompany the Infant formula and follow on formula regulations.**

The BCAP regulations should also support other guidance and in particular the World Health Organisation / UNICEF International Code of Marketing of Breastmilk Substitutes and the Convention of the rights of the Child which go stronger than this. The regulations should support SACN since Follow-on- Formula is an unnecessary product (SACN – states no case for advertising follow-on-formula)

Health claims that refer to the recommendation of an individual health professional

Responding to this consultation

How to respond

BCAP invites written comments including supporting evidence on the proposals contained in this document, by 5pm on 19 June. Respondents should complete a consultation cover sheet, which is made available [here](#).

When responding, please state if you are doing so as an individual or if you are representing an organisation. Also, please make clear what your individual interest is or who your organisation represents. It will be helpful if you explain fully and clearly why you hold your opinion.

We strongly prefer to receive responses as e-mail attachments, in Microsoft Word format, because that helps us to process the responses.

Please send your response to BCAPcodereview@cap.org.uk.

If you are unable to reply by e-mail, you may submit your response by post or fax (+44 (0)20 7404 3404), marked with the title of the consultation, to:

BCAP Code Review
Code Policy Team
Broadcast Committee of Advertising Practice
Mid City Place
71 High Holborn
London WC1V 6QT

Accessibility

We want our consultation process to be accessible to everyone. If you have particular accessibility needs please contact the Code Policy team and we shall be happy to help.

Telephone: 020 7492 2200

E-mail: BCAPcodereviewquestions@cap.org.uk

Fax: 020 7404 3404

Textphone: 020 7242 8159

Note that we do not need a hard copy in addition to an electronic version. Also note that, other than an automated response to responses received by email, BCAP will not routinely acknowledge receipt of responses.

BCAP has sent written notification of this consultation to the organisations and individuals listed in this annex. We welcome suggestions of others you think should be informed of this consultation.

More information

If you have any questions about this consultation or need advice on the form of response, please contact BCAP's Code Policy team on +44 (0)20 7492 2200 or email us at BCAPcodereviewquestions@cap.org.uk.

Confidentiality

BCAP considers that everyone who is interested in the consultation should see the consultation responses. We shall publish all non-confidential responses on our website, www.cap.org.uk, when we announce the outcome of the consultation.

All comments will be treated as non-confidential unless you state that all or a specified part of your response is confidential and should not be disclosed. If you reply by e-mail or fax, unless you include a specific statement to the contrary in your response, the presumption of non-confidentiality will override any confidentiality disclaimer generated by your organisation's IT system or included as a general statement on your fax cover sheet.

If part of a response is confidential, please put that in a separate annex so that non-confidential parts may be published with your identity. Confidential responses will be included in any statistical summary of numbers of comments received.

We wish to respond to question 56 of the review.

We are of the opinion that it is wrong to block advertising of clay shooting outside a country sports context, and wrong to block all other advertising of gun clubs and the shooting sports. Rifle, pistol and shotgun sports form part of the Olympic and Commonwealth Games, and are allowed under UK law. It is not fair for broadcasters to make their own 'law', to discriminate between these sports and other disciplines competing for popular attention and participation. Nor is it in any public interest to do so. One might reasonably argue that the broadcasting standards' concern with public order (319 [2] [b]) would be better served by banning football advertising than shooting advertising, on the grounds that football regularly occasions huge policing costs, that the shooting sports have never done. It can also not be right for the broadcasting authorities to assume that the promotion of the shooting sports 'incites commission of crime' (319[2] [b]) without offering any explanation of why this should be so, and when every leading study of the issue has shown the pursuit of those sports to be largely irrelevant to any issue of the criminal misuse of firearms. If the promotion of the shooting sports incited the commission of crime and promoted public disorder, one would not expect HM The Queen to be the Patron of the National Rifle Association, or HRH The Duke of Edinburgh to be Patron of the British Alpine Rifles, or HM government to make money available for the promotion of those sports through the Sports Council. Many gun clubs, moreover, enjoy charitable status because their activities are indeed deemed to serve a public interest, and it is quite wrong that their ability to serve such interest should be diminished by a broadcasting policy adopted on the basis of uninformed fear or prejudice.

Should a more detailed response to this consultation be desired, we would be happy to supply further information.

Richard Munday
President, British Alpine Rifles



The BCAP Code Review

Consultation on the proposed BCAP Broadcast Advertising Standards Code

A response by the British Association for
Shooting and Conservation.

18th June 2009

1) INTRODUCTION

1.0) With some 130,000 members, the British Association for Shooting and Conservation (BASC) is regarded as a major UK representative body for sporting shooting. BASC's expertise on firearms matters is widely recognised and we are routinely consulted by a variety of government departments and agencies (including the Home Office, DEFRA, LANTRA, the Health and Safety Commission) and other statutory and non-statutory bodies, e.g. the Association of Chief Police Officers.

1.1) BASC believes that any controls on firearms and related matters must strike a balance between the legitimate aspirations of firearms users and the need to ensure the safety of the public. However, such a balance must be evidence-led, proportionate and consistent with the terms of the Human Rights Act 1998.

1.3) BASC is pleased to offer this response to the BCAP Consultation document "Proposed BCAP Broadcast Advertising Standards Code". This response is made solely in relation to those parts of the document which refer to firearms.

1.4) BASC regrets that these sections of the document contain pejorative language; they also demonstrate a lack of knowledge regarding shooting sports in the UK and show a lack of understanding of the provisions of UK firearms law.

1.5) We will be seeking a meeting with the Committee of Advertising Practice to voice our concerns after this consultation exercise has ended.

1.6) This response is **NOT CONFIDENTIAL** and BASC welcomes its wider dissemination as part of the ongoing debate.

2) THE LEGITIMATE NATURE OF SHOOTING SPORTS IN THE UK SOME KEY FACTS

2.0) Shooting sports in the UK have a long and honourable history. Those who participate in them are proud of their involvement. BASC has received calls from its members who have expressed indignation that shooting sports followed sections relating to pornography and obscene material in the consultation document. Other shooting organisations report similar expressions of indignation.

2.1) It is estimated that one million people in the UK shoot. The number of firearm certificates issued by the police is rising, as is the number of young people entering the sport. E.g.

- In 2007 1,200 young people joined BASC's Young Shots programme in just six months.
- The Scout Association's annual rifle competition grows year on year, currently attracting nearly 800 competitors.
- Target shooting as a sport in schools is increasing.
- Sport England funds the National Smallbore Rifle Association's Youth Proficiency Scheme
- The NSRA is registered as a Duke of Edinburgh Access organisation.

2.2) According to *Shooting Sports*, a report published by PACEC, hunting with firearms is a £1.6 billion industry in the United Kingdom, supporting the equivalent of 70,000 jobs. Shooting providers spend an estimated £250 million a year on habitat and wildlife management, five times the annual income of Britain's biggest conservation organisation, the Royal Society for the Protection of Birds.

2.3) In 2004, 480,000 people took part in shooting game, wildfowl, pigeon and rabbits. Game meat is recognised as healthy, organic food which is a valuable

source of income to rural producers. Recreational deer stalking continues to increase in line with Britain's burgeoning deer population. The recreational stalker has long been recognised as a valuable contributor to deer management which is vital for crop protection and habitat conservation.

2.4) Shooting is among the safest of sports and particularly so in the UK. According to United Nations statistics, the UK figure for accidental firearms fatalities is one of the lowest at 0.02 per 100,000, a figure which includes military and police fatalities.

2.5) BASC provides insurance cover to all its members: £10 million Legal Liability Cover (for all shooting categories), £10 million Employer Liability Cover (for all shooting categories) and £10 million Product Liability cover (for all shooting categories) at a cost of c. £9.00 a member. Such extensive cover for such a modest premium demonstrates the inherent safety of the sport.

2.6) There is no relationship between gun crime and legitimate gun ownership. In Scotland in 2005-6, gun crime fell by 6%, 28% lower than nine years previously. At the same time there has been an increase in privately-owned firearms, currently at a five-year high in that country. Home Office figures published in May 2006 for gun crime in England and Wales show a similar pattern. 2004 - 2005 saw gun crime fall by 8% but the number of privately-owned firearms rose 8% from the previous year.

2.7) Shooting sports are conducted by law-abiding people. This inherent respectability has brought royal patronage to national shooting organisations. HM The Queen is patron of two shooting associations, HRH the Duke of Edinburgh is patron of another and HRH The Prince of Wales is President of another.

2.8) In the 2006 Commonwealth Games 23 of the UK's 116 medals were for shooting, the second highest medal-winning discipline for UK athletes, exceeded only by swimming with 24.

2.9) Shooting sports are accessible to all irrespective of age, gender and physical ability. It is instructive to note that Annie Oakley (1860 – 1926) - one of the greatest shots ever – spent her latter years in a leg brace without suffering any reduction in her ability to shoot well.

2.10) The Labour Party's 2005 'Charter for Shooting' endorses self-regulation and recognises that there is no connection between legitimate sporting shooting and gun crime. Richard Caborn MP, then Minister of State for Sport announced: *"We want to boost the numbers of people who go fishing and shooting particularly amongst the young."* The wide variety of benefits brought to society as a whole by shooting sports have been acknowledged by the three major UK political parties.

3) LEGAL & OTHER ERRORS IN THE CONSULTATION DOCUMENT

3.0) BASC has identified the following legal errors in the consultation document. It is regrettable that BCAP's knowledge of the Firearms Acts is so limited as this is likely to mislead other consultees. This seriously undermines the credibility of this part of the consultation exercise.

NB: The numerals in bold at the head of each paragraph in this section refer to the numbering within the consultation document

3.1) **10.1 319(2) (a)** Persons under 18 are not prohibited from 'possessing' firearms (For the purposes of UK law, 'possession' does not equate with 'ownership', i.e. title to the gun), nor are 17 year olds prohibited from purchasing certain firearms. For example:-

- There is no lower age for the grant of a Shot Gun Certificate. However a young person under 15 in possession of an assembled shotgun is required to be under the supervision of someone of 21 years or over.
- A Firearm Certificate may be granted to a person from the age of 14 onwards.
- Young people under 18 may temporarily possess a firearm without holding a Firearm Certificate as a member of a Home Office Approved rifle club, or as a member of a cadet corps or while shooting on a miniature rifle range.
- Young people under 18 may temporarily possess a borrowed shotgun without a Shot Gun Certificate on private premises and in compliance with specific requirements.

- Young people under 18 may temporarily possess a borrowed shotgun without a Shot Gun Certificate at a clay pigeon shoot approved by the chief officer of police for the area in which the event takes place.

3.2) The circumstances in which young persons may legally possess and use firearms are carefully regulated in the interests of public safety. As a corollary, the 2002 Home Office document *Firearms Law: Guidance to the Police* recognises the legitimacy of young people who want to learn to shoot responsibly (para 7.7). *“It is in the interest of safety that a young person who is to handle firearms should be properly taught at a relatively early age.”*

3.3) **Given this strong endorsement by the relevant government department, BASC is at a loss to understand why BCAP believes that lawful and properly regulated activities should not be advertised on TV or radio.**

3.4) **10.1 319(2) (b)** Contrary to what BCAP asserts, sporting firearms are not items ‘**liable to encourage the commission of crime**’. This is a highly pejorative and inaccurate statement. There is no evidence to link lawfully owned, licensed firearms with armed crime. Anyone wishing to advertise firearms or shooting services will offer those services only to those who are lawfully entitled to possess firearms, as is the case with advertisements in specialist magazines or on the web. Certificate holders are rigorously vetted by the police as part of their application. The vetting process includes checks within local police intelligence databases for criminal associates. Any applicant who routinely associates with known criminals will not be granted a certificate.

3.5) **10.8** It is not an offence for a person who is not a Registered Firearms Dealer to sell a firearm or ammunition. Any person who is legally entitled to possess a firearm may sell it to another person, provided the purchaser is also lawfully entitled to acquire it.

3.6) **10.12** The ban within the Violent Crime Reduction Act 2006 on the manufacture, sale or importation of realistic imitation firearms is not absolute: Section 37(2) of the Act provides statutory defences which allow manufacture, sale or importation. These are as follows.

- Museums and galleries
- Theatrical performances
- TV & Film production
- Crown service
- Historical re-enactment or living history events

3.7) **As Parliament saw fit to include these statutory defences which confer legitimacy on the above activities, it should not be for BCAP to decide that the advertisement of these items should be prohibited.**

3.8) **10.65-67** Sporting firearms are not ‘offensive weapons’ *per se* as they are not made or adapted to cause human injury. They are used for target shooting – both competition and informal, for hunting and for the control of pests as part of wildlife management. BASC accepts that they may cause injury if misused but this makes them no different to cars, kitchen knives, archery equipment, golf clubs, baseball bats, petrol or a large number of other objects and substances that are routinely found in most people’s homes.

3.9) **10.70** Contrary to BCAP’s assertion, firearms, whether replica or ‘real’ are not ‘intended to murder or maim’. They are merely pieces of sporting equipment – see above. Replica firearms which are legally available for sale in this country cannot be converted into functioning weapons, and the relevant shooting and gun trade

associations have spent considerable effort in co-operating with the Home Office and the Forensic Science Service to ensure their non-convertibility.

4) BASC RESPONSES TO SPECIFIC QUESTIONS IN THE CONSULTATION

4.0) *Question 55 – Page 81*

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.

4.1) BASC wholly disagrees with the current ban on TV advertisements for guns, and asks for the prohibition on advertising of guns and shooting to be lifted. As there are already considerable limitations placed on the sale of 'replica' guns by the Violent Crime Reduction Act, 2006, any extension of the present ban to these items is unnecessary.

4.2) *Question 56 – Page 82*

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.

4.4) BASC highlights and challenges BCAP's lack of logical thought concerning the advertising of clay pigeon shooting: we question why should such activities be acceptable 'only if they form part of a wider range of outdoor pursuits, for example in advertisements for a country fair'? Clay pigeon shooting is a very popular pastime and is also an Olympic and international event. There should be no restriction on its advertising on either TV or radio.

BILL HARRIMAN

Director of Firearms, BASC

18th June 2009

is the trade association representing the British brewing and pub industry. We represent about 98% of beer production and our members own 60% of the UK's pubs.

Section 19: Alcohol

Sales promotions in alcohol advertisements

Question 111

Given BCAP's policy consideration, do you agree that rule 19.11 should be included in the proposed BCAP Code? If your answer is no, please explain why.

We agree that rule 19.11 should be included in the code.

Irresponsible handling of alcohol

Question 112

Given BCAP's policy consideration, do you agree that rule 19.12 should be included in the proposed BCAP Code? If your answer is no, please explain why.

We agree that rule 19.12 should be included in the code.

Alcoholic strength

Question 113

Given BCAP's policy consideration, do you agree that rule 19.10 should be included in the proposed BCAP Code? If your answer is 'no', please explain why.

We do not agree that rule 19.10 should be included in the code. At a time when Government is seeking to encourage reduced alcohol consumption it would seem both prudent and reasonable to allow producers the option of communicating their products as having lower alcohol content. This would be in common with incentives offered in other countries, such as the Irish Government introducing a reduced rate of duty for beers and ciders under 2.8% abv.

CAP highlights concerns that promoting 'lower-strength' drinks could introduce confusion, especially in relation to drinking and driving'. The industry's position is that if one intends to drive, then one should not drink. That clear message has been the centre-piece of industry and Government campaigns for more than thirty years. Alcohol strength and/or alcohol units information were not devised in the context of drink-driving and should never be used as a guide in relation to driving. Under the proposed Code (statement 4.6) it makes it clear that alcohol 'marketing communications must not encourage consumers to drink and drive'.

