

SECTION 20: MOTORING

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 (references to speed or acceleration) should be included in BCAP's new Code? If your answer is no, please explain why

<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; Charity Law Association;</p> <p>An organisation requesting confidentiality;</p> <p>An individual</p>	<p><i>Summaries of significant points:</i></p> <p><i>The respondents listed in the left hand column agreed with BCAP's proposals.</i></p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p><i>BCAP welcomes the respondents' comments.</i></p>
<p><i>Responses received against BCAP's proposal:</i></p> <p>STV</p>	<p><i>Summaries of significant points:</i></p> <p>1. STV and two individuals said: It is justified to maintain a rule that prohibits</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. The existing rule suggests that a reference to speeds over 70mph in a TV motoring ad would be</p>

<p>Two individuals</p>	<p>references to speeds of over 70mph.</p> <p>While we agree that the proposed drafting of rule 20.4 is more relevant regulation as it calls for a judgement call around speed generally and its relevant appropriateness, we question why then remove the prohibition on express referencing to speeds over 70mph – does it not make more sense to retain both?</p> <p>Speed kills. The more acceptable it seems to become, the more people will not hesitate to do it. We drive fast enough as it is.</p> <p>Since the law in the UK is a maximum speed of 70mph on roads, there is no justification for advertising higher speeds. To do so encourages irresponsible drivers to see if their vehicle can reach the advertised speeds, and therefore encourages them to break the law.</p>	<p>in and of itself irresponsible because it, for example, condones or encourages breaking UK speed limits.</p> <p>BCAP considered it did not follow that a mere reference to a speed over 70mph is necessarily irresponsible and, therefore, that the prohibition was unjustified. BCAP considered that a reference to a speed over 70mph might be acceptable depending on its context; for example, when referring to a car's top speed as part of a list of the car's characteristics.</p> <p>BCAP did not underestimate, however, the potential for references to speeds over 70mph to condone dangerous, irresponsible or inconsiderate driving or motorcycling. It therefore proposed to replace the existing rule with a rule that would ensure speed or acceleration claims are not presented as the main selling message or as a reason for preferring the advertised product. Rule 20.2 would ensure that no motoring ad would condone or encourage motorists to breach the legal requirements of the Highway Code, which include requirements that motorists must not break speed limits. All ads would also be subject to new rule 1.2, which will ensure ads are socially responsible.</p>
<p>Question 120: Given BCAP's policy consideration, do you agree that the Code should not grant an exemption from</p>		

<p>proposed rule 20.2 (condoning or encouraging breaches of the legal parts of the Highway Code) 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.</p>		
<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; Charity Law Association;</p> <p>2 organisations requesting confidentiality</p>	<p><i>Summaries of significant points:</i></p>	<p><i>BCAP's evaluation of those points and action points:</i></p>
<p><i>Responses received against BCAP's proposal:</i></p> <p>Charity Law Association</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Charity Law Association said:</i> Such an exemption would suggest that it was necessary, which must be in doubt. If advertising of this nature is a problem the rule could be modified to state that the fact that the pictured activity takes place out of the UK does not grant automatic exemption. The explanatory note in the existing rules is helpful.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP considers that new rule 20.2, which states advertisements must not condone or encourage a breach of the legal requirements of the Highway Code, is clear.</p> <p>The rule is much less prescriptive than the existing one, which states that all driving that appears to be on public roads or in public places should normally comply with the letter and spirit of the Highway Code unless a breach would have no direct safety implications. Instead, the new</p>

		<p>rule would ensure that ads do not condone or encourage driving practices illegal under the Highway Code.</p> <p>The existing rule focuses on the depiction of a driving practice and whether it would literally breach the Highway Code; the new rule does not refer specifically to the depiction of driving but instead would prevent any creative treatment that could condone or encourage the audience to breach the legal parts of the Highway Code. The exemption to the existing rule for the depiction of driving practices that do not take place in the UK and that would not, in real life, have direct safety implications, is therefore not relevant to the new rule.</p> <p>BCAP considers that an ad that, regardless of the location in which it is set, condoned or encouraged the audience to breach the legal requirements of the Highway Code, would be irresponsible.</p>
<p>Question 121:</p> <p>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?</p> <p>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</p>		

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?

