

## Summary of Responses to the CAP and BCAP Gambling Consultation and CAP and BCAP's consideration of those

SIGNIFICANT RESPONSES		EVALUATION	
Respondent(s)	Key Points	CAP & BCAP Comments	Drafting Change
<b>Q.1 Do you agree that the UK National Lottery should be regulated under the proposed non-broadcast and broadcast gambling advertising rules, subject to the exceptions made in the proposed rules and the possible exceptions raised in Questions 5 and 7? Or should the UK National Lottery be regulated under a separate set of rules?</b>			
1. Radio Centre, IPA, Rank, BACTA, Gala Coral Group, Salvation Army, PartyGaming, British Horseracing Board, Quaker Action on Alcohol and Drugs, Church of England, British Casino Association, Responsible Gambling Solutions, Betfair, Racing UK, BACC, Casino Operators' Association, Confidential respondent, Sky, Kerzner, Lotteries Council, RACC, Littlewoods Gaming, Methodist Church	<p><b>1.1 Yes, the UK National Lottery should be regulated under the proposed non-broadcast and broadcast gambling advertising rules.</b></p> <p>1.1 The good causes that benefit from sales do not negate the risks the NL carries for children, young persons and vulnerable adults.</p> <p>1.2 The NL is the most popular gambling activity with around 75% of adults participating. It is commonly cited in surveys as one of a range of gambling activities carried out by those who gamble excessively. Scratch cards are easily accessible and provide instant gratification.</p> <p>1.3 The objectives of the proposed rules are just as pertinent to the NL as to other operators.</p> <p>1.4 To create a level playing field with other lottery operators.</p> <p>1.5 Consumers are best served by one set of rules and one regulator to which to complain. For example, it is difficult to obtain copies of the NL Code of Practice.</p> <p>1.6 There was a proposal to move regulation of the NL to the Gambling Commission, which government rejected because of the NL's</p>	CAP and BCAP acknowledge the backing for the proposal to include the National Lottery within the CAP and BCAP gambling rules. The overwhelming majority of consultation respondents preferred that proposal and significant arguments have been made in support. But CAP and BCAP are mindful of the unique status of the National Lottery, which continues to be subject to unique regulation, administered by the National Lottery Commission, as highlighted in the Commission's consultation response. CAP and BCAP understand that the National Lottery is excluded from provisions on advertising in the Gambling Act. Because of that fact, CAP and BCAP consider there is no explicit public policy mandate to review the rules that apply to the advertising of the National Lottery; the Gambling Act has provided a clear mandate to review the advertising of other gambling products regulated by the Act. CAP and BCAP are, moreover, unaware of significant concerns about the way in which the National Lottery is presently advertised. On balance, CAP and BCAP have decided to exclude the National	<p><b>CAP Code Rule 54.1</b> The term "gambling" means gaming, betting, and participating in a lottery, as defined in the Gambling Act 2005, <del>the UK National Lottery</del> and spread betting. <b>This section does not apply to the UK National Lottery. The UK National Lottery is, however, subject to the rest of the Code.</b></p> <p><del>The UK National Lottery may be advertised under The National Lottery etc Act 1993 and The National Lottery Regulations 1994. Advertisements for the UK National Lottery are also subject to the National Lottery Advertising and Sales Promotion Code of Practice, approved by the National Lottery Commission.</del></p> <p><b>BCAP Radio Code Section 3 Rule 21 and BCAP TV Code Notes to Rule 11.6:</b> The term "gambling" means gaming, betting, and participating in a</p>

<p>2. National Lottery Commission</p>	<p>special role. There is no reason why that should extend to advertising regulation or why the NL operator should object to being regulated as described in the CAP and BCAP consultation.</p> <p><b>2. No. The National Lottery should be regulated by the general rules in the CAP and BCAP Codes and the present BCAP TV and radio rules on lotteries but not by the proposed non-broadcast and broadcast gambling advertising rules.</b></p> <p>2.1 There is regulatory demarcation between the NL and other forms of gambling. The NL was created by Act of Parliament and intended to have a special status in national life. It is fundamentally a public undertaking designed to raise funds for local projects and major investments that are a legacy for national heritage, including the 2012 Olympic Games.</p> <p>2.2 The NL Commission remains responsible for regulating the NL and its statutory duty is to exercise its functions in the manner most likely to secure that the NL is run with all due propriety; the interests of participants are protected; and subject to these duties that the net proceeds of the NL are as great as possible. That is different from the purpose of the GC. The NLC regulates NL advertising under the NL Advertising and Sales Promotion Code of Practice.</p> <p>2.3 The rationale for the proposed CAP/BCAP rules reflects the Gambling Act licensing objectives. Those do not apply to the NL.</p> <p>2.4 The GC's invitation to CAP to make rules on</p>	<p>Lottery from the CAP and BCAP gambling rules. The BCAP TV and Radio Codes, however, presently include specific rules, which cover the advertising of the National Lottery. Those rules are less numerous and less restrictive than the BCAP gambling rules. BCAP is mindful of that fact and the requirements of the Communications Act (art. 3(a)) and Better Regulation principles, which establish the principle that regulation should be consistent. BCAP has determined, therefore, to enter into dialogue with the National Lottery Commission about how the National Lottery is regulated under the BCAP Codes, mindful of the special status of the National Lottery and the principle of consistency in regulation. The CAP rules do not presently include specific rules for the National Lottery. But CAP is mindful that, under the Better Regulation principles, regulation should be consistent, joined up and fair. CAP has determined, therefore, to also enter into dialogue with the National Lottery Commission about how the National Lottery is regulated under the CAP Code, mindful of the special status of the National Lottery and the principle of consistency in regulation.</p> <p><b>FROM HERE, REFERENCES TO LOTTERIES APPLY TO ALL LOTTERIES EXCEPT THE NATIONAL LOTTERY.</b></p>	<p>lottery, as defined in the Gambling Act 2005, <del>the UK National Lottery</del> and spread betting ...</p> <p><b>This Code section does not apply to the UK National Lottery (see Section X Rule Y).</b> <del>may be advertised under The National Lottery etc Act 1993 and The National Lottery Regulations 1994. Advertisements for the UK National Lottery are also subject to the National Lottery Advertising and Sales Promotion Code of Practice, approved by the National Lottery Commission.</del></p>
---------------------------------------	--	---	---

3. Camelot	<p>non-broadcast gambling advertising does not extend to the NL. Any amendments to the CAP Code should be subject to separate consideration and public consultation, with the full involvement of the NLC.</p> <p>2.5 Under contracting out from Ofcom, BCAP is responsible for regulating all broadcast advertising. But the consultation does not identify any potential detriment from the way the NL is presently advertised or that that will change to justify applying new rules. Any amendments to the existing BCAP rules should be subject to separate consideration and public consultation, with the full involvement of the NLC.</p> <p><b>3. No. The National Lottery should be regulated by the general rules in the CAP and BCAP Codes only and not by the present BCAP TV and radio rules on lotteries or by the proposed non-broadcast and broadcast gambling advertising rules.</b></p> <p>3.1 The NL has been proven to have a very minimal social impact compared to other forms of gambling. Of the callers to the GamCare helpline who disclosed activity in 2005, 0.84% attributed problems to draw-based lottery games and 1.76% attributed problems in relation to scratchcards (including non-National Lottery products). The latest statistics are down year-on-year.</p> <p>3.2 Regulatory demarcation between the NL and the gambling sector is a long-standing public policy position. The NL and GC have fundamentally different purposes and duties.</p>		
------------	---	--	--

<p>4. ISBA, AA.</p>	<p>3.3 Applying the CAP/BCAP gambling rules to the NL would create double regulation and risk of inconsistency/duplication. The NLC regulates NL advertising under the NL Advertising and Sales Promotion Code of Practice. The specific BCAP provisions that presently apply to the NL duplicate the NL Code but, because they are limited in scope, that has not caused problems. The proposed rules are extensive and have been drafted to deal with the untested deregulation of other gambling sectors.</p> <p>3.4 The NL is not generally regulated under the Gambling Act. Changes to the BCAP seem hard to justify under the Communications Act.</p> <p><b>4. It is for the National Lottery Commission to decide if the National Lottery operator should be regulated under the proposed non-broadcast and broadcast gambling advertising rules.</b></p> <p>3.1 The NL is subject to different legislation and statutory regulation than other gambling operators.</p> <p>3.2 The NLC is the relevant statutory regulator and must decide whether the proposal is in the best interests of the institution for which it is responsible.</p> <p>3.3 If the NLC recognises the ASA as the “established means” of regulating NL advertising, the NLC and ASA must draw up case-handling principles on advertising complaints so the operator does not experience regulatory double jeopardy. Those already exist between the ASA and other</p>		
---------------------	--	--	--

5. Chrysalis.	<p>sectoral regulators with their own advertising codes, such as the Medicines &amp; Healthcare products Regulatory Agency (MHRA), which applies <i>The Blue Guide</i>.</p> <p><b>5. The National Lottery should continue to be regulated under the present specific lottery rules and the general rules in the CAP and BCAP Codes.</b></p> <p>5.1 We have no strong conviction the present regulatory situation needs to change.</p>		
<b>Q.2. Do you agree that the proposed CAP and BCAP gambling rules will secure the objectives set out in the Gambling Act 2005?</b>			
1. Radio Centre, IPA, Rank, Gala Coral Group, PPA, Salvation Army, PartyGaming, British Horseracing Board, Chrysalis, British Casino Association, Responsible Gambling Solutions, Advertising Association, Racing UK Ltd, BACC, Confidential respondent, Kerzner, Lotteries Council, RACC, Littlewoods Gaming, Methodist Church.	<p><b>1. Yes, the proposed CAP and BCAP gambling rules will secure the objectives set out in the Gambling Act 2005.</b></p> <p>1.1 They will compliment the Gambling Commission's statutory requirements and guidelines to gambling operators.</p> <p>1.2 CAP and BCAP have done all that is possible to ensure that the objectives have been met within a framework of less restrictive advertising.</p> <p>1.3 Because the objectives are open to interpretation by the ASA, their importance and centrality to the rules should be left in no doubt.</p> <p>1.4 Yes, but we are concerned that the rules go further than the legislation requires, to the likely</p>	<p>To reflect the Gambling Act 2005 definition of a gambling ad, CAP proposes to make a change to the CAP Code shown in the next column, in line with the proposed BCAP rules.</p> <p>1.1 We agree.</p> <p>1.2 We agree.</p> <p>1.3 We consider the rules are a proportionate articulation of the objectives. They are structured with general principles followed by specific rules falling within their scope, and the ASA is used to working with that format.</p> <p>1.4 We consider the rules are a proportionate articulation of the</p>	<p><b>CAP Code 54.3(c): Unless they portray or refer to gambling,</b> These clauses do not apply to marketing communications for non-gambling leisure <b>events or</b> facilities, for example hotels, cinemas, bowling alleys or ice rinks, that are in the same complex as, but separate from, gambling <b>events or</b> facilities.</p>

<p>2. BACTA, ABB, Quaker Action on Alcohol and Drugs, Church of England, Good Corporation, At the Races.</p>	<p>detriment of commercial free speech and creativity. The rules have a moral element to them, which is subjective. We look forward to guidance on the new rules.</p> <p>1.5 Yes, but parts of the rules are overly prescriptive and inflexible and focus on the creative content of ads, which could prevent advertising that is compatible with the core objectives, especially regarding parody and humour. Other parts are extremely wide and open to interpretation (and must be followed in “both letter and spirit”). This could place UK licensed operators in breach inadvertently of an amendment to a voluntary code, carrying criminal sanctions if compliance is a Gambling Commission licensing condition. That is disproportionate except in extreme circumstances or for persistent breaches.</p> <p>1.6 Yes, but we are concerned that the backstop regulators for referral of serious breaches of BCAP codes and CAP codes are different bodies (Ofcom and the Gambling Commission). The Gambling Commission should be the backstop regulator for breaches of the BCAP and CAP gambling advertising codes.</p> <p><b>2. No, the proposed CAP and BCAP gambling rules will not secure the objectives set out in the Gambling Act 2005.</b></p> <p>2.1 The policy objectives reflect the Commission’s duty under the Act to permit gambling and should support access to information that</p>	<p>objectives; the rules reflect the standards of the law, adapted to the context of advertising. Many rules in the CAP and BCAP Codes inevitably have a subjective element and the ASA is used to applying a properly moderated approach to those rules and its work generally.</p> <p>1.5 We consider the rules are proscriptive where it is necessary and proportionate to the Act’s objectives for them to be so. They reflect, rather than go beyond, the objectives of the Gambling Act. We consider the rules are not unduly prescriptive; they allow for plenty of creative freedom. See also 1.4 above. It is for the Gambling Commission to decide what status it wishes to give the CAP and BCAP Codes in the first instance.</p> <p>1.6 The Gambling Commission is the backstop regulator for both the CAP and BCAP Codes, as regards the advertiser. Ofcom is the backstop regulator for the BCAP Code as regards the Ofcom-licensed broadcaster only.</p> <p>2.1 Ads for category D gaming machines may be aimed at families with children; they may not be aimed at</p>	
--	---	--	--

	<p>facilitates gambling activity; there is no reason under the Act why a gambling ad for Category D machines should not be aimed at families and children.</p> <p>2.2 If advertising is to be permitted, the rules should prohibit placing ads outside socially sensitive locations, e.g. Jobcentres.</p> <p>2.3 No regarding protecting children and the vulnerable. The purpose of advertising is to increase the numbers participating in an activity, and the general evidence indicates that when more gambling takes place, problem gambling also increases, particularly among less advantaged members of society. Research and precedent in the alcohol and tobacco fields indicate that advertising is particularly effective at increasing consumption from a low base or when previously restricted markets are opened. A precautionary approach is the most advisable. If the principle the “reduction of harm should take precedence over the maximisation of innovation, consumer choice and economic gains” were fully adopted, mass-media advertising (particularly in broadcast form)</p>	<p>children only. We consider that that restriction is proportionate to the objectives of the Act.</p> <p>2.2 The CAP Code requires advertisers to be mindful of the context in which an ad is placed and the ASA is obliged to consider the particular circumstances of each ad, including the context in which an ad is featured, when it considers conformity with the spirit and letter of the Code. Moreover, we consider that the rules ensure that ads for gambling are socially responsible with particular regard to the protection of children and vulnerable people. The rules will ensure, for example, that gambling is not portrayed as a solution to financial concerns.</p> <p>2.3 We consider that the rules ensure that ads for gambling are socially responsible with particular regard to the protection of children and vulnerable people. The rules will complement additional consumer protection measures required by the Gambling Act and carried out by the Gambling Commission. We have used evidence-based regulation when drafting the rules, rather than the alternative precautionary principle. We consider that is in line with the Communications Act and the Gambling Act. We will review compliance as part of a general review of the gambling rules.</p>	
--	--	--	--

