

CAP and BCAP Gambling Advertising Rules and BCAP Spread Betting Rules

I. CAP and BCAP Gambling Advertising Rules

The CAP Code

[The following changes will occur to 33.1, 33.2 and 34.1 of the CAP Code from 1 September 2007. Shaded sections are already part of that rule. The additions that will apply from 1 September 2007 are not shaded. Deletions that will apply from 1 September 2007 are struck through.]

33.1 ~~Promotions with prizes including competitions, prize draws and instant win offers are subject to legal restrictions.~~

Promoters should take legal advice before embarking on promotions with prizes, including competitions, prize draws, instant win offers and premium-payment promotions, to ensure that the mechanisms involved do not make them unlawful lotteries (see the Gambling Act 2005 in Great Britain or the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 in Northern Ireland).

~~33.2 Promoters usually seek to avoid running illegal lotteries by running skill-based prize competitions (often using tiebreakers to identify the winners) or by offering free entry if the chance-based prize promotion might encourage purchase. Promoters should take legal advice before embarking on such promotions.~~

Significant conditions for promotions

(see CAP Help Note on Promotions with Prizes)

34.1 Promotions should specify clearly before any purchase (or before or at the time of entry/application, if no purchase is required):

a ***How to participate***

how to participate, including significant conditions and costs, and any other major factors reasonably likely to influence consumers' decisions or understanding about the promotion.

If a promotion has a free entry route, for example if one is required by law, that route should be explained clearly.

b ***Start date***

the start date, in any comparison referring to a special offer

if the special offer has not yet begun

c Closing date

a prominent closing date, if applicable, for purchases and submissions of entries/claims. Prize promotions and promotions addressed to or targeted at children always need a closing date. Some others do not, for example: comparisons that refer to a special offer (whether the promoter's previous offer or a competitor's offer), so long as they are and are stated to be "subject to availability"; promotions limited only by the availability of promotional packs (eg gifts with purchase, extra volume packs and reduced price packs); and loyalty schemes run on an open-ended basis. Promoters must be able to demonstrate that the absence of a closing date will not disadvantage consumers. Promoters should state if the deadline for responding to undated promotional material will be calculated from the date the material was received by consumers. Closing dates should not be changed unless circumstances outside the reasonable control of the promoter make it unavoidable. If they are changed, promoters should take all reasonable steps to ensure that consumers who participated within the original terms are not disadvantaged.

d Proof of purchase

any proof of purchase requirements. ~~Prize promotions that might encourage, but do not require, purchase should state clearly that no purchase is necessary and should explain the free entry route~~

e Prizes

the minimum number and nature of any prizes, if applicable. Promoters should state if prizes are to be awarded in instalments or are to be shared among recipients

f Restrictions

geographical, personal or technological restrictions such as location, age or the need to have access to the Internet. Promoters should state any need to obtain permission to enter from an adult or employer

g Availability of promotional packs

where it is not obvious, if there is likely to be a limitation on the availability of promotional packs in relation to a stated closing date of the offer

h Promoter's name and address

the promoter's full name and business address, unless this is obvious from the context. Promotions by newspapers and magazines in their publications need not state the name and address if those can easily be found elsewhere in the publication

Participants should be able to retain the above conditions or have easy access to them throughout the promotion. Advertisements

for promotions should specify all of the significant conditions above that are applicable.

GAMBLING

[This rule will replace CAP Code Rule 54 from 1 September 2007.]

57.1 The term “gambling” means gaming, betting, and participating in a lottery, as defined in the Gambling Act 2005, and spread betting. This section does not apply to the UK National Lottery. The UK National Lottery is, however, subject to the rest of the Code.

The Gambling Act does not apply outside Great Britain. Specialist legal advice should be sought when considering advertising any gambling products in Northern Ireland or the Channel Islands.

Spread Betting may be advertised as an investment under the Financial Services and Markets Act (FSMA) 2000, the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 and other FSA rules and guidance (see clause 53.1 above). A “Spread Bet” is a contract for differences that is a gaming contract, as defined in the glossary to the FSA Handbook.