<p><i>Responses received from:</i></p> <p>Advertising Association; Asda; Charity Law Association; Consumer Focus; Office of Fair Trading; RACC; Society of Motor Manufacturers and Traders;</p> <p>2 organisations requesting confidentiality</p>	<p>These organisations agreed the rules in the proposed Motoring section are necessary and easily understandable. Those respondents did not identify any changes from the present to the proposed rules that would amount to a significant change in advertising policy and practice, apart from those highlighted in the consultation document:</p> <p style="padding-left: 40px;">Advertising Association; Asda; Society of Motor Manufacturers and Traders; 2 organisations requesting confidentiality</p> <p><i>Summaries of significant points:</i></p> <p>1. <i>Charity Law Association said:</i> The definition should be modified to make it clear that the rules only apply to motoring on public roads or in public places.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. The new rules do not apply only to motoring on public roads or in public places. If an ad condoned or encouraged irresponsible driving, it would breach the BCAP Code; an ad could breach the Code without featuring a driving practice, for example, by virtue of an irresponsible voiceover. An ad could also breach the Code by featuring a driving practice that did not take place</p>
---	---	--

	<p>on a public road or in a public place but, nevertheless, condoned or encouraged irresponsible driving.</p> <p>2. <i>Charity Law Association said:</i> If the intention is to remove background notes, this would be retrograde.</p> <p>3. <i>Consumer Focus said:</i> Consumers want simple, meaningful and like-for-like comparisons. The absence of meaningful comparisons, the general proliferation of labelling schemes and comparisons that are not well understood (e.g. grams of CO₂/km on car ads) offer little or even undermine the relevance and usefulness of a green claim. In addition, the sheer amount of information may drown out the ability of consumers to make like-for-like comparisons and ceases to provide them with any useful means of differentiation.</p>	<p>2. BCAP's new simplified Motoring rules focus on preventing ads from condoning or encouraging irresponsible driving. It will consider the need to supplement the rules with guidance in due course.</p> <p>3. BCAP notes that printed ads and other "promotional literature" for new cars must include information about CO₂ emissions, required under a European Directive and translated into UK law through Regulations: the Passenger Car (Fuel Consumption and CO₂ Emissions Information) Regulations 2001 (as amended). There is no requirement for broadcast ads to include CO₂ emissions information under the Regulations. The Regulations are enforced by the Vehicle Certification Agency.</p> <p>BCAP considers it is neither the appropriate body to require mandatory CO₂ emissions information in broadcast ads, nor the appropriate body to require information to be presented in a format different to that required, by law, to be included in non-broadcast ads.</p>
--	--	---

	<p><i>4. Office of Fair Trading said:</i></p> <p>We commented on the CAP Code that we would prefer to see the present rule 48.7, in that Code, retained in the new code. (Rule 48.7 of that Code specifies that prices quoted should correspond to vehicles illustrated and that it is, for example, not acceptable to feature a top of the range model whilst quoting a starting price.) We explained that this rule represents, in our view, a useful illustration of the more general principles on omission of material information, and distortion of price statements, which are set out in the section on misleading (and which reflect the principles contained in the CPRs). We would prefer to see a similar rule included in the BCAP code, as for the CAP Code, for the same reasons. As with the CAP Code, we would suggest a slightly adapted version of the rule concerned, which would appear in the section on ‘misleading’ as a illustration of the more general rules (e.g. “thus, whilst this will depend on all the circumstances of an individual advertisement, it will generally be unlikely to be acceptable to feature...”).</p>	<p>The proposed BCAP Code includes rules in the Misleading Advertising and Environmental sections that ensure environmental comparison claims in ads are clear.</p> <p>4. BCAP considers the rules in the Misleading Advertising section would prevent motoring ads from including price claims that could mislead the audience by, for example, implying a top-of-the-range model is available at the starting price for that range. Given that the rules in the Misleading Advertising section will provide adequate protection from the mischief identified by the OFT, BCAP considers it is not necessary to include in the Code a rule specific to price claims in Motoring ads.</p>
--	--	---

	<p><i>5. RACC and RadioCentre said:</i> RACC queried whether rule 20.3 prevents factual statements by car ads such as “0-60mph in under 6 seconds” in isolation (where no safety features are mentioned alongside acceleration power).</p> <p>RadioCentre supported the proposed Motoring rules but also sought clarification that factual statements about, for example, a car’s acceleration or performance would be acceptable, even if they are not accompanied by mention of safety features.</p> <p><i>6. Society of Motor Manufacturers and Traders said:</i> SMMT and its members agree with the proposed changes and will continue to promote amongst its membership, with the help of the relevant organisations such as the Advertising Association, IPA, ISBA and the LowCVP, best practice dissemination.</p>	<p>5. BCAP considers that factual references to speed and acceleration would be permissible in motoring ads under the new rules providing that those references are not presented as the main selling message or as a reason for preferring the advertised vehicle (cf. new rule 20.4).</p> <p>Under the terms of new rule 20.3, a passing factual reference to a vehicle’s acceleration is unlikely to “demonstrate” that vehicle’s power, acceleration or handling characteristics. On that basis, a factual statement about acceleration would be permitted by new rule 20.3 as long as that statement did not suggest excitement, aggression or competitiveness and was accompanied by other statements about the vehicle’s specification.</p> <p>6. BCAP welcomes the SMMT’s comments.</p>
--	--	---