3. National Lottery Commission.	<p>would be allowed only cautiously and in a phased way because it would be difficult to reverse. We are glad that this principle will apply at least to more specific decision-making.</p> <p>2.4 The rules represent a serious and thorough attempt to secure the objectives but they, especially the third (“<i>ensure</i> that no advertisement harms or exploits children and young persons or vulnerable adults” rather than “<i>aim to ensure...</i>”), are ambitious, and we doubt whether the admirable principles in the rules can be guaranteed in practice.</p> <p><b>3. No comment</b></p> <p>3.1 The objectives set out in the Gambling Act do not apply to the NL.</p>	<p>2.4 We consider the rules are a proportionate articulation of the objectives and that the ASA is robust and thorough in its application of the Codes.</p> <p>3.1 We agree in terms of the technical accuracy of that statement.</p>	
<b>Q.3. Do you agree that the proposed BCAP rules have regard to the principles and standards objectives set out in s.3 and s.319(2) of the Communications Act 2003?</b>			
<p>1. Radio Centre, IPA, Rank, Gala Coral Group, PartyGaming, British Horseracing Board, Chrysalis, British Casino Association, Responsible Gambling Solutions, Advertising Association, Racing UK Ltd, BACC, confidential response. Sky, At the Races, Kerzner, Lotteries Council, RACC, Littlewoods Gaming.</p> <p>2. Casino Operators</p>	<p><b>1. Yes, the proposed BCAP rules have regard to the principles and standards objectives set out in s.3 and s.319(2) of the Communications Act 2003.</b></p> <p>1.1 The ASA has a long history of transparency, accountability and proportionality. ASA adjudications have consistently met the requirements of s.319(2) in other areas of advertising and there is no reason to doubt that both bodies will be equally as effective in the area of gambling advertising.</p> <p><b>2. No, the proposed BCAP rules do not have</b></p>	<p>1.1 BCAP agrees.</p>	



Association	<p><b>regard to the principles and standards objectives set out in s.3 and s.319(2) of the Communications Act 2003.</b></p> <p>2.1 Persons under 18 are not properly protected. The age limit for targeting lottery, football pool and FEC ads should be 18 and not 16.</p>	<p>2.1 The BCAP rules ensure that all advertisements for gambling products and services (as defined by the Gambling Act) do not appeal particularly to under 18s. That restriction ensures under 18s are protected. BCAP considers, however, that it is proportionate to the risks posed and to the rights granted in the Gambling Act for lottery, football pool and FEC advertisements to be scheduled adjacent to programmes of particular appeal to 16 year olds and above.</p>	
<b>Q.4 Do you consider that the general principles set out in the proposed gambling rules are suitable?</b>			
<p>1. Radio Centre, IPA, Rank, Gala Coral Group, Salvation Army, Periodical Publishers Association, PartyGaming, British Horseracing Board, Chrysalis, British Casino Association, Responsible Gambling Solutions, Good Corporation, Advertising Association, Racing UK Ltd, BACC, Casino Operators' Association,</p>	<p><b>1. Yes, the general principles set out in the proposed gambling rules are suitable.</b></p> <p>1.1 We interpret "suitable" to mean "reasonable" as regards the regulator, the customer and the operator. We believe the principles are suitable/reasonable and mirror the standards in the proposed code rules and the Gambling Commission's licensing objectives.</p> <p>1.2 Yes, but we would welcome the addition of a principle that the potential harms of gambling should be communicated in gambling adverts.</p> <p>1.3 Ads should be socially responsible and above economics - but not to the exclusion of economics. The proposed rules would outlaw a</p>	<p>1.1 We agree.</p> <p>1.2 We consider educational messages or warnings should not be required in the absence of evidence that that would be effective – see Q.11.</p> <p>1.3 We consider the rules are a proportionate articulation of the Act's objectives. They are not unduly</p>	

<p>Confidential response, Sky, At the Races, Kerzner, Lotteries Council, Littlewoods Gaming, Methodist Church, RACC.</p>	<p>number of ads that are acceptable under the 1968 Act, which is restrictive. The 2005 Act is supposed to liberalise gambling not require every ad to look the same. Any good ad will breach the new rules if the most vulnerable person is taken into account.</p>	<p>prescriptive; they allow for plenty of creative freedom. Furthermore, the rules take account of legitimate commercial concerns, as evidence by our policy consideration of broadcast scheduling and non-broadcast placement rules.</p>	
	<p>1.4 We are generally pleased with the careful and extensive range of rules and consider them to be suitable, necessary and important. We would not wish to see any of them removed as a result of representations made to CAP or BCAP. CAP rule 54.4(a): the 'catch all' phrase <i>socially irresponsible</i> should be replaced by <i>excessive</i>. Social irresponsibility is difficult to determine and is comprehensively covered under the full range of the advertising rules. A constant advertising message that suggests people should gamble within their means and with money they can afford to lose will help achieve the Gambling Act's objective of encouraging responsible gambling.</p> <p>1.5 Yes, but the scope of enforcement concerns us if problem gambling is to be adequately tackled.</p>	<p>1.4 We consider the rules are a proportionate articulation of the Act's objectives. We consider social responsibility is a more meaningful umbrella term for the detailed rules that fall below it; those rules restrict "excessive" advertising, in terms of content, but also restrict ad treatments that are not covered by the principle of "excess". We consider the proposed rules will ensure gambling ads do not suggest anyone should gamble beyond their means.</p> <p>1.5 The ASA is used to applying a properly moderated approach to its work, taking into account the legitimate concerns of consumers and industry. We consider there is a robust and effective range of enforcement mechanisms in place regarding both advertisers and media owners.</p>	
<p>2. ABB, Individual (Mr C.), Church of England, BACTA</p>	<p><b>2. No, the general principles set out in the proposed gambling rules are not suitable.</b></p> <p>2.1 They should include compliance with the principles of Better Regulation and the</p>	<p>2.1 The rules take those considerations into account.</p>	

	<p>Commission's binary duty to permit gambling and to promote the licensing objectives.</p> <p>2.2 It is almost impossible to promote gambling in a "socially responsible" way because ads aim to encourage people to gamble and to gamble more and the gambling industry relies on people losing money most of the time. Advertising can only lead to more problem gambling, contrary to one of the main reasons for introducing the Gambling Bill and in a context of existing social problems like debt, bankruptcy and alcohol and drug use.</p> <p>2.3 We are not in favour of relaxing advertising restrictions, in the same way as smoking is viewed as harmful and its advertising is banned. If it is to be permitted, the location of advertising is crucial. These should be excluded: public transport because ads are highly accessible to young people e.g. travelling to school for free on London Transport; in close proximity to 'socially sensitive' locations e.g. job centres, gambling treatment or debt advice centres, probation hostels, courts fines units, citizens' advice bureaux. Can this be delegated to local authorities with knowledge of their areas? Has it been considered in conjunction with the Gambling Commission's Guidance to Licensing Authorities team, which has given local impact considerable thought?</p> <p>2.4 "Suitable" must include likely effectiveness in practice. We endorse the general principles but we are concerned about their applicability because they require advertisers to refrain from commending their product in particular ways and to seek to prevent effects that may not be within their control.</p>	<p>2.2 We consider that the rules ensure that ads for gambling are socially responsible with particular regard to the protection of children and vulnerable people. The rules will complement additional consumer protection measures required by the Gambling Act and implemented by the Gambling Commission.</p> <p>2.3 We consider it is inappropriate to draw parallels between gambling and smoking. Public policy on those products is separate and distinct. The Codes require advertisers and broadcasters to be mindful of the context in which an ad is placed and the ASA is obliged to consider the particular circumstances of each ad, including its context, when it considers conformity with the spirit and letter of the Code. The ASA is used to applying a properly moderated approach to its work, taking into account the legitimate concerns of consumers and industry.</p> <p>2.4 We consider the ASA is used to applying a properly moderated and commonsense approach to its work. Advertisers cannot be expected to take into account every individual's reactions to an ad. The ASA is obliged to consider the particular</p>	
--	---	---	--

		circumstances of each ad, including the context in which an ad is featured, when it considers conformity with the spirit and letter of the Code.	
<b>Q.5 Do you consider that the proposed rules on the appeal of the content of gambling advertisements are suitable? Because their purpose is to raise funds for good causes, should the minimum age of appeal for lotteries be 16?</b>			
1. Radio Centre, IPA, Rank, Carlton Bingo, Lord Lipsey, ABB, Gala Coral Group, Individual (Ms T.), Salvation Army, Periodical Publishers Association, PartyGaming, British Horseracing Board, Evangelical Alliance, Quaker Action on Alcohol and Drugs, Church of England, British Casino Association, Responsible Gambling Solutions, Advertising Association, ISBA, BACC, Casino Operators' Association, Sky, At the Races, Kerzner, Littlewoods gaming, Methodist Church	<p><b>1. Yes, the proposed rules on the appeal of the content of gambling advertisements are suitable.</b></p> <p>1.1 Yes, but in practice, little distinction can be made between likely particular appeal to over 16s and to over 18s in respect of scheduling. (Radio Centre).</p> <p>1.2 Raising the age limit of appeal of content to 18 will help provide a level playing field for all industries whose ads are caught by the gambling advertising rules.</p> <p>1.3 Because ads aimed at 18 year olds will be equally attractive to 15 or 16 year olds, age 21 would be preferable.</p> <p>1.4 Yes, but we are concerned by the prohibition on "<i>association with youth culture</i>" because that is extremely subjective. Many celebrities (e.g. from television, sports or music) are associated</p>	<p>1.1 BCAP considers there are occasions when there is a marked difference in viewer or listener profile and, because broadcasters have access to audience data and the reasons underpinning commissioning decisions, they should be given the flexibility to use that information.</p> <p>1.2 We consider the single age limit of appeal of content will, above all, ensure that all ads are socially responsible as regards children and young people.</p> <p>1.3 The BCAP rules ensure that all advertisements for gambling products and services (as defined by the Gambling Act) do not appeal particularly to under 18s. That restriction, supported by complimentary rules, ensures under 18s are protected.</p> <p>1.4 We consider it is legitimate for advertisers to target 18 year olds and above. Advertisers are appropriately restricted in this regard by the</p>	

	<p>with “youth culture”. Activities such as computer games and consoles, sports and fashion trends may be associated with “youth culture” (indeed such associations are often created by marketers), but are aimed at adults. In particular, the Note to proposed BCAP TV rule 11.6.2(b) is disproportionate. We understand the appeal of footballers to the young but we cannot see why this should be a special case and ask you to consider the impact this may have on football sponsorship arrangements. Concerns about the targeting of children and the young are already covered in numerous places within the content and scheduling rules.</p> <p>1.5 But their likely impact is unclear because of inequalities in human development.</p> <p>1.6 The proposal to harmonise age of appeal at 18 is demonstrative of a socially responsible approach.</p>	<p>requirement not to appeal particularly to people under 18. Moreover, the rules provide that nobody under 18 can feature in an ad and nobody who is or seems to be under 25 can be shown playing a significant role. We consider the rules will ensure ads for gambling are socially responsible with particular regard to the protection of children, young people and vulnerable people.</p> <p>1.5 Many rules in the CAP and BCAP Codes inevitably have a subjective element and the ASA is used to applying those in a reasonable and proportionate manner. In terms of appeal to under 18s, the test is not, for example, whether an ad makes an association with youth culture, but whether, taken in its entirety, an ad for a gambling product appeals particularly to under 18s. BCAP considers the Note to proposed BCAP TV rule 11.6.2(b) should be removed from the Code and advice on interpretation of the BCAP rules should be provided in separate guidance.</p> <p>1.6 The ASA is used to applying a properly moderated approach to its work, taking into account the legitimate concerns of consumers and industry. The ASA will assess conformity with the Code according</p>	<p><b>BCAP TV Code 11.6.2(b)</b>  Advertisements for gambling must not be likely to be of particular appeal to children or young persons, especially by reflecting or being associated with youth culture.  <b>Note to 11.6.2(b)</b>  <del>Please refer to the BCAP Rules on the Scheduling of Television Advertisements for scheduling restrictions. Football players may appear in football pools advertisements only in footage of actual play, in which case no individual may receive prominence. This restriction does not apply to players who have been retired for at least one full season, unless they retain their appeal to children or young persons.</del></p>
--	--	--	---

<p>2. Chrysalis, Confidential response, Lotteries Council, RACC, BACTA, Good Corporation, Satellite and Cable Broadcasters Group</p>	<p>1.7 If government makes certain types of gambling legal for those below age 18, then it should be parents who determine how, or not, children and young persons are made aware of it, not ads that are not adapted to the individuals targeted.</p> <p><b>2. No, the proposed rules on the appeal of the content of gambling advertisements are not suitable.</b></p> <p>2.1 It is very difficult, for the purposes of radio advertising, to distinguish between audiences that contain a high proportion of 16 year olds, and those with a high proportion of 18 year olds. We are not aware of any evidence that the current regulations have been detrimental to consumers. Consistency between broadcast and non-broadcast rules should only be sought when there is a justifiable reason.</p> <p>2.2 The minimum age of appeal should be the legal age of participation.</p>	<p>to an ad's likely impact on the average consumer or the average member of a certain group of consumers, when taken as a whole and in context.</p> <p>1.7 We consider the rules address that concern by providing that gambling ads must not be of particular appeal to under 18s.</p> <p>2.1 The scope to advertise certain forms of gambling will be increased under the Gambling Act and we consider it is necessary to ensure that none <i>particularly</i> appeal to under 18s. The rules do not distinguish between gambling products and services in terms of the appeal of content; they do in terms of the scheduling or placement of gambling restricted to 16 year olds and above and 18 year olds and above (see 1.1, of this section).</p> <p>2.2 We consider that socially responsible advertising should not particularly appeal to under 18s. The scope to advertise certain forms of gambling will be increased under the Gambling Act and CAP and BCAP consider it is necessary to ensure that none <i>particularly</i> appeal to under 18s.</p>	
--	--	--	--

<p>3. Good Corporation, Confidential response, Satellite and Cable Broadcasters Group, RACC, Littlewoods Gaming, Methodist Church, Racing UK Ltd</p>	<p>2.3 The 18 age limit is inconsistent with rights under the Gambling Act regarding children and Category D machines. It should be clear that any action permitted under the Act can be advertised. If a child is permitted to play a Category D machine in an FEC, an ad can communicate directly with a child and feature a child in respect of Category D machines. Cartoons etc that reflect children's culture are often used in ads in other sectors to communicate in a nostalgic way to adults. The offences are clearly set out in Part 4 of the Act and if Parliament had intended there to be additional safeguards they would be contained there. The rules include exemptions for bingo, lotteries and football pools; they should not be given an unfair competitive advantage, contrary to rights in the Act. If in the future there is evidence that additional protections are required, that will be a matter for the regulator.</p> <p><b>3. Yes, because their purpose is to raise funds for good causes, the minimum age of appeal for lotteries should be 16.</b></p> <p>3.1 Lotteries Council: because we are strongly against underage gambling, it is doubtful any lottery ads would be targeted specifically at 16-18 year olds. But advertisers should be allowed to aim lottery ads at their entire customer base, including 16 year olds, so that charities are not penalised for appealing to as many people as legally possible.</p> <p>3.2 The minimum age of appeal should be the legal</p>	<p>2.3 CAP and BCAP consider the rules provide a balance between the rights granted under the Gambling Act and the licensing objective of ensuring that children are protected. The rules mean that a FEC ad may have general family appeal, provided it does not appeal to under 18s more than to anyone else; it may be scheduled around programmes or placed around material of appeal to those aged 16 and over;, and a family may be shown, provided no-one under 18 is shown gambling or playing a significant role. The aim is to ensure that it is parents or guardians who decide if and how their children use FECs, rather than ads speaking directly and mainly to children.</p> <p>3.1 We consider the rules provide a balance between the rights granted under the Gambling Act and the licensing objective of ensuring that children are protected. The rules mean that a lottery ad may have general appeal and may be scheduled around programmes or placed around material of appeal to those aged 16 and over, in line with the legal age of play.</p> <p>3.2 See 3.1 above.</p>	
--	---	---	--