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

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

57.2 Marketing communications for gambling should be socially responsible, with particular regard to the need to protect children, young persons and other vulnerable persons from being harmed or exploited by advertising that features or promotes gambling.

57.3 (a) In line with clause 2.8, the spirit as well as the letter of the clauses in this section apply whether or not a gambling product is shown or referred to.

(b) These clauses are not intended to inhibit marketing communications to counter problem gambling that are responsible and unlikely to promote a brand or type of gambling.

(c) Unless they portray or refer to gambling, these clauses do not apply to marketing communications for non-gambling leisure events or facilities, for example hotels, cinemas, bowling alleys or ice rinks, that are in the same complex as, but separate from, gambling events or facilities.

57.4 Marketing communications:

- (a) should not portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm
- (b) should not exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons
- (c) should not suggest that gambling can provide an escape from personal, professional or educational problems such as loneliness or depression
- (d) should not suggest that gambling can be a solution to financial concerns, an alternative to employment or a way to achieve financial security
- (e) should not portray gambling as indispensable or as taking priority in life, for example over family, friends or professional or educational commitments
- (f) should not suggest that gambling can enhance personal qualities, for example that it can improve self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration
- (g) should neither suggest peer pressure to gamble nor disparage abstention
- (h) should not link gambling to seduction, sexual success or enhanced attractiveness
- (i) should not portray gambling in a context of toughness or link it to resilience or recklessness
- (j) should not suggest gambling is a rite of passage
- (k) should not suggest that solitary gambling is preferable to social gambling
- (l) should not be likely to be of particular appeal to children or young persons, especially by reflecting or being associated with youth culture
- (m) should not be directed at those aged below 18 years (or 16 years for lotteries, football pools, equal chance gaming (under a prize gaming permit or at a licensed family entertainment centre), prize gaming (at a non-licensed family entertainment centre or at a travelling fair) or Category D gaming machines) through the selection of media or context in which they appear
- (n) should not include a child or young person. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role. No-one may behave in an adolescent, juvenile or loutish way
- (o) for family entertainment centres, travelling fairs, horse racecourses and dog race tracks, and for non-gambling leisure facilities that incidentally refer to separate gambling facilities e.g. as part of a list of facilities on a cruise ship, may include children or young persons provided they are accompanied by an adult and are socialising responsibly in areas that the Gambling Act 2005 does not restrict by age. Marketing communications for a lottery product may include children or young

persons. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role

(p) that exclusively feature the good causes that benefit from a lottery and include no explicit encouragement to buy a lottery product may include children or young persons and they may be featured playing a significant role

(q) should not exploit cultural beliefs or traditions about gambling or luck

(r) for events or facilities that can be accessed only by entering gambling premises should make that condition clear

(s) should not condone or encourage criminal or anti-social behaviour

(t) should not condone or feature gambling in a working environment. An exception exists for licensed gambling premises.

BCAP Radio Advertising Standards Code

Section 2

26 Competitions and the National Lottery

[This rule will replace BCAP Radio Advertising Standards Code Section 2 rule 23 from 1 September 2007. Shaded sections are already part of that rule. The additions that will apply from 1 September 2007 are not shaded. Deletions that will apply from 1 September 2007 are struck through.]

~~Unless specifically permitted under this Rule, the Government has prohibited advertisements for the following: betting and gaming including bookmakers, betting companies, tipsters and gaming machines. Lotteries that comply with the Lotteries and Amusements Act 1976 may be advertised in Great Britain. The National Lottery may be advertised in the UK subject to compliance with the National Lottery Act 1993. Bingo may be advertised in the UK. Football pools may be advertised in the UK if they comply with the relevant provisions of the Betting and Gaming Duties Act 1981. Premises that are used wholly or mainly for the provision of amusements by means of machines (ie. arcades), where a permit is in force under section 34 of the Gaming Act 1968, may advertise. However, in all cases Such advertisements must be centrally copy cleared and must not:~~

~~a) be directed at those aged below 16 years (18 for bingo);~~

~~b) feature any personality aged below 16 years (18 for bingo) nor any content directed at or likely to be of particular appeal to anyone aged below 16 years (18 for bingo);~~

~~c) make reference to gaming machines present on bingo premises;~~

~~d) be presented as a solution to financial difficulties.~~

Advertisements inviting listeners to take part in competitions are acceptable, subject to Section 14 and Schedule 2 of the Gambling Act 2005.

