



## BRIEFING PAPER

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# Gambling advertising: how is it regulated?

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## Summary

Under the *Gambling Act 2005*, gambling operators selling into the British market must have a [Gambling Commission](#) licence to transact with, and advertise to, British consumers. The [Commission's Licence Conditions and Codes of Practice](#) (April 2020) require gambling operators to comply with the [Advertising Codes](#), administered by the [Advertising Standards Authority](#) (ASA). The Codes aim to ensure that gambling adverts do not:

- portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm;
- exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons;
- suggest that gambling can be a solution to financial concerns;
- link gambling to seduction, sexual success or enhanced attractiveness;
- be of particular appeal to children or young persons, especially by reflecting or being associated with youth culture;
- feature anyone gambling or playing a significant role in the ad if they are under 25 years old (or appear to be under 25).

Adverts that breach the Codes have to be amended or withdrawn. If serious or repeated breaches occur, the ASA can refer advertisers to the Gambling Commission and broadcasters to [Ofcom](#).

The ASA has [warned](#) gambling operators about their responsibilities under the Codes during the Covid-19 pandemic.

### Concerns about advertising

Gambling advertising has increased substantially since the 2005 Act came into force. This has led to concerns about its impact on children, young people, and vulnerable adults. The relationship between gambling and sport has come under particular scrutiny.

In March 2020, Nigel Huddleston (DCMS Minister for Sport, Tourism and Heritage) [said that](#) the remit of a forthcoming review of the Gambling Act had not yet been scoped but that the Government would "listen very carefully to what elements should be considered".

### What is the gambling industry doing?

The [Betting and Gaming Council](#) (BGC) represents around 90% of the UK's betting and gaming industry (excluding lotteries). Its [Code of Conduct](#) requires, among other things, that members must adhere to an [Industry Code for Socially Responsible Advertising](#). The industry has taken a number of voluntary measures on gambling advertising, including a whistle-to-whistle ban on adverts during live sport.

In April 2020, the BGC [announced](#) that its members would voluntarily remove television and radio adverts for online slot, casino and bingo products during the Covid-19 lockdown. Existing advertising slots have been replaced by safer gambling messages, donated to charities, or removed from broadcast.

# 1. Introduction

From September 2007, when the *Gambling Act 2005* came into force, gambling operators have been able to advertise across all media in Great Britain. Since then, the market has grown significantly. An Ipsos MORI [report](#), published in March 2020 by the [GambleAware](#) charity, found a “clear increase” in gambling advertising to over £328 million in 2018:

Across all media, with the exception of online advertising for which there is limited trend data available, the estimated spend on gambling ‘paid for’ advertising has steadily increased year on year from £264,657,325 in 2015 to £328,945,916 in 2018. This represents a 24% increase from 2015 to 2018.

A National Audit Office [report](#) (February 2020) also found a significant increase in gambling operators’ spend on advertising, particularly online and on social media.<sup>1</sup>

## The impact of advertising on consumers

A 2016 DCMS [review](#)<sup>2</sup> found that, although the number of adverts had “increased substantially” since the *Gambling Act* came into force, problem gambling had remained statistically stable, although gambling-related harm was harder to measure.<sup>3</sup> Many of the public’s responses to the review claimed there was too much advertising on television and called for it to be banned or heavily restricted because it promoted or normalised gambling.

Broadcasters, the ASA/CAP, and the Advertising Association and sporting bodies referred to research<sup>4</sup> showing that the impact of advertising on problem gambling was small. They also pointed out that investment in sport and sports coverage depends heavily on gambling advertising.<sup>5</sup>

There is ongoing concern about the growth in advertising and its impact, particularly on young people and vulnerable adults.<sup>6</sup> According to the Ipsos MORI report:

- More than four out of five (85%) aged 11-24 reported seeing gambling advertising on TV (including national lottery adverts).
- 70% of children and young people noticed gambling adverts in betting shops on the high street, window displays as well as