<p>4. Lord Lipsey, ABB, Gala Coral Group, Individual (Ms. T.), Salvation Army, Periodical Publishers Association, Evangelical Alliance, Quaker Action on Alcohol and Drugs, Church of England, British Casino</p>	<p>age of participation, so 16 for lotteries.</p> <p>3.3 There will be little distinction in practice on radio between ads that appeal to over 16s and those that appeal to over 18s. Consistency between broadcast and non-broadcast rules should only be sought when there is a justifiable reason. Current policy has not been shown to be detrimental.</p> <p>3.4 The Government has accepted that there is a spectrum of social risk associated with gambling. It has acknowledged that the NL, society lotteries and football pools are at the soft end of that spectrum, which is why 16s and over are allowed to take part in addition to adults. The <i>purpose</i> of those activities is irrelevant here; it is dangerous to start to differentiate and justify activities with an attached risk because they are “in a good cause”.</p> <p>3.5 Young people should not be drawn into problem gambling; the use to which profits are put is irrelevant.</p> <p><b>4. No, the minimum age of appeal for lotteries should not be 16 because their purpose is to raise funds for good causes.</b></p> <p>4.1 Exceptions should not be made for the NL because revenues go to good causes. That is not exclusive to the NL.</p> <p>4.2 If there is a danger of children or young people being harmed by certain forms of advertising, it is illogical to expose them to risk because of the</p>	<p>3.3 We consider the rules provide a balance between the rights granted under the Gambling Act and the licensing objective of ensuring that children are protected.</p> <p>3.4 We agree it is necessary to ensure advertising rules are proportionate to risks posed to children and the vulnerable. We have built limited exceptions into the rules on that basis, i.e. the age of those featured incidentally and the minimum age for scheduling.</p> <p>3.5. We agree and consider the rules provide a balance between the rights granted under the Gambling Act and the licensing objective of ensuring that children are protected.</p> <p>4.1 See the evaluation of Q.1 on the NL.</p> <p>4.2 We agree it is necessary to ensure advertising rules are proportionate to risks posed to children and the</p>	
---	--	---	--



Association, Responsible Gambling Solutions, Advertising Association, Racing UK Ltd, Casino Operators' Association	<p>application of the proceeds.</p> <p>4.3 The NL may raise money for good causes but an important motivation for buying a lottery ticket is the hope of winning a prize. Giving to charity is best done through direct donation.</p> <p>4.4 A 16/17 year old is susceptible to opportunities to take part in adult activities but has not yet learnt the responsibility that goes with that freedom. Pitching the appeal of the content of the NL at 16/17 year olds would undermine the objective of protecting children and young persons.</p>	<p>vulnerable.</p> <p>4.3 See the evaluation of Q.1 on the NL.</p> <p>4.4 See the evaluation of Q.1 on the NL.</p>	
<b>Q.6 Do you agree that the minimum age limit for people featured incidentally in gambling advertisements (as opposed to those featured gambling or playing a significant role in the advertisement) should be set at 18 years? Do you agree that it is proportionate to make exceptions for (a) family entertainment centres and travelling fairs and (b) lottery products? Should other exceptions be made?</b>			
1. Radio Centre, IPA, BH&HPA, Rank, ABB, Gala Coral Group, Individual (Ms. T.), Salvation Army, PPA, PartyGaming, British Horseracing Board, Evangelical Alliance. Church of England, British Casino Association, Responsible Gambling Solutions, Good Corporation, Advertising Association, ISBA, BACC, Sky, At the Races, Kerzner, RACC, Littlewoods Gaming, Confidential response,	<p><b>1. Yes, the minimum age limit for people featured incidentally in gambling advertisements (as opposed to those featured gambling or playing a significant role in the advertisement) should be set at 18 years</b></p> <p>1.1 We are concerned about children photographed in merchandise with an ad for gambling companies and such photos being used on websites or other media. This is particularly a problem with UK football clubs. Through their marketing or sponsorship agreements they allow football strips bearing the logo of the gambling sponsor to be sold to children and allow a photograph of the child wearing the shirt to be put on the football website. In light of the Gambling Act's objectives, this sort of marketing practice is questionable and should be restricted under the ad rules.</p>	<p>CAP and BCAP have amended a rule to ensure that "include" is used consistently when referring to the incidental portrayal of under 18s and "featured" is used consistently in the sense of "featured playing a significant role".</p> <p>1.1 Neither CAP or BCAP's remit extends to editorial content on websites. The CAP Code does, however, cover third party advertising and sales promotions on websites; those marketing communications would be caught by CAP's gambling rules, which prevent the use of under 18s in gambling ads for products and services that are not exempted from this rule.</p>	<p><b>CAP Code 54.4(n), BCAP Radio Code 21.1(b) and BCAP TV Code 11.6.2(c):</b> Marketing communications/Advertisements should not <del>feature</del><b>include</b> a child or young person. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role. No-one may behave in an adolescent, juvenile or loutish way.</p>

<p>2. Chrysalis, Casino Operators' Association, Methodist Church, Quaker Action on Alcohol and Drugs, Racing UK Ltd</p>	<p>1.2 But we are unsure what the Rules seek to achieve with the prohibition on “adolescent, juvenile or loutish” behaviour – an ad that pokes fun at adults could be restricted. The terminology is very subjective. “Anti-social behavior” is already covered by rule 11 of the CAP Code.</p> <p><b>2. No, the minimum age limit for people featured incidentally in gambling advertisements (as opposed to those featured gambling or playing a significant role in the advertisement) should not be set at 18 years</b></p> <p>2.1 It would be better for the BCAP rules on those featured or playing a role to be written in terms of perceived maturity of behaviour and voice. We would prefer a less wordy style of regulation that focused on the perception of the ad as a whole to ensure gambling ads do not appeal to a younger audience.</p> <p>2.2 Any appearance of visibly young people would be likely to appeal to younger audience. The minimum age of those incidentally portrayed or featured in a gambling ad should be 25 for all gambling products.</p> <p>2.3 18 year olds can look and act like and be emulated by younger adolescents, and it might be hard to distinguish who looks 18, or 17, or</p>	<p>1.2 That rule seeks to ensure that, even though the real and apparent age of a person playing an incidental or significant role is over the limit, that person is not then shown behaving in a manner that particularly appeals to under 18s or that they particularly relate to.</p> <p>2.1 Maturity of behaviour and voice are important, hence the prohibition on “adolescent, juvenile or loutish” behaviour. A child or young person in an ad could appeal to under 18s, for example because a child or young person is likely to identify with their own age group, including if they behave in an adult manner.</p> <p>2.2 We agree that showing young people in ads can appeal to a young audience. But we consider the proposed combination of 18 (for incidental portrayal) and 25 (for playing a significant role) provides a balance considering the legal ages of participation and the need to protect children and young persons.</p> <p>2.3 The risk of emulation is more likely to relate to those playing a significant role or featured gambling, which is</p>	
---	--	--	--

<p>3. IPA, BH&amp;HPA, BACTA, Church of England, ISBA, Racing UK Ltd, Confidential response, At the Races, RACC, Methodist Church</p>	<p>even 16. The age limit for incidental characters should be 21.</p> <p><b>3. Yes, it is proportionate to make exceptions for (a) family entertainment centres and travelling fairs</b></p> <p>3.1 In line with the Government's intentions, ads for FECs and travelling fairs should be allowed to feature under 18s, provided they do not appear in or around gambling areas.</p> <p>3.2 The exception for FECs is proportionate and supports the Gambling Act's objective on the protection of children.</p> <p>3.3 But this reference to FECs is not consistent with restrictions on FECs elsewhere, which are contrary to Parliamentary intention. Lotteries and football pools should not be given an unfair competitive advantage.</p>	<p>why that limit is set at 25. The rule on incidental portrayal prohibits the incidental portrayal of anyone who is under 18 or who acts in an adolescent or juvenile manner</p> <p>3.1 The rules permit under 18s to appear in ads for FECs and traveling fairs, horse race courses and dog race tracks (in areas that law does not restrict by age) and provided they are accompanied by an adult, do not play a significant role and are not featured gambling.</p> <p>3.2 We agree.</p> <p>3.3 We consider the rules provide a balance between the legal ages of participation and the licensing objectives in the Gambling Act. We do not agree that the rules give football pools or lotteries an unfair competitive advantage. The consultation asks if exceptions should be made for lotteries because it can be argued that Government intended regulation to take account of their purpose of raising money for good causes. Moreover, the BCAP scheduling rules and the CAP placement of ad rules discriminate appropriately between gambling products restricted to 16</p>	
---	--	---	--

<p>4. Rank, ABB, Gala Coral Group, Evangelical Alliance, Quaker Action on Alcohol and Drugs, British Casino Association, Responsible Gambling Solutions, Good Corporation, Casino Operators' Association, Kerzner, Littlewoods Gaming</p>	<p>3.4 There is a case for exempting ads for venues in which families would be expected to participate, although the choice of lower limit requires careful consideration.</p> <p>3.5 But, except for lotteries, there should be no further exceptions because having few exceptions is demonstrative of a socially responsible approach and the consistency and coherence of the advertising codes is best served by having as few exceptions to the general rules as possible.</p> <p><b>4. No, it is not proportionate to make exceptions for (a) family entertainment centres and travelling fairs</b></p> <p>4.1 We see no reason why exceptions should be made for gambling related products.</p> <p>4.2 Exceptions could fall foul of the Gambling Commission's licensing objectives regarding activities caught by the Gambling Act.</p>	<p>year olds and above and 18 year olds and above.</p> <p>3.4 The rules make an exception for FECs and travelling fairs, horse race courses and dog race tracks (in areas that law does not restrict by age) where under 18s are accompanied by an adult. Because Category D machines can be played by all children, the rules do not set a lower age limit.</p> <p>3.5 We agree with the principle that there should be as few exceptions as possible from the general rules. We are satisfied that the exceptions we have made are proportionate and provide a balance between the rights granted under the Gambling Act and the licensing objective of ensuring that children are protected.</p> <p>4.1 We are satisfied that the exceptions made are proportionate and provide a balance between the rights granted under the Gambling Act and the licensing objective of ensuring that children are protected.</p> <p>4.2 We are satisfied that the exceptions made are proportionate and provide a balance between the rights granted under the Gambling Act and the licensing objective of ensuring that</p>	
---	--	---	--

<p>5. Radio Centre, IPA, ISBA, BACC, Confidential response, Sky, Lotteries Council, RACC, Advertising Association, At the Races,</p>	<p>4.3 Although in Q.7 we propose that the legal age for participation should guide the minimum age of significant participants in ads, we question whether the inclusion of 16 year olds is unduly risky. An 18 limit is appropriate.</p> <p>4.4 We would not be unhappy with ANY portrayal of families and children gambling, even in such long-established traditions as arcades and fairs, which in practice tend not to use images of people and should be able to manage.</p> <p>4.5 Any appearance of visibly young people would be likely to appeal to younger audience. A common age of 25 should be adopted for incidental and significant roles in ads. Even though children will be able to play in FECs, advertising should not be targeted at them.</p> <p><b>5. Yes, it is proportionate to make exceptions for (b) lottery products</b></p> <p>5.1 Provided children are not shown playing the lottery, buying lottery tickets or winning lottery funds.</p> <p>5.2 But for lotteries that benefit children and young people only.</p>	<p>children are protected.</p> <p>4.3 We consider the exception that allows under 18s to feature incidentally in, for example, FEC ads, when accompanied by an adult, provides a balance between the risks posed by that type of gambling, as reflected in the legal age of participation, and the general objectives.</p> <p>4.4 We are satisfied that the exceptions made are proportionate and provide a balance between the rights granted under the Gambling Act and the licensing objective of ensuring that children are protected.</p> <p>4.5 We consider the exception that allows under 18s to feature incidentally in FEC ads, when accompanied by an adult, provides a balance between the risks posed by that type of gambling, as reflected in the legal age of participation, and the general objectives.</p> <p>5.1 We agree.</p> <p>5.2 We consider that restriction is unnecessary. Lottery funds may benefit communities as a whole.</p>	
--	--	---	--

<p>6. Rank, ABB, BACTA, Gala Coral Group, Individual (Ms. T.), Salvation Army, PPA, PartyGaming, British Horseracing Board, Evangelical Alliance, Quaker Action on Alcohol and Drugs, British Casino Association, Responsible Gambling Solutions, Good Corporation, Advertising Association, Racing UK Ltd, Casino Operators' Association, Kerzner, Littlewoods Gaming, Methodist Church</p>	<p>5.3 But the exception for lottery products (as opposed to ads for good causes benefited by lotteries) should be to allow people who are and appear to be 16 or older.</p> <p>5.4 A number of lotteries provide charitable support either wholly or partially to children and young people and it would be difficult to show the beneficiaries of lottery money if restricted to using people over 18.</p> <p><b>6. No, it is not proportionate to make exceptions for (b) lottery products</b></p> <p>6.1 We see no reason why exceptions should be made for gambling related products.</p> <p>6.2 The minimum age of 18 should apply across the board.</p>	<p>5.3 We consider that restriction is unnecessary. The exception only allows children to feature in an incidental role, not in a significant role or participating in gambling. We consider this exception is proportionate to the risks posed by the type of gambling and to the requirements of the general objectives.</p> <p>5.4 We agree. The rules allow ads that exclusively feature the good causes that benefit from lottery funds to feature under 18s in a significant role.</p> <p>6.1 The exception only allows under 18s to feature in an incidental role, not in a significant role or participating in gambling. We consider this exception is proportionate to the risks posed by the type of gambling and to the requirements of the general objectives.</p> <p>6.2 In terms of the particular appeal of content, the minimum age is 18. Lottery ads that feature under 18s cannot appeal particularly to people under 18. We consider the exception proposed is proportionate to the risks posed by the type of gambling and to the requirements of the general objectives.</p>	
--	--	---	--

