

# Featuring children in lottery advertising: CAP and BCAP's evaluation of responses



# 1. Introduction

## Existing rule

**17.15** Marketing communications 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.

**17.16** Marketing communications 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 in a significant role.

In the BCAP Code, these rules are 18.6 and 18.7, respectively, and are the same as their CAP Code equivalents.

## Proposed rule

**17.15** [Marketing communications] for lotteries must not feature anyone who is, or seems to be, under 25 years old (under-25s) participating in gambling.

**17.16** [Marketing communications] for lotteries which include any reference to scratchcards or online instant-win lottery products must not feature under-25s in a significant role. Other [marketing communications] for lotteries must not feature under-25s in a significant role unless either:

**17.16.1** the under-25s are featured solely to depict the good causes supported by the lottery and there is no explicit encouragement to purchase a lottery product; or

**17.16.2** the lottery primarily benefits under-25s (including in a family setting) and the under-25s featured are representative of the primary beneficiaries of the lottery.

## 2. List of respondents [and their abbreviations used in this document]

	<b>Organisation / Individual</b>	<b>Abbreviation</b>
	Cornwall Hospice Care	CHC
	Camelot UK Lotteries Ltd	CUK
	The Hospice Lotteries Association	HLA
	The Hospice Lottery Partnership	HLP
	Institute of Fundraising	IOF
	The Lotteries Council	LC
	Postcode Lottery Ltd	PPL
	St Christopher's Hospice	SC
	St David's Hospice Care	SD
	The Donna Louise	TDL
	Treetops Hospice Care	THC
	TLC Lotteries Ltd	TLCL

Do you agree with CAP and BCAP's proposed new rules to replace CAP rules 17.15 and 17.16 and BCAP rules 18.6 and 18.7? Please set out your arguments for supporting or disagreeing with the proposals.		
Respondent/s	Comments	CAP and BCAP's evaluation:
CUK	These new rules will not affect how we advertise National Lottery products; also mindful that they should equally not apply to umbrella-style society lotteries that are national competitors to The National Lottery.	CAP and BCAP agree that umbrella-style lotteries are unlikely to qualify because of the requirement to primarily support under-25s
CHC, HLA, HLP, LC, SC, SD, THC, TLCL, PPL	Content with the changes to 17.15/18.6	
CHC, HLA, HLP, LC, SC, SD, THC, TLCL, PPL	<p>The phrase "in a significant role" is not defined, which leaves it open to interpretation in different ways by advertisers and regulators. Society lotteries want to be able to advertise their lottery fundraising with confidence, which would not be provided by this phrasing.</p> <p>Some responses raised concerns that the wording had been derived from rules relating to the marketing of alcohol and gambling, rather than being a specific solution for lotteries.</p>	<p>CAP and BCAP disagree. The phrasing is consistent with other sections of the Codes; the consultation uses the alcohol section as an example because there has been a significant amount of regulatory action in this area that helps to illustrate its meaning. The principles, however, remain the same and were explored on page 8 of the consultation document to explain the intended interpretation of the rule.</p> <p>Although society lotteries are not a 'commercial product' like alcohol, the 'significant role' phrasing is in relation to its age-restricted nature rather than its status as a product.</p> <p>Nonetheless, CAP and BCAP acknowledge the request for further clarity about how this phrase relates specifically to lotteries. Therefore, specific guidance for the lotteries sector will be published alongside confirmation of the new rules.</p>
CHC, HLA, SC, LC	CAP have only referenced evidence sourced in relation to National Lottery products with very large payouts; Hospice Lottery players are generally not primarily motivated by prizes (and the prizes are usually quite low, certainly in the Hospice Lottery sector) but by the opportunity to support a charity in its purpose, albeit by playing a game of chance, and not by direct donation. Little investigative work has been undertaken to establish this, as charity lotteries are generally considered so low risk that no-one is willing to fund any definitive evidential work	CAP and BCAP acknowledge that there may be a range of motivations for entering society lotteries, including as a novel form of donation to a cause. However, we must recognise that, legally speaking, all lotteries are still gambling products, even though they are done in support of charitable causes and may have small prizes. This includes acknowledging and acting upon the age-restricted nature of lottery products and

