

Gambling Webinar Q&A

Gambling products can't legally be purchased by children and gambling ads that are directed to children through their content or their media placement are always inappropriate. Therefore, the ASA's regulation of gambling ads must have primary regard to the protection of under-18s, and others who are deemed to be vulnerable.

Following on from [our Webinar](#) on gambling advertising, we've developed this Q&A to answer specific questions we received, and explore the nuance of what does, or doesn't, break the ad rules.

You may also want to read further advice in CAP's recent Insight article '[Particularly Appealing Gambling Guidance for Operators, not Children](#)'. As the Webinar emphasises, action will be taken by the ASA and CAP against those operators who break the [advertising rules](#), so do read the CAP AdviceOnline articles also, including one on [Betting and Gaming: Appeal to Children](#).

What's an ad?

"Given that a game cannot be played without going through a registration and verification process, our legal interpretation is that a game icon/tile is not an advertisement or inducement to gamble - are you extending the definition?"

No. It is an ad and has been within our remit to assess since our [online remit extension](#) in 2011. Game tiles are directly connected with the supply or transfer of goods and consumers who wish to gamble simply click on the tile to start the digital journey to playing the product. Whether the journey takes you through to the game directly or to a verification check first makes no difference, the fact that the tile is visible and is directly connected with the supply or transfer of goods, via the link through to the start of a consumer journey, is sufficient for it to constitute an ad. But as stated this is not a new position, the ASA has upheld against game icon tiles before in [Ever Adventure IOM Ltd](#) in 2015.

"Is a product help page hosted on a standard operator's website and which shows thumbnail images of the product considered an 'ad'?"

A help or information page is likely to be considered an ad, especially if there is a call to action, such as "Play Now" or "Real Play", or there are screenshots or images of the actual product, as these will be influencing factors for a consumer in deciding whether or not they look to play that specific game. This means that images of the product that also include characters that hold particular appeal to children need to be amended or removed or placed behind a sufficiently robust age verification method.

Different mediums:

"Does the medium in which an ad appears impact whether it is 'of particular appeal to children'? For example, if gambling ads containing cartoon characters were placed within media specifically targeted at adults (for example, motor magazines) would that be considered as an acceptable approach?"

The medium in which an ad appears doesn't affect whether or not its content has particular appeal to children. If it appeals to children in one medium, it will appeal in another. What matters is how an ad is targeted. If targeted appropriately so that under-18s will not see the

ad, then even if the ad would hold particular appeal to children, it is likely to be acceptable given no children will see it. That is why it is important to place any ad that holds particular appeal to children behind a robust age verification check on your website. The ASA has previously ruled in [Ladbrokes Betting & Gaming Ltd \(17 May 2017\)](#) that an ad that was likely to hold particular appeal to children did not break the rules because the email ad was only sent to those “who had been validated as being over 18 years of age.” Therefore, “it was extremely unlikely that anybody under 18 years of age would see the ad”. In terms of the example of a motoring magazine, children may well read this. Thereby, unless you can show that everyone who reads the magazine has been verified to be 18+ any ad for gambling that holds particular appeal to children should not be included within the magazine.

“What about ads that are specifically targeting 18+ on a technical level? I.e. Facebook ads that are ONLY served to profiles who are over 18 and logged in? From my understanding any content that could have child appeal, from an on-site perspective, must be hidden behind an age verified/logged in gate right? Surely this is the same for Facebook then? As these ads won't serve unless they are logged in, and 18+. In fact you could argue Facebook is even more age-gated than your typical website as a user's timeline is not freely accessible.”

and

“When stating easily accessible, gambling ads on social media should not be shown to under-18 as part of advertising with the social media, so based on that are these channels easily accessible?”

As for ads that hold particular appeal to children on social media, including Facebook, if an ad is targeted appropriately then it is likely to be acceptable. However, you would have to ensure that everyone who was likely to see the ad was 18 or over through the use of a suitably robust age verification check. It is likely that relying on a simple self-confirming age-confirmation would be unlikely to be deemed sufficiently robust, especially given that there is clear research, including our own, which indicates that [children are registering on social media under false ages](#). Therefore, our advice would be to ensure that ads on social media for gambling do not appeal particularly to children.

“Should we delete historic social media posts that include characters?”

We would recommend that you focus first on ads that are more visible currently, such as ads on your website or in recent social media activity. However, if historic social media ads appeal particularly to children and are still connected to the supply of goods and services, then we would advise that these are removed also.