	<p>6.3 An exception could fall foul of the Gambling Commission's licensing objectives regarding activities caught by the Gambling Act.</p> <p>6.4 Although society lotteries and the NL raise money for good causes, they are still gambling and should not appeal to under 18s.</p> <p>6.5 Although in Q.7 we propose that the legal age for participation should guide the minimum age of significant participants in ads, we question whether the inclusion of 16 year olds is unduly risky. An 18 limit is appropriate.</p> <p>6.6 Any appearance of visibly young people would be likely to appeal to younger audience. A common age of 25 should be adopted for incidental and significant roles.</p> <p>6.7 The 18 age limit should apply across the board. This is especially necessary for remote gambling because it is particularly attractive to children and young adults and there is a rising incidence of problem gambling associated with remote gambling</p> <p>6.8 People should not be drawn into problem</p>	<p>6.3 We consider that is unlikely because exceptions should be made where they are proportionate to the risks posed by the type of gambling and to the requirements of the general objectives.</p> <p>6.4 We agree. The rules provide that society lotteries must not particularly appeal to under 18s.</p> <p>6.5 We consider the exception that allows under 18s to feature incidentally in lottery ads provides a balance between the risks posed by that type of gambling, as reflected in the legal age of participation, and the general objectives.</p> <p>6.6 We disagree. Many ads feature under 18s but don't appeal particularly to them. The rules provide that lotteries must not particularly appeal to under 18s. The risk of emulation is more likely to relate to those playing a significant role or featured gambling, which is why that limit is set at 25.</p> <p>6.7 The exception only allows under 18s to feature in an incidental role in lottery ads, remote or otherwise, and not in a significant role or participating in gambling. We consider that exception is proportionate to the risks posed by the type of gambling and to the requirements of the general objectives.</p> <p>6.8 We consider the exception that</p>	
--	---	--	--

7. Racing UK Ltd	<p>gambling; the use to which the profits will be put is irrelevant to this.</p> <p><b>7. Yes, other exceptions should be made</b></p> <p>7.1 It is important for the racing industry that families are encouraged to attend. The rule should be amended to read ads “...<i>for family entertainment centres, travelling fairs and racecourses in which families are socialising responsibly may include children or young persons accompanied by an adult.</i></p>	<p>allows under 18s to feature incidentally in lottery ads, including for remote versions, provides a balance between the risks posed by that type of gambling, as reflected in the legal age of participation, and the general objectives to protect children and young people.</p> <p>7.1 Because under 18s may attend horse race courses and dog race tracks (but not place bets), we agree it is proportionate for CAP Code rule 54.4(o), BCAP Radio Code rule 21.1(c) and BCAP TV Code rule 11.6.2(d) to make an exception for under 18s who are accompanied by an adult and are in areas that the Gambling Act 2005 does not restrict by age. We consider the same should apply to ads for non-gambling leisure facilities that incidentally refer to separate gambling facilities e.g. as part of a list of facilities on a cruise ship so that under 18s who are accompanied by an adult may be included in areas that the Gambling Act 2005 does not restrict by age.</p>	<p><b>CAP Code rule 54.4(o), BCAP Radio Code rule 21.1(c) and BCAP TV Code rule 11.6.2(d):</b> Marketing communications/Advertisements for family entertainment centres, <del>and travelling fairs, horse racecourses and dog race tracks, in which families are socialising responsibly</del> <b>and for non-gambling leisure facilities that incidentally refer to separate gambling facilities e.g. as part of a list of facilities on a cruise ship,</b> may include children or young persons <b>provided they</b> are accompanied by an adult and are socialising responsibly <b>in areas that the Gambling Act 2005 does not restrict by age.</b> Marketing communications/Advertisements for a lottery product may include children or young persons. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a</p>
------------------	---	--	---



			significant role.
<b>Q.7 Do you agree that the minimum age limit for people featured gambling or playing a significant role in a gambling advertisement should be 25 years for all types of gambling? Because their purpose is to raise funds for good causes, should the minimum age of people playing a significant role or featured playing be lower for advertisements for lottery products?</b>			
1. Radio Centre, Gala Coral Group, Individual (Ms T.), Salvation Army, Evangelical Alliance, Quaker Action on Alcohol and Drugs, Church of England, Responsible Gambling Solutions, Good Corporation, Casino Operators' Association, ISBA, BACC, Confidential response, Sky, Kerzner, RACC, Littlewoods Gaming, Methodist Church	<p><b>1. Yes, the minimum age limit for people featured gambling or playing a significant role in a gambling advertisement should be 25 years for all types of gambling</b></p> <p>1.1 But for radio it's likely the use of "adult" voices will be of paramount importance as opposed to distinguishing between 18 and 25 year olds.</p> <p>1.2 This places clear water between adults and minors. This is the correct mechanism to protect appeal to children or the young rather than the prohibition on the association with "youth culture" or the prohibition on the use of footballers.</p> <p>1.3 Any appearance of visibly young people would be likely to appeal to younger audience.</p> <p>1.4 This establishes a clear demarcation between adolescents and adults. Imitative behaviour may not be confined to exactly-defined peer groups and the behaviour of young adults may have an aspirational effect on adolescents.</p> <p>1.5 There is an argument that if a person is old enough to gamble on a particular activity they</p>	<p>To clarify that, in ads that exclusively show the good causes that benefit from a lottery, under 18s may play both an incidental and a significant role.</p> <p>1.1 BCAP considers the 25 age limit for those playing a significant role or featured gambling provides certainty to advertisers, marketers, consumers and the ASA Council because by that age people clearly look or sound more adult than adolescent.</p> <p>1.2 We agree that this rule distinguishes between adolescents and adults. But we consider the prohibition on associations with "youth culture" complements the age limits.</p> <p>1.3 Ads that include visibly young people playing a significant role or participating in gambling run an unacceptable risk of appealing particularly to under 18s</p> <p>1.4 We agree.</p> <p>1.5 We agree.</p>	

<p>2. Rank, Carlton Bingo, BACTA, ABB, Periodical Publishers' Association, British Horseracing Board, Chrysalis, British Casino Association, Racing UK Ltd, Business in Sport and Leisure</p>	<p>should be able to be featured playing on that activity. But gambling is a "special category" activity because evidence clearly indicates that, for a minority, it causes significant harm to the individual and to other people and the 18-24 age group are up to 3 times more likely to develop gambling problems than any other age group. We can understand the operators of "soft" gambling activities like football pools, lotteries or bingo arguing that they should be an exception because their products are less harmful. But those who do gamble to excess usually participate in a range of activities. The Gambling Commission's proposal to ask operators to check the age of all customers who look under 21 (the Think 21 campaign) would be assisted by CAP &amp; BCAP setting the minimum age at 25 for people featured gambling or playing a significant role.</p> <p>1.6 People over 25 clearly look and sound more adult than adolescent. The age limit will give more certainty to advertisers and the ASA Council when deciding if an ad has breached the Codes. It will also give certainty to viewers and give effect to the objective of protecting children and young people.</p> <p><b>2. No, the minimum age limit for people featured gambling or playing a significant role in a gambling advertisement should not be 25 years for all types of gambling</b></p> <p>2.1 If advertising strictly adheres to the wider requirements of the Codes it should not be necessary for those involved to look over 25.</p>	<p>1.6 We agree.</p> <p>2.1 The 25 age limit clearly distinguishes between adolescents and adults, will give certainty to advertisers and the ASA Council, and will meet the objective of protecting children and</p>	
---	--	---	--

	<p>2.2 The age limit should be 21 for all types of gambling. There is a relatively clear difference in appearance (and thus appeal) between those who appear to be adolescents, those who are over 18 and those who are over 21. But whether someone in their 20's "looks" over 25 is subjective and might mean such ads have to show people who look nearer 30, to err on the side of caution. If the rule required the actor's real age to be 25 only, that would offer some protection. There may be some justification for requiring those seen participating in gaming to be 25 but "significant role" could extend to the wider facilities at a casino, e.g. live entertainment, bars, restaurants, promotions etc.</p> <p>2.3 It would not suit bingo to show people who look younger than age 25 in isolation because that could alienate our core of older customers. The same would apply to casinos because older players (with more disposable income) could be put off by a venue that appears to be a night club inhabited solely by young people. There should, however, be some flexibility for operators to show a mix of people and ages enjoying the broad appeal and range of facilities, particularly in premises that seek to appear "trendy".</p> <p>2.4 In line with the legal age of participation, the minimum age for bingo/ casino ads should be 18, or a compromise of 21.</p>	<p>young people. It is complementary to the other rules on the protection of under 18s</p> <p>2.2 We do not see how it is less subjective to distinguish between under 18s and under 21s than between under and over 25s. See 2.1 above.</p> <p>2.3 We consider that the 18 and 25 age limits provide advertisers with plenty of flexibility to show different types of people and age groups using gambling facilities.</p> <p>2.4 The CAP and BCAP rules seek to provide a balance between the legal age of participation and the objective of protecting children and young persons. The 25 age limit clearly</p>	
--	---	--	--

	<p>2.5 This rule was brought in last year for alcohol ads after complaints that drink manufacturers were targeting young people. There is no such complaint against the gambling industry so this rule is unwarranted. The risk posed by different gambling sectors and the advertising budget available to them should be taken into account.</p> <p>2.6 On premises, the Gambling Commission considers that age verification should be requested if someone looks under 21.</p> <p>2.7 It will be practically difficult for a publisher to know if someone is 25 and it is subjective to decide if someone looks under 25.</p>	<p>distinguishes between adolescents and adults and will give certainty to advertisers and the ASA Council when considering compliance with the rules.</p> <p>2.5 The Betting and Gaming section of the CAP Code has long contained the rule that “people shown gambling should not be, nor should they look, under 25”. The same rule was in the BCAP TV and Radio Code rules on alcohol before last year’s revision. It was not introduced in response to recent concerns about young people and alcohol.</p> <p>2.6 We consider the advertising rules adopt a complementary policy. BCAP considers the 25 age limit for those playing a significant role or featured gambling provides certainty to advertisers, marketers, consumers and the ASA Council because by that age people clearly look or sound more adult than adolescent.</p> <p>2.7 Publishers should apply the same compliance procedures as they do to comply with the present CAP Code rule on under 25s (see 2.5 above). We consider it is certainly no more subjective to decide if someone looks under 25 than any other age. Moreover, by that age, people generally look more adult than adolescent, which should help advertisers and publishers.</p>	
--	--	---	--

	<p>2.8 Does the rule mean a celebrity who is under 25 cannot appear in an ad for gambling?</p> <p>2.9 There should be no absolute restriction on gambling operators using under 25s in ads. The desirability of their not doing so can be dealt with in guidance.</p> <p>2.10 The rules should focus on the perceived maturity of those featured because specific ages are difficult to convey in a radio ad.</p> <p>2.11 We are concerned the 25 age limit will affect the ability of bookmakers to advertise sporting events featuring participants under 25. In light of the TV note on football pools and given the massive growth in other forms of betting on football, as well as other sports, clarification is sought on their advertising. Bookmakers are major sponsors of televised sport, which often features sports people under the age of 25.</p> <p>2.12 But Littlewoods operates football pools and other football-related games and has close relationships with football clubs and the game in general. It should not be prevented from using e.g. Wayne Rooney to promote/endorse its</p>	<p>2.8 A celebrity under 25 but over 18 could be portrayed incidentally, provided they do not particularly appeal to under 18s. They could not play a significant role or be portrayed gambling.</p> <p>2.9 We disagree. We consider it is appropriate to make an absolute restriction as opposed to an 'advisory' one. That creates certainty and transparency in devising advertising campaigns, a level playing field for all advertisers and, most importantly, adequately reflects the objective to protect under 18s.</p> <p>2.10 The perceived age of those featured is also covered by the proposed rules. The present BCAP Radio Code includes a restriction on the real and perceived age of those featured.</p> <p>2.11 A player under 25 but over 18 could be portrayed incidentally. They could not play a significant role or be portrayed gambling. The ASA does not regulate sponsorship; that may be considered by the Gambling Commission and Ofcom.</p> <p>2.12 A celebrity under 25 but over 18 could be portrayed incidentally, provided they do not particularly appeal to under 18s. They could not play a significant role or be portrayed</p>	
--	---	--	--

<p>3. IPA, Advertising Association, ISBA, Lotteries Council</p>	<p>products because he is under 25. The rules would have to accommodate this sort of exception to be acceptable to us.</p> <p><b>3. Yes, because their purpose is to raise funds for good causes, the minimum age of people playing a significant role or featured playing should be lower for advertisements for lottery products</b></p> <p>3.1 The minimum age limit should be 18 for the National Lottery and other legitimate fund-raising lotteries.</p> <p>3.2 We are concerned that the good causes that benefit from lotteries may not be highlighted if children or young people cannot feature in ads. But we agree there should be a minimum age limit for people featured gambling.</p>	<p>gambling. That creates a level playing field for all advertisers, certainty in devising advertising campaigns and, most importantly, adequately reflects the objective to protect under 18s.</p> <p>3.1 We consider a minimum age of 25 provides a balance between the legal age of participation and the objective of protecting children and young persons. The 25 age limit clearly distinguishes between adolescents and adults and will give certainty to advertisers and the ASA Council when considering compliance with the rules.</p> <p>3.2 The proposed rules provide that ads that exclusively feature the good causes that benefit from a lottery may include children and young people. CAP and BCAP have amended the relevant rule to clarify that in ads that under 18s may play both an incidental and a significant role in such ads.</p>	<p><b>CAP Code rule 54.4(p), BCAP Radio Code Section 4, Rule 21.1(d) and BCAP TV Code 11.6.2(e):</b> Marketing communications/Advertisements that exclusively feature the good causes that benefit from a lottery and include no explicit encouragement to buy a lottery product may include children or young persons <b>and they may be featured playing a significant role.</b></p>
<p>4. Gala Coral Group, Individual (Ms T.), Salvation Army, Evangelical Alliance, Quaker Action on</p>	<p><b>4. No, the minimum age of people playing a significant role or featured playing should not be lower for advertisements for lottery products</b></p>		