	<p>There appears to be no recognition that charity lotteries are run by non-profit organisations trying to make a difference to people that have needs that are not funded by the government, and are therefore trying to raise money by one of the oldest fundraising tools available to the industry – raffles and lotteries.</p> <p>Evidence relating to the higher risk profile of National Lottery scratchcards is not relevant to society lotteries because the latter have much smaller prizes.</p>	<p>limiting the use of children within their advertising unless strictly relevant to the cause. The lotteries sections of the Codes, including the rules under revision, already recognise the lower risk of lotteries in relation to other forms of gambling.</p> <p>In relation to scratchcards, CAP and BCAP's concern relates to the instant-win nature of the product. Although the prize amounts are different to National Lottery, the mechanism remains the same and, therefore, so does the potential for elevated risk. As such, CAP and BCAP consider this evidence relevant.</p>
<p><b>CHC, HLA, HLP, SC, SD, THC, TLCL</b></p> <p><b>IoF</b></p> <p><b>HLA</b></p> <p><b>LC</b></p>	<p>17.16.1 divorces the cause and the means of support, which for society lotteries is unreasonable. A lottery purchase is generally considered by players to be as much a donation as a gambling product, if not more so. The ability to link the purpose of the charity to the need for support is intrinsic in the whole operation of a lottery; if it weren't for the cause, the lottery wouldn't be necessary.</p> <p>Questioned whether the line of 'no explicit encouragement to purchase a lottery product' will lead to confusion over wording and promotion. As we read it, there can be a general marketing communication including under-25s who are beneficiaries, but on that communication the charity couldn't specifically promote a sign up to a charity lottery? If this is the case, it would make it tricky to build it in to fundraising communications as all the research shows that the 'ask' is a key component of successful fundraising. We would welcome clarification on what would be deemed acceptable in terms of wording and content on a lottery advert so that charities are able to encourage sign ups (which is the whole point of lottery marketing communications), but in an appropriate and fair way.</p> <p>Would support if the intention were that the <i>image</i> could not bear the call to action, rather than the whole vehicle (leaflet, poster etc)</p> <p>Concerned that 17.16.1 would prevent hospices for under-25s from featuring their beneficiaries in advertising for lotteries</p>	<p>CAP and BCAP disagree. As the rule notes, the prohibition is on featuring under-25s alongside <i>explicit</i> encouragements to participate, not on the advertising of the lottery in general. This means that marketing advertising the existence of the lottery can feature images of under 25s, as long as it does not include a specific call to action such as "join now". On the other hand, references such as "find out more on our website" or general remarks about the lottery's existence and prizes are likely to be acceptable.</p> <p>Although CAP and BCAP understand that lottery providers will want to link the cause and the lottery as explicitly as possible, we consider that (due to the age restricted nature of lottery products) where children are concerned this must be proportionate. As such, where young people are <i>not</i> the primary beneficiaries of a lottery, use of their imagery in ads for said lottery should be appropriately limited. Providers in such situations may either use prominent images of young people or may use explicit encouragements to participate. CAP and BCAP consider that these provides a balance between the need to protect children and the need for lotteries to promote the causes they support in conjunction with requests for funds.</p>

			<p>For the avoidance of doubt, and as explored further below, lotteries where beneficiaries are primarily under-25 will not be subject to this rule. As such, the only lotteries affected are those who do not primarily support under-25s and who, therefore, will have other beneficiaries to feature on their advertising if they wish to make explicit encouragements to participate.</p> <p>To ensure clarity, CAP and BCAP will release guidance on the interpretation of this rule.</p>
	<b>TDL</b>	Agree that 17.16.2 would allow them to use children in their advertising	
	<b>HLA</b>	The term 'primarily' is undefined	<p>CAP and BCAP note that the rule does not define the term 'primarily'; it is common for such terms to be elaborated on in accompanying guidance, which CAP and BCAP intend to do in this instance.</p> <p>CAP and BCAP note that, for the purposes of commenting on the proposed wording, the intended interpretation of 'primarily' was described on page 8 of the consultation.</p>
	<b>CHC, HLA, HLP, LC, SC, SD, THC, TLCL</b>	<p>The rule is unnecessarily narrow. Although some hospices may only care for adults, they provide support to young people as part of patients' families. Such support is considered by patients to be a valuable part of a hospice's services.</p> <p>HLA suggested the following wording:</p> <p><i>the cause promoting the lottery provides services to under-25s and the under-25s featured are shown in a setting (including in a family setting) that is representative of the services provided</i></p>	<p>CAP and BCAP acknowledge that hospices whose patients are all adults will nonetheless often provide support to children and young people as part of their work with patients' families. They also acknowledge that this is of considerable importance to patients, their families, and supporters of hospices.</p> <p>When determining how broadly to draw the allowance for featuring images of children, CAP and BCAP must have regard to the potential for harm. As noted above, society lotteries are a type of gambling product and care must therefore be taken with incorporating children and young people in advertising for them. As such, the rules must balance the relevance of under-25s to a specific lottery with the general need to ensure that lottery advertising is responsible. As such, the rule is deliberately narrow.</p>

			<p>Were CAP and BCAP to expand the rule to cover all lotteries that provide any service to under-25s, there would be very few (if any) lotteries that were ineligible. It would be possible to limit eligibility in this scenario by restricting to rule to those lotteries that support (for example) health-related causes. However, because there is already a statutory body to regulate which causes are suitable beneficiaries of society lotteries, it would be inappropriate for CAP, BCAP, or the ASA to make any further judgements in this area.</p> <p>As explored above in relation to 17.16.1, this would not prevent a lottery from naming and describing these services, illustrating them without significant imagery of under-25s, or featuring under-25s in a significant role as long as there was no explicit encouragement to purchase a lottery product.</p>
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