



Sarah Gardener
Executive Director
Gambling Commission

sgardener@gamblingcommission.gov.uk

Committee of Advertising
Practice
Castle House, 37-45 Paul Street
London EC2A 4LS
Telephone 020 7492 2200
Email enquiries@cap.org.uk
www.cap.org.uk

23 April 2020

Dear Sarah

Re: GambleAware's Interim Synthesis Report – eSports and remit

Further to my [update in December](#), I'm writing to report progress on CAP's response to the emerging findings of GambleAware's research on the impact of gambling advertising in the UK.

We've now concluded the work on eSports betting marketing in social media and developing an understanding of the related landscape to ensure, with our regulatory partners, there are no regulatory gaps in consumer protection.

Before turning to that work, I think it's important to highlight the Advertising Standards Authority's (ASA) [recent initiative](#) responding to the COVID-19 crisis. The ASA, as the independent body responsible for enforcing the [UK Advertising Codes](#), has launched a 'quick reporting' process that allows people to flag-up potentially irresponsible content that plays on present concerns and anxieties over COVID-19 or lockdown. It's a clear statement to gambling operators that swift action will be taken to curb irresponsible advertising.

You'll also know that GambleAware has [now published](#) its final synthesis report, which provides a UK-centric picture of evidence on the impact of gambling marketing, for the first time. CAP's response to the final synthesis report will help us to ensure that the UK Advertising Codes remain in step with the latest evidence to protect vulnerable groups from potential harm.

I'll write to you with a fuller outline of CAP's response when we're in a position to set it out publicly; hopefully, by the autumn. But I can say now that we're well-advanced in our assessment of the final synthesis report and we're actively considering its implications for our regulation of gambling advertising. We are keen to build on the momentum of the work that we've already initiated in response to GambleAware's [interim synthesis report](#).

[Legal, decent, honest and truthful](#)

Returning now to eSports betting, we've concluded our assessment of social media content relating to eSports betting identified in the GambleAware commissioned research, [*Biddable Youth - Sports and esports Gambling Advertising on Twitter: Appeal to Children, Young & Vulnerable People*](#), carried out by the University of Bristol and the research company, Demos.

Summary

CAP is confident that there are clear lines of regulatory responsibility protecting consumers from unlicensed operators and ensuring that lawful marketing of gambling in Great Britain is strictly controlled. In summary, we determined the following from our assessment of the social media content relating to eSports:

- The vast majority of eSports betting marketing is published by or on behalf of overseas' operators, which are not licensed by the Gambling Commission. Hardly any of the social media content assessed targets UK consumers and the content does not fall within the remit of our Code.
- The Gambling Commission, however, has powers to address instances where unlicensed operators unlawfully target British consumers with marketing.
- The UK Advertising Codes control the content and placement of marketing for lawful eSports betting marketing directed at a UK audience; these are the same controls that apply to advertising for more conventional forms of gambling.

The vast majority of the eSports-related social media content identified in the research falls outside the remit of CAP's UK Advertising Code and, therefore, outside the remit of the independent ASA. But, as more UK-based operators offer eSports-related gambling opportunities, it's important to draw on learnings from what the University of Bristol and Demos reported.

CAP's Compliance team has today [published an Advice Notice](#) to GB-licensed gambling operators making clear that eSports betting-related advertising must comply with rules that apply to other forms of gambling advertising. Recent developments relating to the COVID-19 crisis make this an even timelier message as eSports provide alternatives to conventional sports that are almost entirely suspended.

GambleAware research on eSports betting

The research carried out by the University of Bristol and Demos identified a significant body of social media activity related to online gaming and, specifically, betting on eSports. Teams, tournaments and eSports leagues can generate large audiences both at physical venues and through online streaming. As such, eSports is the focus of increasing commercial activity, including merchandise and sponsorship. It has also become a focus for some gambling operators in providing new gambling opportunities.

Compared to the volume of social media activity related to conventional betting (also studied by the research), the volume of traffic relating to eSports is small. However, with

children and young people being able to view and engage with eSports and eSports-related content, there are evident risks relating to their exposure and potential access to eSports betting.

This is an emerging and complex area with operators, media providers and eSports actors around the globe. The ASA has received very small number of complaints about marketing related to online gaming and, specifically, eSports betting (there were just two cases in 2019; both were for non-UK-based marketers and outside the Code's remit). Insights from GambleAware's study therefore serve as the primary basis for CAP's assessment of the risks of eSports-related marketing in order to consider implications, if any, for advertising regulation.