“Would this apply to Adword/PPC ads that specifically target these games? E.g. A user searching for the keyword "fluffy favourites slots". Does this mean 1) we can't even serve ads on these keywords full stop anymore?”

If an ad for gambling holds particular appeal to children and is freely accessible then it will break the rules. This applies for PPC ads also, especially if children are likely to search the term if it is linked to youth culture or holds a particular resonance to them. Products entitled “Jack and the Beanstalk” for instance are likely to be problematic, as children may well search the phrase if searching for the fairy tale. But, provided there is no reason why a generic phrase would be likely to appeal particularly to under-18s, PPC ads can be used. However, as responsible operators you need to ensure that ads that appear in freely accessible space do not appeal particularly to children and this includes PPC ads.

“Does the CAP code cover YouTube and other video services that are non-paid and therefore not strictly advertising?”

Ads that appear on YouTube are covered by the CAP Code in the same way that non-paid for social media pages that have marketing material on are within our remit (for those operators based in the UK or targeting UK consumers). If an operator places a video or information which is directly connected to the supply of goods or services on their own YouTube page, this will still fall within our remit, and is an ad. This then also includes thumbnails that appear down the right-hand side when viewing other ads. The [Introduction to the Code](#) confirms that material in non-paid-for space which is under a marketer's control and that is directly connected with the supply or transfer of goods, services, opportunities and gifts, is covered by the Code. Pre-roll ads that appear prior to another video being played are also clearly within our remit to comment as paid-for advertising.

“Does a TV ad only shown post watershed assume that content is not freely accessible to children?”

If a child can view the content without having to go through a sufficiently robust age verification check then if that ad holds particular appeal to children it will break the rules. There is no way of checking whether children are watching television after 9pm, therefore, no gambling ad on TV should hold particular appeal to children as the content is freely accessible.

Particular appeal:

“My Question is: are names alone a problem if they will appeal to children even if there is no artwork? ie Jack and the beanstalk, Thundercats, etc”

and

“Are game titles alone, without the presence of animation, considered to be of particular appeal to children. E.g. "Jack and the Beanstalk" if only the name is visible?”

If the name in and of itself holds particular appeal to children then yes, it will be problematic. As with the question about using PPC ads, products entitled “Jack and the Beanstalk” for instance are likely to be problematic, as children are likely to associate that specific phrase with the traditional children's fairy tale. But provided there is no reason to link a product name to youth culture (such as including animated children's characters) there is no reason why a generic phrase would be likely to appeal particularly to under-18s. So, think about the name of the products, because if they are likely to have particular appeal to children just by the name, then they shouldn't appear in freely accessible space.

“Is it forbidden to show icons for Casino games who may appeal to minors and are freely accessible (for example: Jack and the Beanstalk icon)?”

and

“Is it forbidden to show such game names (Jack and the Beanstalk) to on free accessible sites?”

If the icon that links to a product holds particular appeal to children and is in a freely accessible place, this will break the rules.

“Is it a kind of advertisement to offer games in play for fun mode?”

The icon or game tile that links to a free play-for-fun game is advertising. As for the product itself, this is likely to fall outside of our remit to comment, unless there are elements within the free play-for-fun game that includes a further ‘call to action’, which may draw elements of the free play-for-fun game within our remit.

“Are dark comic themed games, think ‘Sin City’ ok to be displayed on freely accessible areas?”

and

“How do the ASA view IP properties that fall in the Nostalgia bracket, ie would have appealed to children in the 80’s who are now clearly adults?”

and

“So if the on-site game icon design is more adult in nature pre-verification, then the actual game can remain available to players to play?”

If the ad does not hold particular appeal to children due to the nature of the content then these ads are likely to be acceptable. So if the content is more nostalgic or the style of comic book used appeals equally, or more, to adults than children then these ads are likely to be compliant even pre-verification (provided the ad complies with other aspects of the Code also).

“To be clear, the thumbnail for any game with cartoon characters must be removed from the lobby, before login?”

Only if those cartoon characters hold particular appeal to children. If they do not, then these do not need to be moved. But if they do, they need to be placed behind a suitably robust age verification check.

“It is the case that some product themes lend themselves to the use of certain characters? For example, a “pots of gold” theme could be supported by the use of a leprechaun character. Could you provide more clarity around when character based themes are acceptable?”

