

**Help Note**

**Committee of Advertising Practice (CAP)**

**Broadcast Committee of Advertising Practice (BCAP)**

# **Guidance on the rules for gambling advertisements**

*This Help Note offers guidance for non-broadcast marketing communications under the UK Code of Non-broadcast Advertising, Sales Promotions and Direct Marketing (the CAP Code) and broadcast advertisements under the UK Code of Broadcast Advertising (the BCAP Code). For advice on the content of TV or radio commercials, contact Clearcast [www.clearcast.co.uk](http://www.clearcast.co.uk) for TV ads or the RACC [www.racc.co.uk](http://www.racc.co.uk) for radio ads.*

## **Background**

These guidelines, drawn up by the CAP Executive, are intended to help marketers and agencies interpret the rules in the CAP Code. The Help Note is based on past ASA rulings. It neither constitutes new rules nor binds the ASA Council in the event of a complaint about a marketing communication that follows it.

The term “gambling” means gaming and betting, as defined in the Gambling Act 2005, and spread betting. The Gambling Act 2005 does not apply outside Great Britain. Specialist legal advice should be sought when considering advertising any gambling product in Northern Ireland or the Channel Islands.

Spread betting may be advertised as an investment under the Financial Services and Markets Act 2000, the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (as amended) and other FSA rules and guidance (see Background, Section 14, Financial Products in the CAP and BCAP Code). A “spread bet” is a contract for difference that is a gaming contract, as defined in the glossary to the FSA Handbook.

The gambling rules apply to marketing communications for “play for money” gambling products and marketing communications for “play for free” gambling products that offer the chance to win a prize or explicitly or implicitly direct the consumer to a “play for money” gambling product, whether on-shore or off-shore.

For the purposes of the gambling rules, “children” are people of 15 and under and “young persons” are people of 16 or 17.

## 1. Social responsibility and harm

### The CAP Code states:

- 16.1** Marketing communications for gambling must be socially responsible, with particular regard to the need to protect children, young persons and other vulnerable persons from being harmed or exploited.
- 16.3** Marketing communications must not:
  - 16.3.1** portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm
  - 16.3.16** condone or encourage criminal or anti-social behaviour

### The BCAP Code states:

- 17.3** Advertisements must not:
  - 17.3.1** portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm
- 17.4** Advertisements for gambling must not:
  - 17.4.2** condone or encourage criminal or anti-social behaviour

### Guidance

The Codes require all gambling advertising to be socially responsible and advertisers should ensure they respect the need to protect children, young persons and other vulnerable persons from being harmed or exploited by advertising that features or promotes gambling. Although 'vulnerable' person is not defined in the Gambling Act, the ASA will look at factors such as mental, social or emotional immaturity, impaired judgement, for example, because of alcohol or drug addiction, or those who are at risk of gambling more than they can afford to or want to. Nothing in ads should condone or encourage criminal or anti-social behaviour.

A breach of the more specific rules of the Codes, set out below, will often involve a breach of the social responsibility rules. Ads that have been investigated under the social responsibility rules have included: portraying gambling as a possible solution to financial concerns and debt; linking gambling and alcohol consumption; and showing problem-gambling behaviours, such as solitary gambling or gambling taking priority in life.

## 2. Children and young persons

### The CAP Code states:

- 16.1** Marketing communications for gambling must be socially responsible, with particular regard to the need to protect children, young persons and other vulnerable persons from being harmed or exploited.
- 16.3** Marketing communications must not:
- 16.3.2** exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons
  - 16.3.7** suggest peer pressure to gamble nor disparage abstention
  - 16.3.10** suggest gambling is a rite of passage
  - 16.3.12** be likely to be of particular appeal to children or young persons, especially by reflecting or being associated with youth culture
  - 16.3.13** be directed at those aged below 18 years (or 16 years for football pools, equal-chance gaming [under a prize gaming permit or at a licensed family entertainment centre], prize gaming (at a non-licensed family entertainment centre or at a travelling fair) or Category D gaming machines) through the selection of media or context in which they appear
  - 16.3.14** include a child or a young person. No-one who is, or seems to be under-25 years old may be featured gambling. No-one may behave in an adolescent, juvenile or loutish way.
- Individuals who are, or seem to be under 25 years old (18-24 years old) may be featured playing a significant role only in marketing communications that appear in a place where a bet can be placed directly through a transactional facility, for instance, a gambling operator's own website. The individual may only be used to illustrate specific betting selections where that individual is the subject of the bet offered. The image or other depiction used must show them in the context of the bet and not in a gambling context.
- 16.4** Marketing communications for family entertainment centres, travelling fairs, horse racecourses and dog race tracks, and for non-gambling leisure facilities that incidentally refer to separate gambling facilities, for example, as part of a list of facilities on a cruise ship, may include children or young persons provided they are accompanied by an adult and are socialising responsibly in areas that the Gambling Act 2005 does not restrict by age.

