

# Featuring children and young people in lottery ads

Committee of Advertising Practice and Broadcast Committee of Advertising Practice statement on a new rule to permit under-25s to play a significant role in lottery advertising under limited circumstances



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## 1. Executive summary

Following public consultation, the Committee of Advertising Practice (CAP), author of the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (the CAP Code), and the Broadcast Committee of Advertising Practice (BCAP), author of the UK Code of Broadcast Advertising (the BCAP Code), are introducing changes to their rules on featuring under-25s in advertisements for lotteries.

CAP and BCAP received no responses challenging their proposal to revise the wording of the rule prohibiting lottery ads from featuring under-25s participating in gambling. They received 12 responses challenging the wording of the proposed amendments to the rule allowing under-25s to be featured in a significant role in some circumstances. A summary of these responses can be found in part 3 below and a detailed evaluation can be found in the accompanying evaluation.

CAP and BCAP consulted on the following changes to rules 17.15 and 17.16 (CAP Code) and 18.6 and 18.7 (BCAP Code) to allow ads for lotteries primarily supporting under-25s to feature their beneficiaries alongside a call to action to purchase a lottery ticket, but exclude ads featuring scratchcard and online instant-win products from featuring under-25s in significant roles, as the risk profile of such lottery products is potentially higher. The proposal also retains the existing protections for children of ensuring that lottery ads do not contain content that may appeal particularly to them.

The wording of the original rules was:

*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 were 18.6 and 18.7, respectively, and were worded identically to their CAP Code equivalents (except using 'advertisements' instead of 'marketing communications').

The amended wording of the rules is:

*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*

The broadcast version of the rules will use 'advertisements' instead of 'marketing communications', for consistency with existing rules.

CAP and BCAP are mindful of the need to avoid unintended consequences of amending the wording of rules and to ensure that changes are effective. As such, the amended rules will be subject to review after 12 months.

With regard to new allowances afforded by rule 17.16.2 (BCAP 18.7.2), **these come into effect immediately.**

Rule 17.16 (BCAP 18.7) includes a new restriction on ads for scratchcards and online instant-win lottery products; **these changes take effect from 26 April 2021.**

## 2. Background

The Gambling Act (2005) introduced a new licensing regime, which treated lotteries differently to other gambling activities; lotteries have lower age restrictions and must support good causes. As such, the UK Advertising Codes have separate sections for lotteries (CAP section 17 and BCAP section 18). The rules in these sections are primarily intended to protect children and ensure that messages around lottery participation are responsible. Similar to other age-restricted products (such as alcohol and gambling) the Codes prohibit marketers from targeting children and require that no-one who is or seems to be under 25 plays a significant role in the ad.

This 'under-25 rule' primarily serves to limit the appeal of the people in the ad to children. CAP and BCAP are concerned that featuring those who are old enough to (in this instance) participate in lotteries but are still close enough in age for under-age children to look up to presents a risk of harm. As such, the Codes contain this buffer. The 'significant role' prohibition means that young people can feature incidentally (such as in a family group) but cannot be a primary focus.

Because of the lower risk of harmful behaviour arising from lottery ads, and to reflect the fact that their chief purpose is fundraising (sometimes for children and young people's charities), the existing rules on lottery advertisements already allow under-25s to feature in a significant role in very limited circumstances. The rules as they currently stand only prohibit advertisers from featuring under-25s in a significant role if an ad contains an *explicit encouragement to purchase lottery products*; lottery ads can either feature under-25s in a significant role or they can encourage people to participate.

Through discussion with the lottery sector, CAP and BCAP became aware of a potentially disproportionate impact of these rules on lottery advertising, which could prevent some lottery advertisers from featuring the beneficiaries of their lottery funds in their advertising to an extent that may be overly strict, particularly children's hospice lotteries. For small organisations who run lotteries benefiting children and young people (such as children's hospices), the above rules may have a disproportionate impact because they may not have sufficient resources to produce separate ads to encourage participation and to feature their beneficiaries. Moreover, as became clear during the consultation itself, charities consider it important that the cause (for example young patients at a children's hospice) and the request for funding (participating in the lottery) are clearly linked.

