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Gambling advertising: how is it regulated?

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Inside:

1. Introduction
2. What does the law require?
3. What is the gambling industry doing?
4. What is the Government's position?



Contents

Summary	3
1. Introduction	5
2. What does the law require?	8
3. What is the gambling industry doing?	13
4. What is the Government's position?	15
Gambling Act Review	15

Summary

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](#) (October 2020) require 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Adverts that breach the Codes must be amended or withdrawn. If serious or repeated breaches occur, the ASA can refer advertisers to the Gambling Commission and broadcasters to [Ofcom](#).

Concerns about advertising

Gambling advertising has increased substantially since the *Gambling Act 2005* 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.

What is the gambling industry doing?

The [Betting and Gaming Council](#) (BGC) represents around 90% of the UK's betting and gaming industry. Its [Code of Conduct](#) requires, among other things, adherence to an [Industry Code for Socially Responsible Advertising](#) (October 2020).

What is the Government's position?

During a March 2020 [debate](#) on gambling advertising, Nigel Huddleston, Minister for Sport, Tourism and Heritage, noted 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."

In December 2020, the Government launched a [Review of the Gambling Act](#). This seeks views on, among other things, the impacts of

the advertising and marketing of gambling products and brands. A call for evidence closes on 31 March 2021.

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.¹

The impact of advertising on consumers

A 2016 DCMS [review](#)² 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.³ 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 research⁴ 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.⁵

There is ongoing concern about the growth in advertising and its impact, particularly on young people and vulnerable adults.⁶ 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).

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

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

³ 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

⁴ 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; Per Binde has since published [A Bibliography of empirical studies on gambling advertising](#) (3rd ed), OnGambling.org, November 2019

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

⁶ See, for example, [“Rise in gambling ad spend fuels fears over impact on children”](#), *Guardian*, 24 November 2018 and footnote 13 to this Paper

- 70% of children and young people noticed gambling adverts in betting shops on the high street, window displays as well as 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.⁷

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.⁸ However, it did conclude that there were “reasonable grounds for concern” about the impact of advertising. After noting the precautionary principle⁹, the report made various 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.

A House of Lords Committee [report](#) (July 2020) on gambling harm recommended that the Government should commission independent research to establish the links between gambling advertising and gambling-related harm for adults and children.¹⁰ In its December 2020 [response](#), the Government referred to the March 2020 report by Ipsos MORI¹¹. It also said that the [Gambling Act Review](#) (see section 4 of this paper) would look at the evidence relating to gambling marketing and advertising.¹²

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

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

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

¹⁰ House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry, [Gambling Harm – Time for Action](#), HL Paper 79, July 2020, para 494

¹¹ DCMS, [Government Response to the House of Lords Gambling Industry Committee Report: Social and Economic Impact of the Gambling Industry](#), December 2020, para 69

¹² *Ibid*, para 70

7 Gambling advertising: how is it regulated?

Gambling advertising and sport

Advertising in sport, especially in football, has generated particular concern.¹³ In a March 2020 Commons [debate](#), Carolyn Harris said that vulnerable people were “bombed with gambling advertisements”.¹⁴ She referred to research showing that gambling logos were on screen for 70% of the time during “Match of the Day”.

The House of Lords Committee [report](#) on gambling harm recommended that gambling operators should not be allowed to advertise on the shirts of sports teams or any other part of their kit. There should be no gambling advertising in or near any sports grounds or sports venues, including sports programmes.¹⁵ The restrictions would not apply to horseracing or greyhound racing.¹⁶

In its December 2020 [response](#), the Government said that it was aware of public concerns about gambling sponsorship and branding around sport. It had called for evidence on this as part of the Gambling Act Review.¹⁷

¹³ [PQ 92690](#) [on gambling adverts in football], answered 29 September 2020; [Lords written question \[HL 10062\]](#) on gambling adverts in football, answered 16 November 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

¹⁴ [HC Deb 19 March 2020 c1247](#)

¹⁵ House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry, [Gambling Harm – Time for Action](#), para 524

¹⁶ *Ibid*, para 526

¹⁷ DCMS, [Government Response to the House of Lords Gambling Industry Committee Report: Social and Economic Impact of the Gambling Industry](#), December 2020, para 71

2. What does the 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.¹⁸ The [Commission's Licence Conditions and Codes of Practice](#) (October 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.¹⁹ 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.