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<sup>1</sup> National Audit Office, [Gambling regulation: problem gambling and protecting vulnerable people](#), HC 101, February 2020, p36

<sup>2</sup> DCMS, [Review of Gaming Machines and Social Responsibility Measures: Call for Evidence](#), October 2016, see pp13-4 on advertising

<sup>3</sup> The findings of the 2016 review are set out on pp40-50 of the DCMS’ [Consultation on proposals for changes to gaming machines and social responsibility measures](#), October 2017

<sup>4</sup> Per Binde, [Gambling advertising: a critical research review](#), Responsible Gambling Trust [now GambleAware], 2014; An updated [bibliography](#) to the report was published in December 2015

<sup>5</sup> DCMS, [Consultation on proposals for changes to gaming machines and social responsibility measures](#), pp42-3

<sup>6</sup> See, for example, [“Rise in gambling ad spend fuels fears over impact on children”](#), *Guardian*, 24 November 2018 and footnote 10 to this Paper

promotions on shop floors and near tills. However, those aged between 18 to 24 had higher exposure to gambling during sports events, on smartphone apps, through merchandise, gambling websites, emails and from word of mouth.

- Two-thirds (66%) reported seeing gambling promotions on their social media channels, that were most likely to be in the form of video adverts while watching clips on YouTube or ads appearing while scrolling through Facebook feeds.<sup>7</sup>

The report pointed out that the relationship between advertising and gambling behaviour was “complex and multifaceted” and that the attitudes and gambling behaviours of peers and carers were also important in shaping behaviour.<sup>8</sup> However, it did conclude that there were “reasonable grounds for concern” about the impact of advertising. After noting the precautionary principle<sup>9</sup>, the report made a number of recommendations including:

- The need for clearer safer gambling messages and campaigns, to increase the awareness of risk of gambling to children and young people.
- Improving safer gambling education initiatives, that extend to parents, as well as children and young people.
- Reducing the appeal of gambling advertising, by addressing specific features that may appeal to children, for example the use of celebrities or humour, while also avoiding references to confusing financial incentives.
- Improved use of advertising technology and age screening tools, to minimise the exposure of such content to children, young people and vulnerable adults.

### **Gambling advertising and sport**

Advertising in sport, especially in football, has generated particular concern.<sup>10</sup> In a March 2020 Commons [debate](#), Carolyn Harris said that vulnerable people were “bombarded with gambling advertisements”.<sup>11</sup> She referred to research showing that gambling logos were on screen for 70% of the time during “Match of the Day”.

An [EDM](#), tabled by Sir Mike Penning, acknowledges the industry’s voluntary ban on gambling adverts during live sport before 9pm, but calls for an outright ban on gambling adverts on TV and the internet. The ban would not apply to the National Lottery and charitable lotteries.<sup>12</sup>

<sup>7</sup> [“The effect of gambling advertising on children, young people and vulnerable adults”](#), Ipsos MORI News, 27 March 2020

<sup>8</sup> Ipsos MORI, [The effect of gambling marketing and advertising on children, young people and vulnerable adults: Executive summary](#), March 2020, p9

<sup>9</sup> i.e. taking preventative measures even if cause and effect relationships are not fully established

<sup>10</sup> [“Sports Minister Nigel Adams says football is ‘too dependent’ on gambling”](#), BBC Sport, 24 January 2020; [HC Deb 19 March 2020 cc1247-52](#) on gambling advertising in sport; [Lords written question \[HL 473\]](#) on the impact of gambling adverts on children, answered 10 February 2020

<sup>11</sup> [HC Deb 19 March 2020 c1247](#)

<sup>12</sup> EDM #74, [Gambling addiction and advertising](#), 14 signatures as of 11 May 2020

## 2. What does gambling law require?

Under the *Gambling Act 2005* (as amended), gambling operators selling into the British market must have a [Gambling Commission](#) licence to transact with, and advertise to, British consumers.<sup>13</sup> The [Commission's Licence Conditions and Codes of Practice](#) (April 2020) require gambling operators to comply with the [Advertising Codes](#), administered by the [Advertising Standards Authority](#) (ASA).

