



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.

(Annex 3: Question 147)

NAT (National AIDS Trust) is the UK's leading independent policy and campaigning charity on HIV. NAT develops policies and campaigns to halt the spread of HIV and improve the quality of life of people affected by HIV, both in the UK and internationally.

NAT welcomes the opportunity to respond to the Broadcast Committee of Advertising Practice (BCAP) consultation reviewing current Standards Codes, in particular Question 147 on television advertisements for condoms. This response is supported by the following organisations: the Eddie Surman Trust, Leicestershire AIDS Support Services (LASS), NAZ Project London, Positive Action, Sigma Research (University of Portsmouth) and Staffordshire Buddies.

Television is one of the preferred ways for receiving advice on sexual health.<sup>1</sup> In a recent survey 90 per cent of young people thought that condoms should be shown on television and 81 per cent thought that showing condoms on television would encourage young people to use them when they have sex.<sup>2</sup> However current advertising restrictions prevent the promotion of condoms on television before 9pm, limiting the ability of HIV and other sexually transmitted infection (STI) prevention campaigns to reach target populations including young people, many of whom are sexually active.<sup>3</sup>

People from an early age are exposed to sexualised information from a wide variety of sources that does not include messages about condoms. NAT therefore agrees that the current restriction should be relaxed to allow television advertisements for condoms to be shown before 9pm, increasing the potential that people at risk could get the information they need to protect themselves from HIV and other STIs. This is in line with recommendations made by the Department of Health's Independent Advisory Group on Sexual Health in their recent review of progress made on the *National Strategy for Sexual Health and HIV*.<sup>4</sup>

According to the 2007 Ipsos MORI survey conducted by NAT, 43 per cent of young people (aged 16-24 years old) do not always use a condom when with a new sexual partner.<sup>5</sup> The survey also revealed gaps in knowledge amongst young people on the importance of condoms in preventing HIV transmission during sex. About one in seven (15 per cent) failed to identify that HIV can be transmitted during sex between a man and a woman who do not

<sup>1</sup> Office for National Statistics (2007) National Statistics Omnibus Survey: Contraception and Sexual Health 2006/7 [www.statistics.gov.uk](http://www.statistics.gov.uk)

<sup>2</sup> Sexual Health Advocacy and Research Project (2007) Showing Condoms on TV: What young people think [www.brook.org.uk](http://www.brook.org.uk)

<sup>3</sup> Brook [www.brook.org.uk/content/M6\\_2\\_2\\_sexualactivity.asp](http://www.brook.org.uk/content/M6_2_2_sexualactivity.asp)

<sup>4</sup> SHIAG and MedFASH (2008) Progress and Priorities – Working Together for High Quality Sexual Health: Review of the National Strategy for Sexual Health and HIV [www.dh.gov.uk](http://www.dh.gov.uk)

<sup>5</sup> NAT (2008) Public Attitudes Towards HIV 2007 results charts [www.nat.org.uk](http://www.nat.org.uk)

use a condom and over a quarter (27 per cent) failed to identify that HIV can be transmitted during sex between two men who do not use a condom.

This comes at a time when the latest figures reveal that the numbers of people living with HIV in the UK are increasing.<sup>6</sup> 7,370 people were newly diagnosed in 2008, and the numbers living with HIV in the UK are now estimated to be more than 80,000, nearly a third of who do not know their HIV status. In 2007, 702 young people were diagnosed with HIV, representing 11 per cent of all new HIV diagnoses.<sup>7</sup> HIV diagnoses amongst young gay and bisexual men have more than doubled in the past decade (from 128 in 1998 to 281 in 2007). Young gay and bisexual men remain the group of young people most at risk of acquiring HIV in the UK.

In addition the UK has some of the highest rates of STIs in Europe, with rates growing fastest amongst young people. 16-24 years olds are the group most likely to be diagnosed with an STI in the UK. In 2007 this group accounted for 65 per cent of all Chlamydia diagnoses, 50 per cent of genital warts diagnoses and 50 per cent of gonorrhoea diagnoses in genitourinary medicine (GUM) clinics across the UK.

Condoms, if used appropriately and consistently, are the most effective way to prevent HIV and most STIs. As such, efforts to increase public knowledge about condom use should include lifting the 9pm watershed ban. In addition parents and teachers need to be better equipped to talk openly and honestly about sex and sexuality to 'normalise' conversations about HIV and other STI prevention. These efforts could help ensure that young people, many of whom are sexually active and may be at risk of HIV and other STIs, get appropriate information about condoms through as many different formats as possible. This would help young people to make informed choices about sex and relationships, while supporting their own health and that of others.

**NAT recommends that the current ban on television advertising of condoms before 9pm be abolished to ensure that appropriate prevention messages around HIV and other STIs reach those most at risk.**

NAT  
The Eddie Surman Trust  
Leicestershire AIDS Support Services  
NAZ Project London  
Positive Action  
Sigma Research, University of Portsmouth  
Staffordshire Buddies

June 2009

Sir,

Reference your BCAP consultation question 56.