Use of a descriptor such as 'strong' on certain products (normally in the name of the product) does not necessarily refer to alcohol content. The term can be used to describe full flavour, body and mouth-feel etc.. However, by law, packages must display an accurate declaration of the abv and the vast majority of products also have a voluntary alcohol unit declaration. There should be no lack of clarity as to the actual alcohol content.

Alcohol in a working environment

Question 114

Given BCAP's policy consideration, do you agree that rule 19.14 should be included in the

proposed BCAP Code? If your answer is no, please explain why.

We agree that rule 19.14 should be included, provided sufficient exceptions are made where appropriate.

Exception for children featuring incidentally in alcohol advertisements

Question 115

Given BCAP's policy consideration, do you agree that rule 19.17 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Whilst we appreciate the intention of this rule change, we do not think it is necessary given that the legal age for purchasing alcohol in the UK is eighteen, particularly as this exception only applies to a family setting.

Low alcohol exceptions

Question 116

i) Given BCAP's policy consideration, do you agree that it is wrong to exempt television advertisements for low alcohol drinks from the rule that requires anyone associated with drinking must be, and seem to be, at least 25 years old? If your answer is no, please explain why.

We agree that there should be consistency with regards to rules on advertising.

ii) Given BCAP's policy consideration, do you agree that it is wrong to exempt television advertisements for low alcohol drinks from the rule that prevents implying or encouraging immoderate drinking, including an exemption on buying a round of drinks? If your answer is no, please explain why.

We agree that there should be consistency with regards to rules on advertising.

Question 117

i) Given BCAP's policy consideration, do you agree that it is wrong to exempt radio advertisements for low alcohol drinks from the rule that prevents implying or encouraging immoderate drinking, including an exemption on buying a round of drinks? If your answer is no, please explain why.

We agree that there should be consistency with regards to rules on advertising.

ii) Given BCAP's policy consideration, do you agree that it is wrong to exempt radio advertisements for low alcohol drinks from the rule that prevents encouraging excessive consumption via sales promotions? If your answer is no, please explain why.

We agree that there should be consistency with regards to rules on advertising.

iii) Given BCAP's policy consideration, do you agree that it is wrong to exempt radio advertisements for low alcohol drinks from the rule that prevents featuring a voiceover of anyone who is or appears to be 24 or under? If your answer is no, please explain why.

We agree that there should be consistency with regards to rules on advertising.

Other questions

Question 118

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

- ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Alcohol section that are likely to amount to a significant change in advertising policy and practice, are not reflected here and should be retained or otherwise be given dedicated consideration?
- iii) Do you have other comments on this section?

No further comments

Question 158

Given BCAP's policy consideration, do you agree that the evidence contained in the ScHARR Review does not merit a change to BCAP's alcohol advertising content or scheduling rules? If your answer is no, please explain why you consider the ScHARR Review does merit a change to BCAP's alcohol advertising content or scheduling rules.

We agree with CAP's position that the evidence contained in the ScHARR review should not lead to a change in CAP's alcohol advertising content or scheduling rules.

From: daustin@bbfc.co.uk
Sent: 15 June 2009 09:59
To: BCAPCodeReview
Cc: pjohnson@bbfc.co.uk
Subject: BBFC's response to the CAP and BCAP Code Review

Attachments: CAPresponse.doc

Dear Code Policy Team,

I attach the BBFC's response to the CAP and BCAP consultations. As requested, it is in Microsoft Word format. It is non confidential. You will see that most of our response covers the proposed new BCAP code.

The response is self explanatory and represents the BBFC's organisational view. We should be happy to discuss it further with you if you would find this helpful. If you do wish to follow up any of our points, please contact Pete Johnson, Head of Policy at the BBFC, on whose behalf I am writing, either by e-mail or by 'phone on 020 7440 1570.

Regards,

David Austin

CAP/BCAP CONSULTATION: BBFC RESPONSE

A. GENERAL

The British Board of Film Classification (BBFC) is an independent, non-governmental body funded through the fees it charges to those who submit films and video works for classification. Video works include video games, and films and programmes released on DVD or Blu-ray, or distributed by means of download or streaming on the internet.

There are two guiding principles under which the BBFC exercises the broad discretion conferred on it:

- that works should be allowed to reach the widest audience that is appropriate for their theme and treatment
- that adults should, as far as possible, be free to choose what they see, provided that it remains within the law and is not potentially harmful

When applying these guiding principles, we also apply three main qualifications:

1. whether the material is in conflict with the law, or has been created through the commission of a criminal offence
2. whether the material, either on its own, or in combination with other content of a similar nature, may cause any harm at the category concerned. This includes not just any harm that may result from the behaviour of potential viewers, but also any ‘moral harm’ that may be caused by, for example, desensitising a potential viewer to the effects of violence, degrading a potential viewer’s sense of empathy, encouraging a dehumanised view of others, suppressing pro-social attitudes, encouraging anti-social attitudes, reinforcing unhealthy fantasies, or eroding a sense of moral responsibility. Especially with regard to children, harm may also include retarding social and moral development, distorting a viewer’s sense of right and wrong, and limiting their capacity for compassion
3. whether the availability of the material, at the age group concerned, is clearly unacceptable to broad public opinion. It is on this ground, for example, that the BBFC intervenes in respect of bad language.

In assessing legal issues, potential harm or acceptability to broad public opinion, the BBFC takes account of relevant research and expert opinion. However, such research and expert opinion is often lacking, imperfect, disputed, inconclusive or contradictory. In many cases the BBFC must therefore rely on its collective experience and expertise to make a judgement as to the suitability of a work for classification, or for classification at a particular category.

We welcome both the update of the two codes and the opportunity to comment on the proposals.

The draft revised codes contain a sensible set of proposals. They come from the same starting points as the BBFC – namely legal requirements set out in UK legislation and the principle of protecting children and other vulnerable groups.

Although the areas of competence of the BBFC and CAP sometimes coincide (for example, cinema and video advertising) we generally look for different things. For example, we are less concerned by whether an advertisement is honest and truthful and more concerned by suitability of content and in particular whether the content is likely to be harmful. We use the classification system to protect children and other vulnerable groups from potentially harmful

material in advertisements. This may mean putting an advertisement to a higher category. It may mean cuts. Or in extreme cases, it may mean rejecting an advertisement entirely.

The BBFC's classification criteria are based on published Guidelines derived from extensive public consultation. These are updated every 4/5 years to take account of changes in public attitudes. Although the Guidelines are very different from the CAP codes, some of our key underlying principles are similar, and our classification decisions on the advertising of for example alcohol, gambling and junk food products will be informed by the outcome of this present consultation.

Below are more specific comments, first on the proposed CAP Code and second on the proposed BCAP Code.

B. CAP

Photosensitive epilepsy

A small number of viewers are sensitive to flashing and flickering light, or some shapes and patterns, and may experience seizures or other serious physical effects. It is the responsibility of film makers and distributors to identify works in which such issues may arise and to ensure that, when required, appropriate warnings are given to viewers. Such effects are therefore not normally taken into account when we reach a classification decision. However, if it is obvious during our examination that the work is highly likely to affect a significant number of viewers, the BBFC may advise the distributor of the need to ensure that appropriate warnings are in place. In extreme cases, assurances regarding the display of appropriate warnings may be required as a condition of classification.

The BBFC therefore shares the concern about this issue and supports the proposed rule 4.7 designed to protect members of the public with photosensitive epilepsy.

C. BCAP

Video games

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

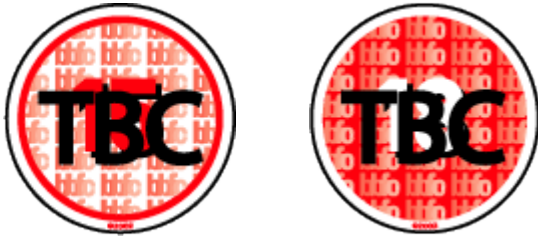
classification and not be directed at younger children. Generally we rely on the good sense and corporate responsibility of the publisher. But where an 18-rated game has significant appeal to children, we may intervene to ensure that the marketing is restricted as far as possible to adults only. For example, before rating for adults only the very violent video game *50 Cent Bulletproof*, 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 *50 Cent Bulletproof* demonstrated that this approach was effective - there was virtually no underage playing of this game.

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.

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.

For the same reasons, and given the potential for both serious harm and offence, we also support the proposed new rule 31.1.4 to require central copy clearance of radio ads for 18-rated video games, thereby bringing the regime for 18-rated video games into line with the regime for 18-rated films.

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.

We await a Government decision on the future of video game classification following Dr Tanya Byron's independent review. Meanwhile, the Video Recordings Act 1984 (VRA) requires a BBFC classification of video games which contain gross violence, human sexual activity, human genital organs or urinary or excretory functions and techniques likely to be useful in the commission of offences. A BBFC classification is also required under the Act for any game disc which contains linear material not integral to the game. This may include trailers, featurettes, shorts and even full length features. Furthermore, many games companies prefer the security and trust that a BBFC classification provides and submit works to us for which exemption could be claimed. This means that we classify games at all categories, from U to R18, not just 15 and 18, contrary to the implication in paragraph 32.16 of the consultation document. Paragraph 32.16 also suggests that the VSC monitors the BBFC's classification system. This is not the case. The BBFC performs a statutory function. Our decisions have statutory force and are enforced by TSOs and other enforcement agencies. The VSC is merely an advisory industry body. It has no role in BBFC classifications.

Pornography

We note the proposed relaxing of the code governing the advertising of pornographic material (30.3 and 30.4) and in particular the proposal to allow advertising of R18 level material, provided such material is not shown. We have considered this proposal in the light of Section 12(1) of the Video Recordings Act which covers the supply of R18 material. Having taken legal advice, we recommend that to be safe and avoid falling foul of the VRA, advertisements for video recordings classified R18 should carry the statement *"This DVD is only available at licensed sex shops"*.

We also suggest that there should be no advertising of any pornographic video recordings which have not been classified by the BBFC. We of course remove any material which is obscene from such works before they are distributed. This is relevant to the proposed rule 10.1.6. We also remove other illegal material from these works, including content which contravenes the Video Recordings Act, the Protection of Children Act 1978, The Sexual Offences Act 2003 and the Criminal Justice and Immigration Act 2008.

We would be happy to discuss any of this further with you if you would find it helpful.

BBFC

June 2009



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19 June 2009

Response of the British Heart Foundation to the BCAP Code Review

Introduction

The British Heart Foundation (BHF) is the nation's heart charity, dedicated to saving lives through pioneering research, patient care, campaigning for change and by providing vital information. We welcome the opportunity to respond to the BCAP code review. We are also responding to the CAP code review as we believe that **consistency between broadcast and non broadcast media is vital to protecting children's health**. The review of both codes provides an opportunity to secure consistency which must not be missed.

Heart and circulatory disease is the UK's biggest killer and causes almost 198,000 deaths a year²⁰. Obesity, a key risk factor for the development of heart disease has now reached epidemic proportions, with the recent Foresight report on obesity warning that up to half of boys will be obese by 2050 unless decisive action is taken²¹.

Marketing food to children

²⁰ www.heartstats.org

²¹ Foresight (2007) *Tackling Obesities: Future Choices*

The BHF believes that the promotion of unhealthy foods to children must be reduced in order to lower the burden of diet related ill-health. Taking action to reduce the volume of marketing children are exposed to via broadcast media is essential. The consultation document confirms the crucial role of the BCAP code in ensuring advertising standards relating to the marketing of food to children are fit for purpose.

Impact of advertising

Every year millions of pounds is spent marketing food and drink products to children. The vast majority of this money promotes unhealthy foods: that is, foods which are high in fat, sugar and/or salt (HFSS)²². The Department of Health estimates that the commercial sector spends £335m every year promoting confectionery, snacks, fast food and sugary drinks²³.

The impact of television adverts on food choices has been shown, as has the association between the proportion of overweight children and the number of food advertisements shown each hour during children's television.²⁴ The Hastings Review²⁵ found that food promotion affects preferences not only at brand level (e.g. persuading people to choose one burger restaurant over another) but also, more importantly, at category level (e.g. persuading people to eat more burgers instead of fruit).

HFSS advertising

The consultation document acknowledges that it has not been possible to take the findings from Ofcom's recent review of the effectiveness of HFSS food advertising rules into account during the revision process. It would be useful to know how these will now be incorporated.

The BHF believes that Ofcom's current restrictions on broadcast advertising of HFSS foods do not go far enough as the majority of children's television viewing (68.9%) is outside dedicated children's programming²⁶. We therefore maintain our call, alongside organisations including Which?, the British Medical Association and Cancer Research UK, for a complete restriction on broadcast advertising of HFSS foods before 9pm. This would also mean that parents could be confident that any products they see advertised before this time are suitable for a child's healthy diet²⁷.

²² Ofcom (2006) *Television advertising of food and drink products to children - Options for new restrictions*. London: Ofcom

²³ Change4Life (2009) *Partner FAQs*. www.nhs.uk/Change4life/Pages/PartnerFAQ.aspx

²⁴ Halford and Boyland (2007) *Missing the target – Changing children's food preferences*; University of Liverpool

²⁵ Hastings et al. (2003) Review prepared for the Food Standards Agency. Centre for Social Marketing: The University of Strathclyde

²⁶ Ofcom (2006) *Television Advertising of Food and Drink Products to Children: Options for new restrictions; Research annexes 9-11*

²⁷ This was one of the recommendations from our recent report *How Parents Are Being Misled*. A copy of the report is included with this consultation response

Licensed characters vs equity brand characters

The BHF believes that the distinction between licensed and equity brand characters (those created by companies to promote a particular brand or product) within the BCAP code continues to allow an unacceptable loop hole for food companies to use unwelcome tactics to advertise unhealthy foods to children.

A recent survey from Which? showed that of the 19 most popular equity brand characters, none was used solely to promote healthy products²⁸. Equity brand characters should be subject to the same restrictions as licensed characters and prevented from being used to sell unhealthy foods to children.

Conclusion

The BHF believes the current restrictions concerning food marketing to children do not go far enough. The rules must be regularly reviewed and improved to limit the marketing impact of HFSS foods on children. The BHF is aware of a number of forthcoming reports which may contribute to the evidence base and must be considered in revising the code. These include reports from the Digital Media Group, Digital Inclusion Task Force, findings from the Department for Children Schools and Families' Commercialisation of Childhood Panel and the European Commission review of the Directive on Unfair Commercial Practices. The BHF would like to know how these are being considered and how they will inform the current review.

For further information please contact Alex Callaghan, Policy Officer, on 020 7554 0157 or Callaghana@bhf.org.uk



Ruairi O Connor

²⁸ Which? (2008) *The Cartoon Villains are still getting away with it*. London: Which?

Head of Policy and Public Affairs

British Heart Foundation

The BCAP Code Review Consultation on the proposed BCAP Broadcast Advertising Standards Code.

Response from the British Humanist Association, June 2009.

About us

The British Humanist Association (BHA) is the national charity representing the interests of the large and growing population of ethically concerned non-religious people living in the UK. It exists to

support and represent people who seek to live good and responsible lives without religious or superstitious beliefs.

The BHA is deeply committed to human rights, equality, democracy, and an end to irrelevant

discrimination, and has a long history of active engagement in work for an open and inclusive

society. In such a society people of all beliefs would have equal treatment before the law, and the

rights of those with all beliefs to hold and live by them would be reasonably accommodated within a

legal framework setting minimum common legal standards.