The Gambling Act's third licensing objective seeks to protect children and other vulnerable persons from being harmed or exploited by gambling.<sup>14</sup> The sections of the ASA's Codes that cover gambling are designed to protect these groups from being harmed by advertising featuring or promoting gambling.

### 2.1 The Advertising Codes

Gambling operators advertising to British customers must comply with:

- chapter 17 of the [UK Code of Broadcast Advertising](#) (the Broadcast Committee of Advertising Practice (BCAP) Code);
- chapter 16 of the [UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing](#) (the Committee of Advertising (CAP) Code).

The BCAP Code applies to all adverts and programme sponsorship credits on radio and television. The CAP Code applies to non-broadcast adverts, sales promotions and direct marketing communications.

The Codes aim to ensure that gambling advertisements do not:

- portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm;
- exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons;
- suggest that gambling can be a solution to financial concerns;
- link gambling to seduction, sexual success or enhanced attractiveness;
- be of particular appeal to children or young persons, especially by reflecting or being associated with youth culture;
- feature anyone gambling or playing a significant role in the ad if they are under 25 years old (or appear to be under 25).

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<sup>13</sup> The *Gambling (Licensing and Advertising) Act 2014* introduced regulation at the "point of consumption". For background see the Library Briefing Papers [RP13/55](#) (17 September 2013) and [RP13/68](#) (25 November 2013)

<sup>14</sup> [Section 1](#) of the *Gambling Act 2005*

Adverts that breach the Codes have to be amended or withdrawn. If serious or repeated breaches occur, the ASA can refer advertisers to the Gambling Commission and broadcasters to [Ofcom](#).

In April 2017, the Gambling Commission fined BGO Entertainment Ltd £300,000 for misleading advertising.<sup>15</sup> This was the first financial penalty imposed by the Commission for advertising failings.

## Guidance on the Codes

CAP/BCAP have issued guidance on the Codes in a number of areas.

### Covid-19

The ASA has [warned](#) gambling operators about their responsibilities under the Codes during the Covid-19 pandemic:

(...) 'Lockdown' has created a 'captive audience'. Many people are anxious and uncertain about the future and a significant number face financial hardship. To some, gambling may even be seen as an escape from the situation they now find themselves in. Such vulnerabilities heighten risks associated with gambling.

(...)

The ASA's protection of the vulnerable includes people who are innately vulnerable – under-18s who are not legally of age to gamble – and those who are 'situationally' vulnerable. The UK Advertising Codes are clear that marketing for gambling products must not be:

- irresponsible in its use of content or themes that might exploit vulnerabilities; or
- targeted through its content or placement at under-18s.

We will be taking firm action against gambling advertising that does not meet these standards, taking into account the context of the crisis and how it might affect consumers' expectations and behaviour.<sup>16</sup>

The ASA is encouraging people to [report](#) gambling adverts that:

- refer to the COVID-19 crisis or related matters, such as the government's lockdown policy; and/or
- include claims or themes that are of particular concern in the current climate (e.g. ads that refer to relieving boredom, repeated play or personal problems like family difficulties).<sup>17</sup>

### Gambling on eSports on social media

An [Advice Note](#) was published in April 2020 making clear that eSports betting-related advertising has to comply with the Codes. The advice applies to all social media platforms.<sup>18</sup>

<sup>15</sup> ["Gambling business fined £300,000 for misleading advertising"](#), Gambling Commission News, 2 May 2017

<sup>16</sup> ["Gambling advertising and 'lockdown'"](#), ASA/CAP News, 7 April 2020

<sup>17</sup> Ibid

<sup>18</sup> ["Responding to new challenges: gambling, eSports and social media"](#), CAP News, 23 April 2020



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### Protecting the under-18s

In April 2019, revised [guidance](#) on protecting the under-18s came into effect.<sup>19</sup> A CAP/BCAP [statement](#) explained that the guidance:

- builds on existing guidance resources on targeting covering all media (including social networks and other online platforms);
- requires that gambling ads are not placed in media for under-18s and that under-18s comprise no more than 25% of an audience in other media;
- prohibits targeting of groups of individuals who are likely to be under 18 based on data about their online interests and browsing behaviour;
- includes an extensive list of unacceptable types of content, including certain types of animated characters, licensed characters from movies or TV and sportspeople and celebrities that are likely to be of particular appeal to children and references to youth culture; and
- prohibits the use in gambling advertisements of sportspersons, celebrities or other characters who are or appear to be under 25.<sup>20</sup>

### Social responsibility and problem gambling

In April 2018, [guidance](#) came into effect to help advertisers interpret the rules relating to social responsibility and problem gambling issues.<sup>21</sup> This explains that marketing communications should:

- restrict ads that create an inappropriate sense of urgency like those including “Bet Now!” offers during live events;
- curb trivialisation of gambling (e.g. encouraging repetitive play);
- prevent approaches that give an irresponsible perception of the risk or control (e.g. “Risk Free Deposit Bonus”);
- provide greater detail on problem gambling behaviours and associated behaviours that should not be portrayed, even indirectly;
- prevent undue emphasis on money-motives for gambling; and
- provide more detail on vulnerable groups like problem gamblers that marketers need to work to protect.<sup>22</sup>

### Free bets and bonuses

[Guidance](#) on free bets and bonuses came into effect in February 2018.<sup>23</sup> This states that significant conditions must always be prominently displayed with an advertised offer. “Significant conditions” are those that are likely to affect a consumer’s understanding of a promotion, and are likely to include any requirement for a consumer to deposit their

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<sup>19</sup> This followed a 2016 DCMS [review](#) of gambling and social responsibility measures

<sup>20</sup> CAP/BCAP, [Regulatory statement: gambling advertising guidance – protecting children and young people](#), February 2019, p3; “[New standards protecting children from irresponsible gambling ads](#)”, CAP News, 13 February 2019

<sup>21</sup> This also followed the 2016 [review](#) of gambling and social responsibility measures

<sup>22</sup> “[Tougher standards on gambling advertising announced](#)”, CAP News, 14 February 2018

<sup>23</sup> Ibid

own funds, restricted odds, eligibility, wagering and withdrawal requirements. Other terms and conditions of the offer have to be, at most, one click away from the advertising. The standards also make clear, among other things, that “money back” offers must be in cash and not bonuses.

The guidance complements work done by the Competition and Markets Authority and the Gambling Commission to ensure that gambling firms are clear about their promotional terms and conditions.<sup>24</sup>

### 3. What is the gambling industry doing?

The gambling industry has taken voluntary initiatives in response to concerns about gambling advertising.

#### 3.1 The Industry Code for Socially Responsible Advertising

An Industry Code for Socially Responsible Advertising supplements the BCAP and CAP Codes and was developed to set standards in areas not covered by those Codes. The [Industry Group for Responsible Gambling](#) (IGRG) maintains and reviews the Code and is responsible for compliance. The IGRG’s members are the [Betting and Gaming Council](#), the [British Amusement Catering Trade Association](#), and the [Bingo Association](#).

The Code was originally published in 2007, for when the Gambling Act came into force. A [fifth edition](#) came into force in August 2019. This strengthened restrictions around pre-watershed TV advertising and included:

- a ‘whistle to whistle’ ban on betting advertising prior to the 9.00pm watershed around all live televised sports (apart from horse and greyhound racing);
- a complete ban on pre-watershed betting advertising on around the non-live broadcasting of sports (ie re-runs of events and highlights programmes).<sup>25</sup>

#### 3.2 The Betting and Gaming Council’s role

The Senet Group was established in September 2014 in response to public concerns about gambling.<sup>26</sup> In October 2014, the Group committed to:

<sup>24</sup> See CMA website, [Online gambling](#) [accessed 7 May 2020]; [“Gambling sector told to raise its game after CMA action”](#), CMA press release, 1 February 2018; [“Gambling business fined £350,000 for advertising failures”](#), Gambling Commission News, 14 February 2018

<sup>25</sup> [“IGRG announces ‘whistle to whistle’ ban on gambling advertising around live sport”](#), IGRG press release, 13 December 2018

<sup>26</sup> The Group was founded by William Hill, Ladbrokes, Coral and Paddy Power. Membership was open to any gambling operator

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- a voluntary ban on advertising sign-up offers (free bets and free money) on TV before 9pm;
- the withdrawal of all advertising of gaming machines from betting shop windows;
- dedicating 20% of shop window advertising to responsible gambling messages.

