

## New Advertising Guidance Introduced to Protect Under 18s

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Over the last year, the Committees of Advertising Practice (the **CAP**), has taken an increasingly robust view on gambling ads. Last year, it announced [tougher standards](#) to be imposed on gambling advertising after its review of gambling advertising revealed that – whilst advertising did not itself play a causal role in problem gambling – claims, imagery and approaches were deployed that may unduly influence people to behave irresponsibly.

Those standards included restrictions on ads that invoked a sense of urgency (known as *Bet Now* ads) during live sport; and a requirement that adverts should curb the trivialisation of gambling, avoiding anything which could, for example, encourage repetitive play.

This year the CAP has taken a further step and are seeking to protect children and young people through their [latest guidance](#), which came into force on 1 April 2019. The guidance intends to ‘reaffirm and enhance’ the existing protection of young people and makes clear that: under-18s must not be addressed by gambling advertising; they should not be targeted through media placement or ad content; and ads intended for adult audiences must not contain content of particular appeal to under-18s.

Section 16 of the [CAP Code](#) and Section 17 of the [BCAP Code](#) (the **Codes**) already govern gambling advertising, imposing an obligation for such advertising to be “socially responsible”. The new guidance develops this concept and outlines that marketing communications are likely to be irresponsible where they:

- feature under-18s playing a significant role;
- are aimed at under-18s by being placed in a media targeted at that group;
- address under-18s directly through the content; or
- encourage under-18s to directly engage in potentially harmful behaviour.

Additionally, the guidance prohibits gambling advertising from appearing in media for young people or children and in media where young people or children make up more than 25% of the audience.

The Codes do not allow marketing communications in this area to appeal to or be targeted at young people or children. The guidance expands on this and makes clear that ads should not feature licensed characters (e.g. super heroes) that derive from media likely to be targeted at under-18s, or indeed other branding that can be identified by children. Animated characters should also be avoided in gambling adverts if the characters are based on, or resemble, children’s cartoons, fairy tales, or comic books. The ASA has previously ruled against gambling companies branding games in a way that is likely to appeal to children, such as [“Pirate Princess”](#) or [“Transformers”](#). In the latter case, an advert featured Optimus Prime of Transformers holding a sign that stated: “£30,000 WILL BE WON THIS WEEK ... TRANSFORMERS ... BATTLE FOR CYBERTRON ... PLAY NOW FOR YOUR CHANCE TO WIN!”

The new guidance also includes additional directions around the use of influencers, social media, direct marketing

The logo for Squire Patton Boggs, featuring the word "SQUIRE" in a large, bold, serif font, followed by a stylized blue and green circular icon, and the words "PATTON BOGGS" in a smaller, bold, serif font below it.

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and age targeting, as well as the use of individuals who are under-25 (who should not appear in gambling advertising at all).

It is hoped that the guidance, building on the pre-existing rules, will help to ensure that gambling ads will not be targeted at children, even inadvertently.

Recently, the ASA created a number of online identities that replicated the browsing habits of children from six to 18. Over a two week period, the ASA recorded 150 incidents of gambling adverts targeting users on 11 children's websites (such as online homework resource sites). These ads were taken down immediately. Jeremy Wright, the secretary of state for Digital, Culture, Media and Sport [said](#): "This is an excellent example of how technology can play a pivotal role in tackling online harms, and I congratulate the ASA on this innovative approach to ensure that rules to protect children from online gambling advertising are enforced."

However, some have questioned whether the ASA has now gone too far in the strict application of its rules. For example, a recent ASA ruling on a Sky Bet campaign (see [here](#)) has, unsurprisingly, been picked up by the media (e.g. see [here](#)). In an odd decision, the ASA decided that an ad which encouraged consumers to "*spark your sports brain*" and asked "*how big is your sports noggin?*" was in breach of the CAP Code because it "*gave an erroneous perception of the extent of a gambler's control over betting success, by placing undue emphasis on the role of sports knowledge*" since it "*gave consumers an unrealistic and exaggerated perception of the level of control they would have over the outcome of a bet and that could lead to irresponsible gambling behaviour*".

Whilst the ASA acknowledged that knowledge of sports would improve betting success, they still ruled that the ad was a breach of the advertising rules. The ruling has sparked criticism because it appears to fly in the face of common sense and represents a step too far towards the imposition of a 'nanny state.'

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