Licensees must be satisfied that prospective entrants can obtain printed details of a competition, including announcement of results and distribution of prizes.

There are no limitations on prize values.

Please see also Section 2 Rule 11.8 and Section 3 Rules 4.28 and 11.5

Advertisements for the National Lottery are also governed by the National Lottery Advertising and Sales Promotion Code of Practice (2004) approved by the Director General for the National Lottery.

~~The Lotteries and Amusements Act 1976 and Gaming Act 1968 do not apply outside Great Britain. Licensees should ensure that specialist legal advice is obtained when considering advertising any of the activities referred to in this Rule in Northern Ireland or the Channel Islands. For instance, the Betting and Gaming (Northern Ireland) Order 2004 lifted the ban on bingo advertising in Northern Ireland, making it legal across the UK.~~

~~Please note that this rule will be changed when the Gambling Act 2005 enters into force.~~

Section 3 21 Gambling

[This rule will be added to the BCAP Radio Advertising Standards Code on 1 September 2007.]

Central copy clearance is required. Gambling advertisements must comply with the minimum standards set out here, as well as the appropriate scheduling restrictions (see Section 2, Rule 8).

These Rules apply principally to advertisements for gambling products. However, incidental portrayals of gambling in advertisements for other products and services must always be carefully considered to ensure that they do not contradict the spirit of these Rules.

The term “gambling” means gaming, betting, and participating in a lottery, as defined in the Gambling Act 2005, and spread betting. This section does not apply to the UK National Lottery (see Section 2 Rule 26).

The Gambling Act does not apply outside Great Britain. Licensees should ensure that specialist legal advice is sought when considering advertising any gambling products in Northern Ireland or the Channel Islands.

Spread Betting may be advertised as an investment activity under the Financial Services and Markets Act (FSMA) 2000, the Financial Services and Markets Act

2000 (Financial Promotion) Order 2005 and other FSA rules and guidance. Spread betting may be advertised on specialised financial stations or in specialised financial programming only (see Section 1 Rule 1.3). A “Spread Bet” is a contract for differences that is a gaming contract, as defined in the glossary to the FSA Handbook.

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

Unless they portray or refer to gambling, these Rules do not apply to advertisements for non-gambling leisure events or facilities, for example hotels, cinemas, bowling alleys or ice rinks, that are in the same complex as but separate from gambling events or facilities.

These Rules are not intended to inhibit advertisements to counter problem gambling that are responsible and unlikely to promote a brand or type of gambling.

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

21.1 Protection of Children and Young Persons

a) Advertisements for gambling must not be likely to be of particular appeal to children or young persons, especially by reflecting or being associated with youth culture.

b) No child or young person may be included in a gambling advertisement. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role. No-one may behave in an adolescent, juvenile or loutish way.

c) Advertisements for family entertainment centres, travelling fairs, horse racecourses and dog race tracks, and for non-gambling leisure facilities that incidentally refer to separate gambling facilities e.g. as part of a list of facilities on a cruise ship, may include children or young persons provided they are accompanied by an adult and are socialising responsibly in areas that the Gambling Act 2005 does not restrict by age. Advertisements for a lottery product may include children or young persons. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role.

d) Advertisements that exclusively feature the good causes that benefit from a lottery and include no explicit encouragement to buy a lottery product may include children or young persons and they may be featured playing a significant role.