If your character theme and content is unlikely to appeal particularly to those under the age of 18, then characters and themes are acceptable in areas that are freely accessible. If you have concerns that the character, theme and overall content of an ad in freely accessible space is likely to appeal particular to under-18s, we would advise caution. You should remove or amend the ad and seek advice from the [CAP Copy Advice team](#).

In terms of ‘particular appeal’ to children themes we have noticed that need to be avoided include:

- Disney/Dreamworks implied references or association.
- Fairy Tales – for example fairies and pixies are likely to be problematic, as are knights, wizards and pirates.

- Animated animals that look similar to animated characters in films, TV shows or are traditionally popular with children – we would advise caution if using dolphins, penguins, pandas or meerkats, for example.
- Fonts and styles that are similar to those found in children’s content should be avoided.

Freely accessible:

“Is it enough to use a pop-up with the question for example “Are you over 18” Yes/No? Or do we have to make a real check like a credit card check to be sure that the customer is over 18?”

and

“One of the speakers mentioned that a +18 tickbox prior to accessing freely accessible material would be appropriate. Does the ASA think that this is really enough when many U18s would find it very easy to declare an untruth by ticking a box?”

and

“What is accepted form of age verification?”

Just to clarify, within the Webinar we advised that operators apply a suitably robust age-verification check. We advised that a simple self-proclaiming +18 tick box was unlikely to be acceptable and that we would advise as best practice that a credit card check be used. There may be checks that are suitable in-between these two options, but an operator would have to demonstrate to the ASA, upon response to a complaint, that a particular method was suitably robust to ensure that those under the age of 18 are not accessing an area that is for those over the age of 18.

“What is meant by “accessible”? If children can view but not play? (e.g. they need to register to play). Is this okay?”

If a child can view an ad without having to go through a suitably robust age verification check, then the ad is in a freely accessible place.

Sanctions:

“What are the penalties for non-compliance? Given the subjective nature of the guidelines, is it a case of reviewing and removing any material/s deemed to breach this code or are there more strict measures in place?”

A full list of sanctions can be located on the ASA website [here](#). Otherwise, operators can expect Upheld ASA rulings which are more than likely going to generate numerous negative publicity articles. Non-compliant advertisers can be subject to; removal of Pay-Per-Click search ads that link to problematic material; our own PPC ads to highlight our concern; as well as an entry on our [list of non-compliant advertisers](#). Our concerns will also be highlighted with other bodies, such as the Gambling Commission, to ensure that they are aware of an operator’s unwillingness to act responsibly.

Clearly labelled:

“If it’s clearly labelled as over 18 only does that mitigate the risk of the ASA taking an adverse view of the adverts”

No. If a gambling ad appeals to children and is in a freely accessible place, then this will break the rules, regardless of whether or not the ad makes clear the product is for those over the age of 18.

Timings:

“You want the changes made immediately - what time frame is immediate in your view?”

and

“Is there a set time frame for these changes to be active?”

When we say immediate, we mean now. This is something that should have been acted on already, with the relevant amendments being made. Ensuring gambling ads are not likely to be of particular appeal to children or young persons has been a provision in the [CAP Code](#) since 2007 and is not a new rule. Ads for gambling should not hold particular appeal to children and be in freely accessible space where children could see them. It is an operator’s responsibility to make any required changes swiftly. We are monitoring websites and will look to take action if ads remain non-compliant.

Third party game providers:

“Game providers responsibility?”

and

“Do you have any message for the game providers?”

Operators are held responsible for the content that appears on their website. If the advertising for games that a third party provides has particular appeal to children then it is an operator’s responsibility to ensure that the ads do not appear in freely accessible space. It is also an operator’s choice as to whether or not they accept the product in question with the accompanying ad content.

Out of our remit to comment:

Lots of questions have come in about areas that are outside of our remit to comment. We have lots of advice about what is within our remit in our numerous AdviceOnline articles. If something falls outside of our remit to comment, you may want to establish with the body that does regulate that particular area whether or not your content is required. Our AdviceOnline articles include:

- (i) [Remit - General](#)
- (ii) [Remit - Social Media](#)
- (iii) [Remit - Own websites](#)
- (iv) [Remit - Online Affiliate Marketing](#)
- (v) [Remit: Search engines and price comparison websites](#)
- (vi) [Remit - Sponsorship](#)