The Derbyshire branch of the National Farmers Union hold an annual clay pigeon shoot raising substantial sums for charity.

I am apalled that you propose to make it illegal to promote this event on our local radio stations.

I am sure that such regulation would affect many other worthy events. Please respond as detailed below.

Thank you.

Nick Adams

Derbyshire NFU County Chairman

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**CAP and BCAP code review consultations**  
**Response on behalf of the National Heart Forum**  
19 June 2009

**Introductory remarks**

The National Heart Forum (NHF) welcomes opportunity to comment on proposed code revisions to the CAP and BCAP rules. We feel that the consideration of public interest input in shaping advertising regulations is long-overdue and we welcome this requirement now on CAP do to so. However, it is disappointing that the format in which CAP has chosen to present its rules, proposed revisions and questions is opaque and probably off-putting to many interested parties which may have useful contributions to make.

As an alliance of 60 organisations working to reduce the risk of avoidable chronic diseases including coronary heart disease, stroke, cancer and diabetes, the NHF, restricts its comments to those aspects of the Code review where we recognise a public health impact of advertising rules, specifically around food and drink advertising to children, the marketing of breast-milk substitutes and the marketing of tobacco-related products. (Comments on the alcohol-related rules will follow under separate cover by 10 July).

The opinions expressed in this submission are consensus-based and do not necessarily reflect the views of all individual members of the NHF. This submission responds to both the CAP and the BCAP code consultations.

**1. CAP CODE CONSULTATION**

**Response to specific questions**

***Part 2 Section 15 Food, Dietary supplements and Associated Health and Nutrition Claims***

**Proposed rule 15.6.3**

*Health claims that refer to the recommendation of an association are acceptable only if that association is a health-related charity or a national representative body of medicine, nutrition or dietetics.*

**Response to question 53**

It appears that there are no 'relevant national rules' that currently apply in the UK and that the proposed revision to the CAP code might be construed as such. In the interests of public protection, it is vital that any claims or information presented to consumers should be free of commercial bias and guaranteed to be of the highest scientific quality. We are concerned that the wording of 15.6.3 is open to interpretation and could encourage the creation of 'health-related charities' or 'national representative bodies' for the purpose of fronting commercially-motivated recommendations in marketing communications.

We recommend that it should be the Food Standards Agency in consultation with the Scientific Advisory Committee on Nutrition that should – as the appropriate, competent authorities – determine rules around such endorsements. This should not be determined by CAP.

**Proposed rule 15.11.1**

*Marketing communications must not confuse between infant formula and follow-on formula*

**Response to question 56.**



We believe that the current provision is inadequate. To ensure the avoidance of confusion, advertising of follow-on formula should be subject to at least the same restrictions as infant formula.

In our view, follow-on milks will have the effect of substituting for breastfeeding after 6 months, and thereby **are** breastmilk substitutes and should comply with all the restrictions applicable to formula milk and all other breastmilk substitutes.

#### **Response to Question 57 (other comments on this section)**

We do not accept the justifications given under 15.10 for why restrictions equivalent to the TV food advertising rules should not apply in other media.

The argument that TV rules should be treated differently because of “TV’s place in the family home” would, in our view suggest that other media “in the family home” should attract similarly, robust (not weaker) regulation including radio, magazine and press advertising and the internet. Arguably, the opportunity for mediation by parents is particularly low in the case of internet marketing communications to children when studies show that children are very likely to be watching the screen alone.

We believe the CAP rules should differentiate between high fat, sugar and salt foods (HFSS) and non-HFSS foods using the nutrient profiling model (NPM) developed by the Food Standards Agency. We support the decision by Ofcom to require that BCAP rules apply to HFSS foods, as this enables and encourages advertisers to advertise healthier foods or to reformulate existing products to achieve a healthier profile. There are no scientific or nutritional reasons why the NPM cannot be adapted for use in other settings beyond the Ofcom rules. Indeed there are examples where this is already the case (eg. FSA Australia and New Zealand proposals for health and nutrition claims).

We are also concerned that an undifferentiated approach in the CAP rules creates an uneven regulatory playing field between broadcast and non-broadcast advertisers.

We believe that, in common with the Ofcom scheduling rules, non-broadcast advertising rules should explicitly offer protection to all children under 16. The application of rules only to products aimed at ‘primary-aged’ children is both inconsistent with TV scheduling rules and, in our view, inadequate. Ofcom’s own research suggested that as children grow up and develop an understanding of the purpose of advertising, they do not necessarily acquire a greater ability to resist or defend against the messages of advertising.<sup>i</sup> In many ways, older children are more vulnerable than younger children to the persuasive power of advertising since they are able to make their own food and drink purchases and are likely to be more influenced by peer pressure. To reduce the impact of HFSS advertising on children, restrictions must be applied which reduce children’s response to advertising whether or not they understand the promotional intent.

We see no justification to exclude brand equity characters from the BCAP or CAP rules. The argument that they are ‘qualitatively different’ from celebrities or licensed characters is not supported by any evidence. Brand equity characters are used for promotional effect to children and as such should be within the scope of restrictions applying to HFSS foods advertised in **all** media.

