

SECTION 12: WEIGHT CONTROL AND SLIMMING

Question 68: Given BCAP's policy consideration, do you agree that 12.4:

"Ads must not encourage indiscriminate or excessive use of a weight-control or slimming product or service"

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.

Responses received in favour of BCAP's proposal from:

The Advertising Association; The Archbishops' Council of the Church of England; British Nutrition Foundation; Charity Law Association; Institute of Practitioners in Advertising; The Medicines and Healthcare Products Regulatory Agency (MHRA);

Summaries of significant points:

These respondents (left) supported BCAP's proposal.

BCAP's evaluation of those points and action points:

BCAP welcomes the respondents' support of its proposal.

Proprietary Association of Great Britain (PAGB); Two organisations requesting confidentiality		
<i>Responses received against BCAP's proposal:</i>	<i>Summaries of significant points:</i> Not one respondent objected to BCAP's proposal.	<i>BCAP's evaluation of those points and action points:</i>
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?		
<i>Responses received in favour of BCAP's proposal from:</i> The Advertising Association; The Archbishops' Council of the Church of England; British Nutrition Foundation; Charity Law Association; Institute of	<i>Summaries of significant points:</i> These respondents (left) supported BCAP's proposal. One organisation supported this necessary clarification concerning weight reduction regimes with a qualification that dietary control is also necessary to provide weight loss.	<i>BCAP's evaluation of those points and action points:</i> BCAP welcomes the respondents' support of its proposal. BCAP welcomes the respondent's support of its proposal.

Practitioners in Advertising; A Broadcaster; Proprietary Association of Great Britain (PAGB); Two organisations requesting confidentiality		
<i>Responses received against BCAP's proposal:</i> An individual	<i>Summaries of significant points:</i> An individual stated that ads need to emphasise that exercise has a bearing on weight loss too.	<i>BCAP's evaluation of those points and action points:</i> BCAP agrees that exercise may have a bearing on weight loss but unlike dietary control, exercise is not <u>necessary</u> to achieve weight loss and therefore reference to exercise does not merit inclusion within the rule.
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?		
<i>Responses received in favour of BCAP's proposal from:</i> The Advertising Association; Asda; British Nutrition Foundation;	<i>Summaries of significant points:</i> These respondents (left) supported BCAP's proposal. British Nutrition Foundation agreed, provided establishments that provide immediate weight loss	<i>BCAP's evaluation of those points and action points:</i> BCAP welcomes the respondents' support of its proposal. BCAP considers these rules in the proposed Code provide the safeguards sought by the respondent:

	<p>Charity Law Association said consideration should be given as to whether ads for establishments that provide immediate weight loss surgery should encourage adults, especially the vulnerable, to talk to adults, parents and independent health professionals prior to any contact being made with such establishments.</p> <p>Charity Law Association said ads for establishments that provide immediate weight loss surgery should not be scheduled around programmes that appeal to audiences below the age of 18.</p>	<p>ambiguous or untimely manner. Material information is information that consumers need to make informed decisions about whether or how to buy a product or service. Whether the omission or presentation of material information is likely to mislead consumers depends on the context, the medium and, if the medium of the advertisement is constrained by time or space, the measures that the advertiser takes to make that information available to consumers by other means.</p> <p>BCAP considers rules 11.9 and 12.6.2 (see above) ensure that only weight loss establishments that are run in line with the rigorous requirements established in those rules are able to advertise on TV and radio. BCAP believes those requirements ensure – as far as possible – that those services do not exploit the vulnerable and the BCAP Code ensures ads for those services are responsible.</p> <p>BCAP agrees. Rule 32.2.4 prohibits ads for slimming products, treatments or establishments from being advertised in or adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 18.</p>
<p><i>Responses received against BCAP's proposal:</i></p> <p>The Archbishops' Council of the Church of England;</p>	<p><i>Summaries of significant points:</i></p> <p>The Archbishops' Council of the Church of England said weight loss surgery ought to be pursued in consultation with an individual's GP and other health</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>For the avoidance of doubt, the present TV Code does not ban ads for surgeries that provide immediate weight loss surgery. BCAP is satisfied that rules 11.9 and 12.6.2 (see above) ensure that</p>