21.2 Unacceptable Treatments

- a) Advertisements for gambling must not portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm.**
- b) Advertisements for gambling must not exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons.**
- c) Advertisements for gambling must not suggest that gambling can provide an escape from personal, professional or educational problems such as loneliness or depression.**
- d) Advertisements for gambling must not suggest that gambling can be a solution to financial concerns, an alternative to employment or a way to achieve financial security.**
- e) Advertisements for gambling must not portray gambling as indispensable or as taking priority in life, for example over family, friends or professional or educational commitments.**
- f) Advertisements for gambling must not suggest that gambling can enhance personal qualities, for example that it can improve self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration.**
- g) Advertisements for gambling must neither suggest peer pressure to gamble nor disparage abstention.**
- h) Advertisements for gambling must not link gambling to seduction, sexual success or enhanced attractiveness.**
- i) Advertisements for gambling must not portray gambling in a context of toughness or link it to resilience or recklessness.**
- j) Advertisements for gambling must not suggest gambling is a rite of passage.**
- k) Advertisements must not suggest that solitary gambling is preferable to social gambling.**
- l) Advertisements for gambling products must not exploit cultural beliefs or traditions about gambling or luck.**
- m) Advertisements for events or facilities that can be accessed only by entering gambling premises must make that condition clear.**
- n) Advertisements for gambling products must not condone or encourage criminal or anti-social behaviour.**
- o) Advertisements for gambling products must not condone or feature gambling in a working environment. An exception exists for licensed gambling premises.**

Radio Scheduling Rules

Section 2 8 Scheduling

[Shaded sections are already part of Section 2 rule 8. The additions that will apply from 1 September 2007 are not shaded. Deletions that will apply from 1 September 2007 are struck through.]

See also Section 1, Rule 4.3. Licensees must exercise responsible judgements when scheduling categories of advertisement which may be unsuitable for children and younger people, for those listening to religious programmes and around sensitive programming or news items.

The station's actual audience profile according to research, rather than its target audience profile, should be taken into account when deciding whether or not advertising is suitable for the station or time of day (and see Rule 9 Good Taste, Decency and Offence to Public Feeling, below).

For the purpose of this Rule, the ASA and BCAP generally consider that children and younger people are those aged below 16 years. However, there may be exceptional circumstances when advertising messages may be targeted at those aged 12-15 (e.g. anti-AIDS information or sanitary protection).

Responsibility should be exercised where advertisements or their scheduling could be perceived as insensitive because of a tragedy currently in news or current affairs programmes, for example, a commercial for an airline should be immediately withdrawn if a neighbouring news bulletin featured details of a plane crash.

Advertisements for alcoholic drinks, sensational newspapers/magazines/websites (or their content) and violent or sexually explicit material must not be broadcast in or around programming/features aimed particularly at those aged below 18 years or around religious programming.

Particular care is required for the following categories: divination and the supernatural, sexual material, sanitary protection products, family planning products and services (including contraceptives, pregnancy-testing services/kits), anti-AIDS and anti-drugs messages, and solvent abuse advice.

Advertisements for gambling must not be broadcast in or around programming/features aimed particularly at those aged below 18 (or 16 years for lotteries, football pools, equal chance gaming (under a prize gaming permit or at a licensed family entertainment centre), prize gaming (at a non-licensed family entertainment centre or at a travelling fair) or Category D gaming machines).

[Appendix 3 of the BCAP Radio Advertising Standards Code will change from 1 September 2007. Shaded sections are already part of that rule. There are no additions that will apply to Appendix 3 from 1 September 2007. Deletions that will apply from 1 September 2007 are struck through.]

