

Consultation on CAP and BCAP's proposal for a rule and guidance to address the use of gender stereotypes in advertising

Introduction

The IPA, incorporated by Royal Charter, is the professional body for advertising, media and marketing communications agencies based in the United Kingdom. We have approximately 300 agency brands within our membership.

Our role is two-fold: (i) to provide essential core support services to our corporate agency members; and (ii) to act as our members' spokesperson. The IPA is a member of both CAP and BCAP.

We support the proposal for a new rule and guidance around gender stereotyping although we have comments on both as set out below. (Underlined text below is our emphasis.)

Consultation Questions

- 1. Do you agree with CAP and BCAP's proposal to introduce a new rule and supporting guidance into the Advertising Codes? Please include relevant evidence to support your view, whether you agree or disagree with the proposals.**

The IPA fully appreciates that gender stereotyping – by which we mean a widely held but fixed and oversimplified image or idea of a particular type of person that *can* be negative - is an important societal issue and needs to be addressed. However, even with an issue of this sensitivity, it is important to find a balance between the rights of people not to be subjected to offensive stereotypical depictions and the rights of businesses to advertise their products and services. To the extent that they feature in advertising, gender stereotypes are typically used as scene-setting shortcuts – for example, a mother cooking a meal for her children. Such portrayals are unlikely to be damaging or otherwise detrimental to society.

The executive summary to the consultation explains that CAP and BCAP consider that the ASA report "Depictions, Perceptions and Harm" makes an evidence-based case for regulatory change. It notes that the ASA already applies CAP and BCAP rules on offence and social irresponsibility to ban ads that include gender stereotypes on various grounds and that although advertising is not the only influence that can reinforce gender stereotypes, it does play a role. Hence, CAP/BCAP's recommendation is for a new rule and guidance intended as a "proportionate" response to the potential harm that can arise through the depiction of gender stereotypes in advertising.

The ASA report also acknowledges that advertising is just one of many factors that can reinforce gender stereotypes. It goes further, noting that "the overwhelming majority of ads do not include gender stereotypes that are likely to cause harm or serious or widespread offence" (p. 12).

Key learnings from the ASA report point out that "*the ASA has typically decided that depictions of stereotypical gender roles or characteristics or ads that mock people for not*

conforming to a gender stereotype are unlikely to cause harm, serious or widespread offence, or be otherwise socially irresponsible. This report indicates that ASA decisions relating to body image, sexualisation and objectification are broadly in the right place, and that it would be helpful for its existing position to be formalised to reflect the evidence base".

The executive summary to the consultation echoes the ASA report, acknowledging that "the evidence does not demonstrate that the use of gender stereotypes is always problematic, nor that the use of seriously offensive or potentially harmful stereotypes in advertising is endemic."

The ASA report and CAP and BCAP therefore accept that there is not a significant problem with the use of gender stereotypes in advertising. Both acknowledge that advertising is just one of many other factors that contribute to "unequal gender outcomes" and that most ads are not a cause for concern. Both do conclude, however, that despite this, new rules aimed specifically at gender stereotypes in advertising should be introduced.

The IPA supports the proposal for new rules and guidance, provided they are clear, fair and proportionate. It is also important that they avoid unintended, damaging consequences, such as the stifling of creativity, the creation of new stereotypes or the encouragement of characteristics or behaviour that might be detrimental to society, including physical health.

2. Do you agree with the wording of the proposed new CAP and BCAP rules? If not please include suggestions for how the proposed rules could be improved to achieve the aims set out in this consultation.

We are concerned about the unqualified use of the word "harm" in the proposed new rules.

The proposed new rules are:

Marketing communications (CAP) / Advertisements (BCAP) must not include gender stereotypes that are likely to cause harm, or serious or widespread offence.