<p>Alcohol and Drugs, Church of England, Responsible Gambling Solutions, Good Corporation, Casino Operators' Association, Racing UK Ltd, Sky, Kerzner, RACC, Methodist Church</p>	<p>4.1 All forms of gambling are potentially harmful and it is irrelevant whether the purpose of the lottery is to raise funds for good causes. That argument is a red herring.</p> <p>4.2 It is in the interests of the consumer that the rules be applied consistently to all forms of gambling.</p> <p>4.3 It is preferable to support good causes by direct giving. A consistent message should be given on all forms of gambling and common standards should apply so no advertising is aimed at young people.</p> <p>4.4 We do not accept the logic of exempting lottery ads on the ground of their purpose of raising funds for good causes. But there may be other arguments, related to the relative harm of participating in lotteries, that would support a reduction in the limit.</p> <p>4.5 Unless there is compelling evidence that featuring under 25's in lottery ads significantly increases sales, we are not convinced of the argument that an exception should be made for this activity or any other "soft" form of gambling.</p> <p>4.6 The age limit of 25 years has presumably been chosen as being sufficiently older than the 16/18 legal age limit for legal gambling. It seems arbitrary to allow lottery products to</p>	<p>4.1 We consider exceptions should be made where they are proportionate to the risks posed by the type of gambling and to the requirements of the general objectives. We don't agree that an exception should be made in this case.</p> <p>4.2 We agree with the principle that, where appropriate, regulation should be consistent.</p> <p>4.3 We agree with the principle that, where appropriate, regulation should be consistent. A consistent message applies because the general objectives in the proposed rules and most other rules are the same for all gambling products. The rules provide that no advertising may be aimed at children.</p> <p>4.4 We agree exceptions should be made where they are proportionate to the risks posed by the type of gambling and to the requirements of the general objectives.</p> <p>4.5 We consider exceptions should be made where they are proportionate to the risks posed by the type of gambling and to the requirements of the general objectives.</p> <p>4.6 We consider exceptions should be made where they are proportionate to the risks posed by the type of gambling and to the requirements of</p>	
---	--	---	--

	<p>feature younger people gambling and that would defeat the stated principles of the guidelines.</p> <p>4.7 There may be a case for this, but the case for lowering the age of those featured playing is weaker. The fewer exceptions there are to the general rules the better.</p>	<p>the general objectives.</p> <p>4.7 We agree.</p>	
<b>Q.8 Do you agree that the proposed rules on the scheduling of broadcast advertisements and the placement of non-broadcast advertisements are proportionate by giving reasonable flexibility to media owners and working with the general principles and content rules to protect all under 18s?</b>			
<p>1. IPA, Radio Centre, Rank, Carlton Bingo, CNBC, Gala Coral Group, Periodical Publishers' Association, PartyGaming, British Horseracing Board, Chrysalis, British Casino Association, Responsible Gambling Solutions, BACC, Casino Operators' Association, Confidential response x2, Sky, At the Races, Lotteries Council, RACC, Littlewoods Gaming,</p>	<p><b>1. Yes, the proposed rules on the scheduling of broadcast advertisements and the placement of non-broadcast advertisements are proportionate</b></p> <p>1.1 The IPA hopes that media agencies and media owners are fully aware of the fundamental need to protect children and that they will act sensibly in the placing of ads.</p> <p>1.2 For radio, data on when over 16s and over 18s are listening is available from planning systems but is not part of the standard RAJAR data supplied to stations. Furthermore, there is almost no differential in listening patterns (chart provided). In radio, little practical difference will result from applying different rules to the National Lottery.</p> <p>1.3 But we do not agree with the proposed exception for FECs, lotteries, football pools and fairs that places age limits at 16. That is confusing because the Communications Act 2003 states that under 18s must be protected.</p>	<p>BCAP has brought the TV scheduling rules into line with the Radio scheduling rules to apply more accurately to the gambling products under the Gambling Act 2005.</p> <p>1.1 We agree.</p> <p>1.2 We consider there are occasions when there is a difference in viewer or listener profile and that media owners should be given the flexibility to take that into consideration.</p> <p>1.3 We consider that, because of the nature of FECs, lotteries, football pools and fairs and the 18 age limit on the particular appeal of content, under 18s will be protected in line with the Communications Act. The Act also provides that regulation</p>	<p><b>BCAP Rules on the Scheduling of TV Advertisements, Section 4, Rule 4.2.1:</b> (a) The following may not be advertised in or adjacent to children's programmes or programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 18:</p> <p>...</p> <p>(ii) gambling except lotteries, football pools, family entertainment centres and traveling fairs equal chance gaming (under a prize gaming permit or at a licensed family entertainment centre), prize gaming (at a non-licensed family entertainment centre or at a travelling fair) or Category D gaming machines (see 4.2.1(b) below);</p> <p>...</p> <p>(b) The following may not be</p>



	<p>1.4 “placed in or around media directed at...” is unclear. Obviously publishers would not include gambling ads in computer games titles or others that appeal to young people and children. Publishers have ABC figures, so they know who is reading their magazines. Guidance would be helpful.</p> <p>1.5 Yes, but not the age 16 limit for lotteries or for football pools, where there is not even the good causes argument. We remind CAP / BCAP of the Pool.com case. The minimum age to take part in football pools is 16 but it is still an adult leisure activity and should not be a special case. Media owners should not be afforded any flexibility regarding activities under the Gambling Act because that is inconsistent with the core licensing objectives.</p> <p>1.6 We see the force of the argument for harmonising the restrictions on ad placement in the existing CAP Code with the scheduling restrictions in the BCAP Code. We do not consider that this relaxation is likely to cause additional harm (Church of England).</p> <p>1.7 Rules must take account of the fact that FECs may have areas for (Category C) machines restricted to 18's and over.</p> <p>1.8 Yes. We particularly support harmonising the scheduling with the placement provisions for broadcast and non-broadcast ads. There should be as few exceptions to the general rules as practicable, in the interests of</p>	<p>must be proportionate and necessary.</p> <p>1.4 “should not be directed at... through the selection of media or context in which they appear” matches the existing wording of the CAP Code in terms of alcohol advertising. The non-broadcast media are used to applying this rule and we have no evidence that it is unclear.</p> <p>1.5 We consider that, regarding lotteries and football pools, the licensing objectives of the Gambling Act are met by the combination of proposed rules. The rules on the age of particular appeal and on minimum age to play a significant role, for example, mean that the Pool.com advertisement would still be caught.</p> <p>1.6 We agree.</p> <p>1.7 We agree that the rules should make that distinction clear.</p> <p>1.8 We agree.</p>	<p>advertised in or adjacent to children's programmes or programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 16:</p> <p>(i) lotteries;  (ii) football pools;  <del>(iii) family entertainment centres</del>  <del>(iv) travelling fairs</del>  <b>(iii) equal chance gaming (under a prize gaming permit or at a licensed family entertainment centre);</b>  <b>(iv) prize gaming (at a non-licensed family entertainment centre or at a travelling fair);</b>  <b>(v) Category D gaming machines.</b></p> <p><b>CAP Code rule 54.4(o), BCAP Radio Code rule 21.1(c) and BCAP TV Code 11.6.2(d):</b> Marketing communications/Advertisements for family entertainment centres, <del>and travelling fairs, horse racecourses and dog race tracks, in which families are</del></p>
--	---	--	--

<p>2. BACTA, ABB, Salvation Army, Evangelical Alliance, Quaker Action on Alcohol and Drugs, Good Corporation, Racing UK Ltd, Kerzner, Methodist Church,</p>	<p>maximising the coherence of the advertising codes.</p> <p>1.9 Media owners are professional and constrained as regards not permitting irresponsible advertising and should be afforded some flexibility in working with the general principles to protect under 18s.</p> <p><b>2. No, the proposed rules on the scheduling of broadcast advertisements and the placement of non-broadcast advertisements are not proportionate</b></p> <p>2.1 It should be clear that FECs ads can be directed at families and children because they can legally use Category D machines under the Gambling Act 2005.</p> <p>2.2 The proposals are too liberal and may damage public trust in the system and the industry. In non-broadcast, there would have to be compelling evidence that material directed at over 16s is not widely viewed by under 16s, who would be influenced. The caveat that the advertising itself should be responsible and not “likely to be of particular appeal to children or young people” appears directly inconsistent with the idea of placing ads in young people’s media.</p>	<p>1.9 We agree.</p> <p>2.1 We consider the rules on FECs are clear; an FEC ad may have general family appeal, provided it does not appeal to under 18s more than to any other age group, it may be scheduled or placed around those over 16, and a family may be shown, provided no-one under 18 is shown gambling or playing a significant role. The aim is to ensure that it is parents or guardians who decide if and how their children use FECs, rather than ads speaking directly and mainly to children.</p> <p>2.2 We consider the content and broadcast scheduling or non-broadcast placement rules provide a balanced approach to protecting children and young people and complement the rule on the minimum age of appeal.</p>	<p><del>socialising responsibly</del> <b>and for non-gambling leisure facilities that incidentally refer to separate gambling facilities e.g. as part of a list of facilities on a cruise ship</b>, may include children or young persons <b>provided they are accompanied by an adult and are socialising responsibly in areas that the Gambling Act 2005 does not restrict by age.</b> Marketing communications/Advertisements for a lottery product may include children or young persons. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role.</p>
---	--	---	---

	<p>On TV or Radio, because children will not gamble or use their own money to gamble, there appears to be no purpose to such advertising other than to interest children in gambling activities so they communicate that interest to their parents. We see many games on the NL website that use cartoon characters or the names of well-known board games such as Monopoly or Connect Four that would be of particular appeal to children.</p> <p>2.3 Many problem gamblers started as children or young people. CAP and BCAP must regulate robustly to protect against this trend. Allowing ads for certain gambling products to be directed at 16 year olds would be both unwise and contrary to the rules on the age of appeal.</p> <p>2.4 The discrepancy regarding lotteries, pools, FECs and fairs should be removed so they are banned from being in or around media directed at under 18s. The following should be excluded: public transport because ads are highly accessible to young people e.g. those travelling for free on London Transport for school; close proximity to 'socially sensitive' locations e.g. job centres, gambling treatment or debt advice centres, probation hostels, courts fines units, citizens' advice bureaux. To what extent can this be delegated to local authorities? Has this been considered in conjunction with the Gambling Commission's Guidance to Licensing Authorities team, which has given local impact considerable thought?</p> <p>2.5 Audience profiles give general information but there is a blurring of ages of children and young people watching or listening. It is not in line with the precautionary principle to schedule or place</p>	<p>2.3 We consider the CAP and BCAP rules are robust and complementary in order to protect children and young people.</p> <p>2.4 The Codes require advertisers and broadcasters to be mindful of the context in which an ad is placed and the ASA is obliged to consider the particular circumstances of each ad, including its context, when it considers conformity with the spirit and letter of the Code. The ASA is used to applying a properly moderated approach to its work, taking into account the legitimate concerns of consumers and industry.</p> <p>2.5 Audience profiles provide data on the size of the audience and on the proportion of different age groups in that audience. We consider the CAP</p>	
--	--	---	--

	<p>ads for lotteries, football pools, family entertainment centres or travelling fairs around 16-18 year olds.</p> <p>2.6 Sufficient thought is not being given to gambling ads on UK TV, radio or their websites during the broadcast of sporting events, which attract a huge audience of young viewers. Allowing gambling ads during those sports events could add to problem gambling.</p> <p>2.7 Making an exception for lotteries, football pools, FECs and fairs regulated by the Gambling Act would be against the general principles and core licensing objectives; they should not be treated any differently in the Code. Many problem gamblers gambled at a young age. We would not wish to see any ad that might appeal to young people.</p>	<p>and BCAP rules are robust and, in combination, will protect children and young people. We have used evidence-based regulation when drafting the rules, rather than the alternative precautionary principle. We consider that is in line with the Communications Act and the Gambling Act.</p> <p>2.6 Under the rules, media owners must ensure that under 18s or under 16s are not disproportionately represented in the audience, and the ad itself must not be of particular appeal to under 18s. The BCAP Codes presently apply these scheduling restrictions and there is no evidence that they have caused problems.</p> <p>2.7 The rule on the appeal of all gambling ads will ensure that they do not appeal to young people and that the licensing objective of protecting children is met.</p>	
<b>Q.9 Do you consider that the proposed content rules meet the objective of ensuring that vulnerable persons are not harmed or exploited by gambling advertisements?</b>			
1. Radio Centre, IPA, Rank, Gala Coral Group, British Horseracing Board, Evangelical Alliance, Quaker Action on Alcohol and Drugs,	<b>1. Yes, the proposed content rules meet the objective of ensuring that vulnerable persons are not harmed or exploited by gambling advertisements</b>	CAP and BCAP have made a rule amendment to reflect the fact that there are facilities like restaurants or bars, and not only entertainment, that can be accessed only by going into gambling areas. Ads should make that clear to consumers.	<b>CAP Code 54.4(r), BCAP Radio Code 21.2(m) and BCAP TV Code 11.6.2:</b> Marketing communications/Advertisements for <del>entertainment events or</del> <b>facilities</b> that can be accessed

<p>Chrysalis, Church of England, British Casino Association, Responsible Gambling Solutions, Advertising Association, BACC, Casino Operators' Association, Confidential response, At the Races, Kerzner, Lotteries Council, RACC, Littlewoods Gaming, Methodist Church.</p>	<p>1.1 We would like clear guidance on interpreting the rules.</p> <p>1.2 But we are concerned the rules go beyond what is necessary.</p> <p><b>Portraying gambling that could lead to financial, social or emotional harm (54.4 (a)):</b> this entirely depends on how wealthy you are.</p> <p><b>Should not suggest that gambling can provide a solution to financial concerns (54.4 (d)) / Should not suggest that gambling can enhance personal qualities, for example that it can improve self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration (54.4 (f)):</b> some ads may be acceptable under the 1968 Act, but fall foul of these rules.</p> <p><b>Should not link gambling to seduction (54.4 (h)):</b> it seems disproportionate to prohibit "sexy" images that are not offensive; gambling ads could stand out in certain men's lifestyle titles for <i>not</i> containing them.</p> <p><b>Should not suggest solitary gambling is preferable (54.4 (k)):</b> online gambling is often solitary by nature. Gambling is supposed to be a mature leisure choice and individuals should be allowed to choose when and how to take part.</p>	<p>1.1 We will provide separate guidance to aid interpretation of the rules.</p> <p>1.2 We consider the rules are justified and proportionate and, for gambling under the scope of the Gambling Act, that they reflect the licensing objectives and the rights granted to operators.</p> <p>The rules must meet the objectives of protecting children and the vulnerable. We consider this rule is proportionate to that objective.</p> <p>The rules must meet the licensing objectives of the Gambling Act 2005. We consider they are an appropriate articulation of those objectives.</p> <p>The rule prevents gambling from being linked to seduction, sexual success or enhanced attractiveness.</p> <p>The rule does not prevent ads from highlighting the positive attributes of on-line gambling. It aims to prevent advertisements from suggesting that it is better to gamble alone than in company – the comparison must be present. That is because there is an</p>	<p>only by entering gambling premises should make that condition clear</p>
---	---	--	--