<p>An individual</p>	<p>professionals; persons that do not have financial interest in the client's decision. Advertisements may also inappropriately incentivise those who do not need to lose weight but do so for cosmetic reasons. The current restrictions ought to remain in place.</p> <p>An individual said ads for clinics that carry out surgical weight loss must emphasise that this is a major surgery with risks and that a sensible diet and exercise afterwards are required to make the effect lasting.</p>	<p>only surgeries meeting the rigorous standards set out in those rules are able to advertise on TV and radio. Ads for weight loss services that inappropriately incentivise the audience to lose weight would be likely to breach rules in the slimming and weight control section that uphold responsibility in advertising rule:</p> <p>1.2 Advertisements must be prepared with a sense of responsibility to the audience and to society.</p> <p>BCAP considers rules 11.9 and 12.6.2 (see above) ensure that only weight loss establishments that are run in line with the rigorous requirements established in those rules are able to advertise on TV and radio. Those establishments must be able to provide evidence of, for example, relevant professional expertise or qualifications; systems for regular review of members' skills and competencies and suitable professional indemnity insurance covering all services provided; accreditation by a professional or regulatory body that has systems for dealing with complaints and taking disciplinary action and has registration based on minimum standards for training and qualifications. They must also be run in accordance with the National Minimum Standards Regulations issued by the Department of Health or, if they operate abroad, broadly equivalent requirements. BCAP has no reason to believe that those services would not emphasise the risks associated with major surgery and the appropriate</p>
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		post-op care and diet. BCAP considers it is not therefore necessary to require that information to be placed in the ads.
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.		
<i>Responses received in favour of BCAP's proposal from:</i> The Advertising Association; The Archbishops' Council of the Church of England; British Nutrition Foundation; Institute of Practitioners in Advertising; Proprietary Association of Great Britain (PAGB); Two organisations requesting confidentiality	<i>Summaries of significant points:</i> These respondents (left) supported BCAP's proposal. The Archbishops' Council of the Church of England agreed in principle with BCAP's proposal. It cautioned that ads for calorie or energy reduced food or drink targeted at under 18s might circumvent the rules by implying the product has slimming or weight control properties, e.g. by the use of 'size zero' models.	<i>BCAP's evaluation of those points and action points:</i> BCAP welcomes the respondents' support of its proposal. Rule 12.5 permits ads for 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. A theme of slimming or weight control may be established explicitly or implicitly by aural or visual means and would be prohibited by rule 12.5.

<p><i>Responses received against BCAP's proposal:</i></p> <p>An individual; Charity Law Association</p>	<p><i>Summaries of significant points:</i></p> <p>An individual disagreed, saying that under 18s, especially teens, equate calorie or energy-reduced food or drink with slimming or weight loss.</p> <p>Charity Law Association said these products are primarily used for slimming or weight control and, if targeted at under 18s, could by implication encourage their use as part of a slimming and weight control regime.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>BCAP's rules prevent ads for slimming or weight control products from targeting a category of under 18s that regard being underweight as desirable. The rules provide – in BCAP's opinion – proportionate protection to that group who may be vulnerable to overt messages about slimming and weight control. By preventing ads for calorie-reduced or energy-reduced food or drink from presenting the product as part of a slimming regime, rule 12.5 allows for those ads to be targeted at under 18s but prevents overt messages about slimming or weight control from accompanying those ads. On balance, BCAP believes its proposal provides a necessary and proportionate degree of protection to the vulnerable group identified.</p>
<p>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.</p>		
<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>The Advertising Association; The</p>	<p><i>Summaries of significant points:</i></p> <p>These respondents supported BCAP's proposal.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>BCAP welcomes the respondents' support of its proposal.</p>