The immediate challenge is to make sense of how different types of communication should be treated for regulatory purposes. Given the risks, we and the regulatory organisations we partner with need to be confident that there are no gaps that might undermine the UK's framework for regulating gambling advertising and, ultimately, protecting consumers.

UK Advertising Code's remit

The online remit of CAP's UK Advertising Code is extensive (see the [Scope of the Code](#) for full detail) ensuring that the protections for consumers in general, vulnerable groups and responsible businesses in sectors like gambling are effective and consistent across the UK media landscape.

At a basic level, the online remit of the Code covers:

- online marketing communications in paid-for space; and,
- businesses' own marketing communications on their own websites or in other non-paid-for space online under their control e.g. social media.

Marketing communications in non-paid-for space online are those that are "directly connected" to the transfer of goods and services. The "directly connected" test is intended to capture content the primary purpose of which is to 'sell something', recognising that selling can be done in a myriad of different ways, some more direct and immediately transactional than others.

In terms of jurisdiction, CAP regulates marketing communications in:

- UK media (for the purposes of the Code, this includes Northern Ireland, the Channel Islands and Isle of Man); and
- Non-UK media where the marketing communication obviously targets UK consumers.

In practice, a small minority of remit decisions can be quite complex. As online platforms are global in nature, the stated location of a marketer's account is the primary basis of our remit decision. In relation to websites, remit assessments have regard primarily to the domain suffix (UK-based suffixes like '.co.uk' bring a website within remit as UK media) and/or the registered address of a marketer given on a site. When considering whether

non-UK media are targeting UK consumers, remit decisions are based on an assessment of who the content is directed at (e.g. does it make appeals to UK consumers) and indicators like the use of '£'.

eSports remit scenarios

We have analysed a sample of the dataset of Twitter activity provided by the University of Bristol and Demos, which was the basis of the study. Specifically, we carried out a remit assessment of the Twitter account and activity identified in the study, the website linked to from the Tweet/account and the regulatory status of the marketer, including whether it had a Gambling Commission operator licence. We liaised with Gambling Commission colleagues to seek expert advice on matters relating to legislation and licensing.

The data can be categorized into several scenarios summarized below, alongside an explanation of how the advertising in each case is controlled:

- **UK-based eSports betting operators** – The sample contained one example only of a GB-licensed operator directing content at UK consumers, [Betway Esports](#). Although not exclusively targeted at UK consumers, its linked-to website included offers presented in '£' and explicitly addressed UK consumers. The regulatory controls for this scenario are clear; the operator is subject to Gambling Commission licensing and its advertising is controlled by the UK Advertising Codes.
- **Non-UK-based eSports betting operators** – The majority of operators identified in the sample can be characterized as:
 - i) foreign-based gambling operators not licensed by the Gambling Commission;
 - ii) using non-UK media (websites and social media accounts); and
 - iii) not targeting UK consumers through the placement or content of their ads.

The sample assessed included the following examples: [BetSpawn](#), [CSESport](#), [CSGOatse](#), [Esports.Bet](#), [Loot.bet](#), [Nitrogen Esports](#), [Pinnacle Esports](#) and [Unikrn](#). Marketing communications by such advertisers are outside the remit of the CAP Code. They are, however, subject to GB gambling legislation and the Gambling Commission's powers under its responsibilities for controlling unlicensed operators promoting gambling in Great Britain.

If the ASA received a complaint about these operators marketing gambling to British audiences, the complaint would be referred to the Gambling Commission for enforcement action.

- **Channel Islands-based and Isle of Man-based operators** – Several operators included in the sample were based and licensed either in the Channel Islands or the Isle of Man. Similar to non UK-based operators in the sample, the marketing assessed did not target UK consumers. The examples identified were [LuckBox](#) and [Rivalry](#) in the Isle Man and [Vie.gg](#) in Guernsey. In terms of regulatory responsibility, Gambling Commission colleagues advise that these operators comply with statutory

requirements to avoid promotion of unlawful gambling in Great Britain. However, these operators present an interesting case study because CAP's UK Advertising Code treats the Channel Islands and Isle of Man as part of its definition of UK media. Marketing communications on their websites and social media identified in the sample would fall within the remit of the Code and, therefore, the remit of the ASA.

Without the underpinning of the Gambling Commission's licensing regime, it is not clear that CAP could apply its gambling-specific rules to such content (the rest of the Code – covering matters related to misleading, harmful or offensive advertising - would, however, apply). The Gambling Commission's powers ensure that UK consumers are not targeted by such operators, so any risks are controlled and the likelihood of the ASA receiving complaints is very low. However, CAP will engage with Channel Island and Isle of Man licensing authorities to explore the regulatory arrangements and consider whether a clarificatory statement as to remit and responsibilities is necessary.