	<p><b>Exploiting cultural beliefs or traditions (54.4 (q)):</b> brand names often have connotations of luck or beliefs e.g. 888.com; this should not preclude them from advertising. More clarity is needed.</p> <p><b>Should not portray gambling in a working environment (54.4 (t)):</b> this does not seem relevant or necessary. Is there a difference between going out to the bookmakers at lunch and having a bet online during lunch?</p> <p>1.3 But, because horseracing and betting are closely linked, the generic promotion of horseracing or a day at the races drawing attention to the fun, social and aspirational elements should not be constrained e.g. because “ads must not suggest that gambling can provide an escape from personal, professional or educational problems such as loneliness or depression”.</p> <p>1.4 But vulnerability can also have a geographical expression: we would like to see a ban on ads close to “socially sensitive” locations.</p>	<p>evidential link between solitary gambling and problem gambling.</p> <p>The key word is “exploiting” – the degree to which certain symbols are used and the degree to which they are taken seriously by their audience must be considered. Depending on how it is used, the ASA Council is unlikely to consider a brand name alone is sufficient to breach the rule.</p> <p>We consider it would be irresponsible to portray or condone the misuse of employer resources or gambling taking priority over professional activities.</p> <p>1.3 The rules are unlikely to prevent this form of advertising, provided it is responsible.</p> <p>1.4 The Codes require advertisers and broadcasters to be mindful of the context in which an ad is placed and the ASA is obliged to consider the particular circumstances of each ad, including its context, when it considers conformity with the spirit and letter of the Code. The ASA applies a properly moderated approach to its work, taking into account the legitimate concerns of</p>	
--	---	---	--

	<p>1.5 We are all potentially vulnerable to problem gambling. We welcome the general parameters set out, however (QAAD).</p> <p>1.6 We accept the usefulness of the functional definition of vulnerability provided by the Gambling Commission. We appreciate the efforts of CAP and BCAP to draw on research and experience in other jurisdictions in devising content rules. The proposed rules are laudable in their reference to “the susceptibilities, aspirations, credulity, inexperience or lack of knowledge” of potential gamblers and their prohibition of suggestions that gambling may be a means of escape from personal or financial problems, or an avenue to personal fulfilment. We see the problems lying not in the principles but in their application. Any advertising of gambling must present positive reasons or inducements to engage in the activity, or it is pointless to the advertiser. It is hard to see how vulnerable persons can be protected totally. Nevertheless, the rules set out a checklist that can be expected to limit the potential for harm, and it is not easy to see what more could be done within this framework (CofE).</p> <p>1.7 The rules are comprehensive.</p> <p>1.8 But the Code may need to be reviewed.</p> <p>1.9 But we are concerned the rules go too far in several instances and place too much burden on the advertiser. The following rules should be revised or, where not possible or desirable, the</p>	<p>consumers and industry.</p> <p>1.5 We welcome this comment.</p> <p>1.6 We welcome this comment.</p> <p>1.7 We agree.</p> <p>1.8 We plan to review the effectiveness of the rules a suitable period after implementation.</p> <p>1.9 We consider the rules are justified and meet the overarching policy objectives in a proportionate manner.</p>	
--	--	--	--

<p>2. Lord Lipsey, ABB, PartyGaming, Good Corporation, Racing UK Ltd</p>	<p>ASA should take a realistic and measured approach to enforcement. <b>“must not portray, condone or encourage gambling behaviour that could lead to financial, social or emotional harm”</b>: all gambling involves a financial outlay and could, if undertaken to excess, lead to harm. We believe this provision was drafted to catch the portrayal of <i>excessive gambling</i> and this should be made clear. <b>“should not link gambling to [...] enhanced attractiveness”</b>: ads should not show an increase in personal attractiveness as a direct result of gambling but it should be made clear that this provision does not preclude the use of attractive models and actors. <b>“should not exploit cultural beliefs or traditions about gambling or luck”</b>: this would benefit from examples. Some gambling operator names refer to cultural beliefs. Would this provision mean that a motif or logo based on a lucky horseshoe could not be used?</p> <p><b>2. No, the proposed content rules do not meet the objective of ensuring that vulnerable persons are not harmed or exploited by gambling advertisements</b></p> <p>2.1 The content rules should be strengthened. It is not enough to say that the ads must not imply that gambling is the solution to financial difficulties. The rules must specify that it is not permissible to claim or suggest that any form of gambling is certain or likely to result in a profit for the person undertaking it.</p> <p>2.2 More certainty is needed or a non-legally binding code. It is unworkable to have a mandatory code with loose concepts such as</p>	<p>We consider “excessive” would not be clearer: that also depends on the individual’s circumstances. The objective is to prevent harm.</p> <p>We agree that is what the rule means. We will provide separate guidance on rule interpretation.</p> <p>The key word is “exploit” – the degree to which certain symbols are used and the degree to which they are taken seriously by their audience must be considered. Depending on how it is used, the ASA Council is unlikely to consider a brand name alone is sufficient to breach the rule.</p> <p>2.1 The rules are likely to prevent that type of claim.</p> <p>2.2 The status of the Code is determined by the Gambling Commission and, for broadcasters only, Ofcom.</p>	
--	--	--	--



	<p>“vulnerable”.</p> <p>2.3 In the proposed content rules for TV advertising, the caveat that advertisers may refer to other benefits of winning a prize should be extended to the other media.</p> <p>2.4 The rules must not be overly prescriptive. We do not agree with the inclusion of “<b>superiority, recognition or admiration</b>”. Poker and backgammon rely on skill and for many are about more than winning money – they are a sport. “Superiority, recognition or admiration” as a skillful (sports) player could be prohibited. That is unreasonable because it goes much further than the objectives require. A statement that the majority of players take part in online gaming for fun may be prohibited even though factually correct. We are not clear what is meant by the portrayal of gambling in a context of “<b>toughness</b>”, “<b>resilience</b>” or “<b>recklessness</b>” because these terms have wide and subjective meanings.</p> <p>2.5 We want brief warning about playing responsibly on every gambling ad as a constant reminder that gambling is not like other forms of entertainment, games or sport.</p> <p>2.6 “<b>Advertisements for gambling products must not portray individuals gambling in a working environment</b>” should read “<b>gambling while at work</b>” because anywhere gambling takes place outside the home is a working environment.</p>	<p>2.3 We consider the Note to proposed BCAP TV Code rule 11.6.1(c) should be removed, Separate guidance will be provided on interpretation of the rules in all Codes.</p> <p>2.4 The CAP and BCAP Codes are proscriptive, not prescriptive. The aim of that rule is to prevent gambling ads from suggesting that being a gambler is a way to overcome feeling insecure or an outsider – that is in line with the objective to protect children and the vulnerable. There is nothing to prevent an ad from claiming an activity is fun. Separate guidance will be provided on interpretation of the rules. The ASA Council is used to applying subjective rules in a reasoned and proportionate manner.</p> <p>2.5 We consider educational messages or warnings should not be required in the absence of evidence that that would be effective – see Q.11.</p> <p>2.6 We consider it is clear the rule refers to the working environment of the person in the advertisement, except for the staff of licensed gambling venues. But we consider the rule should be amended to clarify that ads must not “feature or condone”, rather than “portray” gambling in a working environment to capture claims like</p>	<p><b>BCAP TV Code 11.6.1(c)</b> Advertisements must not suggest that gambling can be a solution to financial concerns, an alternative to employment or a way to achieve financial security. <del><b>Note to 11.6.1(c)</b> Advertisers may however refer to other benefits of winning a prize.</del></p> <p><b>CAP Code 54.4(t), BCAP Radio Code 21.2(o), BCAP TV Code 11.6.2(h):</b> Marketing communications should not/ Advertisements must not <del>portray</del> <b>feature or condone</b> gambling in a working environment. An exception exists for licensed gambling premises.</p>
--	--	---	--

<p>3. Department of Health (West Midlands), Salvation Army,</p>	<p><b>3. Other</b></p> <p>3.1 The Gambling Commission's assumption of who makes up "vulnerable persons" could be elaborated based on definitions used by other countries in their advertising codes, e.g. Queensland: <i>"Disadvantaged persons may include persons lacking social or economic access, due largely to inadequate income, an inadequate standard of living in terms of housing, food, clothing and health care and lacking opportunities to fully participate in society through education, employment and social pursuits. Vulnerable persons may include persons at risk of harm or harmful patterns of behaviour due to external influences or internal susceptibilities."</i></p> <p>3.2 We hope the proposed rules will go some way towards helping to protect vulnerable groups. But any advertising of gambling products is, by its very nature, likely to contribute to an environment in which increasing numbers of people are harmed.</p>	<p>"mobile gaming: now you can gamble at your desk".</p> <p>3.1 That is for the Gambling Commission to decide.</p> <p>3.2 The Gambling Act permits gambling to be advertised, subject to compliance with the licensing objectives. The Gambling Commission's Gambling Prevalence studies aim to detect any increase in problem gambling as a result of the Gambling Act and the effectiveness of the CAP and BCAP gambling advertising rules will be evaluated a suitable period after implementation,</p>	
<p><b>Q.10 Do you agree that the proposed rules address concerns about the effect of gambling advertisements on problem gambling without the need for compulsory educational messages or warnings and that those should not be required in the absence of evidence on the impact of gambling advertising on problem gambling and the effectiveness of compulsory messages or warnings in gambling advertising?</b></p>			
<p>1. Radio Centre, IPA, BH&amp;HPA, Rank, Carlton Bingo, BACTA, ABB, Gala</p>	<p><b>1. Yes, the proposed rules address concerns about the effect of gambling advertisements on problem gambling without the need for compulsory educational messages or warnings</b></p>		

<p>Coral Group, Periodical Publishers' Association, PartyGaming, British Horseracing Board, Chrysalis, British Casino Association, Responsible Gambling Solutions, Racing UK Ltd, BACC, Casino Operators' Association, Confidential response, Sky, At the Races, Kerzner, Mobile Broadband Group, Lotteries Council, Business in Sport and Leisure, RACC, Littlewoods Gaming,</p>	<p><b>and those should not be required in the absence of evidence on the impact of gambling advertising on problem gambling and the effectiveness of compulsory messages or warnings in gambling advertising.</b></p> <p>1.1 Problem gambling is a serious concern and appropriate support must be offered to the small minority who find themselves in difficulties. There is, however, an overwhelming body of evidence that warning messages within adverts have little or no effect on consumer behaviour. It is clear that BCAP has thoroughly reviewed research before reaching the conclusion that such messages are ineffective.</p> <p>1.2 We are concerned that, when imposed, such messages disproportionately impact on radio's ability to attract advertisers since the warning or educational message has to be paid for. This is because, as a linear audio medium, radio cannot deliver multiple messages simultaneously in the way that visual media can. It has been Commercial Radio's consistent view that warning or educational messages are best delivered at the point of consumption/purchase, whether this is the point of sale for a financial product or the point of play for gambling (Radio Centre).</p> <p>1.3 The evidence from the tobacco industry shows that direct hard-hitting educational messages on-pack have not stopped people from smoking. Indeed, amongst the under 25 target groups, the message is often seen as a reason to smoke: it is fashionable to rebel against authority.</p>	<p>1.1 We welcome this comment.</p> <p>1.2 We appreciate the impact that compulsory messages have on radio advertising.</p> <p>1.3 We agree there is evidence to support this opinion.</p>	
---	---	--	--

	<p>1.4 It is far better at this stage to have sensible carefully controlled content in ads than obligatory messages, which are not proven to work.</p> <p>1.5 Rank Group Gaming Division has its own responsible gambling strap line and logo (<i>"Helping you stay in control"</i>). But we believe such messages are only effective if seen to reflect a sincere, voluntary desire to be responsible, rather than simply adhering to a legally required notice.</p> <p>1.6 99% of people who smoke are addicts but 99% of people who gamble are not, illustrating the need for a more subtle approach.</p> <p>1.7 In practice, the compulsory inclusion of warning notices is a presentational issue, satisfying a regulator's need to be "seen" to be taking a tough line, rather than offering any real protection to consumers.</p> <p>1.8 The CAP and BCAP codes are rigorous and robust. In the absence of clear evidence that messages or warnings are effective, they should not be required.</p> <p>1.9 Market research can support either claim, that risk warnings do or do not deter abuse.</p> <p>1.10 If evidence emerges that gambling advertising has caused an increase in problem gambling that should trigger a review of CAP and BCAP's positions but compulsory messages</p>	<p>1.4 We agree.</p> <p>1.5 Under the proposed rules, operators are free to choose to include messages in their advertisements.</p> <p>1.6 We agree that the risks and the policy and regulatory considerations for tobacco advertising are in most respects very different from gambling advertising.</p> <p>1.7 We agree there is no conclusive evidence that warning notices are effective and acknowledge there is evidence that warning messages can have unintended negative effects.</p> <p>1.8 We welcome this comment.</p> <p>1.9 We consider the balance of robust evidence fails to show that compulsory messages or warnings are effective.</p> <p>1.10 We agree.</p>	
--	--	---	--

<p>2. Department of Health (West Midlands), Individual (Mr T.), Salvation Army, Evangelical Alliance, Quaker Action on Alcohol and Drugs, Good Corporation, Methodist Church,</p>	<p>or warnings should only be introduced if there is evidence that that is likely to be effective.</p> <p>1.11 Providing warnings and sources of help at gambling premises is sufficient to permit initial advertising trials that can be closely monitored, especially if all advertising is geared to the over 18s.</p> <p>1.12 Messages are likely to be impractical on ads received on a mobile device.</p> <p>1.13 Gambling products themselves will be governed by codes of practice agreed with the Gambling Commission that address the operators' responsibilities with regard to age and the risks associated with misuse and guidance should problems arise.</p> <p><b>2. No, compulsory educational messages or warnings should be required from the outset</b></p> <p>2.1 We strongly urge CAP to reconsider its statements on not applying some kind of warning or messages or signposting to appropriate sources of help, e.g. GAMCARE. Or the Committee could consider including positive messages advocating sensible gambling, e.g. <i>"Keep gambling enjoyable, gamble responsibly"</i>.</p>	<p>1.11 We welcome this comment.</p> <p>1.12 We acknowledge that some media are more technically constrained than others but in the absence of robust evidence that warning messages are effective, combined with the fact that some evidence suggests warning messages are actually counter-productive, we consider it is disproportionate to require warning messages for gambling on any media.</p> <p>1.13 We agree that ensuring the operation of gambling products is responsible is very important.</p> <p>2.1 We consider the balance of robust evidence fails to show that compulsory messages or warnings are an effective way to make individuals aware of the risks posed by the product advertised, in the event that a lack of awareness is a</p>	
---	---	---	--

<p>Sporting Index, Confidential response, Church of England.</p>	<p>Health warnings create an environment of informed consent: an individual can be made aware of the potential effects of their actions and make an informed decision about whether or not to gamble.</p> <p>2.2 The financial capacity of statutory and voluntary agencies to develop responsible gambling / gambling “health” message advertising is in competition with the affluent gambling industries’ huge marketing budgets. If it was made law that the “message” was incorporated onto the product or advertising the cost would be minimal for statutory/voluntary agencies.</p> <p>2.3 The negative impact of tobacco advertising in respect of causing people to take up / continue smoking has been well documented, and the practice was banned in the UK in 2003. Tobacco products now have to have a significant proportion of their packaging covered with information about the dangers of smoking. The DoH is running a consultation on the use of picture warnings on cigarette packets. Work is underway on using sensible drinking messages to prevent binge drinking from increasing, e.g. in partnership with the Drinkaware Trust. Work is underway to add health messages to food packaging and advertising.</p> <p>2.4 The Government may breach its duty of care to the people of this country by failing to point out the dangers involved in gambling.</p> <p>2.5 Because warnings may enhance the risk-taking factor, which may well appeal to certain people</p>	<p>cause of problem behaviour.</p> <p>2.2 We appreciate that cost is an important consideration for statutory and voluntary agencies. But we consider the balance of robust evidence fails to show that compulsory messages or warnings are an effective public health measure.</p> <p>2.3 We consider that the risks and the policy and regulatory considerations for tobacco advertising are very different from gambling advertising. Gambling may be advertised under the Gambling Act. We consider the balance of robust evidence fails to show that warnings are effective.</p> <p>2.4 We consider the balance of robust evidence fails to show that compulsory messages or warnings are an effective public policy instrument.</p> <p>2.5 We consider there is no evidence that adapting the format of</p>	
--	---	---	--