The BHA is committed to encouraging informed and responsible choice. It therefore believes that all

children and young people are entitled to full, accurate and unbiased information on sex and

relationships, including on matters of contraception, STIs, abortion, sexual orientation, and the many

forms of family relationship conducive to individual fulfilment and the stability of society.

The BHA applies humanist values of rationality, inclusion, openness, and concern for human

happiness and welfare when working out policy.

We welcome the opportunity to respond to this consultation. We choose to respond to three

sections of the consultation on the BCAP Code Review, namely Section 11 as concerned with family

planning centres, Section 32 as concerned with condoms, and Section 15, in that order.

Response to consultation

Part 2 - Section 11. Medicines, Medical Devices, Treatments, and Health

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?

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.

i) and ii) Yes. In principle, we welcome the proposed rule as an important way for women with an

unplanned pregnancy to be able easily to access information about their options. We also welcome

the efforts to avoid unnecessary delays to women seeking abortion.

Anti-choice organisations not only delay women who are considering or seeking abortion services

but in some case mislead women with false information about abortion, including making exaggerated or false claims about the risks associated with abortion. This does not simply delay women accessing abortion services but can actually deter women from seeking an abortion thereby curtailing their ability to make their own choices.

There will be some services which are not anti-choice but which are unable to refer women for abortion because of the nature of their service, for example because they are nurse-led (only doctors are able to sign the forms needed to refer women for an abortion). There is a risk that stating in advertising that these services do not refer for abortion could give the false impression that they are opposed to abortion. Some women who are unsure about what to do about their pregnancy and who want to discuss all of their options may be deterred from using these services if they do not think that abortion will be discussed with them. It is vital that women with unintended and unwanted pregnancies are able to access, in a timely way, accurate, objective information about all of the options open to them so that they can make their own informed decision. Women have been able to access safe and legal abortions from the NHS or privately since the 1970s.

There is no legitimate reason why those who provide this basic healthcare service, to which women have a fundamental right to access, should be prevented from advertising their services.

We agree with BCAP's proposals on changing the rules on advertising of post-conception advice services (1) to allow post-conception pregnancy advice services the freedom to advertise and (2) to ensure that advertisements for those services make clear whether the service refers a woman for abortion. We agree with BCAP that it is important to make clear whether a service refers women for abortion because, for those women who opt for it, delay in performing an abortion could result in medical complications.

We would also recommend that within the non-broadcast advertising code, the rule requiring services to declare whether or not they refer women directly for abortion is replicated.

Part 2 - Section 32. Scheduling.

Condoms

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.

Yes. Removing the current restrictions on advertising condoms will help to normalise condoms and

their use and therefore could make a significant impact on sexual health in the UK, helping to prevent sexually transmitted infections and unintended pregnancies. By bringing adverts for condoms more into the mainstream, this change will combat some of the current reticence around talking about and using condoms and will encourage people to take responsibility for their own health and that of their partners – using condoms is responsible. The adverts could also provide opportunities for parents and carers, for example, to talk to their children about issues associated with sex and relationships. That condoms may be advertised earlier in the evening is also very positive news – young people must be able to access information about the importance of safer sex and television is an excellent medium for reaching the cohort which is most at risk of STIs and unwanted pregnancies. We strongly agree with BCAP's proposals to remove restrictions preventing advertising condoms before the 9pm watershed, except for preventing adverts for condoms taking place during or adjacent to programmes principally directed at or likely to appeal to children under the age of 10.

Part 2 – Section 15. Faith, Religion and Equivalent Systems of Belief.

General comments

The title of the section and references throughout it raise the question of terminology:

“Faith, Religion and Equivalent Systems of Belief” is in itself unobjectionable but it might be useful to gloss it by a reference to the meaning of ‘religion or belief’ in the Equality Act 2006 section 44:

- (a) “religion” means any religion,
- (b) “belief” means any religious or philosophical belief,
- (c) a reference to religion includes a reference to lack of religion, and
- (d) a reference to belief includes a reference to lack of belief.

and/or by reference to the meaning of the phrase ‘religion or belief’ under the Human Rights Act

and the European Convention on Human Rights.

In Principle a, the phrase “inter-faith relations” does not capture the breadth of ‘religion or belief’,

since it refers only to faiths, not to non-religious beliefs and rejection of religious beliefs. Better to

say: ‘relations between people of different religions and beliefs’.

Principle b should be split in two: : protection of the young is important and quite separate from

allowing parents to exercise choice in their children’s moral and philosophical education - which

itself might be better referred to as ‘education related to matters of religion or belief’.

In definition a, the final phrase ‘including belief in the non-existence of deities’ would be better

expressed as ‘including non-religious beliefs and the rejection of beliefs’.

In proposed rule 15.3 ‘Broadcasters must be satisfied’ should be changed to the active form ‘must satisfy themselves’.

In proposed rule 15.4 ("Television and television text advertisements must not promote psychic practices or practices related to the occult, except those permitted by rule 15.5. Radio advertisements may promote psychic and occult practices but must not make efficacy claims.

Psychic and occult-related practices include astrology, personalised horoscopes, palmistry, fortunetelling, tarot, attempts to contact the dead, divination, clairvoyance, clairsaudience, the invocation of spirits or demons and exorcism.") what is an efficacy claim? Would a statement or implication that

'we carry out exorcisms' or 'we can put you in touch with the dead' be considered efficacy claims?

Such advertisements should be required to specify that they are offering entertainment or else to

state that their claims are disputed and speculative.

In proposed rule 15.5 ("Television and television text advertisements may promote services that the

audience is likely to regard merely as entertainment . . .") a requirement should be included that

they state that the services are offered for entertainment.

In proposed rule 15.10 ("Advertisements must not denigrate the beliefs of others.") the words "or

lack of belief" should be added before "of others".

Question 90 - Given BCAP's policy consideration, do you agree that 15.11, which presently applies to

radio advertisements by or that refer to charitable faith-based bodies and that appeal for funds,

should also cover those TV advertisements? If your answer is no, please explain why.

Yes, 15.11 should cover TV advertisements as well as radio. However, rule 15.11 is (1) unsatisfactorily worded and (2) unsatisfactory:

(1) (a) "Charitable purposes" include evangelism: all religious purposes are in principle recognised as

charitable. Religious charities as a totality are only rarely therefore concerned with disadvantaged

third parties. The rule should therefore state: "Advertisements must not appeal for funds, except

for the purpose of helping disadvantaged third parties."

(b) Requiring broadcasters to "seek [to] be satisfied" is a very loose formulation, and funds being

used solely for the benefit of the specified groups would rule out the activity being accompanied by

evangelism.

Rule 15.12 should continue to include the (recently) separated along with the elderly, the sick and

the bereaved as examples of people who are especially vulnerable.

Question 91 - Given BCAP's policy consideration, do you agree that 15.2.3 should apply to radio as it

presently does to TV? If your answer is no, please explain why.

Yes, 15.2.3 should apply to radio as it presently does to TV.

Question 92 – Given BCAP's policy consideration, do you agree that faith advertisements, which

appeal for funds for charitable purposes that include or will be accompanied by recruitment or

evangelism, are acceptable if that information is made clear in the advertisement? If your answer is

no, please explain why.

We disagree that the present ban in rule 10.7 on any associated evangelical activity should be lifted.

Appeals for donations for an uncontroversial purpose (relief of poverty, etc) should not be the

means of raising funds for evangelism, even if the possibility is acknowledged.

Question 93 – Given BCAP's policy consideration, do you agree that present radio rules 3.10 and 3.11,

of section 3, need not be included in the proposed Code? If your answer is no, please explain why.

Yes.

Question 94 – Given BCAP's policy consideration, do you agree that present TV rule 10.9 need not be

included in the Code? If your answer is no, please explain why.

We disagree: the present TV rule 10.9 should be included in the Code. The objective of the present

rule will not be achieved by such a vague rule as 1.2 – many religious advertisers would see it as

wholly consistent with a sense of responsibility to include long extracts from religious services in

advertisements if they saw advantage thereby.

Question 95 - Given BCAP's policy consideration, do you agree that present TV rule 10.10 should not

be included in the Code? If your answer is no, please explain why.

No. Rule 10.10 suggests that testimonials and references to personal experiences or personal

benefits associated with a doctrine should be primarily treated with the utmost caution –

presumably because such activities can be very harmful to some. Even if a personal testimony is

'true', that is highly subjective and could be construed as applying to others. Further, the policing of

this will be next to impossible – testimonials from such people will be atypical and will mislead

others whose relevant belief is not deep-rooted and who are therefore unlikely to experience the

same outcome

Vulnerable people will be the most greatly affected and influenced by suggestions of emotional

benefits derived from religion or religious activity and are concurrently most at risk of being duped

or coerced into supporting or taking part in particular religious activity. Keeping 10.10 in will help to

prevent harm especially to the most vulnerable.

Question 96 –

i) Given BCAP's policy consideration, do you agree that present TV rule 10.11 should not be included

in the Code? If your answer is no, please explain why.

ii) Given BCAP's policy consideration, do you agree that 15.13 should be included in the Code?

If your answer is no, please explain why.

i) and ii) We do not agree that 10.11 should not be included in the Code or that 15.13 should be

included in the Code. The difference between claims of treating, curing or alleviating physical or

mental health problems and claims that faith healing, miracle working or faith-based counselling can benefit emotional or spiritual well-being will have to be a matter of interpretation. There is no evidence at all for miracles and so on but much evidence for the harm that is caused by claims that they happen and by many activities such as “faith healing”. Counselling by religious groups – especially those likely to advertise – will usually be based on religious doctrine, often restrictive and punitive with heavy threats of suffering in the supposed afterlife and could easily therefore have a negative effect on subjects. Advertising counselling services will be designed to bring new people within the orbit of the religious group: there are far easier ways for them to reach their own followers.

Moreover, how a religious group defines “spiritual healing”, for example, may be very different to what those outside that group understand it to mean. For matters so serious as decisions to allow claims of the efficacy of faith-based interventions to be included in broadcast advertisements to rest on subjectivity is simply not sufficient to protect vulnerable people.

Question 97 – Given BCAP’s policy consideration, do you agree to maintain the existing TV and radio requirements on advertisements for products or services concerned with the occult or psychic practices? If your answer is no, please explain why.

Yes. We agree that the existing TV and radio requirements on advertisements for products or services concerned with the occult or psychic practices should be maintained – but an alternative policy would be to lift all restrictions on such advertising provided either its products had been proven effective in double blind trials or the advertisements stated prominently that the services were offered only for entertainment.

Question 98 –

i) Taking into account BCAP’s policy consideration, do you agree that BCAP’s rules on Faith, Religion and Equivalent Systems of Belief are necessary and easily understandable? If your answer is no, please explain why?

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

iii) Do you have other comments on this section?
No comments.

children and young people.¹⁰ At the 2003 BMA Annual Representative Meeting (ARM) members expressed concern about the damaging effect excessive alcohol has on the health of individuals and of our society and called on the UK Governments to legislate for a complete ban on the advertising of alcohol.

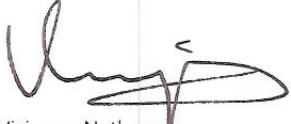
As recommended in the 2008 BMA Board of Science report *Alcohol misuse: tackling the UK epidemic*¹¹ in light of the limited restrictions on alcohol advertising, the BMA believes that all printed and electronic alcohol advertisements should include information on recommended daily guidelines and a warning message advising that exceeding these guidelines may cause an individual and others harm.

Gambling

The 2007 BMA Board of Science report *Gambling addiction and its treatment within the NHS: a guide for healthcare professionals*¹² recognises the negative impact problem gambling can have on of a person's life, including their physical and mental health, employment, finances and interpersonal relationships. The levels of problem gambling are likely to increase following the expansion of gambling opportunities enabled by the Gambling Act 2005.

As noted in our response to the 2007 Gambling Commission consultation on gambling advertisements, the BMA believes that gambling advertisements should contain compulsory messages designed to make consumers aware of the potential risks of gambling and ways of gambling responsibly. In doing so the most appropriate type of message would be educational messages such as 'don't drink and gamble', 'don't chase your losses', and 'only gamble with money you can afford to lose'.

I hope you find this information useful, and I look forward to hearing the outcome of your consultation.

Yours sincerely


Professor Vivienne Nathanson
Director of Professional Activities

¹ British Medical Association (2005) *Preventing childhood obesity: a guide for healthcare professionals*. London: British Medical Association.

² British Medical Association (2003) *Adolescent health*. London: British Medical Association.

³ British Medical Association (1999) *Growing up in Britain: ensuring a healthy future for our children*. London: British Medical Association.

¹⁰ Anderson P, de Bruijn A, Angus K et al (2009) Impact of Alcohol Advertising and Media Exposure on Adolescent Alcohol Use: A Systematic Review of Longitudinal Studies. *Alcohol and Alcoholism* **44**: 229-43.

¹¹ British Medical Association (2008) *Alcohol misuse: tackling the UK epidemic*. London: British Medical Association.

¹² British Medical Association (2003) *Gambling addiction and its treatment on the NHS: a guide for healthcare professionals*. London: British Medical Association.



**BCAP
Submission by British Naturism
to
Advertising Standards Association
June 2009**

British Naturism is the representative organisation for naturists in the UK.

About 1.5 million people in the United Kingdom describe themselves as being a naturist²⁹ and there are about ten times that number who practise naturism to at least some extent. There is a surprisingly high level of acceptance by the public though there are also some who are deeply prejudiced against nudity. Few people realise how numerous we are.³⁰

In this response we frequently refer to attitudes, harm and benefit. Please see our briefing notes on "Statistics", "Children", and "Health and Wellbeing" for the supporting evidence.

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.

No.

There are numerous references to avoiding harm and similarly numerous references to avoiding causing widespread and serious offense. Unfortunately the code does not recognise that there are many situations where the two requirements conflict and it does not provide a rule for resolving the conflict. We firmly believe that considerations of harm must always take precedence over offense. Anything else is indistinguishable from prejudice.

The rules are almost entirely concerned with the rights of marketers and the rights of individuals receiving advertising material. Marketing materials are part of the general pattern of life and they do have an impact on society as a whole. The code needs to give much more weight to the general well being of society.

Protection must be based on evidence of what causes harm and of what promotes well-being.

Anything else is prejudice and that almost invariably causes harm.

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.

iii) Do you have other comments on this section?

Morals are a very slippery concept. One person's moral imperative is often anathema to somebody else. Supposed morals must not be allowed to override considerations of harm.

The terms 'unsuitable' and 'inappropriate' need to be defined. There are numerous misconceptions about how children react to material so policy and decisions must be based on evidence and not supposition. For example there is not a shred of evidence to support the notion that nudity causes harm to children but we frequently hear people asserting that it does. They are overlaying children with their own prejudices and the evidence is very clear that it results in substantial harm.

Rule 5.1 Advertisements must contain nothing that could cause physical, mental, moral or social harm to children.

Interpretation of this rule must be based on evidence of what is harmful. Some supposedly generally accepted ideas about harm are very simplistic, counter productive and in some cases cause serious and widespread harm.

Rule 5.6 Advertisements must not portray or represent children in a sexual way.

Some of the present rules and their interpretation can only be justified by assuming that children are inherently sexual. This reinforces dangerous and harmful fallacies and causes widespread and in some cases very serious harm. If children are hidden, pixelated or otherwise censored purely

1. 29 NOP poll. 2001. "and would you describe yourself as being a naturist?"

1. 30 When a naturist gets dressed the disguise is perfect.. The Statistics Briefing Note provides further information.

because some disturbed individuals may consider them sexual then that in itself promotes the idea that children are sexual.