- **Non-UK-based operators using UK media** – The sample included an anomalous, on-off scenario involving the operator, X-Bet. Although based in Holland and licensed in Curacao, the [X-Bet website](#) gives a UK registered address. This would bring the website within remit of the CAP's UK Advertising Code. As with the scenario involving operators based in the Channel Islands and the Isle of Man, it is unclear whether the Code's gambling-specific rules would apply due to the absence of the underlying GB legislation. However, as a non-UK-based gambling operator, it is still subject to GB legislation and the Commission's powers prohibiting the promotion of unlicensed gambling in Great Britain. Nevertheless, CAP will consider whether a clarificatory statement about remit and responsibilities is necessary.
- **Tipsters and affiliates** – The sample included Twitter content from several tipsters and affiliate sites: [BetCSGO.eu](#), [BetOverwatch](#), [CounterStrikeBetting.com](#), [eBetFinder](#), [Lol Betting](#), [SickOdds](#) and [Tipify.gg](#). These are not gambling operators and do not require an operator licence. They also publish a broader range of content some of which falls outside the Code's remit as it amounts to 'editorial material', for example previews or reviews of eSport tournaments or events). However, many tipster tweets in the sample were likely to have been published as part of affiliate relationships with operators for example promoting a particular bet or offer from a specific operator.

In terms of regulatory remit, although tipsters are not subject to licensing directly, where they work in association with or on behalf of an operator, the operator bears ultimate responsibility for the marketing they publish. The regulatory scenarios for operators set out in the bullets above would apply here also. It's worth also highlighting CAP's recently published guidance setting out our general approach to the regulation of affiliates.

Compliance action

As well as quantifying the volume of gambling-related Twitter content, the University of Bristol and Demos study also included researchers' analysis of potential compliance issues in the marketing identified. Most of the eSports betting-related content and a significant minority of the conventional betting-related content were classified, in the study, as presenting a compliance concern. Although they acknowledged that it was based on their judgements (as opposed to the regulatory decisions by the ASA), particular issues were the inclusion of content the researchers considered might be of appeal to children and of individuals who appeared to be under 25 years old. The UK Advertising Codes, of course, prevent gambling ads from appealing *particularly* to children or featuring those who appear under-25s.

The Twitter content in the sample is from 2018 and, in keeping with our prioritisation principles, we did not therefore consider it proportionate to inspect the content of each marketing communication. Moreover, only a tiny proportion of the eSports-related content is targeted at UK consumers and within the remit of CAP's UK Advertising Code. The research nevertheless provides hints at potential risks associated with eSports-related communications as we understand GB-licensed operators increasingly offer bets on eSports and promote them through various media channels.

Accordingly, today, CAP has published an Advice Notice to GB-licensed gambling operators responding to concerns about potential breaches of the UK Advertising Code's content rules in social media gambling advertising. It also reminds them that:

- rules applying to marketing for conventional gambling will be applied in the same way to marketing communications for eSports betting; and
- social media marketing content must comply with the Codes in the same way as other kinds of marketing.

Going forward

Marketing for betting on eSports presents a distinct challenge for ad regulation. Unlike more conventional gambling, the operators involved are more global in orientation spanning multiple jurisdictions. However, our remit analysis demonstrates that there are clear lines of regulatory responsibility to protect consumers from marketing for unlicensed gambling and licensed operators who publish irresponsible ads. There is a clear division of accountability, with the Gambling Commission and the ASA and CAP using their respective powers to achieve these ends.

When we respond fully to GambleAware's final synthesis report, CAP will consider whether there is a case to explain the Code's approach to jurisdiction matters related to gambling advertising more clearly. This will include considering whether clarification is needed to cover the remit scenarios as noted above.

Moving beyond CAP's Advice Notice, we will continue to monitor and take action where we identify compliance problems within our remit including through further use of ad tech to

identify non-compliant ads. We will also continue to liaise with Gambling Commission colleagues where we identify issues that potentially involve illegal gambling.

I look forward to sharing more on our response to GambleAware's final synthesis report shortly.

Yours sincerely

A handwritten signature in black ink that reads "S. Coupal". The signature is written in a cursive style with a large, looped 'S' and a long, sweeping tail for the 'al'.

Shahriar Coupal
Director, Committees of Advertising Practice

CC: GambleAware
Department for Digital, Culture, Media and Sport
Advisory Board on Safer Gambling