



BCAP Review of Payday Loans TV Ads: Social Responsibility and Undue Appeal to Children

Terms of Reference

Background

Payday loan advertising has attracted concern across society, including Government, media, consumer protection bodies and the public as the use of short-term, high-cost credit has increased during the economic downturn.

In December 2013 a Business, Innovation and Skills Select Committee [report](#) highlighted concerns around the scheduling of payday loan advertisements on television, and the nature and style of those adverts. It recommended that payday loan ads be banned from appearing during programmes aimed at children. Alongside this, there continue to be high profile calls for further regulation of payday loan advertisements, including for a 9 pm TV watershed.

In October 2013 the Committee of Advertising Practice (CAP) published updated guidance for payday loan advertisers on what they need to do to ensure that their ads are socially responsible. Furthermore, from 1 July 2014, financial promotions for payday loans will be required to include a Financial Conduct Authority (FCA) risk warning.

In the context of the concerns that surround payday loan advertising, the Broadcast Committee of Advertising Practice (BCAP) considers that in addition to these measures it is timely to review how the advertising rules are being applied to payday loan advertising appearing on TV - in line with our ongoing commitment to ensure that the Code provides adequate protection for consumers and vulnerable groups - to ensure that young people, in particular, continue to be protected.

Review objectives

The UK Code of Broadcast Advertising (the BCAP Code), written and maintained by BCAP, requires that all ads are socially responsible and young people are protected from harm in line with the wider objectives of the Communications Act 2003.

Rule 1.2 is a general provision on responsibility of advertising:

1.2 Advertisements must be prepared with a sense of responsibility to the audience and to society.

Rule 5.9¹ provides specific prohibitions relating to children:

¹ It should be noted that BCAP is consulting on a proposal to remove the words “or enquire about” from rule 5.9 for legal reasons and to add the word “directly” to qualify the word “encourage”.

Legal, decent, honest and truthful

Chairman James Best Secretary Shahriar Coupal

5.9 Advertisements must neither directly exhort children to buy a product or service nor encourage them to ask their parents, guardians or other persons to buy or enquire about a product or service for them.

Taking into account the Code rules above, this review will:

- Assess whether payday loans advertising appearing on television breaches BCAP's rules designed to protect children.
- Identify common techniques and styles used in TV payday loan ads that fall short of breaching the rules but may, through repeated use, fuel concerns about undue appeal to children.

Scope

- In response to concerns about payday loan advertising, the FCA introduced a requirement in April 2014 that all payday loan ads include a risk warning. The Advertising Standards Authority (ASA) will continue to ban irresponsible payday loan ads where they appear, in accordance with CAP's updated guidance.
- However, BCAP is aware that concerns about the targeting of payday loan advertising at children have become a particular focus for many. These concerns relate both to the amount and scheduling of payday loan advertising, and its content.
- The BCAP Code is designed to provide protection for children and young people in two ways; through content rules and, where appropriate, scheduling restrictions. Scheduling restrictions allow BCAP to limit the exposure of children and young people to advertising for products that is inappropriate to be directed at them e.g. ads for products like alcohol and medicines that are age-restricted for sale and that are relatively easily accessible, including around the home. The Code also limits exposure to advertising content which may be harmful to children, for example because it may cause them distress or is otherwise not suitable to be targeted at them. Scheduling rules are designed to limit, but do not entirely eliminate, exposure of children and young people to advertising for products that should not be directed at them. They are complemented by strict content rules to ensure that the advertising that children and young people do see is not of particular appeal to them and will not cause them harm. In this way, BCAP seeks to balance the need to protect children and young people from harm with the right of adult viewers to see advertising for products of relevance and interest to them.
- No financial product is presently covered by an age-related scheduling restriction. The only financial products that presently attract scheduling restrictions are spread betting services and contracts for difference, which may only be advertised on specialised financial channels, stations or programming because of their higher risk and greater complexity. No evidence has been submitted to BCAP in support of the need to exclude advertising for a financial product from programmes commissioned

for, principally directed at or likely to appeal particularly to audiences below the age of 18. However, BCAP would welcome receiving any such evidence.

- BCAP is aware of Ofcom's 2013 audience research into payday loans advertising on television. That research primarily focused on the frequency, volume and reach of payday loan advertising to adult audiences, including different socio-economic groups; however it also provided useful and authoritative data on children's exposure to that advertising. Ofcom's research found that payday loans ads comprised a relatively small 0.6% of TV ads seen by children aged four to fifteen during the period under analysis. Payday loan ads aired on children's channels amounted to an average of 2 impacts per child over the year. In total, children on average see around 1.3 payday loan ads on television per week.
- BCAP's advertising regulatory responsibilities extend to all products and sectors. It is committed to targeting its regulatory resources at those issues that most merit regulatory enquiry and, as necessary, regulatory intervention. For example, where evidence suggests there is significant potential for advertising to exploit the vulnerabilities of particular groups. In the light of Ofcom's findings about children's limited exposure to TV advertising for payday loans and in the absence of research and analysis linking children's current level of exposure to payday loan advertising to evidence of harm, BCAP considers it is not proportionate, at this stage, to call into question whether the current scheduling rules in respect of payday loan ads are fit for purpose. BCAP would, however, welcome any submissions of relevant evidence to the contrary, which it would carefully consider.
- BCAP recognises the potential concern about whether the content of advertising appeals unduly to children and young people by, for example, irresponsibly exhorting them to pester adults to take out a payday loan.
- BCAP considers the rule that most directly addresses concerns expressed about the content of payday loan ads in relation to children is rule 5.9 (see 'Background'). To breach the rule, an ad would need to directly encourage a child to ask their parents to enquire about a payday loan.
- BCAP is aware that concerns expressed about payday loan ads targeting children are not limited to explicit messaging in those ads. Notwithstanding the strict legal framework within which the ASA operates, BCAP intends its review to consider whether there are advertising treatments for payday loans that appear imperfectly captured by rule 5.9 (for example because they appear to indirectly encourage children to ask their parents to enquire about a loan), and whether such treatment might necessitate a change in the rule as it relates to payday loans, or which should be captured by rule 1.2.

Approach

- BCAP will carry out its review in line with its established approach to evidence based policy making.
- The review will involve Executive assessment of all TV ads for payday loans for three separate, non-consecutive months spread across 2013 and in each case, an assessment of whether any of the ads would breach rules 5.9 or 1.2.
- The review will assess whether any of the ads seem to raise a concern that falls within the ambit of rule 5.9 but which cannot be dealt with by the rule – for example, because the encouragement is indirect.
- The review will assess whether the regulatory framework allows payday loans advertising to address or appeal to children in a way that can be defined and seen as problematic without breaching rule 5.9.

Taking into account its findings as a whole, BCAP will consider whether there is a need for changes to its Code rules designed to protect children, in the context of payday loans advertising. If changes to rules are not found to be necessary and proportionate in line with BCAP's regulatory objectives, BCAP will consider if guidance may offer a suitable alternative.

The review will be complete and the outcome communicated publicly in the autumn of 2014.