


Marketing and advertising workstream: progress update

For Board approval	
For Board briefing	
For Board steer	
For Board information	

Prepared by:

Date: 13 February 2014

Executive summary

1. This paper updates the Board on the work and progress of the Marketing and Advertising workstream, the key strategic issues, and how they are being addressed. We seek endorsement of our approach and welcome comment on our current and proposed activities.
2. The workstream's deliverables and outcomes support all three of the licensing objectives (particularly the second and third).
3. The workstream is seeking to provide expert, timely, evidence-based information and policy advice on matters relating to gambling marketing and advertising which:
 1. robustly supports the Commission's implementation of a credible, enforceable and effective approach to preventing illegal, and misleading or unfair, gambling advertising
 2. improves our understanding of the risk of harm to young and vulnerable people from gambling marketing and advertising, and how to address this
 3. strengthens industry and consumer confidence in, and understanding of, the regulation of gambling advertising, through improved awareness and protection measures
 4. helps maintain constructive working relationships with advertising regulators, the gambling and advertising industries and other stakeholders.
4. The workstream's objectives and deliverables (see **Annex A** for the workstream summary and plan) are influenced by three key factors:
 - the passage of the Gambling (Licensing & Advertising) Bill ('the Remote Bill') through Parliament and the need to ensure a robust framework for the handling of illegal and misleading or unfair advertising, post implementation
 - significant ministerial interest in, and concern about, gambling advertising and marketing issues (notably, the increase in gambling advertising on television; misleading free bet and bonus offers; and 'aggressive' marketing which exhorts customers to 'bet now!')
 - the lack of available research relating to evidence of harm.
5. Over recent months the workstream has:
 - established closer links and better understood interdependencies with the Remote workstreams, which has helped address key policy and operational issues, whilst shaping the Commission's future compliance and enforcement approaches
 - developed a stakeholder communications and engagement plan, and an initial information leaflet (**Annex B**) to ensure that the implications of the Bill are widely communicated and well understood
 - enhanced the Commission's understanding of available data and research relevant to gambling marketing and advertising and evidence of harm and is working with the Remote Gambling Strategy Board (RGSB) and Evidence and Analysis colleagues to identify and address gaps

- provided detailed analysis and advice to the Secretary of State on the prevalence and impact of gambling advertising on television and other relevant issues, working closely with fellow regulators (notably, Ofcom, the Broadcast/Committee of Advertising Practice (B/CAP), the Advertising Standards Authority (ASA), and PhonepayPlus)
 - begun to shape a multi-agency review of the marketing of free bets and bonus offers, as proposed in the recent LCCP consultation, supported by new B/CAP guidance, published at the end of January, and a planned series of awareness raising events with industry in February/March. This work will inform a revision of LCCP during 2014.
6. It is likely that Government will propose some form of review of the regulatory frameworks governing gambling advertising; this could include a review of the industry voluntary code, the CAP and BCAP codes and LCCP. The Commission, along with Ofcom, the ASA and PhonepayPlus, is working closely with DCMS to consider the scope and framework for any such review. We will use the Gambling Advertising Monitoring Unit (GAMU) as a forum to discuss and drive this work for which there could be substantial resourcing implications.
7. The following annexes are attached for reference:
- Annex A: the Marketing and Advertising workstream summary and plan;
 - Annex B: Gambling advertising information leaflet
 - Annex C: the 'Television advertising – Watershed' section of the Gambling Industry Code for Socially Responsible Gambling (2007);
 - Annex D: headline findings of the Ofcom-commissioned Broadcasters Audience Research Board (BARB) data report (November 2013);
 - Annex E: Section 5 (Misleadingness: 'free bets') of the new B/CAP 'Help note' (Guidance on the rules for gambling advertisements)

Background

The Marketing and Advertising workstream

8. Updates on the Marketing and Advertising workstream have been included in recent CEO reports to Board. The November meeting of the Board asked to receive a more detailed briefing and progress update, which is the purpose of this paper.
9. The workstream summary and plan have been reviewed and refreshed to give a sharper focus on outcomes and deliverables and a clearer basis for planning. Workstream meetings are held fortnightly, drawing in relevant colleagues and expertise from across the Commission, to oversee and drive workstream activity.
10. Marketing and advertising issues have gained greater prominence over recent months as a result of the Secretary of State's particular interest in gambling advertising and the passage of the Remote Bill through Parliament.
11. The workstream is cross-cutting with prime interdependencies identified with the Remote, Social Responsibility and Social Gaming workstreams (e.g. shared concerns relating to customer protection and the risk of harm to young and vulnerable people, harm minimisation and responsible advertising).