#### **Part 2 Section 21 Tobacco, Rolling Papers and Filters**

##### **Response to Question 73 (other comments)**

There is no justification to continue to permit advertising of tobacco-related products. It is acknowledged that doing so has the potential to indirectly promote tobacco products which may not be advertised to the public. We recommend that CAP’s

present rules are strengthened to ensure that the marketing of rolling papers and filters is not permitted in any media. A notion of ‘responsible’ marketing of rolling papers and filters seems an oxymoron as any marketing of these products is a clear encouragement to smoke.

## **2. BCAP CODE CONSULTATION**

### Proposed rule 13.8.1

#### **Response to Question 85.**

Please see response to Question 56 under CAP code review (above).

### Proposed rule 13.6.3

#### **Response to Question 86.**

Please see comments in response to Question 63 under CAP code review (above).

#### **Response to Question 87 (other comments on this section)**

We believe that, in common with the Ofcom scheduling rules, BCAP content rules should explicitly offer protection to all children under 16. The application of rules only to products aimed at ‘primary-aged’ children is both inconsistent with the scheduling rules and, in our view, inadequate. (For argumentation, please response to question 57 above).

We do not agree that radio rules should be substantively different from TV rules within a single BCAP code. The argument that TV rules should be treated differently because of “TV’s place in the family home” would, in our view suggest that other media that are clearly “in the family home” should attract similarly, robust (not weaker) regulation, including radio.

We see no justification to exclude brand equity characters from the BCAP rules. The argument that they are ‘qualitatively different’ from celebrities or licensed characters is not supported by any evidence. Brand equity characters are used for promotional effect to children and as such should be within the scope of restrictions applying to HFSS foods advertised in **all** media.

<sup>1</sup> Livingstone S. Childhood Obesity – Food Advertising in Context. 2004.

## **National Lottery Commission**

Response to the Broadcast Committee of Advertising Practice (BCAP)  
Consultation on the proposed BCAP Broadcast Advertising Standards  
Code

June 2009

# **NATIONAL LOTTERY COMMISSION REPONSE TO THE BROADCAST COMMITTEE OF ADVERTISING PRACTICE CONSULTATION ON THE PROPOSED BCAP BROADCAST ADVERTISING STANDARDS CODE**

**June 2009**

## **1. Introduction**

1.1 In 1993, Parliament passed The National Lottery etc. Act which set up a National Lottery together with its own dedicated regulator and a system of distributing its proceeds to specified good causes. The first draw was held on 19 November 1994 since which time more than £63 billion of tickets have been sold, over £29 billion has been paid out in prizes and more than £23 billion has been raised for good causes.

1.2 The National Lottery Commission ('the Commission') is the regulator of the National Lottery – sponsored by the Department for Culture, Media and Sport. It has specific statutory duties to exercise its functions in the manner most likely to secure:

- That the National Lottery is run with all due propriety;
- That the interests of players are protected; and
- Subject to the above two duties, that the returns to good causes are as great as possible.

1.3 The Commission requires, under its own regulatory regime, that Camelot complies with the dedicated National Lottery Advertising and Sales Promotion Code of Practice. Under this Code, Camelot is also required to comply with the CAP and BCAP Codes. Failure to do so may result in sanctions for breach of Camelot's operating licence, in addition to any sanctions applied by CAP or BCAP under their codes. The Commission notes that, to date, there has been very little incidence of breach of the provisions of either code.

1.4 The Commission welcomes the opportunity to respond to this consultation. The Commission responded to CAP and BCAP's 2006 consultation on gambling advertisements and also responded to BCAP in November 2007 with regard to its proposed National Lottery specific provisions within the Television and Radio Codes. These proposals were deferred until this wider review of the two codes took place.

1.5 The Commission accepts in principle that it is appropriate for there to be separate, lottery specific provisions in the BCAP Code. However, the Commission believes that the existing provisions should only be extended where there is a clear case for doing so, and that the Better Regulation principle of proportionality is as relevant as the principle of consistency. The Commission is not clear that the case has been made for the extension of provisions in respect of the National Lottery on the basis of evidence, risk, or better regulation.



## 2. Commission Response

### 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.**

2.1 The Commission has previously highlighted the clearly established demarcation between the National Lottery and SLAs. Government established discrete arrangements for the regulation of the National Lottery and gambling and these were reaffirmed during the passage of the Gambling Act 2005. This demarcation acknowledges the differing way that the National Lottery and SLAs are licensed and regulated, the controls and commercial freedoms on each and their scale of operation.

2.2 It is therefore conceivable that at some point in the future it may be necessary to make changes to the lottery section of the Code as a result either of changes in regulatory arrangements or of concerns about the nature of the product and the way it was promoted. In such circumstances, the Commission believes that the Code should retain the flexibility (should circumstances justify it) to apply different provisions to the National Lottery than those applied to SLAs. In particular, neither the National Lottery nor SLAs should suffer tougher provisions solely as a consequence of concerns which are specific to the other product.