### The BCAP Code states:

- 17.3** Advertisements must not:
  - 17.3.5** suggest peer pressure to gamble or disparage abstention
  - 17.3.9** suggest gambling is a rite of passage
- 17.4** Advertisements for gambling must not:
  - 17.4.4** exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of under-18s or other vulnerable persons
  - 17.4.5** be likely to be of particular appeal to under-18s, especially by reflecting or being associated with youth culture
  - 17.4.6** feature anyone who is, or seems to be, under 25 years old gambling or playing a significant role. No-one may behave in an adolescent, juvenile or loutish way.
- 17.5** Advertisements for family entertainment centres, travelling fairs, horse racecourses and dog racetracks, and for non-gambling leisure facilities that incidentally refer to separate gambling facilities as part of a list of facilities on, for example, a cruise ship, may include under-18s provided they are accompanied by an adult and are socialising responsibly in areas that the Gambling Act 2005 does not restrict by age.

### Guidance

In general, the Codes requires marketing communications for gambling products to be socially responsible, with particular regard to the need to protect children, young persons and other vulnerable persons from being harmed or exploited. For the purposes of the Codes, “children” are people of 15 and under and “young persons” are people of 16 or 17.

One way in which the Code seeks to protect children and young persons is to prevent betting or gaming ads appealing particularly to them. Advertisements and marketing communications should not exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons. They should also not be likely to be of particular appeal to children or young persons, especially by reflecting or being associated with youth culture.

An advertisement featuring a character that particularly appeals to children is likely to fall foul of the rules. Marketers should be mindful that the use of cartoons or licensed characters, such as super heroes and celebrities popular with children, must be used with a due sense of responsibility. In other words, advertisers should take care when using cartoon-like images; they might be acceptable if they are adult in nature but marketers run the risk of appealing to under-

18s if cartoon images are too childish in their execution; and that might be a problem when advertising gambling products. However, the ASA will consider whether advertisers have taken reasonable steps to prevent under-18s from viewing ads (for example age-gating of online ads) and the likely age of the audience viewing the ad.

No-one who is, or seems to be, under 25 years old may be featured gambling. Individuals who are, or seem to be, under 25 years old (18-24 years old) may be featured playing a significant role only in non-broadcast marketing communications that appear in a place where a bet can be placed directly through a transactional facility, for instance, a gambling operator's own website. The individual may only be used to illustrate specific betting selections where that individual is the subject of the bet offered. The image or other depiction used must show them in the context of the bet and not in a gambling context.

### **3. Irresponsible appeal**

#### **3.1 Seduction, sexual success and enhanced attractiveness**

**The CAP Code states:**

**16.3** Marketing communications must not:

**16.3.8** link gambling to seduction, sexual success or enhanced attractiveness

**The BCAP Code states:**

**17.3** Advertisements must not:

**17.3.7** link gambling to seduction, sexual success or enhanced attractiveness

#### **Guidance**

The Codes prevent ads from making direct or implied links between gambling and seduction, sexual success or enhanced attractiveness.

It is acceptable to feature attractive people in gambling advertising, as long as the ad as a whole does not link gambling with seduction, sexual success or enhanced attractiveness. Where characters in ads are treated with admiration by others as a result of their gambling, this can breach the Codes by linking gambling and enhanced attractiveness. References to fame, being special and VIP status are common themes in ads that the ASA has investigated under these rules.

Ads linking transformations of characters' appearance after gambling can create an implication that gambling could result in enhanced attractiveness and an improvement in self-image, thereby breaching the rules.

### 3.2 Toughness, resilience and recklessness

The CAP Code states:

- 16.3 Marketing communications must not:
  - 16.3.9 portray gambling in a context of toughness or link it to resilience or recklessness

The BCAP Code states:

- 17.3 Advertisements must not:
  - 17.3.8 portray gambling in a context of toughness or link it to resilience or recklessness

#### Guidance

The ASA has not adjudicated often under this rule but ads will be judged on whether their context as a whole creates a link between gambling and resilience or toughness, or portrays gambling in a context of toughness.