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).

¹⁸ 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)

¹⁹ [Section 1](#) of the *Gambling Act 2005*

9 Gambling advertising: how is it regulated?

Adverts that breach the Codes must 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.²⁰ 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 several areas.

Advertising during the Covid-19 pandemic

In April 2020, the ASA [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.²¹

The ASA encouraged 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).²²

In August 2020, the ASA [reported](#), among other things, that complaints about gambling adverts had remained at pre-lockdown levels. The ASA hadn't received any reports of adverts unfairly referring to or directly exploiting the crisis.²³

²⁰ ["Gambling business fined £300,000 for misleading advertising"](#), Gambling Commission News, 2 May 2017

²¹ ["Gambling advertising and 'lockdown'"](#), ASA/CAP News, 7 April 2020

²² Ibid

²³ ["Gambling ads: keeping a watching brief"](#), ASA News, 11 August 2020

Gambling on eSports on social media

An [Advice Note](#) was published in April 2020 making clear that eSports betting-related advertising had to comply with the Codes. The advice applies to all social media platforms.²⁴

Protecting the under-18s

In April 2019, revised [guidance](#) on protecting the under-18s came into effect.²⁵ 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 25.²⁶

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.²⁷ It explained 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.²⁸

²⁴ [“Responding to new challenges: gambling, eSports and social media”](#), CAP News, 23 April 2020

²⁵ This followed a 2016 DCMS [review](#) of gambling and social responsibility measures

²⁶ 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

²⁷ This also followed the 2016 [review](#) of gambling and social responsibility measures

²⁸ [“Tougher standards on gambling advertising announced”](#), CAP News, 14 February 2018

Free bets and bonuses

[Guidance](#) on free bets and bonuses came into effect in February 2018.²⁹ This stated that “significant conditions” must always be prominently displayed with an advertised offer. 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.³⁰

CAP consultation on strengthening the rules (October 2020)

In October 2020, CAP published a [consultation](#) on further restricting the potential for gambling adverts to harm the under-18s and vulnerable adults.³¹ The consultation sought views on strengthening the rules to prohibit the creative content of adverts from appealing “strongly” to the under-18s. A CAP news release explained:

- A ‘strong’ appeal test identifies content (imagery, themes and characters) that has a strong level of appeal to under-18s regardless of how it is viewed by adults;
- Adopting the ‘strong’ appeal test would decrease the potential for gambling ads to attract the attention of under-18s in an audience;
- Child-oriented content (like animated characters and superheroes) are already banned. The new rules would extend to cover characters’ behaviour, language, fashion/appearance etc, which are likely to appeal strongly to under 18s;
- In particular, ads would be prohibited from including a person or character who is likely to be followed by those aged under 18 years or who has a strong appeal to those aged under 18;
- The new restriction would have significant implications for gambling advertisers looking to promote their brands using prominent sports people and celebrities, and also individuals like social media influencers.

The consultation also looked at updating guidance to prohibit:

- presenting complex bets in a way that emphasises the skill or intelligence involved to suggest, inappropriately, a level of control over the bet that is unlikely to apply in practice;
- presenting gambling as a way to be part of a community based on skill;
- implying that money back offers create security (for example, because they give gamblers the chance to play again if they fail or that a bet is ‘risk free’ or low risk);
- humour or light-heartedness being used specifically to play down the risks of gambling; and

²⁹ Ibid

³⁰ See CMA website, [Online gambling](#) [accessed 27 January 2021]; [“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

³¹ [“Consultation on new strengthened rules and guidance for gambling ads to protect children and young people”](#), CAP News, 22 October 2020

- unrealistic portrayals of winners (for example, winning first time or easily).³²

CAP explained that the consultation was in response to research commissioned by GambleAware (see p5 of this Paper). This suggested that the creative content of gambling adverts has more potential than previously understood to adversely impact the under-18s and vulnerable adults. CAP also noted that, overall, the research did not suggest that advertising that complied with the Codes was a driver of harm. In addition, the research included “many findings” that supported the effectiveness of the current regulatory framework.³³

The consultation closed on 22 January 2021.