2.3 Whilst the Commission accepts that, in present circumstances, it is reasonable for the same rules to apply in practice to both the National Lottery and SLAs, it does not agree in principle that National Lottery and SLA lottery broadcast advertisements should automatically be regulated by the same rules.

### Question 106

**Given BCAP's policy consideration, especially the requirement for consistency in regulation, do you agree that 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.**

2.4 In our response to BCAP in November 2007, the Commission stated that it agreed that the minimum age of appeal (for National Lottery advertisement content, or restrictions on the scheduling or placements of advertisements) should be 18.

### Question 107

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

**18.6**

**Advertisements for lotteries may include under-18s. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role.**

**18.7**

**Advertisements that exclusively feature the good causes that benefit from a lottery and include no explicit encouragement to buy a lottery product may include under 18s in a significant role**

2.5 The Commission notes that people of 16 years of age are legally allowed to play the National Lottery; an activity that the Commission would argue, and evidence support, inherently poses less risk to young people. It therefore takes the view that imposing an age limit of 25 years old is disproportionate and inconsistent with the differential age limits for participation in Lotteries on the one hand and gambling products on the other, as set by Parliament.

2.6 The Commission has previously accepted that the age limit for participants appearing in advertisements might be greater than the statutory age limit for actual participation, and has suggested an age limit of 18 years for Lotteries. This is consistent with its position on age of appeal (see response to Q106 above). However, the Commission accepts that, if the ASA finds it impractical to distinguish between the appearance of 18 and 16 year olds, then an age limit of 21 years might be justified. The Commission would not support an age limit of 25 years.

2.7 The Commission has no objection to proposed rule 18.7, which reflects existing arrangements.

**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 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?**

2.8 The Commission supports BCAP's general policy objectives as set out in Part 1(4) of the consultation document.

2.9 As set out at paragraph 1.5 above, the Commission does not believe that the case has been made for the extension of provisions in respect of the National Lottery on the basis of evidence, risk or better regulation. The Commission believes that the better regulation principle of proportionality is as relevant as the principle of consistency, and notes that:

- the National Lottery has been advertising National Lottery products for well over ten years and has been subject to both BCAP and CAP general requirements and a detailed Code of Practice which is approved by the Commission;
- there have been few, if any, issues arising as a result of National Lottery advertising and that players have been properly protected during this period.

### **Question 109**

**Given BCAP's policy consideration, do you agree that lottery advertisements should be able to feature participation in a working environment?**

2.10 Yes. This recognises the fact that National Lottery syndicates have operated in working environments for many years, with no detriment to players or employers.

### **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?**

2.11 Our response to question 108 above sets out why the Commission is not convinced that BCAP's proposed rules in respect of the National Lottery are necessary.

2.12 The Commission does agree that BCAP's rules in relation to Lotteries are easily understandable with the exception of rule 18.8 – '*Advertisements for lotteries must not exploit cultural beliefs or traditions about gambling or luck*'. It is not clear to the Commission what type of imagery or messaging this would cover, and specifically whether general references to the concept of luck would be prevented.

**(ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed rules that 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?**

2.13 Please see our answer to question 107 above. Otherwise, no.

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## **A response to the Consultation on the proposed BCAP Broadcast Advertising Standards Code**

[http://www.cap.org.uk/cap/Consultations/open/BCAP\\_Code\\_Review\\_consultation/BCAP+Code+Review+Consultation.htm](http://www.cap.org.uk/cap/Consultations/open/BCAP_Code_Review_consultation/BCAP+Code+Review+Consultation.htm).

To  
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Code Policy Team  
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Deadline: 19 June 2009

Submission date: 18 June 2009

The NSS response focuses principally on two points in the consultation document, questions 62 and 147: adverts for family planning centres and for condoms. It also briefly responds to questions 90, 91, 92, 93 and 96.

### **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?*

### **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.*

### **A. The importance of advertising**

The NSS agrees that family planning advice should be regulated through general rules only with the stated proviso that *they should 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, in line with advertisements for sanitary protection products.*

There are strong reasons for not restricting advertising of family planning centres. Although teenage pregnancy rates have fallen over the last ten years<sup>1</sup>, they are beginning to rise again and the UK still has the highest rates in Western Europe<sup>2</sup>. Abortion rates continue to rise and are also the highest in Western Europe.<sup>3</sup>

The adverts could provide valuable unbiased information to people of all ages living in communities where contraception and termination (and sexual health in general) are not discussed for cultural or religious reasons. Young people may not be getting the information they need from their schools and people of all ages may be getting it weighted with (religious) moral prejudice from their families and communities. The reluctance of Scottish religious schools to vaccinate girls against HPV because it would 'promote promiscuity' is just one example of how religious schools can place doctrine above health and even life.