Treating nudity as if it is inherently sexual causes immense harm.

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.

Yes but we are puzzled by the age restriction. Is it to protect children or is it to protect some adults from their own embarrassment? It is generally accepted that treating knowledge of sex related issues as something to be kept hidden encourages attitudes which result in harm. If condoms are treated as everyday objects it demystifies them and results in improved outcomes. It is not coincidence that the most censorious countries, compared to the most liberal, have about ten times the teenage pregnancy and abortion rates and over seventy times the gonorrhoea rate. These comments also apply to rule 32.6.1 "*sanitary protection products*", the radio rules 32.17.4, 32.17.5 and any other similar rules.

Question 157

Do you have other comments or observations on BCAP's proposed Code that you would like BCAP to take into account in its evaluation of consultation responses?

Yes.

Section 30, Pornography. The phrase "*the recognised character of pornography*" is used repeatedly without any definition being provided. It must be made very clear that nudity is neither pornography nor sex.

Great care must be taken to ensure that mistaken ideas about what is harmful do not prevent advertising that is beneficial to the well-being of individuals or society in general. In particular complaints from a large proportion of a vociferous but tiny minority must not carry more weight than considerations of harm and the wishes of the overwhelming majority.

Most people are unaware of how much censorship takes place and are also unaware of how much harm some of that censorship causes. Surveys are often flawed because the respondents do not have the knowledge required to give a considered response.

There are numerous references to avoiding harm and similarly numerous references to avoiding causing widespread and serious offence. Unfortunately the proposals fail to take account the many situations where the two requirements are exclusive. We firmly believe that harm must always take precedence over offence. Anything else is indistinguishable from prejudice.

At present the code is almost entirely centred around the rights of advertisers and the rights of individuals receiving the adverts. Advertising is a part of the general pattern of life and it does have an impact on society as a whole. The code needs to give much more weight to the general well being of society.

Protection must be based on evidence of what causes harm and of what promotes well-being.

Anything else is prejudice and that almost invariably causes harm.

Great care is required to ensure that complaints from a large proportion of a vociferous but tiny minority do not carry more weight than considerations of harm and the wishes of the overwhelming majority.

We are disturbed that further consideration of "offence" will not be the subject of a public consultation. This is one of the most pervasive parts of the code and many of the consequences are far from obvious.

British Naturism

www.british-naturism.org.uk

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, provided these establishments conform to the relevant medical standards

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.

Yes, however, care must be taken to ensure that 'health specialist professionals' are chosen

appropriately, for example, the term 'nutritionist' is not protected and so qualifications and relevant registration (the Nutrition Society's register of nutritionists) should be checked, or a Registered dietitian used.

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, provided that there is confidence that the standards are appropriately regulated and policed?

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, however, if this refers to clinics offering the surgical removal of fats, this is not recognised as a method of substantial weight loss, but rather for the removal of small fat deposits that do not respond to diet and exercise. It is important that advertising communications reflect this and do not promote the surgical removal of fat from the body as a way of reducing overall body weight or body fat.

We would agree that advertisers should not refer to the amount of weight that can be lost.

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.

No, this is not consistent with the NHCR which prohibits claims about the amount or weight of weight loss and so we would recommend that no claims about rate of weight loss are permitted in the code. However, as it is important for consumer to understand what a safe rate of weight loss is, and it may be useful to refer consumers to a reputable website for more information (the British Dietetics Associations 'weight wise' is both accurate and user-friendly <http://www.bdaweightwise.com/index.html>)

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

i) Taking into account BCAP's general policy objectives, do you agree that BCAP's rules, included in the proposed Weight Control and Slimming 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 Weight Control and Slimming 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?

No

Section 13: Food, Dietary Supplements and Associated Health and Nutrition Claims

Permitted nutrition and health claims

Question 78

Do you agree that BCAP has correctly reflected the requirements of Articles 8(1), 10(1) and 28 of the NHCR in BCAP's proposed rules 13.4 and 13.4.1? If your answer is no, please explain why.

Yes. In terms of nutrition claims there are currently ongoing discussions at the EC regarding changes and additions to the Annex, so it will be important to keep abreast of these developments to make sure the code remains up to date.

Giving rise to doubt about the safety or nutritional adequacy of another product

Question 79

Do you agree that BCAP has correctly reflected the requirements of Article 3(b) of the NHCR in BCAP's proposed rule 13.4.4? If your answer is no, please explain why.

Yes. It may also be useful to include the requirements of article 3(c) ([nutrition](#) and health claims

shall not encourage or condone excess consumption of a food) if this is not already covered in the code

Comparative nutrition claims

Question 80

Do you agree that BCAP has correctly reflected the requirements of Article 9 of the NHCR in BCAP's proposed rules 13.5.1 and 13.5.3? If your answer is no, please explain why.

Yes. It may also be useful to clarify 15.3 by adding 'taking into consideration a range of foods of that category' as stated in Article 9 of the NHCR.

Comparison with one product

Question 81

Do you agree that BCAP has correctly reflected the requirements of Article 9 of the NHCR and the guidance from the European Commission in BCAP's proposed rule 13.5.2? If your answer is no, please explain why.

No, Article 9 of the regulation does not refer to the use of a sole product, but to a range of products within a category.

Prohibitions

Question 82

Do you agree that BCAP has correctly reflected the requirements of Article 12(a) of the NHCR in BCAP's proposed rules 13.6 and 13.6.1? If your answer is no, please explain why.

Yes.

Question 83

Do you agree that BCAP has correctly reflected the requirements of Article 3(e) of the NHCR in BCAP's proposed rules 13.6 and 13.6.4? If your answer is no, please explain why.

Yes, we feel that the BCAP reflects the relevant article of the NHCR. However, it may be difficult to define which references will 'give rise to or exploit fear in the audience' and the ASA may wish to include examples of this in any guidance documentation provided.

Food Labelling Regulations (1996) (FLRs)

Question 84

i) Do you agree that BCAP has correctly reflected the requirements of Article 14 of the NHCR and Schedule 6 Part 1(2) of the FLRs in BCAP's proposed rules 13.6 and 13.6.2? If your answer is no, please explain why.

Yes, although it would be useful to add that the food or drink in question must comply with the conditions of use specified for that health claim.

ii) Do you agree that BCAP has correctly reflected the relevant provisions of Regulation (EC) 1924/2006 on Nutrition and Health Claims on Foods in the proposed BCAP Code? If your

answer is no, please explain why.

In most cases yes, but, much work is still in progress on this regulation, particularly on the nutrient profiles that foods and drinks must comply with in order to make a nutrition or health claim. It will be important to update the code to take any major changes into account in future.

Health claims that refer to the recommendation of an individual health professional

Question 86

i) Do you agree that BCAP has correctly reflected Article 12(c) of the NHCR in rule 13.6.3? If your answer is no, please explain why.

Yes, however, it may be useful to provide a list of bodies from whom a recommendation would be acceptable to avoid inappropriate organisations being referenced.

ii) Given BCAP's policy consideration, do you agree that the Code should allow broadcast food advertisements to include health claims that refer to a recommendation by an association if that association is a health-related charity or a national representative body of medicine, nutrition or dietetics? If your answer is no, please explain why.

Yes, this would be consistent with the NHCR, however, as mentioned above, care must be taken as to which organisations are deemed appropriate to recommend a product.

Other questions

Question 87

i) Taking into account BCAP's general policy objectives, do you agree that BCAP's rules included in the proposed Food, Dietary supplements and Associated Health and Nutrition claims 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 Food, Dietary supplements and Associated Health and Nutrition claims rules that are likely to amount to a significant change in advertising policy and practice, are not reflected here and should be retained or otherwise be given dedicated consideration?

No mention is made of the nutrient profiles which are currently under development at the EC, and these may be important to include once they have been finalised.

iii) Do you have other comments on this section?

No

The role and approach of the ASA and its Code needs to change dramatically or its abolition must be on the agenda

The BRC does not believe the ASA and its Codes is any longer fit for purpose.

The putative reason for the revision to the Codes is the passage of the Consumer Protection Regulations (CPRs). However, the BRC does not believe that the proposed revision of the CAP and BCAP Codes provides a satisfactory response to the changes brought about by the CPRs, implementing as they do a full harmonisation Directive.

Given the CPRs introduce a whole new approach to Consumer Protection in the UK – a purposive rather than a detailed prescriptive approach – it would have been appropriate for the ASA to reconsider both its own role and the whole nature and purpose of the Codes instead of simply trying to suggest it is business as usual and all that is necessary is to tinker with the Codes and amend them in a technical fashion.

The BRC does not believe it is appropriate for the system to carry on as if nothing has changed.

One issue is whether the Code continues to be necessary or desirable. The second issue is one of process if the ASA and the Code are to continue.

The ASA has lost the confidence of advertisers as a result of its over-zealous approach and its lack of judgement in passing on complaints about advertisements.

More than that, its lack of transparency in assessing complaints; the lack of an independent system of appeals; and its failure to involve those whom its Code most affects in any effective system of consultation on the Code or the Help Notes it produces, and against which it assesses advertisements (and this is clear from the Consultation when it states that the ASA is not obliged to consult stakeholders on the changes) are not acceptable in the 21st century approach to enforcement and regulation.

The options are simple:

- The ASA can administer a voluntary Code that binds only those who voluntarily sign up to it – though others may observe choose to observe it as good practice guidance. The Code can have

no effect on the acceptance of an advertisement from an advertiser who is not a signatory. This would leave the OFT to enforce the CPRs and the ASA to have a limited role only in areas of taste and decency which are outwith the scope of the CPRs.

OR

- The ASA can become an 'established means' for the enforcement of the CPRs (NB: NOT the Code as presently proposed) and a slimmed down Code that refers only to matters that are outside the scope of the CPRs such as taste and decency. In this case the ASA will need to win back the confidence of those with whom it deals. This means it will need to establish effective, transparent procedures for assessing and addressing complaints of breaches of the CPRs with a proper procedure for giving oral evidence and oral cross examination; and an independent appeals procedure. The ASA could also issue guidance produced after consultation with all stakeholders but such guidance should be only guidance on one way of meeting the requirements of the CPRs and have no evidential value.

Unless the ASA shows a willingness to change its approach, the BRC would be inclined towards the first option.

In principle objections to the revised Code

Our 'in principle objections' to the Code as proposed are based on a number of elements

- De facto compulsory nature of the Code
- Gold plating of the CPRs
- Lack of transparency in interpreting the Code
- Lack of proper procedures for investigating complaints and hearing evidence
- Lack of appeals procedures against decisions on complaints
- Failure to observe the letter and spirit of the standards proposed by the OFT for 'Established Means' and indeed for OFT recognised Codes.

The ASA Code gold plates the CPRs and in doing so purports to gold plate a full harmonisation Directive. It undermines the whole thrust of that Directive as transposed.

The recent ECJ decision in a case against the Government of Belgium has made it crystal clear that no Member State can introduce Regulations that go beyond the full harmonisation UCP Directive in the space it covers.

It is, therefore, clear that the UCP (correctly transposed into UK law) is the only legal test against which claims of misleading advertising to consumers can be assessed. That Directive includes references to the average consumer; a transactional decision test; and professional diligence – none of which appear in the revised CAP or BCAP Codes.

The problem stems at least in part from the de facto compulsory nature of the Code. It is impossible to place an advertisement that is in breach of the Code. Although the OFT may act as a backstop for enforcement, the ASA is the primary means for enforcement of the Code. Its judgements are made solely in terms of whether in its view there has been a breach of the Code (or even in some cases breaches of its Help Notes) not whether there has been a breach of the law.

This is entirely different from enforcing a Code where those bound by it are willing and voluntary signatories. In that case, the signatories willingly agree to go beyond the strict legal requirements and, having agreed to do that, are required legally to observe the Code. In the case of the ASA Code there is no option for anyone who wishes to advertise and there is no element of voluntarily signing up to its provisions.

In effect, in the UK the CPRs/UCP are being enforced through a non-voluntary Code that extends the requirements of the UCP in a way that, prima facie, would seem to breach the requirements of a full harmonisation Directive as confirmed by the ECJ.

Examples of ‘gold plating’ include:

- the requirements for describing an item as a ‘free’ item;
- taking into account the ‘impression’ on consumers instead of assessing whether it would lead the average consumer to take a transactional decision he would not otherwise have taken’;
- the need to take account of the Pricing Practices Guide when the Guide is quite explicit that there is no requirement to take account of its provisions;
- the need for any conditions to be clear to any consumer who sees the advertisement only once.

Other examples will be found in our detailed answers below.

The need to withdraw statutory codes that inhabit the space of the UCP/CPRs was recognised by the then DTI in its approach to the Prices Code. Where the former Code had evidential value and a statutory basis, the replacement makes it very clear that it is purely guidance on one way in which a business can comply with the CPRs; that it has no evidential value; and that the legal basis for any challenge to a business is solely the CPRs. In other words, a case can only be brought and judged on the basis of compliance with the CPRs.

The ASA Codes make no such distinction. They do not purport to be solely guidance or good practice.

Is there a future for the Codes and the ASA?

The BRC strongly believes that the new Codes should be absolutely clear that, to the extent they inhabit the space of the UCP/CPRs (ie excluding taste and decency) they are purely advisory.

The OFT has suggested that the ASA should be an ‘established means’ for the purposes of enforcing the CPRs. It should also be clear that if the ASA is to be an ‘established means’ for the purposes of the CPRs, its judgements must be against the CPRs not the Codes. The Codes, if they are to continue to exist for some purpose must not be de facto compulsory codes.

The BRC strongly believes that any ‘established means’ should observe the normal standards of due process in coming to its judgements. This includes transparency; proper limitations on the time for bringing and investigating a complaint; oral questioning of evidence; and a totally independent appeals procedure. These are expressed in the OFT consultation in the following terms:

- *5.15 Compliance partners are likely to be able to demonstrate their actions are in line with the requirements of better regulation, in that they are proportionate, consistent, transparent, targeted and accountable. It will also need to have regard to or respect the HRA rights of both consumers and traders/businesses.*

Unfortunately, in the case of the ASA there is a lack of transparency in coming to a judgement; there is no effective procedure for questioning the evidence orally; no time limits in the new Code; no independent

appeals procedure – and no loser pays principle. Currently the Code makes clear that the decisions of the ASA are ‘final’.

In light of the above comments, if the ASA and its Codes are to continue we believe the proposals should be withdrawn.

Pending any legal clarification of the status of the Code through a case before the ECJ, the BRC believes that

- The Codes should be clearly identified as being voluntary guidance on good practice.
- If the ASA is to be an ‘established means’ its judgements should be against the CPRs NOT the Codes; its judgements should be open to scrutiny and appeal to an independent ‘body’; and its procedures should reflect normal standards expected of a semi-judicial body with the possibility for cross questioning evidence and clear time limits on investigations and adjudications.
- The ASA should be entitled to observe whether or not an advertisement breaches the Code but that should have no legal effect and should not lead to any requirement to withdraw the advertisement or any requirement or expectation on the media to reject the advertisement. Alternatively, the ASA could become the enforcer of a voluntary code which businesses may or may not sign. Their agreement to the Code should have no value in determining whether or not they can advertise but if they do sign the Code, they would be bound by it.

The rules in the Codes should be replaced by references to the CPRs, the OFT Guidance and the Pricing Practices Guide without further elaboration and all judgements within this space should be made against the requirements of the CPRs. The Codes could elaborate specific rules on taste and decency, which are outwith the CPRs. In addition there could be a Guide, along the lines of the Pricing Practices Guide, to one way to observe the CPRs.