The recent consultation therefore proposed amended rules that sought to:

- Maintain protections for children in the advertising of age-restricted lottery products
- Allow as far as possible for charities to link calls for support to young beneficiaries
- Ensure products with a potentially higher risk profile (such as scratchcards) had more restrictions

### 3. Consultation responses

The consultation received 12 responses, none of which challenged the wording of 17.15. CAP and BCAP have published the responses they received, and carried out a detailed evaluation of all significant points made in these responses. The chief points raised are as follows:

#### *Significant role*

The challenge most commonly raised by respondents was that the phrase ‘significant role’ was undefined and therefore ambiguous. Respondents were particularly concerned that this made it difficult for them to be confident in their compliance with Code rules, which was part of their obligations as registered charities and/or lottery licensees. Some noted that the phrasing appeared to be derived from the alcohol marketing rules, and were concerned that it was not directly relevant for lottery products.

CAP and BCAP noted that ‘significant role’ is a phrase used consistently within other sections of the Codes. Although the consultation used the alcohol section as an example, the principles are the same and were explored on page 8 of the consultation document. While 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. 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.

#### *Focus on under-25s*

Several respondents objected to the phrase “the lottery primarily benefits under-25s”. They noted that hospices with older adult patients often provided family services (which would encompass under-25s) and that such services were of great importance to their patients and supporters. They were concerned that this definition of eligible causes was too narrow and would prevent lottery advertising being linked to a part of their work that, although not the main focus, was nonetheless significant.

CAP and BCAP acknowledged that hospices whose patients are all adults will often provide support to children and young people as part of their work with patients’ families, which may be of considerable importance to patients, their families, and supporters of hospices. However, as noted above, society lotteries are a type of gambling product and 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.

However, the rule would not prevent a lottery from naming and describing family 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.

#### *Asking for support*

Related to this, respondents also raised concerns that, with regard to rule 17.16.1 (which allows under-25s to be featured in any lottery ads, provided there is no explicit encouragement to purchase a lottery product), the separation of the cause illustrated by the under-25 and the method of funding through lottery purchases was unreasonably strict for

society lottery advertising. Comments explained that society lottery supporters were not motivated by large prizes but by a desire to support the lottery.

CAP and BCAP noted that the prohibition was on featuring under-25s alongside explicit encouragements to participate, not on the advertising of the lottery in general; marketing can feature images of under 25s, as long as it doesn't 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. To ensure clarity, CAP and BCAP will release guidance on the interpretation of this rule.

Although CAP and BCAP understand that lottery providers will want to link the cause and the lottery as explicitly as possible, due to the age-restricted nature of lottery products this must be proportionate where children are concerned. Restricting the use of explicit calls to action in ads featuring under-25s (except for lotteries whose primary beneficiaries are under-25s) 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.

## 4. Outcome

In light of the reasons set out in the consultation proposal, and the evaluation of consultation responses, CAP and BCAP will make the following changes to the wording of rule 17.15 (18.6):

Original wording:

***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.*

Amended wording:

***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.*

In light of the reasons set out in the consultation proposal, and the evaluation of consultation responses, CAP and BCAP will make the following changes to the wording of rule 17.16 (18.7):

Original wording:

***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.*

Amended wording:

***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.*

## 5. Implementation

With regard to new allowances afforded by rule 17.16.2 (BCAP 18.7.2), these come into effect immediately.

Rule 17.16 (BCAP 18.7) includes a new restriction on ads for scratchcards and online instant-win lottery products. This will be subject to a grace period of 6 months; the ASA will enforce the revised rules from 26 April 2021.

Advertisements published from this date must comply with the amended rules. Existing advertisements should be changed or withdrawn as soon as possible.

CAP and BCAP are mindful of the need to avoid unintended consequences of amending the wording of rules and to ensure that changes are effective. As such, the amended rules will be subject to review after 12 months from 26 October 2020.

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