While increased advertising could help reduce the number of unwanted pregnancies and abortions, the NSS supports advertising for services that enable women to make an informed choice as early as possible in pregnancy and not risk the complications, both physical and social, of delaying termination.<sup>4</sup>

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<sup>1</sup> <http://news.bbc.co.uk/1/hi/health/7911684.stm>

<sup>2</sup> <http://www.independent.co.uk/life-style/health-and-families/health-news/uk-has-highest-teenage-pregnancy-rate-in-europe-397153.html>.

<sup>3</sup> In 2007, the total number of abortions was 198,500, compared with 193,700 in 2006, a rise of 2.5% [http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsStatistics/DH\\_085508](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsStatistics/DH_085508)

<sup>4</sup> Section 11.38 states: The Royal College of Obstetricians and Gynaecologists advises that the earlier in pregnancy an abortion is performed the lower the risk of complications.

Women (and couples) who are not able to consult their families, others in their communities or even their GPs for cultural or religious reasons are especially vulnerable and need full, unbiased and discreet information about pregnancy termination. Media adverts may well be their only contact with information if it is seen as morally or religiously unacceptable within their families or social groups.

## **B. Direct referrals for abortion**

As proposed in section 11.11, the NSS agrees that adverts should make clear whether services can refer women directly for an abortion.

Some agencies that are pro-choice cannot refer as they are staffed by nurses and counsellors, not doctors. Other organisations are anti-abortion (so-called pro-life) and therefore will not refer for termination; this must be made clear in the advert.

Biased information from religiously funded or inspired organisations who will not refer and who value doctrine above a woman's health and rights over her own body must not be allowed to be presented as neutral. In some cases, women may be pressurized or misled with false claims<sup>5</sup> about the procedure and the consequences, both physical and mental. This may lead to abortions being delayed or not performed at all when this is not in the best interest of the woman or her own free choice.

Section 15.9 states: *Broadcast advertisements for bodies concerned with faith, religion or equivalent systems of belief have the potential to harm inter-faith relations and exploit the vulnerable, including the under 18s*

Religiously funded or motivated family planning organisations should be included in this group if their adverts seek to *exploit the vulnerable, including the under 18s*, by giving them religiously biased information or pressurizing them into making certain decisions - which is another reason adverts must make clear if agencies have the power to refer for abortions.

## **C. Potential offence**

*11.37 The nature of those centres has the potential to cause serious offence to viewers and listeners, especially those with intimate moral or religious convictions, no matter that the centres are mainly advisory; they do not carry out abortions.*

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<sup>5</sup> Some examples of false claims made by anti-abortion agencies include: 'post-abortion syndrome' (PAS) modelled on the idea of post-traumatic stress disorder. But because the function of PAS is to support anti-abortion legislation, then abortion must be made to look intrinsically harmful to women, but the most prominent emotion reported by women after abortion is relief; distress may be associated with not feeling supported by others in the decision. [http://www.prochoiceforum.org.uk/psy\\_ocr6.php](http://www.prochoiceforum.org.uk/psy_ocr6.php). Some also claim an increased risk of breast, cervical, ovarian and liver cancer.



The NSS does not believe that the potential for offence taken by religious or moral minorities, *however vocal they may be*, should be allowed to influence regulations made for the benefit of the population in general, or that religious groups should be allowed to expose vulnerable people to serious infections and pregnancy or to prevent abortions by denying access to information. We therefore support Section 11.39:

*BCAP considers that members of the audience who might be seriously offended by the nature of the advertised services are afforded adequate protection under rules that guard against offence and ensure that advertisements are suitably and sensitively scheduled. BCAP therefore proposes not to include a rule on services for pre-conception advice services; those will continue to be regulated by the general provisions of the Code and other relevant rules.*

### **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?*

#### **A. Relaxing restrictions**

The NSS agrees that current restrictions should be relaxed, with the stated proviso. Given that condoms are the most easily accessible form of protection against both unwanted pregnancy and STIs, particularly HIV/AIDS, the NSS supports the proposal of Question 147 of the consultation to extend advertising to before the 9pm watershed.

Our comments about pregnancy above are also relevant here. Rates of STIs are rising in all age groups, in young people<sup>6</sup> but also in older people who are not using condoms.<sup>7</sup> For cultural or religious reasons, older people who find themselves once more sexually active outside of a steady relationship may feel the need to conceal this and therefore not buy condoms; reminding them of the dangers of not doing so and the need for condoms is essential.

Advertising condoms more widely would help remove any taboo around them and make it easier for everyone, not just young people, to consider buying – and using – them. The adverts could provide valuable information to people of all ages living in communities where contraception (and sexual health in general) is not discussed or acceptable for cultural or religious reasons.

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<sup>6</sup> <http://www.medicalnewstoday.com/articles/115442.php>

<sup>7</sup> <http://www.privatehealth.co.uk/news/november-2008/condom-sti-40066/>

just 38.1 per cent of 35 to 44-year-old men and 28.8 per cent of women in this older age group claimed to use a condom when sleeping with a new partner.