Moreover, in as much as the concepts of misleading are universal in the CPRs, there should be no requirement for separate Codes or Guides – and certainly no requirement for separate guides with differing provisions. The only requirement should be for a separate chapter covering the broadcast media where the nature of that media has specific relevance.

The Individual Questions

Our comments on individual questions below are made without prejudice to our overall views and purely within the terms of the Code itself. We have only commented where we disagree with a specific aspect of a rule or have a specific observation.

Question 1

This introductory section should identify the role of the Code within the CPRs, including the fact that the definitive requirement is to abide by the CPRs and that the Code itself is not definitive in law. It should note that the new legislation is no longer detailed but purposive and principled and the Code should recognise and be adapted to that change.

There should be a distinction between ‘paid for’ and ‘non-paid for’ advertising. The ASA Code should not purport to have jurisdiction over ‘non paid for advertising such as but not only ‘in store advertising’; window displays and posters; company websites where its products are offered for sale; or catalogues. This distinction should be made absolutely clear. In particular, where it purports to apply to websites and viral advertising should be clearer.

The relevant ‘sector specific rules’ mentioned in 1.4 should be defined.

Under the CPRs the broader test is one of professional diligence rather than ‘fair competition’. The Code should reflect this.

The Code should set out clear time limits for making a complaint (as did the previous Code); investigating a complaint; making an adjudication; for an appeal; and for answering a query from the ASA. In the old Code there was a time limit of 3 months for a complaint in Section 60 – but the mapping document seems to omit a number of provisions of the old Code after point 57.

Question 3

No. Rule 3.10 goes well beyond the UCP. There is no reason for the addition of the words ‘only once’ and indeed it is not clear what this requirement would mean in terms of the advertisement or its appearance. On what grounds would an advertiser be held to account under this rule – and there is no mention here that this should apply to the average consumer defined as reasonably well informed and circumspect.

Question 4

No. This may be appropriate for a ‘help note’ but this is an attempt to reinterpret rules unnecessarily. It should be possible to explain that the advertisement does not refer to normal use.

Question 5

No. The proposal in 3.28.3 is too prescriptive and goes beyond the CPRs. 3.28 should only apply to ‘invitations to purchase’ and there is no legal requirement to state each and every age restriction in terms of age related sales. This could be particularly difficult where the age restrictions vary in relation to specific video titles, for example.

The need to state the time period and quantities available goes well beyond the CPRs and accepted practice.

Question 6

The due diligence defence and its requirements is set out in the CPRs. This is an attempt to start to define what that due diligence should look like. It is unnecessary.

Question 8

This is not in line with the CPRs which refer only to the unavoidable cost of responding to the commercial practice and collecting or paying for delivery of the item. The proposed wording in the Code is more explicit and could lead to a legal promotion being barred.

Question 9

The revisions often use the word 'must' instead of 'should'. We see no reason for this change. The suggestion that price statements should take account of the Pricing Practices Guide is an attempt to make law by stealth. The Guide itself says it can be ignored.

The section should be re-phrased as one way of securing compliance.

The proposed wording in the Principle to the effect that the ASA will take account of the impression created by the communication goes well beyond the CPRs which refer to the average consumer and the transactional decision test. The Code should reflect the CPRs.

Rule 3.3 should refer to the average consumer.

Rule 3.20 should include packaging as a reasonable charge.

Rule 3.39 should merely repeat the advice in the Pricing Practices Guide and it should clearly be advice.

Questions 19 and 20

These requirements are not practical.

Question 21

It needs to be made clear whether information on a website counts as 'easily accessible'

Question 24

We are not clear of the logic for distinguishing between national and local competitions – and this can only lead to regional or non-national competitions advancing at the expense of national competitions.

Question 25

It is not clear what is meant, in this instance, by 'independent' judge. This goes beyond the requirements of the Gambling Act. The judge should be independent of the competition not necessarily the promoter.

Question 28

The point of rule 8.4 is not apparent. Alcohol should never be supplied to anyone under 18 so it is clear that it must not be available on promotion to anyone under 18.

Rule 8.12 is impractical in that it is not possible simply to switch the promotion to another product. ^That would merely cause a problem for the supply of that product.

Question 31

The rules seem superfluous as with the exception of the rules on harm to children they merely state the law. They have nothing to do with the ASA remit.

Rule 9.4.3 conflicts with OFT Guidance but is supported.

Rule 9.5 is superfluous being a statement of the law

No definition of a sales promotion is given. It is not made clear, as it should be, that a website that is not a sales promotion should not be covered by the code.

Question 34

The section should be technology neutral given the constant changes to, and innovation in, technology.

Question 38

The basis for a reference to and inclusion of beauty products is unclear.

Question 39

Much of the contents of this section are superfluous. Medicines and health products are highly regulated and the law is well known. There is no need for additional rules in this tightly controlled area.

Question 40

The proposed rule could be helpful as guidance but there are dangers in using body mass index (which is not a good measure of obesity) as a requirement on which to base advertising.

Question 43

13.10.1 - The proposed wording in this paragraph suggests that all claims related to the rate and amount of weight loss are banned, when as highlighted in the FSA guidance on the Regulation it is not so straightforward.

We believe that the provisions in the Codes should reflect that reference to terms such as 'rapid' or 'fast' could be used.

FSA guidance (Question 36):

In the absence of case law, it is difficult to make categorical assertions about the scope of this prohibition. Reference to periods of time alone, particularly in more general terms such as "rapid", "fast", etc should not mislead consumers, but may not be subject to this prohibition.

When considering compliance with this provision context will often need to be considered. For example, personal experiences and before and after photographs that can be substantiated and which are presented in a way that does not imply a guarantee of effect for the average consumer and which make no reference to an amount of weight or an amount of weight over a period of time, are probably beyond the scope of this prohibition. However, they are likely to be caught by the definition of health claim and as such may need to be either subject to a specific authorisation, or, as the case may be, under the provisions in Article 10(3) accompanied by an authorised claim.

Question 46

No.

15.1.1 - The European Regulation leaves business operators the flexibility to use equivalent wording to the one specified in the legislation. We believe it is important that this is reflected in the CAP Code. Providing a few examples would be useful, e.g. 'reduced energy' or equivalent wording such as 'reduced calories' or 'less calories'.

The last paragraph under section 15.1.1 implies that marketing communications have to be filed and approved by the relevant Home Authority, this is not correct.

The Code cannot go beyond the requirements in the Nutrition and Health Claims Regulation. Marketers have to be able to prove (they are not required to hold documentary evidence) that their product contains the quantity of vitamin or mineral or substance specified under the 'conditions of use' of an approved article 13 claim.

Question 47

15.6.2 - Reference to the approval by the Commission should be removed. The Commission has the responsibility of proposing legislation but they cannot approve it. This is the role of Council and Parliament.

Question 48

The requirements under article 9 have not been reflected; however the provisions reflect the interpretation under FSA and Commission guidance. We are satisfied with this.

Question 52

No. The proposed wording in this paragraph suggests that all claims related to the rate and amount of weight loss are banned, when as highlighted in the FSA guidance on the Regulation it is not so straightforward.

We believe that the provisions in the Codes should reflect that reference to terms such as 'rapid' or 'fast' could be used.

FSA guidance (Question 36):

In the absence of case law, it is difficult to make categorical assertions about the scope of this prohibition. Reference to periods of time alone, particularly in more general terms such as "rapid", "fast", etc should not mislead consumers, but may not be subject to this prohibition.

When considering compliance with this provision context will often need to be considered. For example, personal experiences and before and after photographs that can be substantiated and which are presented in a way that does not imply a guarantee of effect for the average consumer and which make no reference to an amount of weight or an amount of weight over a period of time, are probably beyond the scope of this prohibition. However, they are likely to be caught by the definition of health claim and as such may need to be either subject to a specific authorisation, or, as the case may be, under the provisions in Article 10(3) accompanied by an authorised claim.

Question 55

In general we feel that the reference to the FSA guidance in the document should be removed and the specific sections of that document referred to in each of the relevant sections of the Codes.

It is crucial that the Codes are kept up-to-date. This is especially relevant in relation to claims since many issues in the Nutrition and Health Claims Regulation are still being discussed; e.g. positive list of health

claims, final list of nutrition claims, amendments to the criteria of certain nutrition claims and nutrient profiles to establish the foods that can bear claims.

Furthermore, where the Codes use a defined term such as food product, low alcohol etc., it is clear that the definitions have to be the same as those in the nutrition and health claims Regulation.

While the Code explains the nutrition claims that can be used and the conditions for using these claims, little mention is given to health claims. Paragraph 15.1.1 states that authorised claims in the Community Register may be used in marketing communications. This could be interpreted to mean that only health claims that are authorised and included in the register can be used, which is incorrect, e.g. article 10.3 health claims do not need to be neither authorised nor included in the register. The Code should clearly cover the provisions under Nutrition and Health Claims Regulation applicable to all the different types of health claims.

Question 57

The Nutrition and Health Claims Regulation is a complex piece of legislation. Not only does it introduce new criteria and conditions for the use of health claims, but many of the provisions of the Regulation apply at different times.

We believe it is imperative that all the different transitional periods, some of which are up to 15 years long, are somehow accurately reflected in the Code.

While it is very important that the body of the Regulation is correctly interpreted into the Code, we would at all cost like to try to avoid unnecessary restrictions or challenges because the legal transitional periods have not been taken into account.

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 give dedicated consideration?

15.7 – The requirements under this paragraph go beyond the requirements in the Nutrition and Health Claims Regulation. Marketers have to be able to prove (they are not required to hold documentary evidence) that their product contains the quantity of vitamin or mineral specified under the ‘conditions of use’ of an approved article 13 claim. They do not have to provide evidence of a health relationship already given a positive opinion by EFSA and approved by Standing Committee.

For nutrition claims, the marketers have to prove that their product contains 15% or 30%, depending on the claim made, of the Recommended Daily Allowance.

The Code refers to food and soft drinks while the Nutrition and Health Claims Regulation applies to food and all drinks.

Some of the rules in 15.11 do not follow our understanding of the legal requirements. It is suggested this section be written in a principle based manner or removed completely on the grounds the area it seeks to control is covered by the existing regulatory framework and this is an area of rapid change.

BCAP code

It is strange to say the least that the BCAP Code should be so much longer than the CAP Code

In principle we believe the BCAP Code should be brought totally into line with and included in a single CAP Code. Where there are clear reasons for any differences based on the nature of the media there should be specific references in the CAP text or in an annex.

We have some specific comments as follows:

Question 32

Yes. While we agree with the new provisions “13.2. Advertisement must avoid anything likely to encourage poor nutritional habits or an unhealthy lifestyle, especially in children”, it should be clarified that the promotion of an indulgent product when the advert does not encourage people to regularly eat the product or to consume it as a substitute for a meal, will not be caught under this provisions.

Question 77

12.8 The proposed wording in this paragraph suggests that all claims related to the rate and amount of weight loss are banned, when as highlighted in the FSA guidance on the Regulation it is not so straightforward.

We believe that the provisions in the Codes should reflect that reference to terms such as ‘rapid’ or ‘fast’ could be used.

FSA guidance (Question 36):

In the absence of case law, it is difficult to make categorical assertions about the scope of this prohibition. Reference to periods of time alone, particularly in more general terms such as “rapid”, “fast”, etc should not mislead consumers, but may not be subject to this prohibition.

When considering compliance with this provision context will often need to be considered. For example, personal experiences and before and after photographs that can be substantiated and which are presented in a way that does not imply a guarantee of effect for the average consumer and which make no reference to an amount of weight or an amount of weight over a period of time, are probably beyond the scope of this prohibition. However, they are likely to be caught by the definition of health claim and as such may need to be either subject to a specific authorisation, or, as the case may be, under the provisions in Article 10(3) accompanied by an authorised claim.

Question 80

The provisions have been correctly interpreted.

However the wording used for 13.5.1 is not as clear as it could be, we therefore suggest it is reworded: Comparative nutrition claims may only be made between foods of the same category.

Question 84

In general we feel that the reference to the FSA guidance in the document (background) should be removed and the specific sections of that document referred to in each of the relevant sections of the Codes.

It is crucial that the Codes are kept up-to-date. This is especially relevant in relation to claims since many issues in the Nutrition and Health Claims Regulation are still being discussed; e.g. positive list of health claims, final list of nutrition claims, amendments to the criteria of certain nutrition claims and nutrient profiles to establish the foods that can bear claims.

Furthermore, the Codes use defined terms such as food product, low alcohol etc. These are defined terms under the Nutrition and Health Claims Regulation. The use of these terms in the Code should be consistent with the definitions under the Regulation.

The Code refers to food and soft drinks while the Nutrition and Health Claims Regulation applies to food and all drinks.

13.4.2 We believe that the requirements under this paragraph could be interpreted to go beyond the requirements in the Nutrition and Health Claims Regulation. Marketers have to be able to prove (they are not required to hold documentary evidence) that their product contains the quantity of vitamin or mineral or substance specified under the 'conditions of use' of an approved article 13 claim. They do not have to provide evidence of a health relationship already given a positive opinion by EFSA and approved by Standing Committee.

For nutrition claims, the marketers have to prove that their product contains the quantity required under the criteria laid down in Annex I of Nutrition and Health Claims Regulation for that nutrient or substance when making that claim.

13.11 This paragraph gold plates the provisions of the EU Regulation. The way to establish whether a claim can be made on a product is by assessing it against the nutrient profile set for this purpose and which is currently under development. The OFCOM model which classifies food as HFSS and Non-HFSS should not be used for the purpose of claims.

13.7 The Commission has the responsibility of proposing legislation but they cannot approve it. This is the role of Council and Parliament.

13.4 While the Code explains the nutrition claims that can be used and the conditions for using these claims, little mentioned is given to health claims. This paragraph states that authorised claims in the Community Register may be used in marketing communications. This could be interpreted to mean that only health claims that are authorised and included in the registered can be used, which is incorrect, e.g. article 10.3 health claims do not need to be neither authorise nor included in the register. The Code should clearly cover the provisions under Nutrition and Health Claims Regulation applicable to all the different types of health claims.

13.9.2 The provisions under this paragraph should be consistent with those in paragraph 13.3. Fruit and vegetables should be allowed to be advertised in both TV and radio.

Question 87

The Nutrition and Health Claims Regulation is a complex piece of legislation. Not only does it introduce new criteria and conditions for the use of health claims, but many of the provisions of the Regulation apply at different times.

We believe it is imperative that all the different transitional periods, some of which are up to 15 years long, are somehow accurately reflected in the Code.

While it is very important that the body of the Regulation is correctly interpreted into the Code, we would at all cost like to try to avoid unnecessary restrictions or challenges because the legal transitional periods have not been taken into account.