³² Ibid

³³ Ibid

3. What is the gambling industry doing?

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

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](#) (BGC), 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 [sixth edition](#) came into force in October 2020. The main changes were set out in a [press release](#):

(...) BGC members must ensure that all sponsored or paid for social media adverts must be targeted at consumers aged 25 and over unless the website can prove its adverts can be precisely targeted at over 18s.

The new code also includes a requirement that gambling ads appearing on search engines must make clear that they are for those aged 18 and over. In addition, the adverts themselves must also include safer gambling messages.

YouTube users will also have to use age-verified accounts before they can view gambling ads, guaranteeing that they cannot be seen by under-18s.

And BGC members will have to post frequent responsible gambling messages on their Twitter accounts.³⁴

The Code also includes existing measures, such as the "whistle to whistle ban" on TV gambling adverts, cooling off periods on gaming machines, and ID and age verification checks.

The Betting and Gaming Council's role

The Senet Group was set up in September 2014 in response to public concerns about gambling.³⁵ In October 2014, the Group committed to:

- 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;

³⁴ "[Betting and Gaming Council unveils tough new measures to prevent under-18s seeing online gambling adverts](#)", BGC News, 27 August 2020

³⁵ The Group was founded by William Hill, Ladbrokes, Coral and Paddy Power. Membership was open to any gambling operator

- dedicating 20% of shop window advertising to responsible gambling messages.

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

In April 2020, the [Betting and Gaming Council](#) (BGC) took over the work of the Senet Group.³⁶ 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.

Adverts during Covid-19

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.³⁷

The BGC has a [ten pledge action plan](#) on safer gambling during the Covid-19 pandemic.³⁸ This includes:

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

³⁶ [“BGC takes over Senet safer gambling remit”](#), BGC News, 6 April 2020

³⁷ [“BGC members to remove TV and radio gaming advertising during COVID-19 lockdown”](#), BGC News, 27 April 2020

³⁸ [PQ 40682](#) [on gambling advertising], answered 1 May 2020; The BGC [announced](#) the plan on 27 March 2020

4. What is the Government's position?

During a March 2020 [debate](#), Nigel Huddleston (DCMS Minister for Sport, Heritage and Tourism) noted 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."³⁹

In September 2020, in [response](#) to a parliamentary question on the "potential merits of banning gambling advertising", Mr Huddleston said that the Government keeps "emerging evidence under review".⁴⁰

Gambling Act Review

In December 2020, the Government launched a [Review of the Gambling Act](#).⁴¹ This seeks views on, among other things, the impacts of gambling advertising and marketing:

- Q11: What are the benefits or harms caused by allowing licensed gambling operators to advertise?
- Q12: What, if any, is the evidence on the effectiveness of mandatory safer gambling messages in adverts in preventing harm?
- Q13: What evidence is there on the harms or benefits of licensed operators being able to make promotional offers, such as free spins, bonuses and hospitality, either within or separately to VIP schemes?
- Q14: What is the positive or negative impact of gambling sponsorship arrangements across sports, esports and other areas?
- Q15: Is there any additional evidence in this area the government should consider, including in relation to particularly vulnerable groups?

A call for evidence closes on 31 March 2021.

³⁹ [HC Deb 19 March 2020 c1249](#)

⁴⁰ [PQ 86703](#) [on gambling advertising], answered 16 September 2020

⁴¹ The [2019 Conservative Party Manifesto](#) included a commitment to review the Act

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