The regulation of gambling marketing and advertising

12. The regulation of gambling marketing and advertising is complex and responsibility is shared among a number of regulators. The Gambling Advertising Monitoring Unit (GAMU)¹ was re-established in 2013 as a working forum to ensure more efficient and joined-up regulation.
13. Gambling operators wishing to advertise must comply with the advertising codes of practice which apply to the form and media in which they advertise their gambling facilities or services. This is a requirement of the Commission's ordinary code of practice provision for gambling operators. Codes of practice set by the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) cover the content and placement of advertising and are intended to ensure that gambling advertising is socially responsible.
14. The codes make clear that advertising should not be aimed at children and young people and that it does not leave vulnerable people open to exploitation or harm. Compliance with these rules is monitored by the ASA which investigates complaints about advertising across all media. Compliance with the current rules is high.
15. The National Trading Standards Board (NTSB) currently acts as the ASA's legal backstop for misleading advertising cases, which in legal and practical terms, is provided by Camden Borough Council.
16. Although the ASA is responsible on a day-to-day basis for upholding broadcast advertising content standards, Ofcom retains a statutory duty to maintain standards in broadcast advertising.
17. The Gambling Act 2005 also contains reserve powers (Section 328 refers) for the Secretary of State to make regulations to control non-broadcast forms of gambling advertising. The Government has the option at any time of taking proposals to Parliament in order to implement this reserve power.

The Gambling Industry Code for Socially Responsible Gambling

18. The voluntary Gambling Industry Code for Socially Responsible Gambling (2007) (**Annex C**) was developed by the gambling industry to supplement the CAP and BCAP codes by setting minimum industry standards in a limited number of areas that are not covered by the CAP/BCAP rules, including a watershed arrangement for television gambling advertising. The code requires that new gambling products (not those, such as bingo, lotteries and football pools that were permissible prior to 1 September 2007, when the new arrangements came into force), should not be advertised on television before the commonly accepted watershed time of 9pm. The exception to this rule (in addition to bingo, lotteries and football pools) is the advertising of sports betting around live televised sporting events, most of which take place or begin before 9pm. This exclusion was agreed to for commercial reasons between the industry and government.

¹ GAMU is a collaborative working forum comprising the Commission, B/CAP/ASA, Ofcom, PhonepayPlus and DCMS

Issues

What is our understanding of the risk of harm to young and vulnerable people from gambling marketing and advertising, and what are we doing to address this?

Available research

19. There is little information available on the possible link between the volume and nature of gambling advertising and gambling related-harm. Relevant academic research is limited; there is some research on Sweden, USA, New Zealand and Australia but very little evidence relating directly to Great Britain.
20. The most recent review of the literature undertaken in Britain was published in 2011 by the Responsible Gambling Fund: *'The Impact of Advertising on Propensity for Problem Gambling'* by Simon Planzer and Heather Wardle highlighted the following issues emerging from available research:
 - Measuring the impact of advertising on gambling behaviour and the prevalence of problem gambling is complex because advertising will not have a uniform effect on behaviour. In a mature and complex gambling market, like we have in Britain, the impact of advertising might be to increase brand recognition and loyalty rather than increasing overall levels of gambling participation or problematic gambling behaviour.
 - Much advertising research is based on individuals' recall of advertising and personal judgement on the impact it has had.
 - There is some limited evidence that gambling advertising might exacerbate problem gambling behaviour but other factors seem more important drivers of disordered gambling. This research is hampered by being based on personal recall and the studies are small and qualitative in nature. Available evidence indicates that gambling advertising has an impact on problem gamblers at the point at which their problems are escalating or when they have relapsed.
 - There is some empirical evidence from overseas studies that increased volumes of gambling advertising do not lead to increased levels of problem gambling. There is literature from the USA which demonstrates that populations adapt to increased availability of gambling products.
 - Vulnerable groups, such as young people and problem gamblers, may be particularly susceptible to advertising. These groups might hold false beliefs about how gambling works and how it might be beneficial to them. Therefore regulation of advertising needs to pay particular attention to their needs.
 - Young people are particularly receptive to (positive and negative) messages in advertising and this may reinforce false perceptions about gambling and a skewed understanding of the positive aspects and risks.
21. In its 2012 Strategy document, RGSB prioritised gambling advertising and marketing as a priority area for further research and evaluation. In the 2013-14 to 2015-16 Strategy document, RGSB set out a number of areas where further research and evaluation are needed in order to advise on the most effective approaches to harm minimisation. This