19.18 The last phrase should include 'and claims with the same meaning'.

BRITISH SHOOTING SPORTS COUNCIL

RESPONSE TO THE BCAP CODE REVIEW

1. This response from the British Shooting Sports Council to the BCAP Consultation on the proposed Broadcast Advertising Standards Code specifically refers to Questions 55 and 56.
2. The BSSC is an umbrella body, bringing together the major Associations for target shooting and quarry shooting to achieve consensus positions on issues affecting the shooting sports. The objective of the BSSC is to promote and safeguard the lawful use of firearms and air weapons for sporting and recreational purposes in the United Kingdom amongst all sections of society.
3. Member organizations are: The Association of Professional Clay Target Shooting Grounds, the Association of Professional Shooting Instructors, the British Association for Shooting and Conservation, the Clay Pigeon Shooting Association, the Countryside Alliance, the Gun Trade Association, the Institute of Clay Shooting Instructors, the Muzzle Loaders Association of Great Britain, the National Rifle Association, the National Smallbore Rifle Association, the Sportsmans Association of Great Britain & Northern Ireland and the United Kingdom Practical Shooting Association.
4. This Council is in strong disagreement with the bias of the existing Code against the legitimate sporting use of firearms and objects to the pejorative language used in the BCAP Consultation, for instance 'an advertisement that had the sole focus of promoting guns, replica guns or a gun club could, BCAP considers, cause serious or widespread offence or condone the use of guns'.
5. The BCAP's understanding of firearms and the law relating to them and their use is inaccurate and very likely to mislead other consultees. Specific instances are:
 - 10.1 319(2)(a) Persons under 18 are not prohibited from 'possessing' firearms (note that 'possession' does not equate with 'ownership' in law), nor are 17 year olds prohibited from purchasing certain firearms. A non-exhaustive list of exceptions are: There is no specified lower age for a Shot Gun Certificate (a young person under 15 in possession of an assembled shotgun is required to be under the supervision of someone of 21 years or over, however); a Firearm Certificate may be granted to a person from the age of 14; persons under 18 may temporarily possess a firearm without holding a Firearm Certificate as a member of a Home Office Approved rifle club, or as a member of a cadet corps or while shooting on a miniature rifle range; persons under 18 may similarly temporarily possess a borrowed shotgun without a Shot Gun Certificate on private premises and in compliance with specific requirements; and persons under 18 may temporarily possess a borrowed shotgun without a Shot Gun Certificate at a clay pigeon shoot approved by the chief officer

of police for the area in which the event is to take place. The circumstances in which young persons may legally possess and use firearms are carefully circumscribed to ensure public safety.

- 10.1 319(2)(b) Sporting firearms are not items 'liable to encourage the commission of crime'. Anyone wishing to advertise firearms or shooting services will clearly be selling those services only to those who are lawfully entitled to possess firearms, as is the case with advertisements in the printed media. Persons entitled to purchase a firearm or ammunition subject to licensing (in practice all firearms except low-powered air guns and antiques) are rigorously vetted.
- 10.8 It is not an offence for a person who is not a Registered Firearms Dealer to sell a firearm or ammunition. Any person lawfully entitled to possess a firearm may sell that firearm to another person, provided the purchaser is also lawfully entitled to acquire and possess it and that appropriate notifications are made to the police.
- 10.12 With regard to the Violent Crime Reduction Act 2006, the ban on the manufacture, sale or importation of realistic imitation firearms is not absolute: Section 37(2) of the Act provides for six 'defences' which allow manufacture, sale or importation.
- 10.65-67 Sporting firearms are not 'offensive weapons' insofar as they are not made or adapted to cause (human) injury. They are used for competition target shooting, for hunting and for the control of pests. That they may, if misused, cause injury makes them no different to motor vehicles, golf clubs or a large number of other sporting or household items.
- 10.70 Guns, whether replica or 'real' are not 'intended to murder or maim'. They are merely pieces of sporting equipment (as above). Replicas legally available for sale in this country cannot be converted into functioning weapons, and the relevant shooting and gun trade Associations have spent considerable effort in co-operating with the Home Office in ensuring their non-convertibility.

6. This Council does question BCAP's belief that the public at large have any concerns about a legitimate and popular participation sport undertaken by citizens of good character (if they are not of good character, they will not get a Firearm or Shot Gun Certificate). In 2008 our National Shooting Week attracted widespread favourable media attention. Millions learned that the shooting community is friendly and accessible via excellent and widespread media coverage. The Countryside Alliance, working with Online Broadcasting who specialise in securing coverage for niche sporting events, organised filming of Olympic/Paralympic shooters and the Sports Minister. Our media-monitoring demonstrated that at least 22 million people read or heard about National Shooting Week. Involved were Reuters News Agency, British Satellite News, which goes to 500 broadcasters in the UK and around the world, and Independent Radio News (which distributes stories to the majority of independent local radio

stations all over the UK) took broadcast material. BBC News and Sky requested library film for archive to provide reference footage for stories related to shooting and the 2008 Olympic Games. National Shooting Week received good coverage through a number of regional TV outlets including BBC Points West and ITV West, plus Radio 4's Today programme, Radio 5 Live Breakfast, BBC Radio Scotland, BBC Radio Cymru, LBC and a number of live interviews on local radio. 12.35 million listeners/viewers heard interviews about National Shooting Week, either by BSSC representatives or Olympic shooters. A further 9.7 million read about National Shooting Week in their newspaper or magazine of choice, including The Guardian newspaper, GQ magazine for men and Diva magazine, which all ran positive pieces. Did all this media exposure result in a tide of expressions of public 'offence'? No, it did not.

7. The legitimacy of shooting as a leisure activity and an essential component of wildlife management is ever more widely recognised. The Labour Party's 2005 'Charter for Shooting' endorses self-regulation and recognises that there is no connection between legitimate sporting shooting and gun crime. In Labour's Charter for Shooting, Richard Caborn MP, then Minister of State for Sport announced: "*We want to boost the numbers of people who go fishing and shooting particularly amongst the young.*" The benefits of the shooting sports have been acknowledged by the three major UK political parties.
8. What follows is a brief overview of the shooting sports in Britain:
 - Shooting is not a 'hole-and-corner' activity. Of the 12 Associations on this Council, two have HM The Queen as their Patron (one with HRH The Prince of Wales as President), a third has HRH The Duke of Edinburgh.
 - An estimated one million people in the UK shoot. The number of shotgun certificates is again increasing, as is the number of young people entering the sport. 1,200 entered BASC's Young Shots scheme in just six months in 2007, while the Scout Association's annual rifle competition grows year on year, currently attracting nearly 800 competitors, and there is a renaissance of interest in target shooting as a sport in schools. The National Smallbore Rifle Association has over 12,000 registered instructors on its Youth Proficiency Scheme which received Sport England funding when launched in 1991. The NSRA, so far as we are aware, is the only National Governing Body of a sport to be registered as a Duke of Edinburgh Access organisation.
 - Hunting with firearms is a £1.6 billion industry in the United Kingdom, supporting 70,000 jobs, according to the 2006 PACEC Report. Shooting providers spend an estimated £250 million a year on habitat and wildlife management, five times the annual income of Britain's biggest conservation organisation, the Royal Society for the Protection of Birds.
 - 480,000 people shoot game, wildfowl, pigeon and rabbits, accounting for just under 19 million head of game in 2004.

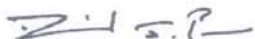
- Britain's deer population continues to increase, as does recreational deer stalking, which is now a well-accepted contributor to deer management.
- 150,000 people shoot clay targets on a regular basis. 'Corporate days' for clay pigeon shooting are also very popular in the business world, and provide an excellent introduction to the sport.
- 250,000 people regularly enjoy target shooting with rifles, muzzle loading pistols and air guns.
- There are c. 1,000 clubs affiliated to the NSRA, the National Rifle Association has over 700 affiliated clubs and the Clay Pigeon Shooting Association has c. 420 affiliated clubs. There are at least 1,000 unaffiliated clubs. This bespeaks a flourishing sport.
- 23 of the UK's 116 medals in the 2006 Commonwealth Games were for shooting, the second highest medal-winning discipline for UK athletes, exceeded only by swimming with 24. England's most decorated Commonwealth medal winner is Mick Gault, with 15 medals. In 2008 he was awarded the Order of the British Empire for his contribution to shooting-with a pistol.
- Shooting is enjoyed by young and old, men and women, and disability is no bar to participation. Target shooting is a very popular Olympic and Paralympic discipline. The Baron de Coubertin, an educationalist and founder of the modern Olympics as a way of channelling national competitiveness into sporting endeavour rather than war, was Revolver Champion of France and the creator of Modern Pentathlon, which includes pistol shooting.
- British shooters consume c. 250,000,000 shotgun cartridges a year and c. 1,500,000,000 air gun pellets.
- There is no relationship between gun crime and legitimate gun ownership. For example, gun crime fell by 6% in Scotland in 2005-6, 28% lower than nine years previously. Compare this to an increase in privately-owned firearms, currently at a five-year high in the country. Home Office figures published in May 2006 for gun crime in England and Wales show a similar pattern. 2004-2005 saw gun crime fall by 8% but the number of privately-owned weapons rose 8% from the previous year.
- Shooting is among the safest of sports and particularly so in the UK. According to United Nations statistics, the UK figure for accidental firearms fatalities is one of the lowest at 0.02 per 100,000, a figure which includes military and police fatalities. In England and Wales twice as many people are hospitalised by mishaps with cotton buds than accidents with guns. In Italy in

2006, 120 people died in swimming accidents, 38 as a result of errors made when picking 'edible' fungi and 0 from target shooting. Would the BSSC be right in assuming that BCAP would have no objection to the advertising of swimming pools or mushroom picking?

- The British Association for Shooting and Conservation provides the following insurance cover to all its members: £10 million Legal Liability Cover (for all shooting categories), £10 million Employer Liability Cover (for all shooting categories) and £10 million Product Liability cover (for all shooting categories) at a cost of c. £10.50 a member. The National Smallbore Rifle Association's insurance has the same level of cover and at a similar cost. So much cover for so small a premium demonstrates the inherent safety of the sport.
9. Target shooting is not a spectator sport with a huge 'fan' base. Shooting is, however, a major participation sport in the UK, and the reason it attracts so little media interest, unless the shooting Associations actively seek publicity, is because it is conducted so responsibly. Civilian firearms owners have every reason for pride in their activities. We are a part of society, and share concerns over the misuse of firearms in crime or conflict. We definitely do not appreciate any attempt to marginalise us, or to link us and our activities to crime or conflict.
10. The BSSC has a long-standing concern over the effect that the ubiquity of violent images on TV, at the cinema, in videos/DVDs or on computer games has had on the creation of the so-called 'gun culture' and considers that these are more worthy of BCAP's attentions than a sport which fosters safety and the virtues of application, concentration and self-control.
11. **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. The British Shooting Sports Council is in fundamental disagreement with the existing prohibition on TV advertisements for guns, and requests that the prohibition on advertising of guns and shooting should be removed. Given the considerable limitations placed on the sale of 'replica' guns by the Violent Crime Reduction Act 2006, any extension of the present prohibition to such items would be superfluous.
12. **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. The British Shooting Sports Council does not understand BCAP's logic with regard to the advertising of clay pigeon shooting: why should such activities be acceptable 'only if they form part of a wider range of outdoor pursuits, for example in advertisements

for a country fair'? Clay pigeon shooting is a very popular Olympic, international and national sport, and there should be no restriction on its advertising on either TV or radio.

- 13 Should those involved in decision-making on the above issues wish to visit a clay pigeon shoot or one of the major rifle competitions taking place this summer, the BSSC would be happy to arrange this.



David J. Penn

Secretary, British Shooting Sports Council

8th June 2009



CAP Code Review
Code Policy Team
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BY E-MAIL

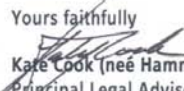
Thursday, 25 June 2009

Dear Sirs

CAP Code Review Consultation

We welcome the opportunity to respond to the consultation and apologise for the delay in sending this submission which we are aware, will reach you after the consultation has closed. However, we hope that you will nevertheless consider our comments which are set out in an attachment to this letter. We have referred to the relevant sections of the CAP Code, but our comments apply equally to the equivalent sections of the BCAP Code.

Yours faithfully


Kate Cook (née Hammond)
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Section 1: Compliance

Question 1

iii) Do you have other comments on this section?

Rule 1.3 (d) states that the "United Kingdom covers the Isle of Man and the Channel Islands".

It would be helpful to make clear that Rule 1.3(d) has been included for the purposes of definition to avoid repetition throughout the Code of "United Kingdom, Isle of Man and the Channel Islands", and is not intended to re-define the meaning of "United Kingdom" when used in marketing communications.

As CAP will be aware, the legal definition of "United Kingdom" excludes the Isle of Man and the Channel Islands. To propose that the "United Kingdom" should have a separate meaning when used in marketing material would be confusing and contrary to CAP's objective that the Code should not conflict with or otherwise undermine the law.

The wording of the current CAP Code avoids any ambiguity on this point and we therefore suggest that the current drafting should either be retained without amendment. Alternatively, Rule 1.3(d) should be amended to clarify that it's only purpose is as a definition within the Code, and that it does not alter the meaning of "United Kingdom" when used in marketing communications from that already set out in law.

Rule 1.4 (b) states that "if it is not clear whether a communication falls within the remit of the Code, the ASA will be more likely to apply the Code if the material complained about is in paid-for space".

We consider the introduction of this new rule to be inconsistent with CAP's objective that its rules are "transparent, accountable, proportionate, consistent, targeted only where regulation is needed and written so that they are easily understood, easily implemented and easily enforced."

It is critical for the effective operation of the regulatory system – and in particular a self-regulatory system – that advertisers clearly understand whether or not a communication falls within the remit of the Code. Where it is not clear, the communication should not fall within the remit of the Code irrespective of whether the material is in paid-for space. If there are certain categories of communication which fall outside the Code and which CAP considers should properly fall within its scope, the appropriate course of action would be to amend the Code – after consultation – to bring that category of communication within its remit.

Section 3: Misleading

Clarity of qualifications

Question 3

Do you agree that Rule 3.10 should be included in the Code? If your answer is no, please explain why.

Rule 3.10 states that "Qualifications must be clear to consumers who see or hear the marketing communication only once."

We believe the reason for introducing this rule is to prohibit advertisers from including unduly complex qualifications within their communications which require consumers to see or hear it several times in order to fully understand the information being provided. However, we are concerned that the rule could also be interpreted to mean that, where a marketing communication comprises more than one element, all applicable qualifications should be included in both elements. For example, it is accepted practice that a banner advertisement can be qualified by information contained in a landing page providing that page is no more than one click away from the banner ad itself. It would therefore be helpful to clarify that this rule is subject to the already established principles of qualification.

We also consider that in order for this rule to be applied fairly, there must be a presumption for all media that the consumer will have paid reasonable attention to the communication, even if they have heard it only once.

Exaggerated performance

Question 4

Do you agree that Rule 3.11 should be included in the Code? If your answer is no, please explain why.

Rule 3.11 states that "Marketing communications must not exaggerate the capability or performance of a product; claims must be based on normal use."

We agree with the principle of this rule, but we propose that the rule is amended to clarify the meaning of "normal use". As currently drafted, "normal use" could be interpreted to mean either the way people *normally* use the product or, use of the product within its *normal* operational limits (e.g. taking into account environmental factors).

To illustrate, it would not be appropriate to prevent Apple advertising the advanced functionality of its new iPhone simply because that feature required the user to have some technical knowledge and therefore might be accessed by a small number of advanced users only (for example, installing a niche third party 'app' to enable use of additional features of the iPhone digital compass). In contrast, it may be appropriate to prohibit Apple from advertising the iPhone digital compass for mountaineering if the phone itself would not normally remain operational at the altitude or temperatures a mountaineer might normally find his or herself.

The first interpretation could prevent advertisers marketing new and innovative product features and we, therefore, assume cannot be intended. It would be helpful for the rule to be amended so that there is no ambiguity in this regard.

The unavoidable cost of responding

Question 8

Given CAP's policy consideration, do you agree that marketing communications should not describe items as "free" if the consumer has to pay for packaging? If your answer is no, please explain why.

Rule 3.24.1 states that "[Marketing communications must not describe items as "free" if:] the consumer has to pay for packing, packaging, handling or administration".