Appendix 3 – Prohibited Categories

Advertisements for products and services coming within the recognized character of, or specifically concerned with, the following are not acceptable:

a) Those who practise or advocate illegal or harmful, or potentially harmful, behaviour;

~~**b) Betting and gaming including bookmakers, betting companies, tipsters and gaming machines. The following, however, may advertise: premises that are used wholly or mainly for the provision of amusements by means of machines (i.e. arcades) where a permit is in force under section 34 of the Gaming Act 1968; bingo; football pools and lotteries permitted under the National Lottery Act 1993 and the Lotteries and Amusements Act 1976* as amended (*this Act does not extend to Northern Ireland). Advertisements for these exemptions should not be directed at those under 16, nor likely to be of particular appeal to them. In the particular case of bingo, advertisements should not be directed at, or likely to appeal to, those under 18 and should not feature or encourage reckless playing (see Section 2, Rule 23);**~~

c) Tobacco and tobacco products, including cigars and pipe tobacco (see Section 3, Rule 10);

BCAP TV Advertising Standards Code

[The Contents section, of the BCAP TV Advertising Standards Code will change from 1 September 2007. Shaded sections are already part of the Code. There are no additions that will apply to Section 3 from 1 September 2007. Deletions that will apply from 1 September 2007 are struck through.]

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SECTION 3: UNACCEPTABLE PRODUCTS AND SERVICES

3.1 Unacceptable categories

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- b) Betting tips
- c) ~~Betting and gaming~~
- d) Tobacco Products and brand names
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[Section 3, 3.1c, of the BCAP TV Advertising Standards Code will change from 1 September 2007. Shaded sections are already part of the Code. There are no additions that will apply to Section 3 from 1 September 2007. Deletions that will apply from 1 September 2007 are struck through.]

SECTION 3: UNACCEPTABLE PRODUCTS AND SERVICES

3.1 Unacceptable categories

Advertisements for products or services coming within the recognized character of, or specifically concerned with the following are not acceptable:

- (a) breath-testing devices and products that purport to mask the effects of alcohol
- (b) betting tips
- (c) ~~betting, gaming and lotteries (except football pools and bingo and lotteries permitted under the National Lottery etc Act 1993 and the Lotteries and Amusements Act 1976 (as amended)).~~

Note to 3.1(c):

~~The Lotteries and Amusements Act 1976 does not extend to Northern Ireland.~~

- (d) all tobacco products. Also non-tobacco products or services which share a name, emblem or other feature with a tobacco product where these are prohibited by law from advertising in other UK media. See the Tobacco Advertising and Promotion (Brandsharing) Regulations 2004.

[This rule will replace existing BCAP TV Advertising Standards Code Rule 11.6 from 1 September 2007. Shaded sections are already part of that rule. The additions that will apply from 1 September 2007 are not shaded. Deletions that will apply from 1 September 2007 are struck through.]

11.6 ~~LOTTERIES, POOLS AND BINGO~~ THE NATIONAL LOTTERY

Note:

National Lottery advertising is also subject to the Advertising and Sales Promotion Code of Practice approved by the National Lottery Commission.

Advertisements for ~~lotteries acceptable under rule 3.1(c) and for football pools and bingo~~ the National Lottery:

- (a) must not be directed at people under 16 ~~(or 18 for bingo)~~ or use treatments likely to be of particular appeal to them

Note to 11.6(a):

Please refer to the BCAP Rules on the Scheduling of Television Advertisements for scheduling restrictions.

(b) must not feature any personality whose example children under 16 (or 18 for bingo) are likely to follow or who has particular appeal to audiences under the relevant that age

Note to 11.6(b):

~~Football players may appear in pools advertisements only in footage of actual play, in which case no individual may receive particular prominence. This restriction does not apply to players who have been retired for at least one full season, unless they retain their appeal to the relevant age group.~~

(c) must not show or encourage excessive or reckless playing

(d) must not present such products as an alternative to work or as a way out of financial difficulties

Note to 11.6(d):

Advertisers may however refer to other benefits of winning a prize.

[This rule will be added to the BCAP TV Advertising Standards Code on 1 September 2007.]