included 'the current effectiveness of rules and controls on marketing and advertising'. Specifically it asked 'are the current scheduling and content rules adequate to mitigate the possible impact of the prevalence of gambling advertising, particularly on the young?'

22. The Responsible Gambling Trust commissioned Dr Per Binde to undertake a further review of available evidence on advertising. It is expected to differ to the Planzer and Wardle work as it will a) be more extensive and up-to-date; b) consider evidence from other fields (e.g. alcohol and drugs) and c) make policy-relevant recommendations and contain advice on future research and next steps. A draft of Per Binde's report was shared with the Commission on 5 February.
23. The workstream has undertaken a complementary piece of work to 'map out' existing and future marketing and advertising-related data and research, so that we have a better understanding of what is available, when, and what additional research may be required to address gaps. We intend to use this, and the findings of Per Binde's report, to inform the Commission's medium-term research strategy.

Online age verification and social gaming

24. Gambling marketing via social media platforms is also a concern to us and we seek to assure ourselves that it is not undermining the third licensing objective. A 2013 ASA report ([ASA Compliance survey - Children and advertising on social media websites](#)), suggested that children are registering on social media under false ages, meaning that under-18s could be exposed to the marketing of gambling products.
25. We have expressed our concerns to Facebook and continue to apply pressure on DCMS for this issue to be re-considered by the UK Council for Child Internet Safety (UKCCIS).
26. The workstream is also plugged in to the broader work being undertaken by the Social Gaming workstream which seeks to better understand the growing convergence between social gaming and commercial gambling and any risks this might pose to young and vulnerable people.
27. The OFT has recently published its '[Principles for online and app-based games](#)' which are designed to enhance consumer protection across all online and app-based gaming, including gambling style-games, and which has been welcomed by the Commission.

What is our understanding of the key marketing and advertising policy issues and how are we working with regulatory partners to resolve them?

The increase in remote gambling advertising on television

28. The Secretary of State has expressed concern about the increase in remote gambling advertising on television, and the potential risk of harm to young and vulnerable people.
29. The publication by Ofcom of the Broadcasters Audience Research Board (BARB) data in November 2013 showed that the total number of gambling advertisement spots shown on television increased from 152,000 in 2006 to 537,000 in 2008 after the market was liberalised, reaching 1.39 million in 2012. Adults' exposure to gambling advertising increased five-fold from 5.8 billion impacts² in 2005 to 30.9 billion impacts in 2012,

² An 'impact' is the number of times an advert was seen by viewers

accounting for 3.2% of all advertising seen in 2012. When taken as a whole (i.e. including advertisements for lotteries and bingo) some 55% of gambling advertisements are shown before the watershed (See **Annex D** for BARB data headlines.)

30. Remote gambling advertising on television has also featured in a number of proposed amendments during the passage of the Remote Bill. The Remote Bill is scheduled for report stage in the Lords on 4 March and the following amendment has been tabled:

“Consultation on remote gambling advertising”

The Secretary of State shall consult on the current regulatory position concerning advertising of remote gambling and other forms of online gaming activity where it is likely to be seen by, or influence, a child or children and shall lay a report of the findings before both Houses of Parliament not later than the final sitting day before the Summer Recess 2014.