<p>Archbishops' Council of the Church of England; British Nutrition Foundation; An individual; Charity Law Association; Institute of Practitioners in Advertising; The Medicines and Healthcare Products Regulatory Agency (MHRA); Proprietary Association of Great Britain (PAGB); An organisation requesting confidentiality</p>	<p>The Medicines and Healthcare Products Regulatory Agency (MHRA) agreed and noted that the MHRA and EMEA take into consideration the safety and efficacy of a medicine before granting a licence.</p> <p>The Archbishops' Council of the Church of England said the Code should give a definition of 'health specialist professional'; only professionals subject to statutory regulation ought to be included in this category.</p> <p>British Nutrition Foundation said care must be taken to ensure that a 'health specialist professional' must be appropriate to judge the safety and efficacy of the slimming or weight control product.</p> <p>The PAGB said "another health specialist professional" is very broad. It preferred: "Broadcasters must obtain assessment by a registered dietician, qualified independent medical professional or other appropriate health specialist suitably qualified independent medical or other health specialist advice on the safety and efficacy of weight control and slimming products or services before broadcast."</p>	<p>BCAP welcomes the respondents' support of its proposal.</p> <p>In drafting the rule BCAP intended the broadcaster to obtain 'suitably qualified... health specialist advice'. To make this clear, BCAP has revised the rule to state:</p> <p>12.6 Broadcasters must obtain suitably qualified independent medical or other <u>suitably qualified independent</u> health specialist advice on the safety and efficacy of weight control and slimming products or services before broadcast...</p>
<p><i>Responses received against BCAP's proposal:</i></p>	<p><i>Summaries of significant points:</i></p> <p>An organisation requesting confidentiality argued that,</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>BCAP believes it is not always necessary to obtain</p>

An organisation requesting confidentiality	before it is advertised, products for weight control and slimming must be assessed by a qualified independent medical professional only to provide adequate protection for consumers.	qualified independent medical advice to assess if a slimming or weight control product is safe and effective. For example, depending on the product or service in question, a registered dietician might be suitable for the purposes of the assessment. The rule is therefore rendered more practical for broadcasters to comply with and does not, in BCAP's opinion, diminish the protection afforded to the consumer and businesses whose reputation is placed at risk by unscrupulous competitors.
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?		
<i>Responses received in favour of BCAP's proposal from:</i> The Advertising Association; The Archbishops' Council of the Church of England; British Nutrition Foundation; Charity Law Association; Institute of	<i>Summaries of significant points:</i> These respondents (left) supported BCAP's proposal. The Archbishops' Council of the Church of England agreed but, with the Charity Law Association and Which?, argued 'broadly equivalent requirements' is too vague. The Archbishops' Council of the Church of England preferred the term 'comparable'. An individual said 'broadly equivalent requirements' should be	<i>BCAP's evaluation of those points and action points:</i> BCAP welcomes the respondents' support of its proposal. BCAP's rule requires the broadcaster to ensure that, if they operate abroad and if they wish to advertise on UK TV or radio, clinics and other establishments offering medically supervised weight loss procedures must conform to standards that are 'broadly equivalent' to their UK counterparts. BCAP

Practitioners in Advertising; Proprietary Association of Great Britain (PAGB); Two organisations requesting confidentiality; An individual	<p>amended to 'equivalent requirements'.</p> <p>British Nutrition Foundation agreed provided there is confidence that the standards are appropriately regulated and policed.</p>	<p>considers "equivalent requirements" and "comparable" are impractical because the UK standards are set by the Department of Health's National Minimum Standards Regulations. BCAP considers 'broadly equivalent standards' is practical and prevents, proportionately and effectively, unacceptable advertisers.</p> <p>BCAP agrees. BCAP would have a responsibility to respond to significant evidence that suggests these advertisers' services are routinely falling below the standards (or broadly equivalent standards) set by the Regulations.</p>
<i>Responses received against BCAP's proposal:</i>	<p><i>Summaries of significant points:</i></p> <p>Not one respondent objected to BCAP's proposal.</p>	<i>BCAP's evaluation of those points and action points:</i>
<p>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?</p>		
<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>The Advertising</p>	<p><i>Summaries of significant points:</i></p> <p>These respondents (left) supported BCAP's proposal.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>BCAP welcomes the respondents' support of its proposal.</p>