	<p>who may not appreciate the suffering created by addiction, careful consideration must be given to how promotions are formatted and further research may be necessary before the codes of practice are finalized.</p> <p>2.6 We are also disappointed that the Gambling Commission did not take forward the Joint Committee's recommendation that information on sources of help for problem gamblers should be included on all ads. We accept that some people disregard warnings and that they are often perceived as providing protection for industry rather than the consumer, however, on balance, we still believe that warnings and helpline numbers provide a necessary counterbalance to the inducement to gamble, which advertising constitutes (Salvation Army).</p> <p>2.7 Educational messages or warnings should be used, primarily because gambling ads will not address consumers who have read warnings for years and have learnt to ignore them. The advertising of gambling is going to have a very strong, fresh impact with a high novelty factor. Ignorance of odds and risks is widespread. Whether educational messages continue to be effective in several years is debatable. Gambling treatment and help should be offered the benefit of a new high profile. If messages only reach those entering gambling premises, they will have missed the wider community, who will be deprived of the chance to give fuller consideration to whether or not to make such a visit (Evangelical Alliance).</p> <p>2.8 If health messages will not be presented in product advertising, it is vital that gambling operators contribute proportionately to health</p>	<p>promotions would reduce the danger that compulsory messages or warnings may make the advertised product more attractive to those at risk.</p> <p>2.6 We consider the balance of robust evidence fails to show that compulsory messages or warnings are an effective public policy instrument.</p> <p>2.7 We consider consumers are used to seeing warnings on ads for a variety of products other than gambling and there is no robust evidence that they are effective in any of those cases.</p> <p>2.8 That is a matter for operators.</p>	
--	---	--	--

	<p>messages delivered via other bodies (e.g. the Responsibility in Gambling Trust).</p> <p>2.9 There is a difference between absence of evidence and evidence that messages or warnings are ineffective. It is difficult to prove a negative effect in terms of inhibiting or preventing particular forms of behaviour. Despite the possibility of increasing the attractiveness of gambling or the desire of people to engage in it, where protection of the vulnerable is a high priority, the precautionary principle should be applied. That should outweigh the disadvantage of extra financial costs for advertisers.</p> <p>2.10 GamCare's Care Services Report 2005 shows that the most common source of information on help is the Yellow Pages, only 1 in 5 callers were referred by material on gambling premises or websites; 33% of callers were related to or knew a problem gambler. There might be many more people who do not gamble but who know someone who has a problem and do not know there are helplines and other facilities available. A message on a gambling ad might be an excellent way to encourage people to seek help. If CAP and BCAP are dubious about the effectiveness of such a system, a trial period could be set up. If it is clear that there is no benefit, the rule should be discontinued.</p> <p>2.11 All betting companies should take a socially responsible attitude to problem gambling and carry FSA-style risk warning notices in their ads, which spread betting companies are obliged to do.</p>	<p>2.9 We considered research that sought to prove a positive effect, i.e. a positive decision by heavy or addicted consumers of a certain product to reduce or give up consumption, and that failed show that compulsory warnings or messages are effective. We have used evidence-based regulation when drafting the rules, rather than the alternative precautionary principle. We consider that is in line with the Communications Act and the Gambling Act.</p> <p>2.10 If there is robust evidence that messages or warnings are an effective solution, CAP and BCAP will review their position.</p> <p>2.11 We agree that all gambling operators should take a responsible approach. But we take a proscriptive general approach to regulation and not a prescriptive approach in the</p>	
--	--	--	--



	<p>2.12 All advertising should contain a prominent warning that most gamblers will lose money, and that gamblers should only stake sums that they can afford to lose.</p> <p>2.13 Eliminating the warning from the outset sends the wrong signal to industry and consumers about the government's intent to liberalise the gambling market while implementing serious consumer protection measures.</p>	<p>form of warnings, which research has, on balance, shown to be ineffective</p> <p>2.12 We consider the balance of robust evidence fails to show that compulsory messages or warnings are effective.</p> <p>2.13 We consider the proposed gambling advertising rules are robust and will provide serious consumer protection, in line with the Gambling Act. We consider that there is no robust evidence that compulsory messages or warnings are effective</p>	
<b>Q.11 Do you agree that to require gambling advertisements to carry a statement of the operator's licensor or place of licensing would be disproportionate?</b>			
<p>1. Radio Centre, IPA, BH&amp;HPA, Rank, CNBC, ABB, Gala Coral Group, Salvation Army, Periodical Publishers' Association, PartyGaming, British Horseracing Board, Chrysalis, Advertising Association, Racing UK Ltd, BACC, Confidential response x2, Sky, At the Races, Lotteries Council, Business In Sport and Leisure, RACC, Littlewoods Gaming, Methodist Church,</p>	<p><b>1. Yes, it would be disproportionate to require gambling advertisements to carry a statement of the operator's licensor or place of licensing</b></p> <p>1.1 We are concerned that, when imposed, such statements disproportionately impact on radio's ability to attract advertisers because they have to be paid for. This is because, as a linear audio medium, radio cannot deliver multiple messages simultaneously. It has been Commercial Radio's consistent view that messages are best delivered at the point of consumption/purchase, whether this is the point of sale for a financial product or the point of play for gambling (Radio Centre).</p> <p>1.2 Pubs or bars are not required to prove their liquor licence when advertising and there is no additional reason for gaming operators to do</p>	<p>1.1 We appreciate the impact that compulsory messages have on radio advertising.</p> <p>1.2 We agree.</p>	

	<p>so. There may be regulatory grounds for an operator to display its licence on premises, web site, a lottery ticket etc to show transparency to those who conduct business with them. But to display such information on an ad serves little or no purpose and carries the practical difficulties identified in the consultation.</p> <p>1.3 It is not clear how a broadcaster should check if an advertiser is based in a White Listed country. The CAP and BCAP rules should make clear that broadcasters may accept lotteries from EEA or White Listed countries.</p> <p>1.4 But we would welcome the opportunity to participate in further dialogue about a “Kite Mark” that could be used by fully compliant and regulated operators.</p> <p>1.5 Consumers will not be in a position to discriminate between local jurisdictional variations or licensing requirements so that such statements will not be of use in the selection of an operator. Consumer confusion may be created about whether a remote operator can legally offer services to UK residents, providing an unfair advantage to operators licensed by the UK Gambling Commission. It is for the Gambling Commission to ensure that remote operators offering services to UK consumers and promoting in the UK are licensed appropriately in the UK, EEA or a “White List” Country.</p>	<p>1.3 DCMS will publish the White List of jurisdictions whose licensed operators may advertise in the UK. The CAP and BCAP rules refer to the definition of “lottery” under the Gambling Act 2005, which includes lotteries from EEA or White Listed countries.</p> <p>1.4 That is a matter for operators and their licensor. There is nothing in the CAP and BCAP rules to prevent operators from voluntarily including a Kite Mark or licensor information in ads.</p> <p>1.5 We agree.</p>	
--	---	--	--

	<p>1.6 Any theoretical improvement in transparency would be undermined in practice by increased consumer confusion. That is because, in addition to GC licensees, operators within any of the other 27 European Economic Area (EEA) States together with Gibraltar and countries enjoying “White List” status would also be required to carry such statements. UK customers could be confronted with thirty or more different statements as to where or by whom a particular operator is licensed. That would serve no useful purpose and would impose an unnecessary burden on advertisers and media. Licensing information will be delivered <i>de facto</i> at least in respect of GC licensees because they are likely to want to differentiate themselves from foreign operators legally permitted to advertise in the UK, provided the GC becomes a high-profile and trusted brand that delivers consumer protection. The marketing advantages associated with foreign operators making such claims are far less obvious, at least in conventional advertising media. But consumers will be reassured that when a foreign gambling operator advertises within conventional media in the UK it will be based within another EEA State, Gibraltar or “white-listed” country. UK media owners will want to establish the legality of a foreign operator advertising here before carrying any of their ads so as to ensure no offence has been committed under Section 331 of the Act. In internet advertising, a domain where the power of states to regulate is considerably more limited, GC licensees will also want to differentiate themselves (perhaps through the use of a GC click-through kitemark) from</p>	<p>1.6 We agree.</p>	
--	--	----------------------	--

<p>2. Individual (Ms. T), Evangelical Alliance, Church of England, Responsible Gambling Solutions, Good Corporation, Casino Operators' Association, Kerzner, Alderney Gambling Control Commission</p>	<p>companies that will not have the right legally to advertise in the UK but may seek to target it. (Operators within the EEA may in time call for the Gaming Regulators European Forum, or similar organisation, to develop a click-through kitemark. Such a mechanism would allow them to identify themselves as legal advertisers, which consumers could verify).</p> <p>1.7 If an operator complies with licensing laws and advertising standards the place of licensing is irrelevant.</p> <p>1.8 This information is easily accessible on the websites of bookmakers and other gambling operators.</p> <p>1.9 The rules set out are the correct approach because they are in accordance with better regulation principles, and we are delighted that unnecessary additional regulation is not being added through this stage of implementation of the Gambling Act.</p> <p><b>2. No, it would not be disproportionate to require gambling advertisements to carry a statement of the operator's licensor or place of licensing</b></p> <p>2.1 It is important to provide transparency so a punter easily knows if a site or venue is licensed in a country where he may be reasonably confident of consumer protection. Having to provide one's place of licensing may discourage sites that are licensed offshore, of dubious integrity.</p>	<p>1.7 We consider that a compulsory requirement to include the place of licensor in all ads is unnecessary because operators must comply with the licensing laws and advertising standards.</p> <p>1.8 We agree.</p> <p>1.9 We welcome this comment.</p> <p>2.1 To advertise in the UK, an operator must be licensed in the UK, the EEA or a jurisdiction on the Government "White List". To be included on the "White List", a country must satisfy DCMS that it provides a regulatory system of the same standard as the</p>	
---	---	---	--

	<p>2.2 This is particularly important for remote forms of gambling, especially Internet, so that a potential gambler knows whether the site advertised is safe and approved by the regulator. The brand leaders of the major gambling activities are well-known names but small-scale operators may not be. Regarding the additional financial cost, an indication that the operator is licensed by the Gambling Commission could help increase footfall for small-scale operators. It would aid enforcement of the Act by the Commission or local licensing authorities.</p> <p>2.3 In the interests of transparency and trustworthiness, UK operators that have different websites for different activities should also be required to post in which jurisdiction each is licensed on the home page.</p> <p>2.4 A responsible operator should welcome a statement of his or her licensor as an endorsement of their legitimacy and standards.</p> <p>2.5 This is absolutely essential to player protection. The player should, at a glance, preferably on the access page to the website, be able to see where and by whom a site is regulated. The site should also provide a link to the relevant</p>	<p>Gambling Act. For the EEA, under the Treaty establishing the European Community, the UK can refuse to allow operators licensed in a Member State to advertise in the UK on the grounds of public policy, public security or public health.</p> <p>2.2 We consider a compulsory statement of licensor would increase consumer confusion because, in addition to Gambling Commission licensees, operators within any of the other 27 European Economic Area (EEA) States together with Gibraltar and countries enjoying "White List" status would also be required to carry such statements. We consider consumers are unlikely to be in a position to discriminate between local jurisdictional variations or licensing requirements.</p> <p>2.3 We do not regulate a company's own website. This is a matter for the Gambling Commission.</p> <p>2.4 There is nothing in the advertising rules to prevent an operator from including a statement of licensor in their advertising if they wish.</p> <p>2.5 We do not regulate a company's own website. This is a matter for the Gambling Commission.</p>	
--	---	---	--

	licensor's website, which should provide information on how to lodge a complaint about the conduct of the operator.		
<b>Q.12 Can you identify any problems in relation to gambling advertisements that are not addressed either by the specific gambling advertising rules proposed here or by other CAP or BCAP Code rules?</b>			
1. Lord Lipsey, BACTA, ABB, Salvation Army, PartyGaming, British Horseracing Board. Quaker Action on Alcohol and Drugs, Good Corporation, Mobile Broadband Group, Racecourse Association, Lotteries Council, RACC, Confidential response x2, Individual (Mr R.), Teletext	<p><b>1. Yes.</b></p> <p>1.1 The legality of regulating tipsters' advertising under the Gambling Act should be assessed. Having bought the tips, the purchaser is inclined to punt heavily to recover his expenses, leading to a vicious and damaging circle. If it's not possible to regulate tipster ads under the Act, the self-regulatory system should pull out all stops to get the present rules enforced, and should if necessary press for an amendment to the statute.</p> <p>1.2 Various concepts are unclear and arguably meaningless: e.g. social responsibility, vulnerable persons.</p> <p>1.3 We are concerned about the co-morbidity of problem gambling and other addictive behaviour. To help protect vulnerable groups, we would like to see rules restricting depictions of people gambling and smoking, drinking or using drugs. We would also like to see some</p>	<p>1.1 We are considering the CAP and BCAP rules on tipster advertising separately from this consultation. The ASA system takes action to enforce the present rules against unacceptable tipster advertising.</p> <p>1.2 Social responsibility is in the general principles underpinning the rules. The detailed rules then expand on what CAP and BCAP consider social responsibility to mean in the context of gambling advertising. Moreover, it is in the present CAP gambling rules. CAP and BCAP have referred to the Gambling Commission's position on what vulnerable persons means for regulatory purposes. CAP and BCAP will provide separate guidance on the rules.</p> <p>1.3 Smoking can rarely be shown in any advertising. Illegal drugs may not be shown. The portrayal of alcohol would have to comply with rules on alcohol in the BCAP TV and Radio Codes and the general rule on social</p>	

