

iGAMING BUSINESS

It's a shame about Ray



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New CAP restrictions aimed at restricting 'Bet Now' offers may see operators refocus on more general product messages, but they will need to tread very carefully in the current climate, writes Scott Longley

Has Ray Winstone had his chips? Or more specifically, is the era of Big Ray imploring the UK sports TV watching public to 'Bet Now' coming to an end?

This is not to say that bet365's long-running and hugely successful TV advertising campaigns have outlived their usefulness. Far from it; the campaign has continued into this World Cup season and all things being equal, it will likely run for as many more years as Winstone wishes to intone - as only a man born in Homerton, East London could – that "it's all about the in-play."

But what will almost certainly change will be the nature of the ads and the wording around the all-important encouragement to bet.

In a Valentine's Day announcement, the UK's Advertising Standards Authority (ASA) and Committee on Advertising Practice (CAP) failed to show its love for the sector when it issued new, tougher standards for gambling advertising focusing on the appeal of ads to problem gamblers and on free bets and bonuses.

Specially, the new standards are aimed at restricting ads that create an “inappropriate sense of urgency”, singling out ‘Bet Now’ offers during live events, and would also “curb trivialisation of gambling”, citing as an example the encouragement of repetitive play (see news standards below)

ASA/CAP new standards on problem gambling:

- 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.

The new standards were welcomed by Stephen Woodford, the chief executive of the Advertising Association, as an “essential addition” to the UK’s advertising codes on gambling, adding that they represented the “first tranche” of plans to tighten up on gambling advertising in the UK.

“Work, already underway, will deliver new guidelines around children as another important audience to further protect, while a major new media campaign led by GambleAware is set to run for two years,” he added. “This will raise public awareness of the risks associated with gambling, as well as signposting to further advice and support where necessary.”

Details of this campaign have since emerged in the advertising trade press, as GambleAware has sought out an agency for a campaign which, with an obvious symmetry, will also comprise of TV and radio spots around live sport. The ads will reportedly focus on relatively low-level gambling harms and preventing escalation to more damaging behaviour.

Again unsurprisingly, the target group is young men, who are seen by GambleAware as being more at risk.

Legal wrangles

David Clifton, gambling law expert and co-founder of legal consultancy Clifton Davies, points out that the general wording of the new standards might be read as meaning that all advertising of in-play is now “inappropriate”.

As he points out, this goes against the Gambling Commission’s own verdict about in-play back in September 2016 when it said in a position paper that the format does not represent a “significant risk to the licensing objectives.”

“Surely it needs more than just the words ‘Bet Now!’ to either create an inappropriate or unjustifiable sense of urgency or unduly pressurise someone to gamble when they otherwise would not.”

David Zeffman, partner at law firm CMS, agrees with Clifton’s view of the subjectivity of the wording of the new CAP standards, which stipulate that offers such as in-play betting, where a time limit exits naturally due to the nature of an event “should not be presented in a way that creates an unjustifiable sense of urgency.”

“It isn’t right to say that an ad offered before the off or at half-time would by its very nature be so,” says Zeffman. “It would completely depend on what type of call to action it includes. CAP clearly has an issue with more aggressive call to actions – such as Ray Winstone-type ads.”

Turning to “very short-term promotions” where time limits are set by the marketers themselves, CAP says that urgent calls to action or creative approaches that place an emphasis on time running out “are likely to be regarded by the ASA as a breach of these rules because they could pressure consumers into participating when they otherwise would not.”

Where this leaves the advertising of newer forms of in-play such as instant or five-minute markets is more open to question. Clifton poses a series of questions raised by the emphasis on “repetitive” or frequent participation.

“Is a 15-minute market acceptable whereas a five-minute market is not?” he asks. “Does an advert inviting a customer to play at a gaming machine or electronic roulette terminal in a casino encourage unacceptable levels of repetitive play? Where does the line get drawn?”

Paul Leyland, partner at gambling industry consultancy Regulus Partners, points out that there should be some sympathy for regulators who are trying to “walk a tightrope between principle and prescription.”

“Overly precise regulations can become outmoded and prone to circumvention or unintended consequences; while principles often require subjective judgement (and a degree of trust between the regulator and the regulated), which may lead to ambiguity,” he says. “While the ASA has been very clear about certain matters, grey areas persist.”

It means that the operators themselves will, as Zeffman suggests, “need to look at ads on a case-by-case basis bearing in mind the spirit of the guidance.”

Changing the message

Compliance departments and the operators’ lawyers will be watching a lot of pre-air ads in the coming months. As Marc Thomas, partner at another gambling industry consultancy Propus Partners and a former sportsbook head for Sportingbet, says the marketing departments are unlikely to give up on ‘bet now’ type advertising just yet.

“Most major operators will instead refocus on more general product messages, as seen with campaigns for the likes of ‘request-a-bet’ or future variants,” he says. “It will be interesting to see whether these restrictions are extended outwards into other marketing channels, as in the meantime, operators could shift their ‘Bet Now’ messages to online channels.”

How difficult this shift might be to police is debatable; the advertising industry self-regulates all digital media but as Thomas says, the industry needs to watch its step even if it ends up partly moving away from primetime TV sport.

“While the possibility of restrictions or even a ban on in-play in the UK is unlikely, the industry needs to be very careful on how it operates in the current climate,” he says. “More transgressions (and the attendant media coverage) are likely to harden the minds of government, regulators and indeed the British public on the need to impose restrictions on the sector.”