Young people may not be getting the information they need about the consequences of not using condoms from their schools and people of all ages may be getting it weighted with (religious) moral prejudice and misinformation<sup>8</sup>. Wider advertising would help counteract this. It has been proven that abstinence, as promoted by some religious groups, is not effective in preventing sexual activity<sup>9</sup>. A secondary effect is that when people are sexually active, the pressure of their social or religious group makes them feel unable to buy condoms, thus increasing the likelihood of contracting an infection or getting pregnant. Wider advertising for condoms could help remove the stigma.

## **B. Potential for offence**

*32.27 The presence of condom advertisements on television continues to be a subject of complaint to the ASA, but numbers are very low. Nevertheless, BCAP has to balance public sensitivities against a public health problem that is clearly urgent.*

The NSS supports this assertion about the urgency of the problem. Without resorting to simplistic utilitarianism, the needs of the wider public must outweigh the demands of religious minorities that are based on faith rather than scientific evidence or realistic attitudes towards sexual behaviour. It should also be born in mind that many people do not share the beliefs and values of their families or communities that claim to speak for them in opposing advertising.

## **Responses to Questions 90, 91, 92, 93, 96ii**

### **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?*

The NSS agrees.

### **Question 91**

*Given BCAP's policy consideration, do you agree that 15.2.3 should apply to radio as it presently does to TV?*

The NSS agrees.

### **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*

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<sup>8</sup> Some groups are not just against condom use but actively misleading followers about their effectiveness. For example: <http://www.secularism.org.uk/catholicchurchwontchangeitspolic.html>

<sup>9</sup> <http://news.bbc.co.uk/1/hi/health/6927733.stm>

*recruitment or evangelism, are acceptable if that information is made clear in the advertisement?*

The NSS agrees.

**Question 93**

*Given BCAP's policy consideration, do you agree that present radio rules 3.10 and 3.11, of The BCAP Code Review 125 section 3, need not be included in the proposed Code?*

The NSS agrees

**Question 96**

- i) Given BCAP's policy consideration, do you agree that present TV rule 10.11 should not be included in the Code?*
- ii) Given BCAP's policy consideration, do you agree that 15.13 should be included in the Code?*

Part ii): The NSS agrees.

## **About the NSS**

The National Secular Society campaigns for a society in which everyone is free to practise their faith, change it or not have one, according to their conscience. Our beliefs or lack of them should not put us at an advantage or a disadvantage. Religion should be a matter of private conscience, for the home and place of worship; it must not have privileged input into politics, legislation, education or healthcare.

We fight to protect freedom of expression from attacks by religious groups, which often try to restrict debate or scrutiny of their activities.

We want to ensure that Human Rights always come before religious rights, and to fight the exemptions religious bodies are granted or try to demand from discrimination laws.

## **National Small-Bore Rifle Association response to the BCAP Code Review**

1. This response is from the National Small-bore Rifle Association to the BCAP Broadcast Advertising Standards Code and specifically, questions 55 and 56.

2. The National Small-bore Rifle Association is the National Governing Body for small-bore rifle and pistol, air rifle and pistol and match crossbow shooting. Through the federation of British Shooting it is recognised by the International Olympic Committee, the British Olympic Committee (BOC), the International Shooting Sports Federation and the Sports Councils of the four Home Countries, as being the relevant

National Body for 10 of 15 shooting events at the Olympic Games as well as World Cups and World Championships held throughout the world. The Association is a charity and its constituent clubs are entitled to seek Community Amateur Sports Club status.

3. The Association has over one thousand affiliated clubs and associations which between them have a membership in excess of one hundred thousand members. We apply strict codes of conduct to all who are in membership with us and are recognised by various organisations which include The Scout Movement, the Duke of Edinburgh

Award Scheme (for which we understand we are the only National Governing Body of Sport with Access recognition by them i.e. our Youth Proficiency Scheme) and The Cadet Movement, just to name a few.

4. We are concerned that your Consultation is inaccurate and will probably mislead those who are reading it. Our specific points are:

The Communications Act 2003 at 319(2) (a) states “that a person under the age of 18 should be protected”. There is no reason why young people of any age should not be allowed to participate in an Olympic Sport. Persons from the age of fourteen may in certain circumstances, have their own Firearm Certificate and certainly can shoot under suitable supervision.

At 319(2) (h) - It is a requirement that advertising must not be misleading. It is to be regretted that your Consultation fails that test.

10.8 is incorrect in law for an individual does not have to be a registered dealer to sell a firearm and ammunition to another person, provided the transferee is legally allowed to possess the firearms in question.

10.12 - The Violent Crime Reduction Act 2006 does not totally prohibit the manufacture or sale of realistic imitation firearms. There are a number of exceptions including film and television or re-enactment societies.

10.65 to 10.67 - You link firearms with weaponry and then go on to use the emotive phrase “offensive weapon”. The equipment our members use is not made or adapted to cause injury. It is not denied that it could do so if misused but so could the kitchen knife or the motor car.

10.7 - You state “a TV advertisement for a replica gun could be viewed as glamorising the use of real guns, which BCAP considers could cause serious or widespread offence to the audience.” We would ask what evidence you have as to the advertising causing widespread offence. Immediately following the Dunblane tragedy a poll of the public found that seventy-four per cent did not favour a ban but supported the status quo.