<p>Association; The Archbishops' Council of the Church of England; Asda; Bayer Plc; An individual; Institute of Practitioners in Advertising; The Medicines and Healthcare Products Regulatory Agency (MHRA); Proprietary Association of Great Britain (PAGB); Three organisations requesting confidentiality</p>	<p>The Medicines and Healthcare Products Regulatory Agency (MHRA) agreed and noted that the MHRA and EMEA take into account the professional support required before licensing any product for the treatment of obese people through pharmacies.</p> <p>An organisation said it supported the idea that ads for proven, safe and effective methods for helping those who are obese to lose weight should be allowed to be targeted at this group. It pointed to weight loss programmes that are: i) long-established, without negative side effects ii) effective as evidenced by large, long-term randomised clinical trials iii) recommended by national health authorities etc.</p> <p>An organisation said weight loss companies should be allowed to compete on a level playing field with ads for pharmaceutical and surgical methods so that consumers can be properly informed about appropriate choices that are available to them.</p>	<p>BCAP welcomes the respondent's support of its proposal.</p> <p>BCAP has allowed ads for non-prescription medicines that are indicated for the treatment of obesity to target the obese because the MHRA and EMEA take into account the safety of medicinal products and the professional support required before licensing any product for the treatment of obese people through pharmacies. The respondent has not provided evidence to suggest that other <i>categories</i> of weight loss or weight control products fall under a regulatory regime that controls their entry into the market and their sale or supply to the public by a suitably qualified health professional; to that end, BCAP considers it is not merited to grant a further relaxation to the ban on targeting the obese.</p>
<p><i>Responses received against BCAP's proposal:</i></p> <p>Which?</p>	<p><i>Summaries of significant points:</i></p> <p>Which? said it remained to be convinced that it is safe to targets ads for non-prescription medicines that require the involvement of a pharmacist in the sale or supply of the medicine to people who are obese. Pharmacists are not doctors and although they can</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>BCAP must balance the need to protect the audience against the right of advertisers to promote their products without undue constraint. Because the MHRA and EMEA take into account the safety of medicinal products and the professional support</p>

		advise about side effects, they do not take account of previous medical / family history or assess mental suitability before dispensing treatments.	required before licensing any product for the treatment of obese people through pharmacies, BCAP is content that sufficient safeguards are in place to ensure that the audience is protected and the advertisement of 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, is not unduly prohibited.
<i>Other</i>			
Alliance Charity Association	Boots; Law	<p>Alliance Boots accepted that a body mass index of 30+ is an accepted standard for defining obesity but argued that BMI is not a reliable measure of obesity. It stated there are dangers in using BMI to differentiate acceptable from unacceptable advertising.</p> <p>Charity Law Association said that people are generally ignorant of their BMI and may not acknowledge they are overweight.</p>	<p>BCAP considers – for the reasons set out in the consultation document - it is necessary, for the purpose of preventing harm, to differentiate between a target audience that is overweight and a target audience that is obese. An advertiser can target an audience that is obese by, for example, linking – explicitly or implicitly – a slimming product with someone that is obese. Whilst a 30+ BMI might be an unsatisfactory measure of obesity for a variety of reasons, it has and continues to work well as a rule-of-thumb to determine the acceptability or otherwise of persons appearing in ads for slimming products.</p> <p>BCAP accepts that whilst a member of the audience who is ignorant of the fact that he or she is obese may respond to an ad for a slimming product, he or she should not be targeted by that advertiser, unless the product is offered under the exemptions granted by the rule.</p>

