

Review of licence conditions and codes of practice (LCCP)

Ensuring that free bets and bonus offers are marketed in a fair and open way and are consistent with the licensing objectives of the Gambling Act 2005

Terms of reference, April 2014

1 Background

- 1.1** The regulation of gambling marketing and advertising is complex and responsibility is shared among a number of regulators. A working forum¹ comprising the Commission, the Committee of Advertising Practice (CAP), the Broadcast Committee of Advertising Practice (BCAP), the Advertising Standards Authority (ASA), Ofcom, PhonepayPlus and the Department for Culture Media and Sport (DCMS) was re-established in 2013 to ensure more efficient and joined-up regulation.
- 1.2** The Commission issues codes of practice under section 24 of the Gambling Act 2005 about the manner in which facilities for gambling are provided to ensure that:
- gambling is conducted in a fair and open way
 - children and other vulnerable people are protected from being harmed or exploited by gambling
 - assistance is made available to people who are, or may be, affected by problems related to gambling.
- 1.3** Codes of practice are either:
- social responsibility code provisions - which must be adhered to by all licence holders
 - ordinary code provisions – which do not have the status of licence conditions but failure to take account of them can be used as evidence in criminal or civil proceedings.
- 1.4** It is a requirement of the Commission's LCCP (Code provision 4 'Marketing'– ordinary code provision) that gambling operators wishing to advertise must comply with the advertising codes of practice which apply to the form and media in which they advertise their gambling facilities or services.
- 1.5** Codes of practice set by the CAP and BCAP cover the content and placement of advertising and are intended to ensure that gambling advertising is socially responsible and not misleading. CAP and BCAP were invited by the Commission and Ofcom to draw up rules in their codes to ensure that advertising was in line with the licensing objectives.

¹ Known as the Gambling Advertising Monitoring Unit (GAMU)

1.6 The CAP and BCAP codes make clear that advertising should not be aimed at children and young people and include a variety of rules to ensure that vulnerable people are protected from gambling-related harm. The codes are mandatory for all advertisers and are enforced separately by the ASA which investigates complaints about advertising across all media.

1.7 Customer protection is also afforded via the CAP and BCAP codes which lay down rules for advertisers, agencies and media owners to follow. Section '03' of each code is concerned with 'Misleading advertising' containing rules such as substantiation (evidence to prove claims), pricing, the use of the word 'free', availability of products, comparisons, testimonials and more. These rules are based on the Consumer Protection from Unfair Trading Regulations 2008 (the CPRs), which establishes the framework for protecting consumers against misleading advertising in the UK.

2 Reason for the review of LCCP

2.1 In recent years the gambling industry has increased the marketing of bonus offers and free bets as an incentive to attract new customers to their products. The ASA Gambling Compliance Survey (2010) demonstrated that the majority of advertisements considered 'in breach' offered 'free bets' but did not include significant terms and conditions. Since 2008 the ASA has received an increasing number of complaints relating to free bets and bonuses resulting in more than 50 investigations, of which the vast majority were upheld or upheld in part.

2.2 Although LCCP does already afford protections to the customer around rewards and incentives we want to assure ourselves that, in a dynamic and rapidly changing marketplace, these remain relevant, robust and fit-for-purpose.

3 Review objective

3.1 The Commission wants to ensure that all gambling advertising continues to comply with the licensing objectives of the Gambling Act. This review will be focussed on ensuring that free bets and bonus offers are marketed in a fair and open way by the gambling industry and that those requirements are reflected appropriately within LCCP.

4 Scope

4.1 In autumn 2013, the Commission, CAP, BCAP, the ASA, Ofcom and PhonepayPlus committed to working collaboratively to review the marketing of free bets and bonus offers, which has resulted in the following progress being made:

- in September 2013, the Commission posed a question in its LCCP consultation document which welcomed comments on the marketing of free bets and bonus offers and possible future revisions to LCCP. Our public response was published on 31 March 2014 and can be viewed [here](#)
- on 31 January 2014, CAP and BCAP published a 'Help note' ([Guidance on the rules for gambling advertisements](#)) which is designed to provide advertisers with clear guidance to help ensure that gambling advertising continues to be responsible and that children as well as vulnerable people, like those at risk of problem gambling, are protected. It includes new, specific guidance on free bets and bonus offers to make clearer the requirements on marketers of such offers. It underlines the need for marketers to give appropriate prominence to any significant conditions associated with their offers
- during spring 2014, CAP, BCAP, the ASA and the Commission have been involved in promoting the new guidance to industry through their standard communication channels and via awareness raising workshops.

4.2 Initial feedback from industry has suggested an interest in further guidance, case studies and/or training materials on the marketing of free bet and bonus offers which, for example,

could include greater clarity on certain terms e.g. ‘significant information’; ‘how prominent is prominent’ etc.

- 4.3** The Commission will work closely with CAP, BCAP, the ASA and industry representatives to consider:
- a) whether amendments could be made to LCCP to provide additional guidance and/or requirements to ensure that the marketing of free bets and bonus offers is consistent with the licensing objectives. This will be considered in the context of the recent CAP and BCAP ‘Help note’ and will take account of the review of the gambling industry code for socially responsible advertising, which is being coordinated by the Remote Gambling Association (RGA)
 - b) whether, beyond LCCP, there is a need for further practical case studies and/or training materials, which would make requirements for industry clearer.
- 4.4** The Commission will consult on any revisions to LCCP during the summer period.

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Keeping gambling fair and safe for all

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