We agree that an item should not be described as free if the consumer has to pay for packaging but we suggest that the rule is amended to make clear that it only relates to packaging costs for the free item and not to any other items which the customer may be required to purchase in order to receive the free item (e.g. in the case of a conditional purchase). We suggest the following wording:

"[Marketing communications must not describe items as "free" if:] the consumer has to pay for packing, packaging, handling or administration of the free item".

Other questions

Question 9

(iii): Do you have other comments on this section?

Rule 3.24.2 states that "[Marketing communications must not describe items as "free" if:] the price of a product that the consumer must buy to take advantage of the offer, or the cost of response, has been inflated to recover the cost of supplying the "free" item".

Again we agree with the principle of this rule but propose that it is amended to more closely reflect the wording of the Consumer Protection from Unfair Trading Regulations 2008, as suggested below:

"[Marketing communications must not describe items as "free" if:] the cost of response, including the price of any product that the consumer must buy to take advantage of the offer, has been inflated to recover the cost of supplying the "free" item" or service (as applicable).

Rule 3.48 states that "Marketing communications must not feature a testimonial without permission. If they are genuine statements taken from a published source, quotations from publications and references to a test, trial, professional endorsement, research facility or professional journal may be acceptable without express permission."

The second sentence of this rule contradicts the first and we therefore propose that the rule is re-worded to reflect the form of drafting in the current Code. Our proposal is below:

"Marketing communications must not feature a testimonial without permission unless they are genuine statements taken from a published source, quotations from publications or references to a test, trial, professional endorsement, research facility or professional journal."

Section 8: Sales Promotions

Withholding prizes

Question 17

Given CAP's policy consideration, do you agree that Rule 8.27 should be included in the Code? If your answer is no, please explain why.

Rule 8.27 states that "Withholding prizes is justified only if participants have not met criteria set out clearly in the rules of the promotion."

We are concerned that this rule could be interpreted to mean that promoters are prohibited from substituting the advertised prize for a reasonable equivalent where there are legitimate reasons for doing so (e.g. tickets for an event which is subsequently cancelled). As Rule 8.15.1 acknowledges that there may legitimate circumstances in which a *specific* prize could be substituted for another, and we believe that the intention is to prohibit promoters giving no prize at all, it would be helpful to clarify that Rule 8.27 is subject to Rule 8.15.1.

Supervising Prize Draws

Question 23

Given CAP's policy consideration, do you agree that Rule 8.24 should be included in the Code? If your answer is no, please explain why.

Rule 8.24 states that "Promoters of prize draws must ensure that prizes are awarded in accordance with the laws of chance and, unless winners are selected by a verifiably random computer process, under the supervision of an independent observer."

Confirmation that a promoter may choose a winner randomly, and without the requirement for an independent third party, is welcomed.

Judging of prize promotions

Question 25

Given CAP's policy consideration, do you agree that Rule 8.26 should be included in the Code? If your answer is no, please explain why.

Rule 8.26 states that "In competitions, if the selection of a winning entry is open to subjective interpretation, an independent judge, or a panel that includes at least one member who is demonstrably independent, especially from the competition's promoters and intermediaries and from the pool of entrants from which the eventual winner is picked, must be appointed. Those appointed to act as judges should be competent to judge the competition and their full names must be made available on request."

We do not consider that this rule adequately addresses all promotions.

It may not, for example, be appropriate for an independent judge to select the winning entry for a competition to find a new advertising slogan. Being able to use a panel goes some way to resolve this, but it does not take into consideration issues of confidentiality, or the considerable administrative and economic burdens it may impose on businesses to appoint an independent member to a panel which may take several days to select a winner from available entries. For these reasons, this proposal seems to be at odds with CAP's intention to create rules that are proportionate and targeted only where regulation is needed.

Receipt of prizes: time

Question 26

Given CAP's policy consideration, do you agree that Rule 8.23.3 should be included in the Code? If your answer is no, please explain why.

Rule 8.28.3 states that "[prize promotions must specify before or at the time of entry] if more than 30 days after the closing date, the date by which prize winners will receive their prizes".

It may not always be possible for a promoter to provide a *date* by which winners will receive their prize, for example, the promoter may be dependent itself on third parties to deliver or supply a prize. It should be sufficient to provide certainty to consumers, to provide a timescale within which the prize will be delivered, e.g. "within 40 days". Requiring promoters to provide a specific date could lead to distant longstop dates being provided which are less likely to give consumers certainty about the delivery of their prize.

Bluetooth marketing

We welcome CAP's confirmation that the Codes will reflect the Information Commissioner's Office guidance that Bluetooth marketing is not subject to the Privacy and Electronic Communications Regulations 2003 and agree with the proposal that Bluetooth marketing should not therefore be subject to the Code rules which derive from these regulations.

response to consultation on the proposed BCAP Code (“the Code”).

Interest: provider and marketer of communications products and services; and media owner for marketing content accessible via digital TV.

Summary: We are in broad agreement with the vast majority of proposed changes to the Code. We have, therefore, only responded to the Consultation Questions to which we hold a particularly strong view in favour of the change, where we are in disagreement, or where we consider that more could be done to clarify BCAP’s/CAP’s position. The latter chiefly involves our disappointment that BCAP/CAP has not yet taken this opportunity to fully address and amend the rules on the use of ‘free’ in line with the ASA adjudications and BCAP/CAP guidance produced since the last Code Review. We are very keen to lead or play a key role in any future discussions and reviews concerning the use of ‘free’ in both the CAP and BCAP Codes.

Where we have been able to do so, we have suggested specific amendments with the intention of easing the Executive’s task.

We should be grateful if you would consider the following responses (numbered as per Annex 3, “Consultation questions”):

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.

Marketers must not describe an element of a package as “free” if that element is included in the package price (3.25).

Use of the word “free” has been a long-standing concern for BT, and we are disappointed that the opportunity has not been taken in this consultation to provide greater clarity on the legitimate use of “free” in all contexts.

The immediate issue is that the proposed new rule appears to conflict with CAP/BCAP guidance cited below. Is the intention for the new rule to mark a significant change of approach? If so, we are surprised that this has not been expressly flagged.

Marketers may [...] describe elements that have been added to those pre-existing packages as “free” for a reasonable period after their introduction.

To summarise, if a package price is payable, marketers may describe elements that are included in the package as “at no extra cost” or “inclusive” but may not describe them as “free” unless they have been recently added to an established package without increasing its price.

(Clause 3.2.2, CAP/BCAP Guidance on the use of ‘free’)

More generally, whilst we acknowledge that “free” is a very complex and contentious issue, especially in the communications sector, we consider that BCAP’s/CAP’s approach has now become inconsistent and unwieldy, and that in the absence of clear underlying principles, it has become hugely difficult- for marketers and regulator alike- to assess the legitimacy of free claims.

In particular the following issues need to be considered afresh:

- treatment of opt-in processes
- description of “package” elements as free (as above)
- what constitutes a package
- what elements of a package are considered intrinsic and why
- what elements are considered as notionally separable and why
- “free” services that are parasitic on other (paid for) services
- “conditional” free offers (e.g. “free if you stay with us for 15 months”)
- short-term free offers on new packages

We consider that there is a pressing need to revisit these and other issues and then to distil some consistent and workable principles/ guidelines that have some resonance for marketers, regulators and- importantly- consumers.

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.

3.28.3 Marketing communications must state restrictions on the availability of products, for example, geographical restrictions or age limits.

No. We understand and support the underlying rationale but consider that, as currently drafted, the requirement is too broad. The insertion at the end of the rule of something

along the lines of “***where omission of a restriction is likely to mislead***” would provide suitable qualification. We consider that qualification to be necessary in two discrete contexts. Firstly, a restriction may in some circumstances be irrelevant (e.g. a geographical restriction on regional advertising for a local advertisement); and secondly, the restriction may be obvious (e.g. age restrictions for purposes of entering into service contracts).

Section 8: Distance Selling

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.

8.3.6.a cancels, for any reason, within seven days of receiving goods or seven clear days from the conclusion of a contract for services

We are strongly opposed to the inclusion of the new rule 8.3.6a and support its deletion from the new Code. Although providing consumers with additional rights is an equitable notion we can see no justification-and only difficulties to consumers, advertisers and regulators alike- for such a requirement here. There is already established law set out in the Consumer Protection (Distance Selling) Regulations 2000 (as amended) ("DSRs") governing a consumer's cancellation rights. The new rule amounts to the imposition of a new substantive requirement that goes beyond current UK and EU law and, if included, could stifle or even prevent certain sectors from being able to use broadcast advertising, given that the viability of their products depends upon the exclusions set out in the DSRs, e.g. newspapers, national lottery.

The DSRs govern cancellation rights and their exceptions, which were created for good reason, as one rule cannot appropriately cover such a plethora of products and services available to consumers today. Conversely, the new rule would seem to be taking an untenable one-size-fits-all approach to cancellation rights.

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Science and Education

19 June 2009

The Broadcast Committee of Advertising Practice Code Review Consultation

Thank you for inviting the British Medical Association (BMA) to comment on your consultation on the Broadcast Committee of Advertising Practice (BCAP) advertising standards codes. The BMA is a voluntary professional association and registered trade union representing doctors from all branches of medicine with a membership of around 140,000 members.

While your consultation asks a number of questions our response is specific to areas covered in the consultation for which there is existing BMA policy.

Food and drink products

Childhood health and nutrition is of great concern to the BMA and we consider that the marketing of food and drink can be effective in influencing dietary choices made by children, parents and carers.

As highlighted in the 2005 BMA Board of Science report *Preventing childhood obesity*ⁱ there has been an alarming rise in the levels of obesity among children in the UK. The media has an important role to play in forming attitudes to nutritionⁱⁱ and advertising and marketing is a key policy-level factor which can affect dietary choices. Given the influence of food advertising, the BMA is concerned by the often marked discrepancy between the nutritional quality of the foods marketed at children and the requirements for a healthy diet, particularly given the prevalence of the advertising of products which are high in fat, salt or sugar (HFSS).ⁱⁱⁱ The BMA believes that there should be a ban on the advertising of unhealthy foodstuffs, including inappropriate sponsorship programmes, targeted at school children. Celebrities and children's television characters should only endorse healthy products that meet nutritional criteria laid down by the Food Standards Agency (FSA).

In 2006 Ofcom recommended a ban on junk food advertisements during TV programmes that are relatively popular with under-16s. The BMA is concerned that the proposals will exclude some programmes which are watched by the highest number of under-16s. In the absence of a complete ban, the BMA believes that a ban on the advertising of unhealthy foods before the 9pm watershed will afford the most protection to children of all ages.

Alcohol

The BMA has long been concerned about the rising levels of alcohol misuse in the UK, particularly among young people. A substantial body of research has found that alcohol advertising and promotion is independently linked with the onset and continuance of drinking and content of alcohol consumed by

Chief Executive/Secretary: Tony Bourne

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Registered office: BMA House, Tavistock Square, London, WC1H 9JP.
Listed as a Trade Union under the Trade Union and Labour Relations Act 1974.



INVESTOR IN PEOPLE



0870 60 60 828

Brook response

Brook is the UK's leading sexual health charity providing sexual health services and advice for all young people under 25. We have 45 years of experience working with young people and reach more than 200,000 young people every year.

Our services provide free and confidential sexual health information, contraception, pregnancy testing, advice and counselling, testing and treatment for sexually transmitted infections and outreach and education work through a network of centres across England, Scotland, Northern Ireland and Jersey.

Ask Brook, our confidential telephone helpline, online enquiry service and text information service, is available free and in confidence to young people.

Brook is responding to both the BCAP and the CAP consultations on the issues of advertising pregnancy advisory services, medical products and relaxing the rules around the advertising of condoms and will be answering questions 59, 62 and 147.

The suggested changes to the BCAP code about advertising sexual health services and the requirement to state whether services refer women for abortion should also be mirrored in the CAP so that they are common across all forms of advertising including posters and telephone directories.

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?

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.

Brook agrees with both of the above points.

It is every woman's right to choose an abortion. All women, whatever their age, should have access to impartial information and support in order to make an informed choice about their pregnancy.

Brook Centres provide impartial and non-judgemental information, counselling and support to young pregnant women (and their partners) to help them make an informed choice about their options. Brook Centres can refer women to the NHS for a termination of pregnancy if that is the woman's choice.

Women must have easy access to early abortion services if they need to which allows them the time to make the decision that is best for them. Access to early abortion services also reduces the risk of medical complications.

Services cannot be grouped into purely 'post-conception' and 'pre-conception' as some services provide both.

It is important that services state whether they refer for abortion so that women are clear about the help that is available from them. Some women may mistakenly visit an anti-choice clinic on their first visit and be given misleading and inaccurate information. This causes unnecessary delays and distress to the women involved. Some women may feel scared and guilty and vulnerable to their choice being influenced.

There is anecdotal evidence from Brook Centres of GPs delaying young people requesting abortion, some by asking them to return a week or two later for a pregnancy test then introducing a further delay for the results or others just saying they don't agree with abortion and not referring on to another service. This can lead to delays and trauma for the young person. All services therefore need to be clear about the help that they provide and whether or not they refer for abortion.

Women may be unlikely to make a complaint if they received a bad or misleading service as they may be feeling particularly vulnerable at this time. Younger women who may be less assertive

may not go on to another service if they have received judgmental attitudes at their first consultation.

While Brook welcomes the suggested changes to the regulations we challenge point 11.37 that some viewers might be offended by pregnancy advisory services. Contraception services and abortion are both legal and available and we need to separate this from the idea that it might cause offence.

The vast majority of women of childbearing age use contraception. The fact that a small minority might be offended is no reason to deny access to information for services that are legally available.

While Brook agrees that services must state whether they refer women for abortion the regulations must go further and require organisations to state their pro/anti choice bias. While not all organisations can refer women for abortion there are services, such as the Ask Brook helpline, that will give non-judgmental advice and signpost women to where they can obtain a referral so the code would need to distinguish between these services and those that do not give impartial advice.

Clear advertising of sexual health services and the help that they provide will improve women's access to sexual health and abortion services.

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.

When advertising medical products for sale that are also available free of charge, e.g. the emergency contraceptive pill Levonelle, Brook would like it to be made clear that these products are also available free through the NHS to avoid confusion.

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.

Brook agrees that the restrictions around advertising condoms on television should be relaxed 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.

As with sanitary products, relaxing the rules around advertising condoms would normalise condom use and make young people feel more positive and confident about using them and carrying them.

Brook undertook research in 2007 about what young people think about showing condoms on TV. The findings were:

- 91% were unaware that guidance prohibits showing unwrapped condoms on TV
- 90% think that condoms should be shown on TV
- 81% thought that showing condoms on TV would encourage young people to use them when they are having sex.

In addition young people thought that condoms should be shown on TV at peak times but also that this should be scheduled sensitively and appropriately. The research found that putting information into adverts round peak-time viewing for teenagers – for instance Coronation Street, Hollyoaks and Skins – or feeding it into the story line would hit the target audience and avoid offence.

Improving knowledge about contraception is key to reducing unplanned pregnancy and rates of sexually transmitted infections (STIs). Condoms protect against both unplanned pregnancy and STIs.

Section 19: Alcohol

Other questions

Question 118

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

We would like to address the proposed changes to:

11.8 Introduction/Preamble / 19 Introduction Preamble

In the preamble to the new code, there is a disapplication of its provisions to 'responsible advertisements that are intended to counter problem drinking or tell consumers about alcohol-related health or safety themes' and the further observation that such ads should 'not be likely to promote an alcohol product or brand'.

We are concerned that, in providing for more freedom for public service communications, the language used to describe the category of ads to benefit from the disapplication includes an assumption that responsibility-led advertisements are not branded or in brand voice.