	<p>Electronic Retailing Association (ERA) UK noted that about 1 in 5 of the UK's population is obese. It recommended that, as long as it did not mislead and (also advocated by Guthy-Renker UK Ltd) made clear that medical advice should be obtained before starting, for example, an exercise regime, ads for such products should be allowed to target the obese by, for example, including individuals who were or are or appear to be obese. ERA said ads should not, however, be directed at the morbidly obese.</p> <p>An organisation said ads for certain weight loss programmes should be able to target people who are obese. Any concerns about particular medical conditions could be mitigated through warnings and disclosures included within the relevant marketing materials.</p> <p>An organisation said the ban on featuring in ads people who are, have been or appear to be obese (BMI of 30+) unfairly prevents companies from giving an accurate account of people who benefit from weight loss programmes; many of which have a BMI of 30+.</p>	<p>People who are obese might have other chronic conditions such as diabetes or coronary heart disease, which would render some slimming or weight control products and services unsuitable for them. In recognition of that fact, the present BCAP Codes state that only advertisements for clinics and other establishments that offer treatment under suitably qualified medical supervision may target obese people. BCAP's policy ensures that people who respond to slimming ads are appropriately assessed to gauge their suitability for the advertised treatment at each stage of the treatment and thereby avoid, as far as possible, the potential for harm.</p> <p>BCAP notes the respondents' comments about the inclusion of warnings or disclosures. In line with rule 11.3, BCAP considers, "Advertisements must not discourage essential treatment for conditions for which medical supervision should be sought. For example, they must not offer specific advice on, diagnosis of or treatment for such conditions unless that advice, diagnosis or treatment is conducted under the supervision of a suitably qualified health professional". The extent to which a simple warning or disclosure does or does not discourage essential treatment for a condition for which medical supervision should be sought must be considered on a case-by-case basis.</p>
<p>Question 75: Given BCAP's policy consideration, do you agree that rule 12.9:</p>		

"Claims that refer to specific amounts of weight that have been lost by an individual must state the period over which that loss was achieved and should not be based on unrepresentative experiences of the slimming or weight-control product. The amount of weight lost and the period over which it was lost must be compatible with generally accepted good medical and dietary practice. For those who are normally overweight, a rate of weight loss greater than 2lbs (just under 1kg) a week is unlikely to be compatible with good medical and nutritional practice. For those who are obese, a rate of weight loss greater than 2lbs a week in the early stages of dieting could be compatible with good medical and nutritional practice."

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.

<i>Responses received in favour of BCAP's proposal from:</i>	<i>Summaries of significant points:</i>	<i>BCAP's evaluation of those points and action points:</i>
<p>The Advertising Association; The Archbishops' Council of the Church of England; An individual; Institute of Practitioners in Advertising; The Medicines and Healthcare Products Regulatory Agency (MHRA); Proprietary Association of Great Britain</p>	<p>These respondents (left) supported BCAP's proposal.</p> <p>PAGB said it did not have strong views on the matter but it noted that a rate of weight loss of 2lbs (just under 1kg) a week in the early stages of a weight loss regimen appeared reasonably modest.</p>	<p>BCAP welcomes the respondents' support of its proposal.</p> <p>For the avoidance of doubt, the rule states: "For those who are obese, a rate of weight loss greater than 2lbs a week in the early stages of dieting could be compatible with good medical and nutritional practice."</p>