5. Given the inaccuracies in law or the bias in opinion, and having spoken to our legal advisors, we invite you to withdraw the Consultation Paper in so far as it relates to firearms and guns more widely, and to restart the consultation period for that discrete category of advertisement. Should you decline our invitation we together with the other National shooting organisations reserve the right forthwith without further notice to take action (including but not limited to judicial review proceedings) to quash the relevant part of the current Consultation and have it re-issued in the terms we seek.

6. Should you choose to follow the route you are proposing it will mean that there will be a ban on advertising the shooting events for the Olympic Games, the Paralympic Games and test events before the Games. This we feel sure would be a disappointment to the BOC and the London Olympic Committee for the Organisation of the Games (LOCOG)

7. Turning specifically to your questions:

Question 55 and 56 - We cannot agree with the existing prohibition on television advertising and request that this prohibition be removed. We see no reason why a legitimate Olympic sport should be singled out in this manner.

Dear Sir/Madam

On behalf of Nestle UK Ltd we would like to reply to your request for consultation feedback on your proposed revisions to the CAP and BCAP codes.

As a major advertiser in the UK we are supportive of the self-regulatory environment and as such we forwarded all the proposed changes to our expert approvers in the various functions within the Nestle Group and below you will find our consensus feedback.

We have now reviewed all the appropriate documents and sections in your consultation documents in their entirety and overall we find these changes to be both constructive and positive.

In a few specific cases we have singled out below, we have either specific comments and/or a few minor detail issues which we would like to have considered as part of your consultation which represent in our opinion as advertising practitioners matters worth further consideration:-

- **Part 2 Section 1 Compliance - Social Responsibility new rule**

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

We welcome this new addition to the code

- **Section 13 Food Dietary supplements and associated Health and nutritional claims- EU Health & Nutrition claims Regulation** We welcome the alignment with the EU Health & Nutrition claims Regulation, this correctly reflects the requirement of the NHCR (subject to the comments we have raised below about the 'transitional periods' and 'contains' claims), removing uncertainty and creates a true level playing field for making nutrition and health claims in advertisements.
- **Ref Question 78 / Section 13 -Nutrition and Health Claims**

- **Page 109 of full document 13.36 ref point 13.4** We understand the transitional period for health claims applies to health claims made before 1 July 2007 (not 19 Jan 2007 as stated in your proposed code)

- Also please note that a transitional period also exists for products bearing trade marks or brand names existing before 1 Jan 2005 which do not comply with the Reg but may be marketed until 19 Jan 2022 (this is not recognised in the proposed code)

- **13.4.1.** 'contains' claims apply to named nutrient or other substance - we believe this is not limited to just vitamins or minerals (as indicated in the proposed code).

- **New media concepts** - We welcome the introduction into the codes of new media concepts (e.g. viral marketing, texting, etc)
- **Sales Promotions** section -The current Codes of Practice are working well for Sales Promotion we agree with all the proposed changes



- **General rules** - *Any unreasonable delay in responding to the ASA's enquires may be considered a breach of the Code.* This is in the current code but we believe it would be useful to provide clarification to advertisers on what constitutes an "unreasonable delay"? In our experience preparing documents to respond to an ASA challenge can be time-consuming.
- **Substantiation** - *The ASA may regard claims as misleading in the absence of adequate substantiation* - We wish to clarify that full substantiation does not always need to be provided in the actual advert provided we hold this on file and have provided it in advanced clearance process with Clearcast
- **Truthfulness** - *claims must be based on normal use (of a product)* - We wish to clarify that our interpretation of this is this would mean normal use in line with manufacturers instructions/expectations for use of the product

We trust the above feedback on your code revisions will prove useful and remain at your disposal should you require further clarification on any of the above points.

Yours Sincerely,

*Duncan MacCallum*

Nestlé UK & I - Communications and Marketing Excellence Partner

# Netcollex Limited

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

Dear Sirs,

## The BCAP Code Review - Consultation on the proposed BCAP Broadcast Advertising Standards Code

After considering the response to this consultation by the industry trade body Aime we must agree wholeheartedly with their conclusions.

While we are not directly involved in broadcast we do work closely with a number of providers and are concerned at the effect this will have on the industry as a whole.

The Government's Department for Business Innovation and Skills lay out the principles of good regulation and we do not see how this consultation can be consistent with this.

To reclassify certain types of programming as teleshopping would only appear to make the regulatory process less accountable. These services are already heavily regulated under Ofcom and PhonePayPlus and surely you should be aiming to SIMPLYFY existing regulations not just add another layer.

The very motivation and timing behind the consultation is also questionable. Ofcom are looking at premium rate services and are yet comment. So, is it not rather strange that BCAP is not waiting to hear the result of their deliberations before publishing their code review? Have the public had their say? Has the industry had their say?

