

Betting and gaming: Appeal to children

Advice online | 09 Oct 2017

Note: This advice is given by the CAP Executive about non-broadcast advertising. It does not constitute legal advice. It does not bind CAP, CAP advisory panels or the Advertising Standards Authority.

The Gambling Act 2005 came fully into effect on 1 September 2007. All gambling ads must comply with the Code and the law. Under Section 16 of the CAP Code, marketers should not exploit the young or vulnerable nor imply gambling can solve financial or personal problems or is indispensable, a rite of passage or linked with sexual success. The Gambling Act does not apply outside Great Britain and specialist legal advice should be sought when considering advertising any gambling products in Northern Ireland or the Channel Islands.

The Gambling (Licensing and advertising) Act 2014 took effect on the 1st November 2014. It contains provisions relating to the licensing of gambling operators advertising or offering remote gambling facilities to consumers in the UK. We urge marketers to seek legal advice regarding the requirements of the act if unsure.

All ads should be socially responsible

The CAP Code requires ads for gambling products to be socially responsible, and particular consideration is given to protecting children, young persons and other vulnerable persons from being harmed or exploited. For the purposes of this section,

“children” are defined as people under the age of 16, and “young persons” are people of 16 or 17.

Ads should not appeal to under-18s in particular

One way in which the Code seeks to protect children and young people is through stating that betting and gaming ads should not appeal to them in particular, especially by reflecting or being associated with youth culture. An ASA ruling in 2015 established that whether an ad has ‘particular appeal’ to children depends on the test of whether its content appeals more strongly to under-18s than to over-18s (**Geo24 UK Ltd, 9 December 2015**).

So, while an ad may feature graphics or brands that also appeal to many adults it could still breach the Code by having particular appeal to children.

Care needs to be taken with content

Various formal rulings have established that ads that are deemed to appeal particularly to children will be found in breach of the Code, even if they appear in contexts where children are unlikely to see them.

In 2012, the ASA upheld complaints about a newspaper ad, despite it appearing in a financial section of the newspaper that was unlikely to be read by children. The ASA considered that the inclusion of a popular comic book character (Optimus Prime) was likely to have particular appeal to children and young people and therefore breached the Code, regardless of the fact that it was unlikely to be viewed by many children (**Trinity Mirror Plc t/a MirrorCasino.com, 7 November 2012**).

A complaint about a Twitter ad that featured images of children’s toys was also upheld in 2015, on the grounds that such images were likely to appeal particularly to children, regardless of the fact few children were likely to see it (**WHG (International) Ltd, 17 June 2015**). A complaint about material on a gambling website was upheld on the same grounds, even though the social media channels linking to this content were age-gated and it was very unlikely that children would encounter the website (**Ever Adventure IOM Ltd, 30 September 2015**).

The audience may still be important

However, where an ad features content that may appeal particularly to children, and yet appears in a context that effectively excludes children from seeing them, such content may be considered acceptable. A complaint about a marketing e-mail that featured the Iron Man character and branding was not upheld, since the ASA found that the advertisers had taken sufficient measures to send it only to over-18s (**Ladbrokes Betting & Gaming Ltd, 17 May 2017**). Although the Iron Man theme in itself was considered likely to have particular appeal to children, the ad was only sent to the registered e-mail addresses of established customers who had been validated as being over 18, and so was considered acceptable because it was extremely unlikely to be seen by under-18s.

This exception to the rule that gambling ads must not include content that is of particular appeal to under 18s, is unlikely to apply to media where the targeting information depends on unverified audience self-reporting, or where a sufficiently robust prohibition of under-18s is not in place. In such circumstance, the content appealing in particular to under-18s is still likely to breach the Code.

Use of licensed characters must be responsible

Formal rulings have established a number of different elements that are particularly likely to appeal to children in ads. Marketers should be mindful that the use of cartoons, licensed characters such as super heroes and celebrities popular with children must be used with a due sense of responsibility.

In cases where a character appears in a film that also appeals to adults, the wide availability of related branded merchandise in children's toy stores can mean that the ads are still seen as appealing particularly to children (**Metro Play Ltd, 8 January 2014; Cassava Enterprises (Gibraltar) Ltd, 10 July 2013**).

Cartoon animals and colourful, exaggerated graphics are likely to appeal

Certain types of graphics can be seen as appealing particularly, whether or not they depict characters and brands that are already well known to children. A complaint about a gambling website that featured thumbnails and cartoon animals was upheld, after the ASA noted that animated animals generally are very common in children's programming (**Bear Group Ltd, 27 May 2015**). A ruling on a different website, but which featured a number of the same games, stated that they were particularly likely to appeal to children due to their colourful and exaggerated, cartoon-style graphics (**Ever Adventure IOM Ltd,**

30 September 2015). The ASA investigated an ad that featured cartoon images of a pirate and a goat with golden teeth and a golden chain (**Geo24 UK Ltd, 9 December 2015**). The colourful and exaggerated style was considered likely to appeal to children because they were not adequately distinct from the style of children’s characters.

While some ‘cartoon’-style graphics might be acceptable if they are adult in their execution, marketers run the risk of appealing to under-18s if they are too similar in their appearance to cartoons popular with children.

Names may also appeal particularly to children

In several rulings, the ASA also noted that the names of the games contained elements that would be familiar to children and young people, and these names contributed to the ads’ particular appeal to children (**Bear Group Ltd, 27 May 2015; Ever Adventure IOM Ltd, 30 September 2015**). Names of games such as “Piggy Payout”, “Fluffy Favourites”, “Pirate Princess”, “Jack and the Beanstalk” and “Transformers” were identified as featuring such elements. These names contain a mixture of specific characters familiar to children, as well as more general tropes from stories or other media directed at children, and advertisers should avoid the use of such names.

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Gambling ...

Contact us:

Advertising Standards Authority Ltd / Committees of Advertising Practice Ltd,
Mid City Place, 71 High Holborn, London, WC1V 6QT [**view on map**]

Tel: 020 7492 2222

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