	<p>consideration given to the use of credit cards in ads. They should not be used in a way that suggests gambling on a credit card is easy, particularly on online gaming sites.</p> <p>1.4 The question of inducements, within the Gambling Commissions' remit, must be dealt with in the context of the advertising rules for effective advertising policy.</p> <p>1.5 There are numerous sponsorship arrangements within Racing where betting has direct or indirect involvement, and we would be happy to speak directly with CAP/BCAP and the Gambling Commission about the extent to which those would be affected by a revised advertising code.</p> <p>1.6 Will name placement and sports sponsorship be allowed?</p> <p>1.7 The proposed codes may not adequately deal with the internet where the traditional demarcations between web content and marketing and broadcasting are breaking down. The proposed codes do not seem to cover the promotional links and other devices on websites that take the user from a non-gambling to gambling site, but might not be classified as advertising.</p> <p>1.8 We are also concerned by the marketing and sponsorship arrangements that leading UK</p>	<p>responsibility in the CAP Code. If a gambling ad suggested that a person could gamble beyond their means by using credit that the ASA Council would be likely to consider that infringes the rules on "financial harm".</p> <p>1.4 We liaise with the Gambling Commission regarding issues in their remit that affect advertising.</p> <p>1.5 CAP and BCAP do not regulate sponsorship. That is a question for the Gambling Commission and, regarding the sponsorship of broadcast programmes, Ofcom.</p> <p>1.6 CAP and BCAP do not regulate sponsorship. That is a question for the Gambling Commission and, regarding the sponsorship of broadcast programmes, Ofcom.</p> <p>1.7 The CAP Code regulates third-party advertising on the Internet and sales promotions on websites. Third party promotional links to gambling websites are considered on a case-by-case basis and likely to fall within the scope of the CAP Code.</p> <p>1.8 Sponsorship of sports clubs and the editorial content of a company's own</p>	
--	--	--	--

	<p>sports clubs (e.g. football) have with gambling companies that can influence younger fans. Most football clubs promote betting and gaming through their websites. There is the further problem of promotional clothing and other sports paraphernalia bearing the logo of a gambling operator that is directly marketed to young people through the club. The phenomena is not restricted to football (Tote now sponsors a cricket championship) but football has the greatest impact on young people. The advertising code should extend to marketing arrangements that can 'groom' the next generation of gamblers through more indirect means.</p> <p>1.9 TV Code Note to 11.6.1(c) states "advertisers may however refer to other benefits of winning a prize". Shouldn't this apply to non-broadcast and radio marketing/ads?</p> <p>1.10 Marketing communications "should not...encourage gambling behaviour that...could lead to financial...harm". Because financial losses are one of the inherent risks of gambling (for the gambler and gambling operators) we presume that the Committee intends to make a clear distinction between financial harm and financial loss. We seek guidance on where the distinction lies.</p> <p>1.11 We note that advertisers should not suggest that solitary gambling is preferable to social gambling. Does this mean that "bricks and mortar" gambling can be promoted as preferable to remote gambling? Is there enough evidence about whether there is more or less</p>	<p>website are not regulated by CAP and BCAP; they are matters for the Gambling Commission and DCMS. The CAP Code regulates third-party advertising on the Internet and sales promotions on websites. Banner ads for gaming products and services on football clubs' websites, for example, are considered on a case-by-case basis and likely to fall within the scope of the CAP Code.</p> <p>1.9 We have decided to remove the Note to proposed BCAP TV rule 11.6.1(c) because separate guidance on the Code rules will be provided.</p> <p>1.10 We agree it is possible to incur some financial loss without experiencing financial harm. The objective of the rules is to prevent gambling ads that could encourage harmful behaviour. We will provide separate guidance on interpretation of the Code rules and we are assured that the ASA strives to apply a properly moderated approach to Code rule interpretation.</p> <p>1.11 Based on research and the experience of problem gambling organizations, we are concerned there is a tendency for problem gamblers to gamble alone, whether on-line or at a terrestrial venue.</p>	<p><b>BCAP TV Code 11.6.1(c)</b> Advertisements must not suggest that gambling can be a solution to financial concerns, an alternative to employment or a way to achieve financial security. <b><del>Note to 11.6.1(c)</del></b> <del>Advertisers may however refer to other benefits of winning a prize.</del></p>
--	---	--	---



	<p>risk of harm from gambling alone or gambling in a group (with the issues around peer pressure etc.) to make such a firm rule?</p> <p>1.12 Is it possible to incorporate mutual recognition that would allow cable and satellite broadcasters to carry advertising for services that are effectively regulated by an authority outside of the EEA?</p> <p>1.13 "Advertisements for entertainment that can be accessed only by entering gambling premises should make that condition clear". It is likely that, when certain entertainments (e.g. private parties) are taking place at the racecourse, there will not be any gambling at the same time. An exemption ought to be made for non-gambling events at horse racecourses, some of which are well attended by families with children.</p> <p>1.14 Will CAP and BCAP review the effectiveness of their new code after full implementation and will stakeholders be consulted?</p>	<p>There is a separate rule to prevent ads featuring peer pressure.</p> <p>1.12 Broadcasters may carry gambling advertising for operators licensed in the UK, EEA or a "white listed" jurisdiction. DCMS will decide what jurisdictions to include on the White List.</p> <p>1.13 We consider that in those circumstances the ad would fall under draft CAP rule 54.3(c) and the introductory paragraph to the BCAP Radio and TV Rules: "Unless they portray or refer to gambling, these Rules do not apply to marketing communications/ advertisements for non-gambling leisure facilities, for example hotels, cinemas, bowling alleys or ice rinks, that are in the same complex as but separate from gambling facilities". But, to make that clear, we will add "event" to "facilities".</p> <p>1.14 CAP and BCAP will review the effectiveness of the rules a suitable period after implementation, i.e. to evaluate if advertisers and broadcasters are complying with the new rules. CAP and BCAP can undertake proactive compliance action if they determine that rules are not being adhered to. Neither the initial monitoring project or the subsequent enforcement project require consultation – CAP and</p>	<p><b>CAP rule 54.3(c), introductory paragraph to the BCAP Radio and TV gambling rules:</b> These clauses do not apply to marketing communications for non-gambling leisure <b>events or</b> facilities, for example hotels, cinemas, bowling alleys or ice-rinks, that are in the same complex as, but separate from, gambling <b>events or</b> facilities.</p>
--	--	---	--

	<p>1.15 There should be a thorough evaluation of the effects of allowing gambling advertising, including a study of the number of problem gamblers before and after the change of policy.</p> <p>1.16 There is a problem with online poker where there is a 'rake', which is a percentage of the pot that the operator charges when poker is played against the bank. Advertisers can mislead by not explaining the probabilities involved in poker played against a 'bank' as opposed to another person.</p> <p>1.17 Instead of Teletext being subject to one Code for its text services and different rules applying to other broadcasters, the best of the existing Code for Text Services and the proposed broadcast gambling rules should be reviewed with the aim of achieving a consistent best of breed that apply to all broadcast media including Teletext.</p>	<p>BCAP routinely undertake those tasks for different advertising sectors. If robust evidence indicates that the advertising rules are a cause for concern, CAP and BCAP, in keeping with the principle of evidence-based regulation, are committed to reviewing those rules in an open and transparent manner.</p> <p>1.15 The Gambling Commission is responsible for research on the prevalence of gambling and of problem gambling.</p> <p>1.16 The CAP and BCAP Codes contain comprehensive provisions against advertising that misleads, whether directly, indirectly, by exaggeration or by omission.</p> <p>1.17 The Code for Text Services will be updated to reflect the change in gambling law.</p>	
<b>Q.13 Do you agree that spread betting should be allowed to be advertised as a specialist financial investment on specialist financial TV channels and radio stations and within specialist financial programming on TV and radio?</b>			
1. CNBC, Gala Coral Group, Spread Betting Association, British Horseracing Board, Chrysalis,	<b>1. Yes, spread betting should be allowed to be advertised as a specialist financial investment on specialist financial TV channels and radio stations and within specialist financial programming on TV and radio</b>		

<p>Responsible Gambling Solutions, Advertising Association, Racing UK Ltd, BACC, Sky, At the Races, RACC, Sporting Index.</p>	<p>1.1 The rules should clarify the regulatory requirements for broadcasting ads for financial promotions, spread betting and lotteries from advertisers based outside the UK and broadcast on a Pan-European basis. In particular, the rules should state who can approve such ads. Should each ad be approved by an FSA-authorised person or an authorised person under the equivalent financial regulatory framework of the country from where the ad emanates? If the former, this will add to the cost of such ads and make them uncompetitive vis-à-vis ads from the UK.</p> <p>1.2 Yes, but there is no justification for limiting spread betting ads to specialist financial channels or programming. Although customers can lose more than their initial stake, the risks involved in spread betting are not larger than risks with betting, where losses are not proportionate e.g. to someone's income and may also be harmful. The FSA COB rules regulate the promotion of spread betting operations and state, e.g., that ads must be clear, fair and not misleading; must include a fair and accurate description of the nature of the investment or service, the commitment required and the risks involved; avoid accentuating the benefits of an investment without also giving a fair indication of the risks. Enforcement can result in fines or withdraw of FSA Authorisation. These rules ensure that any risk above betting are described thoroughly. The FSA does not consider it necessary to restrict spread betting ads to any particular media. They are currently prohibited on broadcast media because of the prohibition on betting only. Many spread betting companies</p>	<p>1.1 The financial rules refer advertisers to the relevant legislation and financial regulator – the FSA.</p> <p>1.2 We consider the risks involved in spread betting are higher than those involved in betting precisely because the consumer can lose more than their initial stake and because spread betting is considerably more complicated than betting. Spread betting is a form of contract for difference. Other forms are presently restricted to specialized financial channels under the BCAP TV Code. Regarding the FSA rules, Guidance in the FSA COB 3.8.7G states that “the targeting of an audience which is unlikely to understand the promotion, are matters which are relevant to an assessment of whether the promotion is ‘clear, fair and not misleading’”. All spread betting products, regardless of whether they are on sport, financial or any other event, are regulated as investments by law (the Financial Services and Markets Act) and the FSA.</p>	
---	---	---	--

	<p>offer sports as well as financial spread betting. Financial channels are not likely to offer much value to sports spread betting companies and they will be seriously and unfairly restricted from competing with bookmakers.</p> <p>1.3 Some sports spread betting companies currently sponsor horse races and have other sponsorship arrangements, such as with jockeys. We strongly consider such contracts should not be regarded as advertising gambling but to continue to be regarded as sponsorship and general promotion.</p> <p>1.4 We are happy with the proposal that spread betting may be advertised in the context of specialist financial investment. We are currently able to advertise other high-risk investment products, and believe that, subject to appropriate regulation, spread betting advertising should be permitted (radio).</p> <p>1.5 Spread betting is unlike almost all other forms of betting because the cost of the stake is not known until the outcome has been declared. This considerably heightens the risk to the gambler who, depending on the transaction, stands to win or lose significantly large sums of money. Although spread betting does not feature as a significant activity in GamCare's Helpline and counselling statistics, those that have this problem have usually been financially ruined by their losses. Although we agree spread betting should be allowed to be advertised as outlined in this proposal, spread betting ads should carry a suitable message in relation to the risk involved. We are concerned about any change that blurs the line between an <i>Investment</i> with the consequent expectation</p>	<p>1.3 Sponsorship is not regulated by CAP and BCAP. That is a matter for the Gambling Commission and, for broadcast programme and channel sponsorship, Ofcom.</p> <p>1.4 We agree.</p> <p>1.5 We welcome this comment. The FSA presently requires spread betting ads to carry a statement about risk.</p>	
--	---	--	--

	<p>of making a profit, and a <i>gamble</i> with the expectation that a loss is likely to be made. The restriction of such advertising to specialist channels largely deals with this concern but we hope that CAP/BCAP will monitor the outlets for such advertising.</p> <p>1.6 Removing the prohibitions on spread betting advertising on television channels and radio stations will bring these media into alignment with existing non-broadcast practice. It is a guiding AA principle that, as far as is practicable, there is equal treatment of media in respect of the advertising they may carry. We welcome the fact that BCAP intends to apply its comprehensive proposed rules on gambling advertising to spread betting in addition to the existing provisions within the rest of the codes e.g. on misleading ads. Our support is, moreover, founded on the premise that any advertising of spread betting should be subject to strict content and scheduling rules, in particular within specialised financial programming on general audience channels or stations, given that spread-betting is a complex and potentially high-risk investment product.</p> <p>1.7 Spread betting should be allowed to be advertised on specialist sports TV channels, such as At The Races, because spread betting is also available on sport (including horseracing), not just on financial markets.</p> <p>1.8 The consultation document does not</p>	<p>1.6 We agree.</p> <p>1.7 We consider it necessary to restrict spread betting ads to audiences likely to have specialist financial knowledge. We consider the risks involved in spread betting are higher than those involved in betting because the consumer can lose more than their initial stake and because spread betting is considerably more complicated.</p> <p>1.8 We consider it necessary to restrict</p>	
--	--	---	--

<p>2. Quaker Action on Alcohol and Drugs</p>	<p>discriminate between Financial and Sports Spread Betting and as such the proposal to limit ads to specialised financial TV channels or radio stations or specialised financial programming will be highly damaging and severely limit the potential of our business and its UK domicile. It will also place us at a significant competitive disadvantage in comparison to the rest of the sports betting industry. Sports Spread Betting is very different from Financial Spread Betting. Sports Spread Betting is a leisure product that is undertaken for fun and enhances the enjoyment of sport. Financial Spread Betting is an investment product which is used as part of an individual's overall financial planning. They appeal to different audiences and are marketed in completely different ways. We want the rules to clearly differentiate Sports Spread Betting from Financial Spread Betting. We want Sports Spread Betting to be able to advertise along exactly the same guidelines as other sports betting products/companies. The Gambling Commission reviewed, extensively, the position of Sports Spread Betting in the wider context of betting and gaming in the UK. It acknowledged that it was a product integral to the market and well regulated by the FSA. We already comply with the stringent FSA risk warning rules.</p> <p><b>2. No, spread betting should not be allowed to be advertised as a specialist financial investment on specialist financial TV channels and radio stations and within specialist financial programming on TV and radio</b></p> <p>2.1 We are concerned at the proposal to advertise spread betting more widely. It has high-risk gambling features (the possibility of losing more</p>	<p>spread betting ads to audiences likely to have specialist financial knowledge. We consider the risks involved in spread betting are higher than those involved in betting because the consumer can lose more than their initial stake and because spread betting is considerably more complicated than betting. All spread betting products, regardless of whether they are on sport, financial or any other event, are regulated as <b>investments</b> by law (the Financial Services and Markets Act) and the FSA. Guidance in the FSA COB 3.8.7G states that "the targeting of an audience which is unlikely to understand the promotion, are matters which are relevant to an assessment of whether the promotion is 'clear, fair and not misleading'".</p> <p>2.1 In addition to the BCAP rules, the FSA regulates ads for spread betting and requires spread betting ads to</p>	
--	---	--	--

	<p>than has been staked and thus effectively to work on credit) and some facets associated with problem play (e.g. the potential for chasing losses through re-staking in 'live' markets). If it is to occur, restrictions of the kind proposed seem helpful. Even though the audience of the designated channels is likely to be more familiar with conditions than are the general public, we believe that this is a case in which a warning/information message would be particularly appropriate. We hope that effects will be carefully monitored.</p>	<p>carry a statement about risk. We will review the effectiveness of the new rules a suitable period after implementation.</p>	
--	---	--	--