Whilst not in broadcast ourselves we are a part of the premium rate industry and have been for a number of years. We have always had a good relationship with both regulators and others in the industry. It is an industry that has been a prime driver of technology and had contributed untold millions to the Exchequer. We are also one of the most regulated countries in the world.

Registered in the United Kingdom No. 3792005  
Vat Registration No. 748 7316 01  
Director C. Sullivan

NetCollex Limited  
**NC**  
Transaction Services

We welcome good regulation but this must be proportionate. Proposals which wreck businesses and destroy jobs is not proportionate. Please show us the evidence of consumer harm and give us the legal justification for reclassifying certain services. You speak of "around 200 complaints" but this needs to be in context. There are professional complainants out there, there are religious groups who would never watch this sort of programming (be it adult or psychic) but who have a vested interest in seeing it closed down.

These services provide entertainment for a lot of people, pricing is transparent, thousands of jobs are created and a lot of money generated for the country and while we would always support initiatives that are consistent and targeted we cannot see that this process has been either.

The practical effect of the BCAP consultation will inevitably be to cause a great deal of damage to the adult and psychic sites which will have a knock-on effect to companies like ours who are already operating in extremely tough trading conditions, and having to make serious cuts to staff and other budgets.

There is a need for governments and industry to be seen to be working together to restore public confidence and we cannot see how the BCAP proposals can have anything but a negative effect of the industry, the Exchequer, the credibility of BCAP and most importantly, the consumer.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Robert Johnson', written over a horizontal line.

Robert Johnson

<b>CHILDREN AND YOUNG PEOPLE'S PARTNERSHIP BOARD</b>	<b>Item No. (Partnership Support will complete this)</b>
<b>CYPPB Meeting Date: 7<sup>th</sup> May</b>	<b>Report Author Jane Waite</b>
<b>Title of Report:</b>  <b>Advertising Standards Agency Consultation re condom and abortion services advertising</b>	<b>Board member Kate Yates</b>

### 1. Decision (s) required from CYPP Board

**That the Partnership agrees to the following as a decision from the CYPPB Northamptonshire contributing to the Advertising Standards Agency Consultation re condom and abortion services advertising**

- that the relaxation for advertising for Condoms takes place, and that the advertising is not in or adjacent to programmes commissioned for and principally directed at or likely to appeal to children below the age of 10.
- That advertisements for post-conception pregnancy advice services must make clear in the advertisement if the service does not refer women directly for abortion (***proposed television and radio rule 11.11***)

### 2. Plan Priority and Outcome Measure (s) to which the issue relates

- Teenage Pregnancy Strategy: Reduction in Under 18 Conception Rates by 50% by 2010.
- Reduction in repeat termination rate (currently 12% in under 19's)
- Impact on transmission of STI's

### 3. Background information

The Advertising Standards Agency consultation re condom and abortion services advertising concludes on the 19<sup>th</sup> June. Responses are being collated from all areas in the East Midlands including Northamptonshire to feedback to GOEM via the regional Teenage Pregnancy Lead.

Feedback to the National Site will also be undertaken:

- **Condoms**

The Rules on the scheduling of television advertisements presently state that condoms may not be advertised before 9pm, except on Channel 4 where the restriction is 7pm, subject to copy content. The present rule is intended to protect younger viewers from inappropriate advertising.

**We are asked to respond to Question 147 P 202 in the consultation:**

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.

- **Family Planning Services**

**We are asked to respond to Question 62 P 90 in the consultation:**

- 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
- ii) Advertisements for pre-conception advice services through the general rules only?
- iii) 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.

*Rule 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.*

**4. Recommendation(s) –**

That the Board approve the proposed changes and that the Teenage Pregnancy Coordinator represents their approval to GOEM and to the national consultation website.

## 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.

**(SEE ANSWERS TO Q55 and Q56 ONLY)**

## 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.

**No. Legally owned shotguns and firearms are used every day of the year to compete in sporting events and contribute to the economy of small medium and large companies. Marketing is the way that shooting ground owners and attract shooters to compete in legal events and should be able to advertise those legal events without hindrance. Legally held firearms and shotguns are not society's problem, it is illegally held shotguns and firearms.**

**BCAP should exempt gun clubs completely from the ban, as gun clubs promote proper and safe use of shotguns and firearms when done in accordance with national body recommendations (such as the CPSA, NSRA and NRA).**

#### 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.

**BCAP should exempt gun clubs and their events completely from the ban, as gun clubs promote proper and safe use of shotguns and firearms when done in accordance with national body recommendations (such as the CPSA, NSRA and NRA). Events in no way glamorize shooting, but promote safe and considerate use of what could be dangerous sporting equipment. Baseball bats and snooker balls are particularly dangerous sporting equipment, but have not similar ban.**

Clay shoots are regulated events and run in a controlled environment with proper safety zones. Shooters are mainly made to stand within protective cages that limit movement and the shooters ability to become unsafe. The proper use of shotguns and firearms should be encouraged and promoted, rather than leave a void for improper use of firearms and shotguns which is often promoted through news items.

#### 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.

#### **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?

**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.

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