31. It is likely that Government will propose some form of review of the regulatory frameworks governing gambling advertising; this could include a review of the industry voluntary code, the CAP and BCAP codes and LCCP. The Commission, along with Ofcom, the ASA and PhonepayPlus, is working closely with DCMS, to consider the scope and framework for any such review. We will use the Gambling Advertising Monitoring Unit as a forum to discuss and drive this work for which there could be substantial resourcing implications.
32. The Commission has already initiated an internal review of online bingo advertising on television (particularly pre-watershed) which is considering the evolving nature of online bingo and adherence to the ‘letter’ and ‘spirit’ of the industry voluntary code. Pre-watershed bingo advertising on television is attracting increasing political scrutiny and has featured in a recent parliamentary question.

Misleading, unfair and ‘aggressive’ gambling marketing

33. Potentially misleading, unfair and ‘aggressive’ gambling marketing has also become an issue of ministerial concern, which has prompted the Commission, Ofcom, B/CAP and the ASA to ensure that the rules governing the marketing of bonus offers and free bets are fit-for-purpose.
34. In recent years the gambling industry has increased the marketing of bonus offers and free bets as an incentive to attract new customers to their products. The ASA Gambling Compliance Survey (2010) demonstrated that the majority of advertisements considered ‘in breach’ offered ‘free bets’ but did not include significant terms and conditions. Since 2008 the ASA has received an increasing number of complaints relating to free bets and bonuses; of the resulting 58 investigations, 53 were upheld or upheld in part.
35. The ‘Fair and open’ and ‘Marketing’ provisions within LCCP already provide existing protections to the customer around unfair terms and rewards/incentives. However, we want to assure ourselves that these remain robust and fit-for-purpose.
36. Customer protection is also afforded via the CAP and BCAP codes which lay down rules for advertisers, agencies and media owners to follow. Section ‘03’ of each code is concerned with ‘Misleading advertising’ containing rules such as substantiation (evidence to prove claims); pricing; the use of the word ‘free’; availability of products, comparisons, testimonials and more.

37. In autumn 2013, GAMU members agreed to undertake a review of the marketing of free bets and bonus offers. In the LCCP consultation which closed on 4 December, we posed the following question: 'Q1. The Commission welcomes respondents' views on the proposed multi-agency review of the marketing of free bets and bonus offers. In particular, we are interested in comments on the issues that should be covered in the review and any changes thought to be needed to LCCP in relation to marketing (for example code provision 4 relating to marketing).'
38. We received 32 unique responses (42 in total) which have provided us with a helpful steer on what ought to be included within the proposed multi-agency review. Although responses (as expected) spanned the spectrum of 'do nothing' to 'ban free bets and bonuses' there was broad support for a collaborative effort with industry to encourage greater clarity/better guidance on offering free bets and bonuses, rather than changing regulatory requirements.
39. On 31 January 2014, B/CAP published a 'Help note' ([Guidance on the rules for gambling advertisements](#)) which is designed to provide advertisers with clear guidance to help ensure that gambling advertising continues to be responsible and that children as well as vulnerable people, like those at risk of problem gambling, are protected. It includes new, specific guidance on free bets and bonus offers (**Annex E**) to make clearer the requirements on marketers of such offers. It underlines the need for marketers to give appropriate prominence to any significant conditions associated with their offers.
40. The Commission is working closely with B/CAP, ASA and the broader GAMU membership, to arrange awareness-raising and engagement events with the industry in February/March in order to inform 'tightened' guidance and appropriate revisions to LCCP. Industry will be represented at these events through engagement with the Remote Gambling Association (RGA), the 'P3' Group³ and other sector trade associations.

What are the implications of the Remote Bill and what is the workstream doing to support the implementation of a credible, enforceable and effective approach to preventing illegal advertising?

41. Section 331 of the Gambling Act 2005, currently prohibits the advertising of 'foreign gambling'. 'Foreign gambling' is defined as non-remote gambling which takes place in a non-EEA state, and remote gambling which is not regulated by the law of an EEA state.
42. This means that operators based in EEA states and 'whitelisted' jurisdictions, which are regulated within their laws, are able to advertise remote gambling to UK consumers without requiring a Gambling Commission licence. However, the 'whitelisted' jurisdictions must comply with British advertising provisions.