The proposal is for the rules to sit within section 4 of each Code – Harm and Offence. Although the consultation paper refers to other rules in the Codes, the new rules are most similar to rules 4.1 of the CAP Code and 4.2 and 4.8 of the BCAP Code:

CAP 4.1 Marketing communications must not contain anything that is likely to cause serious or widespread offence. Particular care must be taken to avoid causing offence on the grounds of race, religion, gender, sexual orientation, disability or age. Compliance will be judged on the context, medium, audience, product and prevailing standards.

Marketing communications may be distasteful without necessarily breaching this rule. Marketers are urged to consider public sensitivities before using potentially offensive material.

The fact that a product is offensive to some people is not grounds for finding a marketing communication in breach of the Code.

BCAP 4.2 Advertisements must not cause serious or widespread offence against generally accepted moral, social or cultural standards.

BCAP 4.8 Advertisements must not condone or encourage harmful discriminatory behaviour or treatment. Advertisements must not prejudice respect for human dignity.

As noted in the consultation paper, rule 4.1 of the CAP Code and 4.2 of the BCAP Code already cover serious or widespread offence, in the case of the CAP Code, including on the grounds of gender. Rule 4.1 of the CAP Code also contains useful caveats which are not being proposed for the new rules (though the new guidance does include caveats).

None of the existing rules set out above refer to the concept of "harm". Rule 4.8 of the BCAP Code includes "*harmful discriminatory behaviour or treatment*", however, and the Principle to Section 4 says that: "*Advertisements must not be harmful or offensive. Advertisements must take account of generally accepted standards to minimise the risk of causing harm or serious or widespread offence*". And yet the Principle to Section 1 of the BCAP Code (Compliance) says that "*advertisements should not mislead or cause serious or widespread offence or harm*".

The Principle to Section 4 of the CAP Code says that: "*Marketers should take account of the prevailing standards in society and the context in which a marketing communication is likely to appear to minimise the risk of causing harm or serious or widespread offence*".

We consider that the inclusion of "harm" in the proposed new rules is unnecessary and vague without clarification or qualification. The concept of "serious or widespread offence" is clear and ought to achieve a proportionate deterrent. Without any clarification or qualification, "harm" could be interpreted in different ways and could, theoretically, apply if only a single individual claims to have suffered harm.

3. Do you consider the draft guidance to be clear and practicable? If not, please include suggestions for how it could be improved to achieve the aims set out in this consultation.

Whilst we appreciate the various explanations used throughout the new guidance, including as set out in the "Understanding this Guidance" section, we are concerned that practitioners will find it difficult to understand whether a particular treatment might breach the new rules.

With regard to the particular scenarios:

Guidance Scenario 2:

Ads that directly contrast male and female stereotypical roles or characteristics need to be handled with care. An ad that depicts a man being adventurous juxtaposed with a woman being delicate or dainty is likely to be unacceptable.

We do not believe the example in the second sentence is necessary or useful.

Guidance Scenario 8:

Ads shouldn't explicitly depict members of a specific gender being excluded from or dismissive of an activity. This doesn't prevent an ad from depicting children undertaking an activity stereotypically associated with their gender, using colours, language, music or settings which are also stereotypically associated with that gender.

This scenario appears under the heading: "Scenarios aimed at or featuring children" yet the first sentence does not expressly refer to children. The guidance in the second sentence is unclear and does not seem to be particularly relevant to the first sentence.

General Conclusion

The IPA agrees that rules and guidance aimed specifically at gender stereotyping would be timely and signal the industry's concern with gender stereotyping in society, generally. However, since neither the ASA report nor CAP or BCAP consider that advertising is particularly problematic, any new rules and guidance must not only be clear and easy to understand, but they must also be proportionate. We do not believe that the new rule should include an unqualified reference to "harm" and we do have concerns that the guidance might be difficult for practitioners to apply when read alongside the new rules. Care should also be taken to avoid unintended, detrimental consequences, such as the stifling of creativity or the encouragement of characteristics or behaviour that might be detrimental to society.

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