11.10 GAMBLING

Notes to 11.10:

1) *The rules in this section are designed to ensure that gambling advertisements are socially responsible, with particular regard to the need to protect children, young persons and other vulnerable persons from being harmed or exploited by advertising that features or promotes gambling.*

2) *The term “gambling” means gaming, betting, and participating in a lottery, as defined in the Gambling Act 2005, and spread betting. This section does not apply to the UK National Lottery. See Section X Rule Y.*

3) *The Gambling Act does not apply outside Great Britain. Licensees should ensure that specialist legal advice is sought when considering advertising any gambling products in Northern Ireland or the Channel Islands.*

4) *Spread Betting may be advertised as an investment activity under the Financial Services and Markets Act (FSMA) 2000, the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 and other FSA rules and guidance. Spread betting may be advertised on specialised financial channels or in specialised financial programming or on interactive or additional TV services (including text services) only (see Section 9 Rule 9.5). A “Spread Bet” is a contract for differences that is a gaming contract, as defined in the glossary to the FSA Handbook.*

5) *The rules in this section apply to advertisements for “play for money” gambling products and advertisements for “play for free” gambling products that offer the*

chance to win a prize or that explicitly or implicitly direct the consumer to a “play for money” gambling product, whether on-shore or off-shore.

6) For the purposes of this section, “children” are people of 15 and under and “young persons” are people of 16 or 17.

11.10.1 – Rules for all advertisements

Rule 11.6.1 is not intended to inhibit advertisements to counter problem gambling that are responsible and unlikely to promote a brand or type of gambling.

(a) Advertisements must not portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm.

(b) Advertisements must not suggest that gambling can provide an escape from personal, professional or educational problems such as loneliness or depression.

(c) Advertisements must not suggest that gambling can be a solution to financial concerns, an alternative to employment or a way to achieve financial security.

(d) Advertisements must not portray gambling as indispensable or as taking priority in life, for example over family, friends or professional or educational commitments.

(e) Advertisements must neither suggest peer pressure to gamble nor disparage abstinence.

(f) Advertisements must not suggest that gambling can enhance personal qualities, for example that it can improve self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration.

(g) Advertisements must not link gambling to seduction, sexual success or enhanced attractiveness.

(h) Advertisements must not portray gambling in a context of toughness or link it to resilience or recklessness.

(i) Advertisements must not suggest gambling is a rite of passage.

(j) Advertisements must not suggest that solitary gambling is preferable to social gambling.

11.10.2 – Rules for gambling advertisements.

Advertisements for events or facilities that can be accessed only by entering gambling premises must make that condition clear.

Unless they portray or refer to gambling, rule 11.6.2 does not apply to advertisements for non-gambling leisure events or facilities, for example hotels, cinemas, bowling alleys or ice rinks, that are in the same complex as but separate from gambling events or facilities.

(a) Advertisements for gambling must not exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons.

(b) Advertisements for gambling must not be likely to be of particular appeal to children or young persons, especially by reflecting or being associated with youth culture.

(c) No child or young person may be included in a gambling advertisement. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role. No-one may behave in an adolescent, juvenile or loutish way.

(d) Advertisements for family entertainment centres, travelling fairs, horse racecourses and dog race tracks, and for non-gambling leisure facilities that incidentally refer to separate gambling facilities e.g. as part of a list of facilities on a cruise ship, may include children or young persons provided they are accompanied by an adult and are socialising responsibly in areas that the Gambling Act 2005 does not restrict by age. Advertisements for a lottery product may include children or young persons. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role.

(e) Advertisements that exclusively feature the good causes that benefit from a lottery and include no explicit encouragement to buy a lottery product may include children or young persons and they may be featured playing a significant role.

(f) Advertisements for gambling products must not exploit cultural beliefs or traditions about gambling or luck.

(g) Advertisements for gambling products must not condone or encourage criminal or anti-social behaviour.

(h) Advertisements for gambling products must not condone or feature gambling in a working environment. An exception exists for licensed gambling premises.

BCAP Rules on the Scheduling of Television Advertisements

[Shaded sections are already part of Section 4 Rule 4.2.1 of the BCAP Rules on the Scheduling of TV Ads. The additions that will apply from 1 September 2007 are not shaded.]