What does the Remote Bill do?

43. The Bill identifies amendments to the Gambling Act 2005 in a number of areas effecting remote gambling which can be broadly summarised as:
 - Section 331 of the Act would be repealed lifting all restrictions on advertising foreign gambling in Great Britain. This abolishes the current recognised 'white list' (inc. Economic European Area (EEA) states and Gibraltar) jurisdictions.

³ The P3 group is a cross industry group established in 2013 with a focus on tackling problem gambling

- Determination for licensing requirements would be based on the existing requirement where one piece of key equipment is located in the Great Britain. In addition, the Bill proposes that where facilities are capable of being used in the Great Britain a licence would also be required – licensing at the point of consumption.
- Operators that fail to obtain an operating licence from the Commission would therefore commit an offence under Section 33 of the Act - providing facilities for gambling.

44. Under Section 330 of the Act (advertising unlawful gambling) an offence would be committed where :

- Non remote advertising is carried out wholly or partly in Great Britain. As a consequence it is not an offence where non remote facilities outside Great Britain are advertised within Great Britain.
- Remote advertising is intended to come to the attention of one or more persons in the Great Britain.

45. Gambling advertising will continue to comply with relevant advertising codes of practice. The ASA will continue to oversee compliance with the CAP and BCAP codes and licensed gambling operators should also adhere to the voluntary gambling industry code for socially responsible advertising.

Advertising only licence

46. The Remote Bill has led the Commission to consider the scenario in which a gambling operator uses British sports teams or events to advertise their gambling products to an overseas country and the implications for licensing.

47. The question we have sought to consider is whether an operator not offering gambling to British consumers and indeed not accepting them as customers can have or should have a Commission licence, and whether without a licence they can advertise by means of non-remote sponsorship and advertising at sporting events in Britain which are broadcast overseas.

48. The Commission's position is that only those operators that transact or intend to transact with British consumers are entitled to hold an operating licence. The Commission will make a decision on a case-by-case basis as to whether an operator has a genuine British facing business. A licence would not be required simply by virtue of carrying out advertising in Britain.

49. Some gambling operators use sponsorship and advertising of British sports teams and events to promote their gambling services in overseas markets. They do this because British sport, particularly Premier League football, is hugely popular and widely broadcast in other countries. This is especially true of Premier League football in Far East Asia.

50. There are eight Far East Asian facing gambling operators that between them have commercial arrangements with eleven of the 20 Premier League clubs.

51. The Commission has received enquiries about the possibility of an 'advertising only' licence i.e. a licence to permit operators to advertise to those in overseas markets by means e.g. of sports sponsorship or advertisements on the perimeters of sports fields but not accept transactions from British consumers. The Commission will not licence operators unless they have a [real] British facing business and either currently transact with British consumers or have a clear business plan for doing so in the future.
52. The Commission doubts that taking sponsorship from operators not subject to the Licence condition 15 (which sets out information sharing requirements) or playing an active role in the international anti sports betting corruption bodies gives the right message to the betting industry, sport or gamblers but this is something we will be discussing in the tripartite group and with DCMS.

What is the workstream doing to prepare for implementation of the Bill?

53. The focus of workstream activity is two-fold:
 - to ensure that the proposed changes are understood and widely communicated to the gambling and advertising industries, consumers and other relevant stakeholders;
 - to contribute to the development of a framework for the handling of illegal advertising which will help ensure effective compliance, monitoring and enforcement following the passage of the Bill.
54. The workstream has developed a stakeholder engagement plan; has undertaken a stocktake of advertising-related Commission communications (website pages, advice notes etc.) so as to ensure they are appropriately revised; and has produced a gambling advertising advice note (promoted at the industry 'ICE' conference 2014) which forms part of a broader package of corporate publications intended to raise awareness of the Bill. A more targeted version of the note has been designed for, and promoted to, the Internet Advertising Bureau (IAB) - the trade association for online and mobile advertising.
55. The workstream has led two internal scenario planning workshops which have successfully explored a range of key policy and operational issues associated with the Bill whilst 'testing' the Commission's future compliance and enforcement capabilities.