(PAGB); Two organisations requesting confidentiality		
<p><i>Responses received against BCAP's proposal:</i></p> <p>British Nutrition Foundation</p>	<p><i>Summaries of significant points:</i></p> <p>British Nutrition Foundation said that the rule is not consistent with the NHCR, which bans claims about the amount or weight of weight loss. It recommends that the Code bans all claims about the rate or amount of weight loss. Instead, the Code should refer the reader to, for example, the British Dietetics Association's website for information on the safe rate of weight loss.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>The NHCR relates to claims made on foods. Rule 12.8 states: "Health claims in food product ads that refer to a rate or amount of weight loss are not permitted". The NHCR does not apply to other types of slimming or weight control products, which may make rate or amount of weight loss claims if they are supported by evidence and comply with the relevant Code rules. Because it applies to those products and not to food products, BCAP considers rule 12.9 is not incompatible with the NHCR.</p>
<p><i>Other</i></p> <p>Charity Law Association</p>	<p>Charity Law Association said "generally accepted good medical and dietary practice" is too vague and asked BCAP if any medical guidelines could be inserted in rule 12.9 to clarify the statement.</p>	<p>BCAP notes the rule usefully and appropriately qualifies that statement: "The amount of weight lost and the period over which it was lost must be compatible with generally accepted good medical and dietary practice. For those who are normally overweight, a rate of weight loss greater than 2lbs (just under 1kg) a week is unlikely to be compatible with good medical and nutritional practice. For those who are obese, a rate of weight loss greater than 2lbs a week in the early stages of dieting could be compatible with good medical and nutritional</p>

		practice.”
<p>Question 76: Given BCAP’s policy consideration, do you agree that rule 12.14.4:</p> <p>“12.14 For the purposes of this rule, very low-calorie diets (VLCDs) are those with a daily intake of less than 800 kilo-calories. They must comply with the provisions of the Food Safety Act 1990 and relevant regulations made under it, including those on advertising. These conditions apply to advertisements for such products:</p> <p>12.14.4 independent medical advice must be sought on whether the proposed advertisement accords with the guidance on “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.”</p> <p>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?</p>		
<p><i>Responses received in favour of BCAP’s proposal from:</i></p> <p>The Advertising Association; The Archbishops’ Council of the Church of England; Asda; British Nutrition Foundation;</p>	<p><i>Summaries of significant points:</i></p> <p>These respondents (left) supported BCAP’s proposal.</p>	<p><i>BCAP’s evaluation of those points and action points:</i></p> <p>BCAP welcomes the respondents’ support of its proposal.</p>

Charity Law Association; Institute of Practitioners in Advertising; Proprietary Association of Great Britain (PAGB); Two organisations requesting confidentiality		
<i>Responses received against BCAP's proposal:</i>	<i>Summaries of significant points:</i> Not one respondent objected to BCAP's proposal.	<i>BCAP's evaluation of those points and action points:</i>
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?		
<i>Responses received from:</i>	<i>Summaries of significant points:</i>	<i>BCAP's evaluation of those points and action points:</i>

<p>The Advertising Association; Charity Law Association; The Department of Health for England; Electronic Retailing Association (ERA) UK; Food Standards Authority; Guthy-Renker UK Ltd; the Health Food Manufacturers' Association; Institute of Practitioners in Advertising;</p>	<p>The Advertising Association alerted BCAP to a significant inaccuracy within the proposed rules. Under 'Definitions', the text incorrectly cross-references the sections on Medicines and Food.</p> <p>Charity Law Association said no ads for weight loss or slimming should be scheduled around programmes that appeal particularly to audiences below the age of 18.</p> <p>The Department of Health for England, the Health Food Manufacturers' Association and the Food Standards Authority noted in 2007 the Foods Intended for use in Energy Restricted Diets for Weight</p>	<p>I BCAP notes the definition should read:</p> <p>Definitions This Section applies to advertisements for weight-control and slimming foodstuffs, aids (including exercise products that make weight-loss or slimming claims), clinics and other establishments, diets, medicines, treatments and the like. If applicable, they must comply with Section 40 11 Medicines, Medical Devices, Treatments and Health or Section 44 13 Food, Dietary Supplements and Associated Health or Nutrition Claims. Broadcasters should be aware that the Proprietary Association of Great Britain (PAGB) lays down criteria for advertisements that fall within this Section.</p> <p>BCAP agrees. Rule 32.2.4 prohibits ads for slimming products, treatments or establishments from being advertised in or adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 18.</p> <p>The BCAP Consultation Document states:</p> <p>"12.5 A response to BCAP's consultation on the Regulation of Nutrition and Health Claims made on Foods in Television and Radio Advertisements (NHCR Consultation)... has highlighted</p>
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Reduction Regulations 1997 were amended to remove the ban on references to “a reduction in the sense of hunger or an increase in the sense of satiety”. It recommended that reference to “a reduction in the sense of hunger and or increase in the sense of satiety” be removed from the respective parts of the Advertising Codes; for example 12.13.2 of the BCAP Code.