SECTION 4

Particular Separations of Advertisements and Programmes

Children and young people 4.2.1

(a) The following may not be advertised in or adjacent to children's programmes or programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 18:

...

(ii) gambling except lotteries, football pools, equal chance gaming (under a prize gaming permit or at a licensed family entertainment centre), prize gaming (at a non-licensed family entertainment centre or at a travelling fair) or Category D gaming machines (see 4.2.1(b) below);

...

(b) The following may not be advertised in or adjacent to children's programmes or programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 16:

(i) lotteries;

(ii) football pools;

(iii) equal chance gaming (under a prize gaming permit or at a licensed family entertainment centre);

(iv) prize gaming (at a non-licensed family entertainment centre or at a travelling fair);

(v) Category D gaming machines.

BCAP Code for Text Services

[This rule will replace existing BCAP Code for Text Services Rule 1(a) from 1 September 2007. Shaded sections are already part of that rule. The additions that will apply from 1 September 2007 are not shaded. Deletions that will apply from 1 September 2007 are struck through.]

1 Advertising standards

a) Rules 3.1(b) and ~~(c)~~ (Betting tips and ~~Betting and gaming~~) does not apply but advertisements for betting systems and the like are not acceptable.

(b) Rule 11.7: Advertising for matrimonial and introduction agencies is acceptable subject to the detailed requirements of that rule.

II. BCAP Spread Betting Advertising Rules

BCAP Radio Advertising Standards Code

[Shaded sections are already part of BCAP Radio Advertising Standards Code Section 3 Rule 1. The additions that will apply from 1 September 2007 are not shaded. Deletions that will apply from 1 September 2007 are struck through.]

Section Three – Rules for Specific Categories

1 Financial Products and Services

Central copy clearance is required.

These Rules regulate financial advertisements and not financial products and services, which are regulated by the financial services regulators, including the Financial Services Authority (FSA) and the Office of Fair Trading (OFT).

Financial advertisements must comply with all relevant legislation, in particular the Financial Services and Markets Act 2000 (FSMA) and the Consumer Credit (Advertisements) Regulations 2004.

In this Rule, 'investment activity', 'regulated activity', 'financial promotion' and 'authorised person' have the same meanings as in the FSMA and the Financial Services and Markets Act (Financial Promotion) Order 2005 (FPO). Under the FSMA, a financial promotion is “an invitation or inducement to engage in investment activity.” This broad definition captures all promotional activity – including traditional advertising, telephone sales and face to face conversations – in relation to all products and services regulated by the FSA. It is important to remember that 'investment activity' under the FSMA does not cover only what are conventionally thought of as investments, but also includes deposits and all insurance, including some advertisements by insurance intermediaries – see the Insurance Conduct of Business (ICOB) Chapter 3.1.2G in the FSA Handbook.

The ASA and BCAP Executive may seek advice from other regulators when investigating possible breaches of this Rule following a complaint or monitoring.

1.1 Legal Responsibility

Advertisers are responsible for ensuring that their advertisements comply with all the relevant legal and regulatory requirements.

1.4 Approval of Financial Promotions in Advertising

Before accepting financial promotions to which Section 21 of the FSMA applies and that are not subject to an exemption under the FPO, licensees must be satisfied that:

i the authorised person issuing or approving the proposed advertisement, has confirmed that the final recorded version of the advertisement is in accordance with the Rules of the FSA;

ii a financial promotion or other advertisement in respect of regulated activity proposed by an appointed representative has been approved by the authorised person to whom that person is responsible.

Legal advice, or general advice from the FSA, may be required concerning compliance with FSMA requirements. Please note that the FSA does not prevent or advise on the compliance of proposed financial promotions with the FSMA requirements. For more information visit the financial promotions pages of the FSA website (www.fsa.gov.uk) and see the FSA Handbook, in particular Conduct of Business Chapter 3 (COB3), Mortgage Conduct of Business Chapter 3 (MCOB3) and ICOB Chapter 3.