Recommendations

56. Commissioners are asked to note the progress of the workstream and to raise any specific observations, interests or concerns they have about the workstream focus, progress to date and proposed future activity.

Annex A – Marketing & Advertising workstream summary and plan (updated February 2014)

[Exempt information under sections 31 and 40 of the Freedom of Information Act.]

Annex B – Gambling advertising information leaflet



Gambling (Licensing and Advertising) Bill

GAMBLING COMMISSION

Gambling advertising

February 2014

Planned changes to the law on gambling advertising will take effect in 2014 subject to final parliamentary approval of the Gambling (Licensing and Advertising) Bill.

If enacted, the changes will affect gambling operators who advertise in Great Britain and those who carry advertising such as broadcasters, publishers and sports clubs.

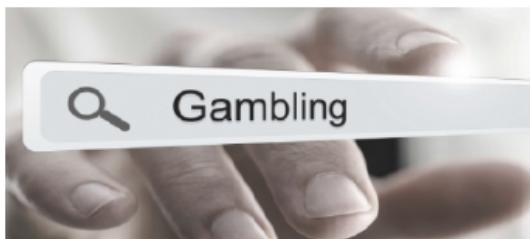
What will the changes mean?

Under the legislative proposals only gambling operators licensed by the Gambling Commission will be able to advertise to consumers in Britain or provide them with remote gambling facilities.

This will simplify the position for carriers of advertising. Carriers of gambling advertising will need to ensure they only permit gambling operators licensed by the Commission to advertise in Britain.

When will it happen?

The final implementation date will depend on how quickly the Gambling (Licensing and Advertising) Bill completes its progress through Parliament. At present we expect the changes will take effect at least three months after the Bill receives Royal Assent. The new regime could take effect as early as summer 2014.



Advertising rules

Gambling advertising should continue to comply with the relevant advertising codes of practice.

The Advertising Standards Authority (ASA) will continue to oversee compliance with the gambling advertising codes set by the Committee for Advertising Practice (CAP) and the Broadcast Committee for Advertising Practice (BCAP).

Licensed gambling operators should also follow the voluntary gambling industry code for socially responsible advertising.

Ahead of the changes to the law, CAP and BCAP have published a [new help note](#) setting out their guidance on the rules for gambling advertisements.



Will operators licensed by the Gambling Commission be easy to identify?

Yes, they will be required to display the Gambling Commission logo and provide a link to www.gamblingcommission.gov.uk so consumers can verify the operator has a valid licence using [the Commission's register of licensed operators](#).

This is part of a series of guides to help interested parties such as gambling operators, advertising carriers and others prepare for the changes that the Gambling (Licensing and Advertising) Bill will bring into effect.

Keep monitoring our website for more guidance and updates on the progress of the Bill



Gambling (Licensing and Advertising) Bill Gambling advertising

Enforcement

We continue to work with advertising bodies both in Britain and overseas to spread understanding of the proposed changes to allow the advertising industry to prepare and inform their prospective clients.

The Commission works with its partners to ensure unlawful gambling advertising is removed.

In previous cases we have worked with broadcasters, carriers of sponsorship (such as sports clubs), social networking sites and search engines to effect the removal of unlawful gambling advertising.

This has proved very effective to date, as third parties are equally concerned not to be involved in assisting illegal activities. We anticipate that working with advertisers, broadcasters, publishers and other third parties to remove illegal advertising will remain a key enforcement tool against unlicensed gambling websites.



Review of bonus offers and free bets

In recent years the gambling industry has increased the marketing of bonus offers and free bets as an incentive to attract new customers to their products.

The Commission is working with its regulatory partners to ensure these offers are being marketed to customers in a fair and open way. This could lead to changes to the Commission's Licence Conditions and Codes of Practice.

Further information

An outline of the proposed changes in the Bill is already available at www.gamblingcommission.gov.uk.