Guthy-Renker UK Ltd noted that the Department for Health and Human Services defined ‘underweight’ as

that the Food for Particular Nutritional Uses (Miscellaneous Amendments) (England) Regulations 2007 (regulation 3(2)) has amended the Foods Intended for Use in Energy Restricted Diets for Weight Reduction Regulations 1997 (as amended), removing the prohibition on selling certain foods where the labelling, advertising or presentation of that food refers to a reduction in the sense of hunger or an increase in the sense of satiety. BCAP presently mirrors that prohibition in rule 12.13.2 of the proposed Code, 8.4.6(2)(b) of the present Television Code and rule 13(f), section 3, of the present Radio Code. As part of its evaluation of responses to its NHCR consultation, BCAP will evaluate if maintaining those rules is consistent with Regulation (EC) 1924/2006 on nutrition and health claims made on foods. BCAP proposes to reflect the new, revised or deleted rules that are published as a result of its NHCR consultation in BCAP’s present Codes and its new Code.”

BCAP’s NHCR consultation concluded that those changes were necessary; see: <http://www.cap.org.uk/Media-Centre/2009/Changes-to-the-Codes-NHCR.aspx>

BCAP will therefore revise rule 12.13.2 to state:

12.13.2

advertisements for such foods may not refer to the rate or amount of weight loss that could result from use of the product. ~~or to a reduction in the sense of hunger or an increase in the sense of satiety.~~

BCAP rule 12.12 states:

Advertisements for weight-control or slimming products must

	<p>a BMI of below 18.5. It noted that proposed rule 12.12 defined 'underweight' as a BMI of 20. It argued the inconsistency between the two definitions is unwelcome.</p>	<p>not suggest or imply that to be underweight is acceptable or desirable. If they are used, testimonials or case histories must not refer to subjects who are or seem to be underweight. Underweight means a Body Mass Index below 20.</p> <p>The NHS website states: "A BMI below 18.5 means you are underweight, which is undesirable...More than 18.5 but less than 25... you are in the ideal weight for the height range".</p> <p>Although BCAP acknowledges the respondent is technically correct, the purpose of the rule is to prevent any suggestion or implication that to be underweight is acceptable or desirable by, for example, referring to someone who may seem to the audience to be underweight. On that basis, BCAP considers it is proportionate to maintain the present rule but, to prevent any chance of confusion, to revise the rule to state:</p> <p>Advertisements for weight-control or slimming products must not suggest or imply that to be underweight is acceptable or desirable. If they are used, testimonials or case histories must not refer to subjects who are or seem to be underweight. Underweight, for the purpose of this rule, means a Body Mass Index below 20.</p>
	<p>An organisation said there are very strong public policy reasons for BCAP, in consultation with MHRA and the Department of Health, to reconsider their approach on ads targeting the obese.</p>	<p>BCAP must balance the need to protect the audience against the right of advertisers to promote their products without undue constraint. Increasingly, that balance cannot ignore the issue of obesity in the UK. It is against that back-drop that, in April 2009, the EMEA and the MHRA licensed the</p>

		<p>first diet pill available to buy in the UK without a doctor's prescription; albeit that it requires a pharmacist to be involved in its sale or supply.</p> <p>In its evaluation of responses to the Slimming and Weight Control section, BCAP has not been persuaded to grant further exceptions to the targeting of ads to people who are obese. It has not been presented with evidence that other <i>categories</i> of weight loss or weight control products fall under a regulatory regime that controls their entry into the market and their sale or supply to the public to the extent that they may be safely used without the need for supervision by a suitably qualified health professional.</p> <p>As new evidence arises in any area of the Code, BCAP will review it.</p>
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