From January 2015, television, online and betting shop advertising by Group members has included a “When the Fun Stops, Stop” message.

In April 2020, the [Betting and Gaming Council](#) (BGC) took over the work of the Senet Group.<sup>27</sup> The BGC represents around 90% of the UK’s betting and gaming industry (excluding lotteries). Its [Code of Conduct](#) requires, among other things, that members must adhere to the IGRG Code for Socially Responsible Advertising. The BGC Code also states that members are committed to developing a Code of Practice for Digital Marketing, to prevent advertising to under 18s and vulnerable people.

Other BGC initiatives include an independent review of the impact of the whistle-to-whistle television advertising ban.<sup>28</sup>

### **Covid-19 and gaming adverts**

On 27 April 2020, the BGC [announced](#) that its members would voluntarily remove television and radio adverts for online slot, casino and bingo products during the Covid-19 lockdown.<sup>29</sup> Existing advertising slots have been replaced by safer gambling messages, donated to charities, or removed from broadcast. Sports advertising will be reviewed separately when “significant sport returns with all operators acknowledging the need to treat the return of sports betting with care”.<sup>30</sup>

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<sup>27</sup> [“BGC takes over Senet safer gambling remit”](#), BGC News, 6 April 2020

<sup>28</sup> See the BGC’s [Safer Gambling Commitments](#)

<sup>29</sup> [“BGC members to remove TV and radio gaming advertising during COVID-19 lockdown”](#), BGC News, 27 April 2020

<sup>30</sup> Ibid

## 4. What is the Government's position?

The Government has said that it monitors issues around gambling advertising and will "consider any new evidence carefully".<sup>31</sup>

During a March 2020 [debate](#), Nigel Huddleston (DCMS Minister for Sport, Heritage and Tourism) pointed out that gambling was a permitted activity and that licensed operators' ability to advertise was "a key advantage" over the black market. If this advantage was removed, "we would undermine our ability to ensure that gambling is conducted in a fair and open way, that it remains crime-free, and that children and vulnerable people are protected."<sup>32</sup>

Mr Huddleston said that the remit of a forthcoming review of the Gambling Act had not yet been scoped but that the Government would "listen very carefully to what elements should be considered".<sup>33</sup>

The DCMS has welcomed the BGC's [ten pledge action plan](#) on safer gambling during the Covid-19 pandemic.<sup>34</sup> This includes:

- action to ensure appropriate and responsible advertising, including monitoring volume;
- reporting all illegal, rogue advertising from black market online operators.

The DCMS has also written to gambling operators, urging urge them to increase the prominence of safer gambling messaging adverts during the pandemic.<sup>35</sup> The BGC is working with its members to do this.<sup>36</sup>

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<sup>31</sup> [PQ 6732](#) [on gambling advertising], answered 30 January 2020

<sup>32</sup> [HC Deb 19 March 2020 c1249](#)

<sup>33</sup> [HC Deb 19 March 2020 cc1251-2](#); The 2019 Conservative Party [Manifesto](#) included a commitment to review the Gambling Act

<sup>34</sup> [PQ 40682](#) [on gambling advertising], answered 1 May 2020; The BGC [announced](#) the plan on 27 March 2020

<sup>35</sup> [PQ 40767](#) [on gambling advertising during Covid-19], answered 5 May 2020

<sup>36</sup> ["BGC Members commit to further safer gambling measures"](#), BGC News, 21 April 2020

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