Useful links

- Latest on the passage of the Gambling Bill www.parliament.uk
- The ASA www.asa.org.uk
- CAP www.cap.org.uk
- Gambling advertising www.gamblingcommission.gov.uk/advertising
- LCCP www.gamblingcommission.gov.uk/uk

Contact us

If you have any questions about how to prepare for the Bill and make sure your business remains compliant please contact us on:

0121 230 6666

info@gamblingcommission.gov.uk

www.gamblingcommission.gov.uk

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Annex C - the 'Television advertising – Watershed' section of the Gambling Industry Code for Socially Responsible Gambling (2007)

Television advertising – Watershed

30. Under the Gambling Act 2005 it is legal to offer a wider range of gambling advertising than was previously the case. The content of that advertising will be governed by the BCAP codes (see paragraph 5), but the gambling industry is aware that concerns exist about the potential effect of a rapid growth in television advertising. Although gambling operators will advertise in a socially responsible manner in compliance with the BCAP codes it is right to proceed with caution, especially in relation to the protection of children.

31. Consequently, this code requires that new gambling products (NB not those, such as bingo, that were permissible prior to 1 September 2007), should not be advertised on television before the commonly accepted watershed time of 9.00pm. For the avoidance of doubt, it is worth underlining here that the sponsorship of television programmes is classified as advertising (for a definition of advertising, see Section 327 of the Gambling Act 2005).

32. The exception to this rule is the advertising of sports betting around televised sporting events. The majority of these events take place or begin before 9.00pm and given the direct relationship between the two it would be unreasonable to prevent the advertising of betting opportunities. For the purposes of this code sporting events do not include sports-themed entertainment programmes such as (but not exclusively) dancing and ice-skating competitions and quizzes. The sponsorship of sporting events themselves, as opposed to their televised coverage, is not affected by this code.

Annex D: Broadcasters Audience Research Board (BARB) headline research findings

On 19 November 2013, Ofcom published audience research into gambling advertising on television.

Ofcom commissioned analysis to look at the volume, scheduling, frequency and exposure of gambling advertising on UK television to help understand how television gambling advertising has changed since the market was liberalised by Parliament in 2007.

The research is based on analysis of BARB viewing data and categorises gambling adverts into four types: online casino and poker services; sports betting; bingo; and lotteries and scratch cards.

Headline research findings

The research found that the total number of gambling advertisement spots shown on television increased from 152,000 in 2006 to 537,000 in 2008 after the market was liberalised, reaching 1.39 million in 2012.

Of all gambling advertisements on television in 2012, there were 532,000 bingo adverts; 411,000 adverts for online casino and poker services; 355,000 adverts for lotteries and scratch cards; and 91,000 sports betting adverts.

In terms of shares of each type of gambling service in 2012, bingo accounted for 38.3% of adverts; online casino and poker services were 29.6%; lotteries and scratch cards represented 25.6%; while sports betting adverts accounted for 6.6% of the total.

Gambling accounted for 0.7% of all advertising spots across commercial television in 2006, compared to 1.7% in 2008 and 4.1% in 2012.

The research found that adults' exposure to gambling advertising has increased over time. In 2006, there were 8 billion 'impacts' – the number of times an advert was seen by viewers. This grew to 30.9 billion impacts in 2012, when gambling adverts accounting for 3.2% of all advertising seen by adult viewers.

Children aged 10-15 saw approx 262 advertisements for gambling services in 2012 of which c.36 advertisements were for betting advertisements. Some 65% of advertisements for betting services seen by children aged 10-15 are shown around live sporting events before 2100 as per the terms of the voluntary agreement.

However, live sporting events do not receive particularly large child audiences. Only 12 of the top 50 sporting events in 2012 were watched by more than 500k children (to put this in context, around 750k who watch each episode of *Britain's Got Talent*).

Children aged 10-15 (the group covered by the BCAP index-based restriction) are consistently under-represented in the audiences of sporting events, with an index that ranges from 42-99.

Annex E: Section 5 (Misleadingness: ‘free bets’) of the B/CAP ‘Help note’ (Guidance on the rules for gambling advertisements), published on 31 January 2014

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.