1.13 Spread Betting Advertisements

Spread betting may be advertised as an investment activity under the Financial Services and Markets Act (FSMA) 2000, the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 and other FSA rules and guidance.

Spread betting may be advertised on specialised financial stations or in specialised financial programming only. Spread betting advertisements must comply with the gambling rules (see Section 3, Rule 21).

A "Spread Bet" is a contract for differences that is a gaming contract, as defined in the glossary to the FSA Handbook.

For this purpose, a "specialised financial station" is an Ofcom licensed station whose programmes, with few exceptions, are likely to be of particular interest only to business people or finance professionals. "Specialised financial programming" is programming that is likely to be of particular interest only to business people or finance professionals.

BCAP TV Advertising Standards Code

[Shaded sections are already part of BCAP Television Advertising Standards Code Section 9. The additions that will apply from 1 September 2007 are not shaded. Deletions that will apply from 1 September 2007 are struck through.]

SECTION 9: FINANCE AND INVESTMENT

Background:

(1) The rules in this Section largely draw attention to statutory regulation with which all advertising must comply. However, selecting the most appropriate financial products or services normally requires consumers to consider many factors and television advertising is not well suited to communicating large amounts of detail. It is not, therefore, an appropriate medium for advertising some particularly high risk or specialist investments or any financial products or services that are not regulated or otherwise permitted in the UK under FSMA.

(2) The Financial Services and Markets Act 2000 (FSMA) unifies much of the structure of financial regulation in the UK by replacing previous legislation and merging existing regulators into the Financial Services Authority (FSA).

(3) The FSA is the regulator for the financial services industry and regulates conduct of business, including advertising, for investment products. It also regulates the advertising of insurance, including the activities of insurance intermediaries (e.g. motor, home and travel insurers)

...

(6) In this Section, unless otherwise stated, the terms 'financial promotion', 'authorised person' and 'qualifying credit promotion' have the same meanings as in the FSMA and the FPO. Please note that the definition of a financial promotion is broad and includes, for example, advertising for deposits and insurance products.

~~*(7) Advertisements for Spread Betting are unacceptable under 3.1(c) (Betting and gaming).*~~

9.5 Unacceptable categories

(a) Except on specialised financial channels, the following categories of advertising are not acceptable:

(1) advertisements for the issue of shares or debentures. Exceptions are made for advertisements announcing the publication of listing particulars or a prospectus in connection with an offer of shares or debentures to be listed on the London Stock Exchange or prospectuses approved for the purposes of the Prospectus Directive 2003/71/EC and permitted under FSMA.

(2) advertisements recommending the acquisition or disposal of an investment in any specific company other than an investment trust company listed on the London Stock Exchange

(b) Spread betting may be advertised as an investment on specialised financial channels or in specialised financial programming or on interactive or additional TV services (including text services) only. Spread betting advertisements must comply with the gambling rules (see rule 11.6).

(c) Nothing may be advertised as an investment unless it is regulated or otherwise permitted under FSMA.

Notes to 9.5:

~~(1) Advertisements for Spread Betting are unacceptable under 3.1(c) (Betting and gaming). Please also note rule 3.2 (Indirect promotion) which prohibits advertising if a significant effect would be to promote a product or service that cannot be advertised in its own right.~~

(1) Advertisements for Contracts for Differences (except Spread Betting) are acceptable on specialist financial channels provided the products are available only to clients who have demonstrated through appropriate prevetting procedure that they have relevant financial trading experience.

(2) For this purpose, a "specialised financial channel" is an Ofcom licensed channel whose programmes, with few exceptions, are likely to be of particular interest only to business people or finance professionals. "Specialised financial programming" is programming that is likely to be of particular interest only to business people or finance professionals.

(3) In this Code, "Spread Betting" and "Contract for Differences" have the same meanings as in the current glossary to the FSA Handbook.

Note to 9.5(c):

Any advertising which implies that, for example, a collectors' item or some other unregulated product or service could have investment potential would normally be unacceptable. ('Investment' is used in its colloquial sense in this note.)