### 3.3 Enhancing personal qualities

The CAP Code states:

- 16.3 Marketing communications must not:
  - 16.3.6 suggest that gambling can enhance personal qualities, for example, that it can improve self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration

The BCAP Code states:

- 17.3 Advertisements must not:
  - 17.3.6 suggest that gambling can enhance personal qualities; for example,

that it can improve self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration

### **Guidance**

It is acceptable to feature attractive or admired people in gambling advertising, as long as the ad as a whole does not link gambling with these qualities. Where characters in ads are treated with admiration by others as a result of their gambling, this can breach the Codes by linking gambling and improved self-image or self-esteem. References to fame, being special and VIP status are common themes in ads that the ASA has investigated.

Ads linking transformations of characters' images or other qualities listed in the rules with gambling can create an implication that gambling could result in an improvement in self-image, thereby breaching the rules.

### **3.4 Cultural beliefs or traditions about gambling or luck**

#### **The CAP Code states:**

- 16.3** Marketing communications must not:
  - 16.3.15** exploit cultural beliefs or traditions about gambling or luck

#### **The BCAP Code states**

- 17.4** Advertisements for gambling must not:
  - 17.4.1** exploit cultural beliefs or traditions about gambling or luck

### **Guidance**

Advertisements should avoid the use of cultural symbols and systems such as horoscopes if those symbols relate to an existing, strongly and communally held belief. These rules are not intended to prevent references to symbols or obsolete superstitions that are unlikely to be taken seriously, such as a clover leaf.



## 4. Problem gambling behaviour

### 4.1 Taking priority and solving problems

#### The CAP Code states:

- 16.3** Marketing communications must not:
  - 16.3.3** suggest that gambling can provide an escape from personal, professional or educational problems such as loneliness or depression
  - 16.3.4** suggest that gambling can be a solution to financial concerns, an alternative to employment or a way to achieve financial security
  - 16.3.5** portray gambling as indispensable or as taking priority in life; for example, over family, friends or professional or educational commitments
  - 16.3.17** condone or feature gambling in a working environment. An exception exists for licensed gambling premises.

#### The BCAP Code states:

- 17.3** Advertisements must not:
  - 17.3.2** suggest that gambling can provide an escape from personal, professional or educational problems such as loneliness or depression
  - 17.3.3** suggest that gambling can be a solution to financial concerns, an alternative to employment or a way to achieve financial security
  - 17.3.4** portray gambling as indispensable or as taking priority in life; for example, over family, friends or professional or educational commitments
- 17.4** Advertisements for gambling must not:
  - 17.4.3** condone or feature gambling in a working environment (an exception exists for licensed gambling premises)

## Guidance

The ASA has received many complaints about ads suggesting that gambling is a solution to financial concerns; this has been viewed as socially irresponsible and a breach of the more specific rules. Even where risks have been set out, the ASA has upheld irresponsible claims that unduly played on consumers' fears of financial pressures. Similarly, ads which have presented gambling as a viable alternative to employment have been found to breach the rules. Any references to salary or debts in gambling ads are likely to fall foul of the rules.

It is generally acceptable to show gambling as being important and interesting to characters, as long as it is not to the exclusion of other activities or interactions with people.

## 4.2 Solitary gambling

### The CAP Code states:

**16.3** Marketing communications must not:

**16.3.11** suggest that solitary gambling is preferable to social gambling

### The BCAP Code states

**17.3** Advertisements must not:

**17.3.10** suggest that solitary gambling is preferable to social gambling.

## Guidance

These rules are not intended to prevent the depiction of solitary gambling online: they address concerns about people gambling alone. An advertisement that contrasts solitary gambling favourably with social gambling is likely to fall foul of this rule.

A gambling advertisement that features an adult losing track of time, shunning the company of others, retreating into private fantasy or engaging in secretive gambling is likely to breach the general principle of the Codes that advertisements should not portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm.

## 5. Misleadingness: 'free bets'

### The CAP Code states:

- 3.1 Marketing communications must not materially mislead or be likely to do so.
- 3.3 Marketing communications must not mislead the consumer by omitting material information. They must not mislead by hiding material information or presenting it in an unclear, unintelligible, ambiguous or untimely manner.

Material information is information that the consumer needs to make informed decisions in relation to a product. Whether the omission or presentation of material information is likely to mislead the consumer depends on the context, the medium and, if the medium of the marketing communication is constrained by time or space, the measures that the marketer takes to make that information available to the consumer by other means.