Although producers creating responsibility-led advertising are likely in any event to frame such advertising within the applicable codes, and would not seek to rely on any disapplication, we would seek to avoid any unintentional restriction of their freedom to contribute such advertising under a branded banner.

11.8.1(a) / 19.4 – Social success

Our view is that proposed language contains 2 thresholds which are unaligned and inconsistent, and that, despite the implied need for materiality, the new 'Key Component' threshold leaves open the possibility that an advertisement will transgress even if alcohol is only one of several, and an incidental, element associated with a successful social scenario.

We would remove the 'Key Component' threshold, leaving the concept of dependence. Furthermore, it is our observation that in recent Council decisions on the matter, the distinction may have been lost between, on the one hand, an element of a scenario which is contributory but largely incidental to the success of a depicted scenario, and on the other an element on which the success of the scenario could be said to truly depend. We would like BCAP code guidance to emphasise the true meaning of 'depends' in this context, i.e. that for an advertisement to transgress, the narrative of the advertisement should need to present alcohol/consumption as a catalyst for change in a set of circumstances, or as a presence so prominent and crucial that it alone can be the reason for the success of a social occasion.

11.8.1(b) / 19.5 – Effects on or links with certain behaviours- *Proposed Change – To introduce a prohibition against featuring “Unruly or irresponsible” behaviour*

We note that there already exist separate prohibitions against aggressive, daring, anti-social and immature behaviour, as well as irresponsible consumption. We would query whether the introduction of the proposed wording will assist advertisers or the regulator to achieve a more certain analysis of an advertisement.

11.8.1(c) / 19.6 – Sexual Success

Given that featuring ‘romance or flirtation’ in an alcohol advertisement is expressly permitted, with a clearly defined gap, then, until the transgressing depictions of sexual behaviours is reached, it would seem that including ‘seduction’ within the range of prohibited behaviours will serve only to confuse the distinction between what is acceptable and what is not. Where do romance and flirtation stop and seduction begin? 11.8.1(d) / 19.7 – Solitary drinking / solace in alcohol – *Proposed Change – To introduce a prohibition against the portrayal of alcohol as „taking priority in life “*

The implication of this is unclear, and we are concerned it has the potential to be extended in unintended fashion. Could it be taken to mean that a protagonist could never express a preference for an activity involving consumption versus another activity? As an example, would this prohibit a protagonist’s choice to visit a bar for a night out rather than a cinema?

iii) Do you have other comments on this section?

11.8.2 (a) – 19.15 Youth Appeal

We would like to see the CAP and BCAP codes brought into alignment on this issue, in order to promote certainty of analysis around through-the-line campaigns.

Our submission in relation to the relevant CAP provision (56.7/18.14) is as follows:

[There is a] recurring difficulty in analysing themes within alcohol advertising which are not distinct to a particular age group, but are of wider age-range appeal. Depending on their presentational context, such themes might be seen to have a stronger, or a lesser, appeal to those under the legal drinking age.

We would like the code to recognise the reality that certain primarily adult themes may have minimal, unintended and incidental appeal to limited numbers of young persons, and for the code to address instances of such unintended appeal in a proportionate manner. For this reason, we welcome the introduction of ‘particular appeal’ as a threshold requirement for breach.

On the removal of the specific appeal ‘threshold age’ of 18, and its replacement with the proposal to reference ‘children and young persons’ as being the primary group to whom alcohol advertisers must avoid targeting communications, we would tend to support the change, without being persuaded that it will materially impact regulatory analysis.

In addition, we remain concerned that the indicator of ‘reflecting or being associated with youth culture’ is one which will remain difficult for advertisers and the regulator alike to apply with any degree of certainty and/or consistency.

As an example, the sport of mountain-biking is one with notional appeal across all age-ranges, but would arguably fall within a broad definition of ‘youth culture’. Provided that the overall presentation of an alcohol ad is sufficiently ‘adult’, Brown-Forman would expect an alcohol advertiser to be able to feature mountain-biking in such an ad. The fact that it would feature an element arguably within ‘youth culture’ should not give rise to a finding of breach.

BCAP Code Review Consultation: A response from BPAS (the British Pregnancy Advisory Service)

BPAS (the British Pregnancy Advisory Service) has been a registered charity since 1968, and is the UK's leading sexual healthcare provider. As well as pregnancy advisory information and support, counselling, STI testing and contraceptive and sterilisation advice and treatment for men and women, in 2008 BPAS carried out around 60,000 terminations of pregnancy. 92% of all BPAS' treatments are carried out on behalf of the NHS so are free of charge to the client. The remainder tend to be women travelling from Northern Ireland, the Republic of Ireland and Italy, where abortion is restricted by law. All of BPAS' pregnancy advisory Consultation Centres are regulated by the Department of Health as registered Pregnancy Advisory Bureaux, providing non-directive counselling. For more information please see <http://www.bpas.org/>.

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.'

Answer to Question 147)

Yes.

Condoms are important in helping to prevent unintended pregnancies. They are the only contraceptive method proven to reduce the risks from all sexually transmitted infections (STIs), including HIV¹ and the human papillomavirus which can cause cervical cancer and cervical cell abnormalities. In the interests of public health, advertising for condoms should therefore be less restricted.

Children under 10 will obviously not be the target demographic for such advertisements, but in any case, it is acceptable that as suggested, condom advertising may not be permitted to be screened in, or adjacent to programmes which this age group are likely to watch.

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?’

Answer to Question 62) i)

Yes- we agree that it is necessary to maintain a rule specific to post-conception advice services. We also agree that advertisements for pre-conception advice services in general should be regulated through the general rules only. However, we believe special regulation is required for advertising on pre-conception advice services regarding emergency contraception.

Advertising for pre-conception advice on emergency contraception requires special regulation because women who may respond to such advertising are in an extremely time-sensitive position. These women may be seeking to avoid pregnancy after their regular contraception has failed, or who may not have used contraception, or who were forced to have sex without it. Emergency contraception (the ‘morning-after’ pill) is effective only within 72 hours of unprotected sex. EC is more likely to prevent pregnancy the sooner it is taken. Taken within 24 hours after unprotected sex, EC will prevent up to 95% of pregnancies expected to have occurred if it had not been used. If EC is taken between 49 to 72 hours afterwards, it will only prevent up to 58% of pregnancies that would have been expected to occur. An emergency IUD (‘coil’) fitted within five days of unprotected sex can also prevent pregnancy.ⁱⁱ

At present there is no requirement for services offering pre-conception advice to make it clear when they don’t prescribe EC. It is possible that non-evidence based personal advice may be offered about EC. Although EC is neither in medical terms, nor in UK law, abortion, amongst contrasting ethical views, there is an ethical viewpoint that considers that EC ‘causes abortion’. EC involves the same medication as the regular contraceptive pill given at a higher dose, which is different to the medical or the surgical process of an abortion. EC has no effect if the woman is pregnant. It works by stopping a woman’s egg being released, or by preventing the implantation of an already fertilised egg into her womb lining, thus preventing a pregnancy from beginning. It is this second effect, the non-implantation of the fertilised egg, which is seen as ‘abortifacient’ by people holding this view. The Prolife Alliance, said of the recent Levonelle One-Step television advertisement that *‘We are absolutely outraged that... Levonelle One Step.. is advertised inaccurately as emergency contraception, when in fact its major function is to cause the abortion of an embryo that has already been conceived, not as suggested by the name to prevent conception’*ⁱⁱⁱ Christian Concern for our Nation said of these TV ads that they are *‘concerned at the further liberation towards abortifacients.’* (sic)

This group also object to EC because: *‘it is clear that increased availability of the morning-after pill is a move towards abortion on demand. It has also clear that such attitudes will not increase responsibility but rather will encourage promiscuity and irresponsible sexual*

behaviour, with a consequent risk of spreading sexually transmitted diseases.^{xv} In fact, multiple research evidence demonstrates that making EC more widely available does not increase couples' sexual risk-taking nor does it adversely affect the use of regular, more reliable contraception^{v, vi, vii, viii, ix, x, xi, xii, xiii, xiv, xv, xvi, xvii, xviii, xix, xx}

While we would support the right of groups to offer non-evidence based advice about EC, we believe it is not ethical for adverts to request that women should contact them to discuss emergency contraception, without at the same time making clear that they will not provide EC. This may delay women from accessing EC when it is effective. Causing delay is an approach apparent in non-advertisement materials from some groups that have an interest in not prescribing EC. For example, the anti-abortion charity LIFE provide and advertise pregnancy counselling. They have the following advice on their website's FAQ section:

'Q. I've had unprotected sex - I don't want to be pregnant - what can I do?

A. Try not to panic - Call our National Helpline on 0800 915 4600 and talk it through, remember you don't conceive every time you have intercourse. Talk to one of our skilled helpers, they will be able to clarify the situation.'

Elsewhere in their online briefing materials^{xxi} LIFE say of EC: *'It ends life. It therefore ends a pregnancy. It is undoubtedly an abortifacient.'*

Anti-abortion advice service CARE Confidential, (a department of the charity Christian Action Research and Education^{xxii}) also request women to contact them to discuss EC, whilst not stating that they don't provide EC. 'Care Confidential' offers a national phoneline, web-based counselling and refers women to local crisis pregnancy centres for face-to-face advice^{xxiii}. Care Confidential's briefing papers present EC as abortifacient.^{xxiv} Their general advice also appears to imply that emergency contraception could end a pregnancy (here, a 'conception') whilst stating that a doctor may need to see a woman before EC can be used. This is not the case.

'You may be feeling that your situation is quite urgent, but it is also important to consider how progestogen-only pills work... it may prevent an already fertilised egg from implanting (settling into the womb). Conception will already have taken place.. If you are taking any other medication, you will need to consult a doctor before taking emergency contraception pills. The IUD .. can also prevent a fertilised egg from implanting. Again, this means that conception has already taken place. It is important that you consider carefully what this means, because you may want to think about when life begins. [...] Talk to a CareConfidential advisor on 0800 028 2228 about emergency contraception.'

We suggest that similarly to the proposed requirement in **question 62/11.11**, there should be a requirement for clarity on the part of advertisers promoting advice services in connection with emergency contraception. This may need enhancement beyond a simple statement about non-referral. Required wording might state, for example, that *'We do not prescribe emergency contraception. This is available for free from the NHS. It is most effective at*

preventing pregnancy the soonest it is taken after unprotected sex, but can be taken within 72 hours. For more information call NHS Direct on 0845 4647.'

Such a requirement would reflect the clarity in advertising required given the urgently time-limited nature of the treatment. We feel it is necessary to make it clear in advertising that EC is available for free. Possible users of EC include those with limited financial resources, particularly, but not exclusively young people. The cost of this medication from a pharmacist is around £30 which for some people can be prohibitive. It is important that people who see advertisements for EC will not gain the impression that this is a product that is solely commercially available. Other routes of access must be clearly signposted.

Question 62)

ii) 'Given BCAP's policy consideration, do you agree that 11.11 should be included in the proposed BCAP code?'

('11.11: Advertisements for post-conception pregnancy advice services must make clear in the advertisement if the service does not refer women directly for abortion. See also rule 11.9 and Section 15 Faith and Section 16 Charities.')

Answer to Question 62) ii)

Yes. We agree that it is necessary to maintain a rule specific to post-conception advice services. We agree that 11.11 should be included in the proposed BCAP code.

Pregnant women who may need information and support about pregnancy options should be able to access this from non-directive, informed sources. These may be women who are unsure of what they want the outcome of the pregnancy to be, or women who have decided that they need to seek an abortion. This situation is common: the Royal College of Obstetricians and Gynaecologists, (RCOG) states that 'at least one-third of British women will have had an abortion by the time they reach the age of 45'^{xxv}

All patients must be able to make free and informed decisions about accessing medical care. A requirement as per section 11.11 to state clearly in advertising where abortion referral is not a part of the offered service is likely to enable women to more clearly judge what advertisers are offering. Clarity in advertising is particularly needed where medical services need to be accessed within a limited time. Agencies opposed to abortion are entitled to give anti-abortion views, but advertising must indicate what their service actually consists of lest they unnecessarily delay women are from antenatal care or abortion care. The Christian Medical Fellowship website describes the motivation within such an advice service: 'abortion is **never** a good solution to an unplanned pregnancy. [...] this movement is a spontaneous, compassionate, grass roots response by Christian people to the problem of abortion.'^{xxvi}

Unregulated 'Crisis Pregnancy Counselling' networks operate widely in the UK, outside of the standards of the Department of Health's Register of Pregnancy Advice Bureaux. Services referring for abortion, such as BPAS and Marie Stopes International, are regulated by the

Department of Health and are inspected against standards of information giving on all three outcomes of pregnancy (abortion, parenthood, parenthood ending in adoption). Services which do not refer women for abortion (and may have a philosophy against abortion) are not subject to any regulatory oversight. The Department of Health's advice to the public is: *'There are a number of organisations advertised in phone directories and on the internet offering free pregnancy testing and counselling. Some of these organisations do not refer women for termination of pregnancy. We would advise women to check this before making an appointment.'*^{xxvii}

Some unregulated services do not always provide quality information or may not always be non-directive in this area. 'Care Confidential' is a large organisation,^{xxviii} offering 'confidential, unbiased pregnancy and abortion counselling through a network of centres located throughout the United Kingdom'. 'The 'Care Confidential' website includes statements on abortion and risk, which when read without balancing material, might be misleading to women seeking unbiased information about pregnancy options. For example, pages are headed: *'Possible 30% greater risk of breast cancer after abortion'*^{xxix}, or text used such as *'Findings suggest that an induced abortion increases the risk of breast cancer, by up to 50%. Women who are under 18 or over 30 at the time of the first induced abortion face an increased risk of breast cancer.'*^{xxx}

In fact, cancer charities such as Breakthrough Breast Cancer^{xxxi} and MacMillan Cancer Support^{xxxii} state that *'the World Health Organization and the Royal College of Obstetricians and Gynaecologists in the UK'*^{xxxiii} *have both independently reviewed the scientific evidence [and] concluded that abortion does not increase the risk of developing breast cancer. In 2003, the US National Cancer Institute hosted a workshop of over 100 of the world's leading experts who study pregnancy, abortion and breast cancer risk [which] concluded that having an abortion or miscarriage does not increase a woman's subsequent risk of developing breast cancer.'*

Requirements for clarity in advertising regarding abortion referral may also help to resolve confusion where anti-abortion centres name themselves very similarly to Department of Health-registered Pregnancy Advisory Bureaux (PABX), as can be seen from the directory on the Care Confidential website^{xxxiv}. Some centres open geographically close by to registered PABX. For example, the UK Life League website, says that *'Pro Life Care is helping set up a crisis pregnancy centre in Brixton, South London. It is located right in the heart of a large Marie Stopes clinic - surrounding the pro-life centre on 3 sides! Many women on their way to arrange abortions through the Marie Stopes clinic have actually wandered into the pro-life centre by accident - mistaking it for the entrance to the clinic!'*^{xxxv}. UK Lifeleague's stated 'principles' include that *'Abortion is the deliberate murder of an innocent child and is a most grievous sin against God and a crime against humanity. Contraception is the cornerstone and root cause of abortion, sexual immorality and the disintegration of the family.'*^{xxxvi}

Finally, we note that the protections afforded by the proposed regulation would only apply to broadcast advertising. We feel that these important moves towards clarity in advertising aimed at women in a potentially vulnerable situation must be accompanied by equivalent requirements regarding non-broadcast advertising. We will be responding accordingly to

the CAP consultation to highlight this need.