### Qualification

- 3.9 Marketing communications must state significant limitations and qualifications. Qualifications may clarify but must not contradict the claims that they qualify.
- 3.10 Qualifications must be presented clearly.

### Free

Marketing communications must not describe a product as “free”, “gratis”, “without charge” or similar if the consumer has to pay anything other than the unavoidable cost of responding and collecting or paying for delivery of the item.

- 3.23 Marketing communications must make clear the extent of the commitment the consumer must make to take advantage of a “free” offer.

### Significant conditions for promotions

- 8.18 Marketing communications that include a promotion and are significantly limited by time or space must include as much information about significant conditions as practicable and must direct consumers clearly to an easily accessible alternative source where all the significant conditions of the promotion are prominently stated. Participants should be able to retain those conditions or easily access them throughout the promotion.

## The BCAP Code states:

- 3.1** Advertisements must not materially mislead or be likely to do so.
- 3.2** Advertisements must not mislead consumers by omitting material information. They must not mislead by hiding material information or presenting it in an unclear, unintelligible, ambiguous or untimely manner. Material information is information that consumers need in context to make informed decisions about whether or how to buy a product or service. Whether the omission or presentation of material information is likely to mislead consumers depends on the context, the medium and, if the medium of the advertisement is constrained by time or space, the measures that the advertiser takes to make that information available to consumers by other means.

### Qualification

- 3.10** Advertisements must state significant limitations and qualifications. Qualifications may clarify but must not contradict the claims that they qualify.
- 3.11** Qualifications must be presented clearly.

### Free

Advertisements must not describe a product or service as “free”, “gratis”, “without charge” or similar if the consumer has to pay anything other than the unavoidable cost of responding to the promotion and collecting or paying for delivery of the item.

- 3.25** Advertisements must make clear the extent of the commitment consumers must make to take advantage of a “free” offer.

### Guidance

The ASA has received an increasing number of complaints about so-called “free bets.” The majority of these complaints centre on unclear or unfair terms and conditions, particularly around the requirement for consumers to make a deposit to access their “free bet” and the number of times they must then wager their “free bet” and deposit money before they are allowed to withdraw any winnings. Other complaints have been on the basis that bets have been labelled “risk-free bets”. “Free bet” offers are often displayed in banner ads.

Terms and conditions relating to consumers' understanding of the “free bet” offer and of the commitment that they have to make in order to take advantage of it should generally be stated in the ad itself. Where the ad is limited by time or space (for example a banner ad), significant conditions likely to affect a consumer's decision to participate in promotions should be displayed

no further than one click away from the ad itself. If the significant conditions are not displayed with sufficient prominence, the ad will be seen as misleading.

Terms and conditions which have been seen as significant and likely to affect a consumer's transactional decision in relation to "free bet" offers include:

- requiring consumers to deposit the same amount of their own money as the "free bet" in order to take advantage of the offer;
- requiring new customers to bet their initial deposit;
- requiring consumers to match free bet amounts on a certain number of occasions before they are able to withdraw any cash winnings from their account;
- imposing time limits in which bets must be made before winnings are forfeited; and
- preventing consumers from being able to withdraw any of their own funds deposited into their account until they have placed bets totalling a certain number of times the value of the "free bet".

The ASA has seen a number of offers described as "risk-free bets". It has recognised that whilst some consumers may understand that such offers carry conditions, without qualification, most consumers and visitors would understand that upon sign-up, they could bet a certain amount without loss. Investigations into "risk-free bets" have involved both an examination of the prominence of terms and conditions and whether the terms and conditions contradict the "risk-free bet" claim. Examples of terms which have fallen foul of the rules and been viewed as contradictory include:

- requiring customers to deposit and bet with their own money;
- providing the "risk-free bet" as a refund only available to qualifying customers;
- refunding deposits only as bonus funds that cannot be withdrawn as cash; and
- requiring bonus amounts to be wagered a certain number of times before any winnings can be withdrawn as cash.

## 6. Lotteries

A separate set of rules governs the advertising of lotteries (section 18 of the BCAP Code and section 17 of the CAP Code). The rules are broadly similar to the gambling rules of both Codes; however, it should be noted that in relation to the rules on the workplace, an exception exists in the lotteries rules for showing workplace lottery syndicates.

## 7. Betting tipsters

Guidance on the marketing of betting tipster services is covered by the [Marketing for betting tipster services](#) Help Note.